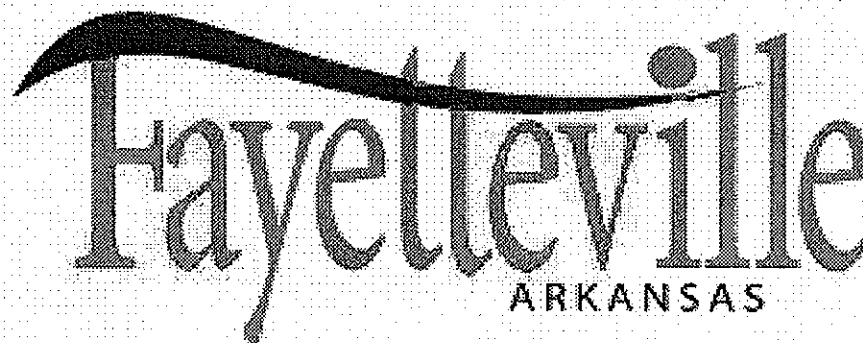


Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 17, 2007**

A meeting of the Fayetteville City Council will be held on July 17, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

A. CONSENT:

- 1. Approval of the June 19, 2007 City Council meeting minutes. APPROVED.**
- 2. Golden Circle Ford, Bid # 07-51:** A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 123-07.

- 3. Landers-McLarty Ford, Bid # 07-52:** A resolution awarding Bid # 07-52 to Landers-McLarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 124-07.

4. **Landers-McLarty Ford, Bid # 07-53:** A resolution awarding Bid # 07-53 to Landers-McLarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 125-07

5. **Landers-McLarty Ford, Bid # 07-54:** A resolution awarding Bid # 07-54 to Landers-McLarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 126-07.

6. **Landers-McLarty Ford, Bid # 07-55:** A resolution awarding Bid # 07-55 to Landers-McLarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 127-07.

7. **Urban Table, LLC:** A resolution approving a lease with The Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 128-07.

8. **Arkansas Urban and Community Forestry Assistance Grant:** A resolution authorizing the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project; and approving a budget adjustment recognizing the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 129-07.

9. **Garver Engineers, LLC Amendment No. 1:** A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 130-07.

10. **Stephens Insurance, LLC:** A resolution to approve a contract with Stephens Insurance, LLC to provide annual insurance benefits, consulting and brokerage services for the amount of \$50,000.00, plus additional service fees not to exceed \$37,630.00 and to approve a budget adjustment of \$51,380.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 131-07.

11. **Scull Creek Trail Lighting Phase II, Bid # 07-01:** A resolution approving the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 132-07.

12. **Scull Creek Trail Lighting Phase II, Bid # 07-59:** A resolution awarding Bid # 07-59 and approving a contract with King Electrical Contractors, Inc. in the amount of \$36,141.00 for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a 10% project contingency in the amount of \$3,614.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 133-07.

13. **Kenneth E. Schoby Offer and Acceptance Contract:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 134-07.

1. **CUP 07-2560 Bohot Appeal:** An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

THIS ITEM WAS REMOVED FROM NEW BUSINESS NO. 8 AND WAS TABLED TO THE AUGUST 7, 2007 CITY COUNCIL MEETING.

B. UNFINISHED BUSINESS:

1. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height setback of buildings located in the Main Street Center Zoning District. *This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 3, 2007 City Council meeting and Tabled to the July 17, 2007 City Council meeting.*

THIS ITEM WAS TABLED TO THE AUGUST 7, 2007 CITY COUNCIL MEETING.

2. **Amend Chapter 161: Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a

Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. *This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting.*

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

C. NEW BUSINESS:

1. **Fayetteville School Board Support:** A resolution in support of the Fayetteville School Board's careful study and consideration of options for the Fayetteville High School.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 135-07.

2. **ANX 07-2620 (Keenan):** An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5037.

3. **RZN 07-2621 (Keenan):** An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5038.

4. **RZN 07-2592 (Bellwood S/D Ph II):** An ordinance rezoning that property described in rezoning petition RZN 07-2592, for approximately 8.41 acres, located west of Ruppel Road, south of Bellwood Subdivision Phase I from RMF-12, Residential Multi-Family, 12 units per acre, to RMF-18, Residential Multi-Family, 18 units per acre.

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

5. **VAC 07-2644 (Zaxby's):** An ordinance approving VAC 07-2644 submitted by Jim Harrelson with Engineering Services Incorporated for property located on 6th Street between Lewis Avenue and Eastern Street to vacate a portion of a utility easement on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5039.

6. **Growth Group, LLC:** A resolution approving a lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 136-07.

7. **United Engines:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a 150kW generac back-up power generator from United Engines in the amount of \$31,489.00 plus applicable taxes and shipping for the Information Technology Division; and approving a budget adjustment in the amount of \$65,000.00.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5040.

8. **Enact City Council Street Committee:** An ordinance to enact Article 16 (City Council Street Committee) of Chapter 33 of the Fayetteville Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5041.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 8:00 p.m.

Adjourn 8:00 PM

Subject: Roll					
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads Arrived at 6:05 PM	Ferrell	✓			
	Lucas	Absent			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody	✓			

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Cook			
Minutes Passed Passed Res. 123-07 to 134-07	Ferrell	✓			
	Lucas	Absent			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

Subject: CUP 07-2560 Bohot Appeal					
Motion To:		Move on the Agenda	Table to August 7		
Motion By:		Thiel	Thiel		
Seconded:		Cook	Gray		
C.I. New Business Tabled to August 7, 2007	Ferrell	✓	✓		
	Lucas	absent	absent		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Mayor Coody				

7-0

7-0

Subject: Amend Chapter 161. Zoning Regulations					
Motion To:		3rd read	Table to August 7		
Motion By:		Thiel	Allen		
Seconded:		Gray	Cook		
B.I. Unfinished Business Tabled to August 7, 2007	Ferrell	✓	✓		
	Lucas	absent	absent		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Mayor Coody				

7-0

7-0

Subject: Amend Chapter 161: Zoning Districts					
Motion To:		2nd read			
Motion By:		Cook			
Seconded:		Allen			
B.2. Unfinished Business This Ordinance was left on the Second Reading	Ferrell	✓			
	Lucas	absent			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

7-0

Subject: Jayetteville School Board Support					
Motion To:		Approve			The Mayor
Motion By:		Allen			called on
Seconded:		Gray			Tim the
C.1. New Business passed 135-07	Ferrell	N			last speaker
	Lucas	absent			not Tim
	Jordan	✓			Conklin.
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

6-1

Subject: ANK 07-2620 Kennan					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Rhoads		
Seconded:		Ferrell	Ferrell		
C. 2. New Business <u>passed</u> 5037	Ferrell	✓	✓	✓	
	Lucas	absent	absent	absent	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

7-0 7-0 6-1

Subject:					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Rhoads	Rhoads		
Seconded:		Ferrell	Ferrell		
C. 3. New Business <u>passed</u> 5038	Ferrell	✓	✓	✓	
	Lucas	absent	absent	absent	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

7-0 7-0 7-0

Subject: RZN 07-2592 Bellwood S/D PH II					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Ferrell			
C. 4. New Business Left on the Second Reading	Ferrell	✓			
	Lucas	absent			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

7-0

Subject: VAC 07-2644 Zaxby's					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Cook	Cook		
C. 5, New Business passed 5039	Ferrell	✓	✓	✓	
	Lucas	absent	absent	absent	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

7-0

7-0

7-0

Subject: Growth Group, LLC.					
Motion To:		Pass			
Motion By:		Jordan			
Seconded:		Ferrell			
C.6. New Business <u>passed</u> 136-07	Ferrell	✓			
	Lucas	Absent			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

7-0

Subject: United Engines					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Jordan	Jordan		
C.7. New Business <u>passed</u> 5040	Ferrell	✓	✓	✓	
	Lucas	Absent	Absent	Absent	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the vote.	Absent during the vote.	Absent during the vote.	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

6-0 6-0 6-0

Subject: Cup 07-2560 Bokat Appeal					
Motion To:		moved to			
Motion By:		before			
Seconded:		Unfinished			
C.8. Moved on the Agenda	Ferrell	Business			
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Mayor Coody				

Subject: Enact City Council Street Committee					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Ferrell		
C.9. New Business Passed 5041	Ferrell	✓	✓	✓	
	Lucas	absent	absent	absent	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

7-0 7-0 7-0

City Council Meeting July 17, 2007

Subject:		8:00 PM.			
Motion To:		Motion to Adjourn			
Motion By:		Thiel			
Seconded:		Gray			
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
Mayor Coody					

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

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
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Ward 4 Position 1 – Shirley Lucas
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**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
July 17, 2007**

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

A. CONSENT:

- 1. Approval of the June 19, 2007 City Council meeting minutes.**
- 2. Golden Circle Ford, Bid # 07-51:** A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.
- 3. Landers-McClarty Ford, Bid # 07-52:** A resolution awarding Bid # 07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.
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11. **Scull Creek Trail Lighting Phase II, Bid # 07-01:** A resolution approving the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.
12. **Scull Creek Trail Lighting Phase II, Bid # 07-59:** A resolution awarding Bid # 07-59 and approving a contract with King Electrical Contractors, Inc. in the amount of \$36,141.00 for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a 10% project contingency in the amount of \$3,614.00.
13. **Kenneth E. Schoby Offer and Acceptance Contract:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

B. UNFINISHED BUSINESS:

- 1. Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height setback of buildings located in the Main Street Center Zoning District. *This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 3, 2007 City Council meeting and Tabled to the July 17, 2007 City Council meeting.*
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C. NEW BUSINESS:

- 1. Fayetteville School Board Support:** A resolution in support of the Fayetteville School Board's careful study and consideration of options for the Fayetteville High School.
- 2. ANX 07-2620 (Keenan):** An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.
- 3. RZN 07-2621 (Keenan):** An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.
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9. **Enact City Council Street Committee:** An ordinance to enact Article 16 (City Council Street Committee) of Chapter 33 of the Fayetteville Code.

D. INFORMATIONAL:

City Council Tour: None

City of Fayetteville Staff Review Form

A. 11
 Scull Creek Trail Lighting
 Phase II, Bid # 07-01
 Page 1 of 4

This was
 split into
 two agenda
 items &
 resolutions

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/17/2007

City Council Meeting Date
 Agenda Items Only

Ses

Matt Mihalevich

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution awarding Bid #07-59 and approving a contract with _____ in the amount of \$ _____ for the installation of lighting at Scull Creek Trail; approving a ____% project contingency in the amount of \$ _____; awarding Bid #07-01 and approving the purchase of light fixtures and poles from Illuminetrics, authorized agents for Dynamic Lighting Inc and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00

Cost of this request

\$ 2,201,264.00

Category / Project Budget

Trail Development

Program Category / Project Name

4470.9470.5814.05

Account Number

\$ 739,015.00

Funds Used to Date

Trail Improvements

Program / Project Category Name

02016.9

Project Number

\$ 1,462,249.00

Remaining Balance

Sales Tax Cap Imp Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature] 6-29-07
 Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 7/3/2007
 City Attorney Date

Original Contract Number: _____

Paul A. Belin 7-3-07
 Finance and Internal Service Director Date

Received in City
 Clerk's Office

ENTERED

7/29/07

[Signature] 7/3/07
 Mayor Date

Received in
 Mayor's Office

ENTERED

7/3/07

Comments:

A. 11
Scul Creek
Trail Lighting
Phase II
Bid # 07-01

Handed out at Agenda Session
7/10/07

City Council Meeting of July 17, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, Director of Engineering

From: Matt Mihalevich, Trails Coordinator

Date: July 10th, 2007

Subject: Scull Creek Trail Lighting Phase II, Bid #07-01.

RECOMMENDATION

Approval of the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.

BACKGROUND

The construction of phase II of Scull Creek Trail is nearing completion from Gordon Long Park to Poplar Street. As part of this construction phase, trail lighting has been designed by G.A. Engineers to be spaced every 100' along this 1.0 mile section of trail resulting in the need for 61 light poles and fixtures. In an effort to reduce cost, the light poles and fixtures were bid separately as Bid #07-01 and will be supplied by the City to the winning contractor of Bid #07-59.

DISCUSSION

The style of light and pole will be consistent with the lighting along the first 0.7 mile phase of Scull Creek Trail near Washington Regional Hospital. This lighting style complies with the City of Fayetteville lighting ordinance and the International Dark-Sky Association standards (See picture below).

The light fixtures and poles were advertised on December 19th, 2006 as bid number 07-01; official bids were received and opened on January 11th, 2007. The official bid tab is attached.

Four bids were submitted and the results are as follows, excluding light bulb cost:

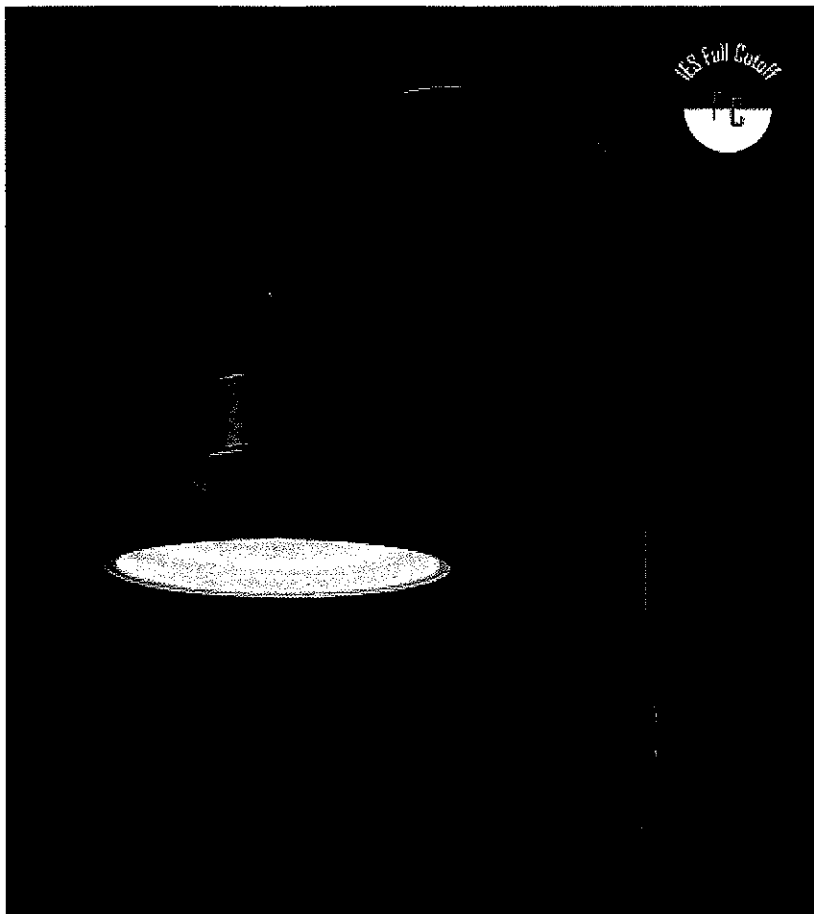
1.) CED – Springdale	\$1,337.57 ea	3.) "Illuminetrics"	\$1,190 ea
2.) Graybar Electric	\$1,365.73 ea	4.) Upchurch Electrical Supply Co.	\$1,324 ea

The Scull Creek Trail Lighting Project was advertised on June 15th and June 22nd 2007 as bid number 07-59; official bids will be opened on July 10th, 2007.

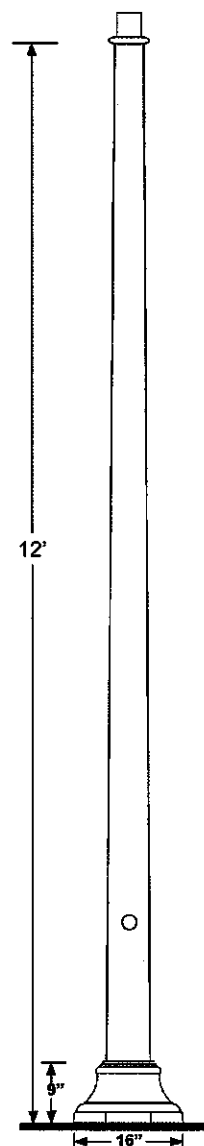
TRAIL LIGHTING STYLE

D142 Series Dynamic Lighting, Inc.

Model #PT40 / D142-RFS22 / 175MH – 240v / BLK / HR3-GL



**Direct Bury 12' Composite Materials Technology (CMT) Legacy
fiberglass pole with decorative base
Model #LFY12-T-3-T400X4.5-S**



City of Fayetteville Staff Review Form

A. 12
 Scull Creek Trail Lighting
 Phase II, Bid # 07-59
 Page 1 of 4

This was
 split into
 two agenda
 items &
 resolutions

City Council Agenda Items
 and
 Contracts, Leases or Agreements

7/17/2007

City Council Meeting Date
 Agenda Items Only

Ses

Matt Mihalevich

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution awarding Bid #07-59 and approving a contract with _____ in the amount of \$ _____ for the installation of lighting at Scull Creek Trail; approving a ____% project contingency in the amount of \$ _____; awarding Bid #07-01 and approving the purchase of light fixtures and poles from Illuminetrics, authorized agents for Dynamic Lighting Inc and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00

Cost of this request

\$ 2,201,264.00

Category / Project Budget

Trail Development

Program Category / Project Name

4470.9470.5814.05

Account Number

\$ 739,015.00

Funds Used to Date

Trail Improvements

Program / Project Category Name

02016.9

Project Number

\$ 1,462,249.00

Remaining Balance

Sales Tax Cap Imp Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature] 6-29-07
 Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 7/3/2007
 City Attorney Date

Original Contract Number: _____

Paul A. Belin 7-3-07
 Finance and Internal Service Director Date

Received in City
 Clerk's Office

ENTERED

7/29/07

[Signature] 7/3/07
 Mayor Date

Received in
 Mayor's Office

ENTERED

7/3/07

Comments:

A.12.

Scull Creek Trail Handled out at Agenda Session
Lighting Phase II, 7/10/07
Bid # 07-59

City Council Meeting of July 17, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, Director of Engineering

From: Matt Mihalevich, Trails Coordinator

Date: July 10th, 2007

Subject: Scull Creek Trail Lighting Phase II, Bid # 07-59.

RECOMMENDATION

Approval of a resolution awarding Bid # 07-59 and approving a contract with King Electrical Contractors Inc. in the amount of \$36,141.00 for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a 10% project contingency in the amount of \$3,614.10.

BACKGROUND

The construction of phase II of Scull Creek Trail is nearing completion from Gordon Long Park to Poplar Street. As part of this phase, trail lighting has been designed by G.A. Engineers to be spaced every 100' along this 1.0 mile section of trail. The lighting project under bid #07-59 consists of electrical conduit trenching and installation, connection to existing power sources, light pole assembly with complete installation and restoration of the disturbed areas. The purchase of 61 light poles and fixtures has been bid separately as bid #07-01 to be supplied to the contractor by the City.

DISCUSSION

Due to the central location and anticipated high use of Scull Creek Trail, lighting is planned for the entire 4.5 mile length, from Mud Creek Trail to Wilson Park. The lights will increase the safety of the trail and extend the use of the trail as an alternative transportation route during the winter months for morning and evening commutes.

The Scull Creek Trail Lighting Project was advertised on June 15th and June 22nd 2007 as bid number 07-59; official bids were opened on July 10th, 2007 and are listed below.

Seven bids were submitted and the results are listed below from low to high:

- | | |
|--|-------------------------------------|
| 1.) Mark Beaver Electric Inc. \$26,365.26 (No Bond) | 5.) Joe Perme Construction \$83,892 |
| 2.) King Electric Contractors, Inc. \$36,141 | 6.) Midland Construction \$88,000 |
| 3.) Hill Electric \$45,280 | 7.) Township Builders \$163,253 |
| 4.) Wachter Work Services Inc. \$75,206 | |

BID: 07-59
 7/10/2007
 2:00 PM
 CITY OF FAYETTEVILLE

*A.12. Scull Creek Trail
 Lighting Phase II, Bid
 # 07-59*

*Handled out
 at Agenda
 Session 7/10/07*

Fayetteville
 ARKANSAS

Bid 07-59, Scull Creek Trail Lighting Construction

BIDDER		Deductive Alternate #1	Turn-Key Bid Less Deductive Alternate	Total Turn-Key Bid Amount
1	Hill Electric Inc.	\$87,677.00	\$45,280.00	\$132,957.00
2	King Electric	\$75,621.00	\$36,141.00	\$111,762.00
3	Mark Beaver Electric, Inc.	\$65,758.00	\$26,365.26	\$92,123.26
4	Midland Construction, Inc.	\$80,000.00	\$88,000.00	\$168,000.00
5	Perme Excavating, Inc.	\$97,337.90	\$83,892.00	\$181,229.90
6	Township Builders, Inc.	\$88,796.00	\$163,253.00	\$252,049.00
7	Wachter Network Services, Inc.	\$86,317.00	\$74,936.00	\$161,253.00

*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. Foran*
 DATE *7/10/07*

**No Bid Bond was received from Mark Beaver Electric.*

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-59 AND APPROVING A CONTRACT WITH KING ELECTRICAL CONTRACTORS, INC. IN THE AMOUNT OF \$36,141.00 FOR THE INSTALLATION OF THE LIGHTING FOR PHASE II OF THE SCULL CREEK TRAIL; AND APPROVING A 10% PROJECT CONTINGENCY IN THE AMOUNT OF \$3,614.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-59 and approves a contract with King Electrical Contractors, Inc. in the amount of \$36,141.00 for the installation of the lighting for Phase II of the Scull Creek Trail.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 10% project contingency in the amount of \$3,614.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

From: "Casey Howell" <dolphin_discovery@cox.net>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 7/10/2007 2:27 PM
Subject: Fw: Ms. Wilma Bohot's In-Home Daycare

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

From: Casey Howell
To: city_clerk@ci.fayetteville.ar.us
Sent: Tuesday, July 10, 2007 12:18 PM
Subject: Ms. Wilma Bohot's In-Home Daycare

To The City Council Of Fayetteville:

I, Casey Howell owner and operator of Dolphin Discovery Daycare in Rogers would like to voice my opinion on Ms. Bohot's Daycare.

I have known Ms. Bohot for several years and I know that she is more than qualified to run and operate an in home daycare.

Ms Bohot has ran my licensed daycare while I have stepped away for other business on many occasions. Ms Bohot. Is a loving and caring woman ready to open her home for our children.

As a licensed daycare provider I know how high the demand is for in home daycares. We need them desperately...Our children need good daycare.

I went with Ms. Bohot around talking to her negative neighbors on behalf of the daycare she is planning to open. She was trying to talk with each and everyone of them but they paid her no attention. She has went out of her way to try and show the neighbors her plans. She held an open house but no one showed.

Ms. Bohot has been approved by the State licensing Specialist, Food Nutritionist, Fay City Safety, CPR Certified , Back Ground Checked, and has put up a \$3,000.00 privacy fence for the children's play area. Ms Bohot has a wonderful learning area in the den of her home that would be perfect for the children..

I feel Ms. Bohot, has meet all of her requirements for this simple little in home daycare. I hope and pray you will give her the opportunity to live out her dreams.
Again, Please take into consideration she has meet ALL of the requirements and is an outstanding, loving and caring citizen.

Please if you should have any questions call me (479)-621-8758

Sincerely

Casey Howell
Dolphin Discovery Daycare
1800 West Olive
Rogers, AR 72756

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF JULY 17, 2007

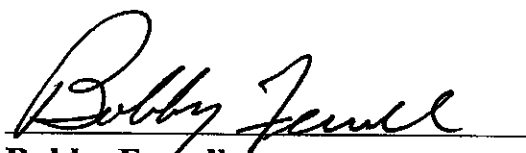
FROM:

ALDERMAN BOBBY FERRELL and ALDERMAN LIONELD JORDAN

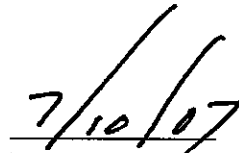
ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact Article 16 (City Council Street Committee) Of Chapter 33 Of The Fayetteville Code

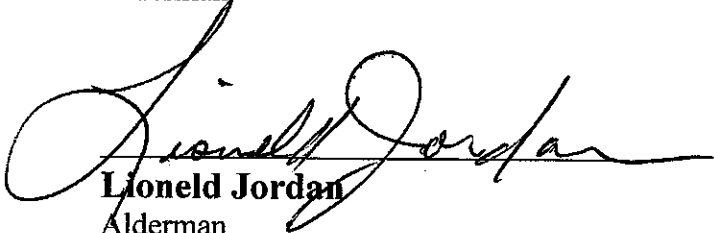
APPROVED FOR AGENDA:



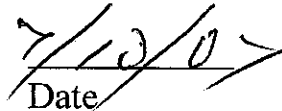
Bobby Ferrell
Alderman



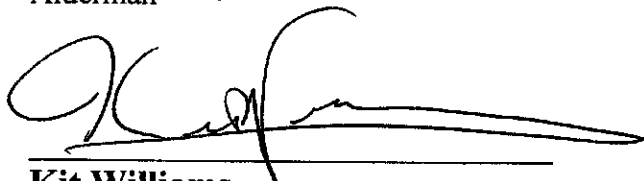
Date



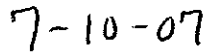
Lioneld Jordan
Alderman



Date



Kit Williams
City Attorney (as to form)



Date

ORDINANCE NO. _____

AN ORDINANCE TO ENACT ARTICLE 16 (CITY COUNCIL
STREET COMMITTEE) OF CHAPTER 33 OF THE
FAYETTEVILLE CODE

**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
Article XVI as shown below:

**"ARTICLE XVI
CITY COUNCIL STREET COMMITTEE**

"33.290. Composition. There is hereby established and continued a City Council Street Committee which shall be composed of four aldermen, one from each ward who shall be appointed annually by the Mayor, subject to City Council approval. The members shall elect a Chair at its first annual meeting.

"33.291. Purpose, Duties and Powers.

"(A) The Street Committee shall examine, consider, and recommend any changes, additions, or deletions to the Master Street Plan to the City Council.

"(B) All street plans for new or enlarged collector or arterial streets will be provided to the Street Committee during the initial or conceptual planning stage for its input and recommendations. Final plans for such streets shall be considered and recommended for approval or rejection to the City Council.

"(C) The Street Committee will annually review and recommend approval, changes, additions or deletions to the City's in-house paving program to the City Council.

"(D) The Street Committee shall review and recommend changes and/or approval of proposed major city drainage improvements to the City Council."

PASSED and **APPROVED** this 17th day of July, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**City of Fayetteville Arkansas
City Council Meeting Minutes
June 19, 2007**

A meeting of the Fayetteville City Council was held on June 19, 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

Mayor Coody welcomed the Spring International participants that were attending the City Council meeting.

Karen Minkel presented the Mayor and the City Council with the Congress for the New Urbanization 2007 Charter Award for Excellence for region, metropolis city and town that was presented at the annual CNU Conference.

Karen gave the Council members a brief synopsis of the award packet. She said there were over 115 nominations for the awards.

Mayor Coody: The staff has done an excellent job on this. We could not have done this without your work and your help. We have some very excellent staff and I want to thank them from the City Council. Thanks Karen and Tim and thank the staff for us.

Nominating Committee Report: Alderman Cook read the Nominating Committee report. *A copy of the report is attached.*

Alderman Cook: The Planning Commission had one unexpired term and two applicants. There were two votes for Porter Winston and one vote for Tracy Hoskins. As this report reads, two to one, Porter Winston is what our recommendation is.

Mayor Coody: Was that considered a split decision?

Alderman Cook: Two to one was for Porter Winston.

Alderman Lucas moved to approve the Nominating Committee Report. Alderman Thiel seconded the motion.

Alderman Ferrell: Is it just the majority carries?

City Attorney Kit Williams: The Nominating Committee is just a report and a suggestion to you. It is up to the City Council to make the final decision which is being made tonight.

Alderman Rhoads: Is it my understanding that by the full Council accepting this that we are voting on who will be on these boards including the Planning Commission?

Mayor Coody: That is normally how we do it.

City Attorney Kit Williams: Yes. If there is any disagreement then there would need to be an amendment to substitute a different person or any other change that you wish to make.

Alderman Rhoads: In other words the full Council is free to accept everything in the Nominating Committee report and can single out the Planning Commission and have a discussion on that?

Mayor Coody: Yes.

Alderman Rhoads: I would move that we do that to get those folks out there for discussion. I would ask that we approve the Nominating Committee report short of the Planning Commission.

City Attorney Kit Williams: You probably need to do an amendment to the motion so that you can remove the Planning Commission from consideration at this point in time.

Alderman Rhoads: It was not my motion but I would ask Kyle to make that amendment.

Alderman Cook: Personally I would just as soon vote for all of them. You can feel free to make the amendment. I will not support that. I am going to support what we have on the Nominating Committee list.

Alderman Rhoads moved to amend the motion to remove the Planning Commission appointments for consideration from the Nominating Committee Report and vote on the Planning Commission appointments separately. Alderman Ferrell seconded the motion.

Upon roll call the motion failed 2-6. Alderman Rhoads and Ferrell voting yes. Alderman Allen, Lucas, Jordan, Gray, Thiel and Cook voting no.

Upon roll call the Nominating Committee Report as read was approved unanimously.

A discussion followed on the current board openings and when applications can be received.

A discussion followed on the Youth Activities Committee. Alderman Rhoads stated we should do away with that committee and Alderman Jordan agreed.

City Attorney Kit Williams: I will look to see how it was created and prepare an appropriate resolution or ordinance to end it.

Historic District Commission Appointment:

The Mayor is recommending the following applicants for appointment:

Karon Reese – One Term Ending 6/30/10

Cheri Coley – One Term Ending 6/30/10

The Historic District Commission appointments were included in the Nominating Committee report. The appointments were approved as recommended.

CONSENT:

Approval of the June 5, 2007 City Council meeting minutes.

Approved

Fourth Judicial District Drug Task Force Grant: A resolution to accept a federal grant in the amount of \$178,719.00 and a state grant in the amount of \$35,744.00 for the Fourth Judicial District Drug Task Force for 2007-2008.

Resolution 110-07 as Recorded in the office of the City Clerk.

Amend Police Department Policy: A resolution approving an amendment to Fayetteville Police Department Policy 1.2.1 Limits of Authority.

Resolution 111-07 as Recorded in the office of the City Clerk.

Bid # 05-73 Barloworld Freightliner: A resolution awarding an additional purchase from Bid # 05-73 to Barloworld Freightliner for the purchase of one (1) additional tandem axle dump truck in the amount of \$90,233.00 for use by the Water & Sewer Division.

Resolution 112-07 as Recorded in the office of the City Clerk.

Bid # 07-43 Williams Tractor: A resolution awarding Bid # 07-43 to Williams Tractor for the purchase of one (1) tractor drawn disc mower conditioner in the amount of \$14,699.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 113-07 as Recorded in the office of the City Clerk.

Bid # 07-44 Countryside Farm and Lawn Equipment: A resolution awarding Bid # 07-44 to Countryside Farm and Lawn Equipment of Springdale for the purchase of two (2) John Deere 6615 Tractors in the amount of \$93,894.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 114-07 as Recorded in the office of the City Clerk.

Bid # 07-45 Williams Tractor: A resolution awarding Bid # 07-45 to Williams Tractor for the purchase of one (1) large round baler in the amount of \$21,998.00 for use by the Water & Sewer Division at the OMI hay farm.

Resolution 115-07 as Recorded in the office of the City Clerk.

The following was removed from the Consent Agenda so it can be amended.

Bid # 07-48 Prestige Ford: A resolution rescinding Resolution No. 63-07; awarding Bid # 07-48 and approving the purchase of one (1) Ford Escape Hybrid from Prestige Ford of Garland, Texas in the amount of \$24,199.00 for use by the Police Division, Parks Patrol.

Alderman Ferrell: We received a bid from a vendor and they would not honor the price.

The above item was removed from the Consent Agenda.

Alderman Jordan moved to approve the Consent Agenda with Bid # 07-48 Prestige Ford removed. Alderman Cook seconded the motion. Upon roll call the Consent Agenda passed unanimously.

The following item was added to the Agenda:

Bid # 07-48 Lewis Ford: A resolution rescinding Resolution No. 63-07; awarding Bid # 07-48 and approving the purchase of one (1) Ford Escape Hybrid from Lewis Ford in the amount of \$24,496.00 for use by the Police Division, Parks Patrol.

Alderman Ferrell moved to remove Bid # 07-48 Prestige Ford from the Consent Agenda and replace the resolution with a resolution for Bid # 07-48 Lewis Ford. **Alderman Jordan** seconded the motion. Upon roll call the motion resolution unanimously.

Resolution 116-07 as Recorded in the office of the City Clerk.

UNFINISHED BUSINESS:

Reliance Standard Insurance Coverage: A resolution approving an addendum to the contract with Reliance Standard for employee Life and Long Term Disability insurance coverage. *This resolution was Tabled at the June 5, 2007 City Council meeting to the June 19, 2007 City Council meeting.*

City Attorney Kit Williams: Missy did most of the negotiations on this. She deserves our recognition because she was able to secure a \$70,000 payment for the widow of an employee. The new insurance contract really had a gap in it and without Missy's work I don't know if we would have been successful or not.

We have to do a memorandum of agreement that states that the rates are guaranteed for a couple of years for our life insurance coverage that we provide our employees. We also agree to stay with this company for at least one more year beyond what we originally agreed. If we do not the only penalty is that we would have to pay the \$70,000 back. I think Missy and I are in agreement that this is a good deal for the City of Fayetteville and certainly for the widow of our employee.

Alderman Ferrell: I am certainly glad that we were able to take care of an employee but are we assured that we do not have the potential for any more gaps?

City Attorney Kit Williams: No, there are other gaps but I think the former employees have been notified. There are no gaps for current employees that I am aware of.

Missy Leflar, Human Resources Division Manager: We have double checked on that and we don't believe there are any more gaps on existing employees on this life insurance. The gap was caused by the fact that the life insurance went into effective on November 1, 2006. It had a provision in it that the broker at that time did not make known to the City or the City Council. I watched the DVD where he made the presentation to ascertain that fact.

Alderman Ferrell: We asked questions about if everyone was going to be covered.

Missy Leflar: You were assured that there would be no loss in coverage. However there is a provision in that insurance policy that said if you were not actively at work as of November 1, 2006 and did not return to work you would not be covered by the life insurance. That is what happened to this long standing 30 year employee, who became ill before November 1, 2006 and then passed away in December, 2006. Because of that provision he was not covered. Reliance does not have to pay his widow but they are willing to do so under what seems to be reasonable

terms. There are other things in this agreement, we expect them to continue their good customer service, and it needs to be subject to being in the budget because one Council can not bind another. It will be looked at each year by mutual agreement, both sides have to agree to renew each November. Assuming the customer service remains good the current rates are suppose to be locked in through November 1, 2009. After that date any renewals would be at an applicable rate determined by actuarially reasonable underwriting guidelines and the experience during the initial policy period. This would be my understanding as standard industry standards for rates. I think this is a responsible thing to do for not only the existing city employees but certainly the deceased employee who died thinking he had coverage for his widow. We always want to try to do what is best for the employees.

Alderman Ferrell: I concur. I just wanted to be confident that all current employees are covered and the former retired employees are cognizant of what the deal is right now.

City Attorney Kit Williams: The former employees will have a right, I guess, to insure themselves but they will no longer be covered without charge.

Alderman Lucas: I am glad that you worked this out. Thank you very much. I am glad you explained how the rates would be figured in 2010, that's the year that we are adding on. I feel a little more comfortable with this if you feel it is the standard way of figuring rates.

Missy Leflar: Yes.

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

Resolution 117-07 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 \$12,000.00 and \$54,000.00, plus a \$20,000.00 contribution to the Walker Park Mural Project. *This resolution was Tabled at the May 1, 2007 City Council meeting to the June 5, 2007 City Council meeting. This resolution was Tabled at the June 5, 2007 City Council meeting to the June 19, 2007 City Council meeting.*

Dave Reynolds, Smith Two Way: I would like to point out that we brought a sample of the material from the tree. The antennas instead of being white or painted go in a brown sack covered with the needles so they are very well disguised. The arms are painted the same brown as a branch.

Alderman Allen: How many more of these cell towers do you think we are going to need in Fayetteville?

Dave Reynolds: We have one going in at the fire station on Highway 265, this one at Walker Park and one in south Fayetteville. We are building one in the county out on Wedington Drive

that is close to the city limits. At this time we do not have any plans for more of these but I would suspect that in the next year to two years that we would see one at the U of A and possibly out in the Mount Comfort area. Other people can bring them forward but that is all I know about.

Alderman Allen: How long do you feel that this method of technology will be the kind of technology used for cell towers before it becomes obsolete?

Dave Reynolds: There has been a lot of discussion about that. Right now the feeling is between 25 and 30 years before it is practical to switch to all satellite type technology. That will be the next big change that will require a change in towers. There have been changes that have changed the type of modulation and greater band width but it does not change the setup. It has required more towers and that they are more concentrated in areas to provide different services. The next big change to get away from a tower or to shorten a tower we see would be the switch from towers to satellite type phones.

Mayor Coody: It seems we could kill two birds with one stone if we had satellites replacing all the cell towers. We could off set global warming by blocking out the sun with all the satellites we are going to need.

Alderman Allen: When the Council over turned the Planning Commissions decision about the cell tower near the Washington Willow area how did you handle that? What did you do to compensate for the fact that did not occur?

Dave Reynolds: Cingular did not want to pursue it any further at that time. It was pointed out at that meeting that there was a very nice spot on top of North Street at the water tanks to build a cell tower. I had no idea that city property was there. That is when we got into this discussion as to why that tower was not built on city property first. Ever since then we have tried to come back with these deals.

Alderman Allen: What kind of a radius do you need between towers?

Dave Reynolds: Right now it is a two to three mile range. They would like to have a one to three mile range if they can in the more populated type areas. The big tower on the hilltop is kind of obsolete now because it covers too large of a geographical area.

Alderman Allen: If you had one a few miles away from this could you co-locate and not need this tower. Say three miles from this?

Dave Reynolds: Probably not three miles maybe one mile. Walker Park and 15th Street is a very fast growing part of town.

Alderman Allen: I looked on the internet about the dangers of living near cell towers. A lot of medical folks felt there were some extreme health concerns.

City Attorney Kit Williams: The medical allegations, health danger allegations that you can find are not able to be considered by local government. The federal government in passing the law mandated that we can only consider certain things for cell towers and specifically prohibited local governments from attempting to get into this field of alleged dangers from cell towers. This is a very controversial subject. The cell tower industry will strongly disagree with those sources. Because of that the federal government in passing the law said specifically that local governments can not consider those allegations. We can consider reasonable zoning laws and aesthetic, those are allowed to be considered.

Alderman Allen: I don't believe that this cell tower would have been located in Wilson or Gulley Park. I believe what hurts part of our city hurts all of our city. I do not believe a cell tower belongs in a city park where there are a large number of people. If the reason I can vote against this is because of aesthetics that will be my reason.

Alderman Jordan: There was an Act passed, the Telecommunications Act which prevents citizens from opposing towers based on concerns about radiation emissions. Local officials can maintain control over the number, size and placement of the cell towers. Kit, do you agree with this?

City Attorney Kit Williams: To a certain extent. We can not make decisions that would prohibit the cell companies from being able to provide service. We were able to turn down the cell tower that was located near the Washington Willow area because that cell tower was not for coverage, it was for capacity. My review of the law did not indicate that we had to agree if it is capacity situation and not a coverage situation. If it is a coverage situation then we have some controls over where they would be placed. I would not agree it is just in numbers, we can't say there can only be five cell phone towers in town and that is it. You have to look at each one on a case by case basis. You have to determine if there is a coverage issue problem, what are the aesthetic considerations and actually that is to be decided by the Planning Commission. The only thing this body, unless it is an appeal, the only thing this body should be considering tonight is whether or not you wish to lease any land to the cell tower company if in fact the Planning Commission grants a conditional use. The other cell tower this company is building near the fire station is in Routh Park in Ward 3.

Alderman Allen: I see a difference with Routh Park as it is not a primary gathering place. My objection is to a park that is a gathering place for many and the inequity of this. I think that has to be considered.

Alderman Ferrell: I have to disagree with Alderman Allen. Am I accurate in understanding if this does not go in Walker Park it is going to go across the street or a good chance?

Dave Reynolds: It is a very good chance. It will be somewhere in that area.

Alderman Ferrell: If they need one in Gulley Park and we are offered the revenue, I may get into trouble with the citizens, but I will carry it through here if they can come up with one like this to give us a recurring source of revenue. I do not look at that as depilating a park.

Dave Reynolds: This would not look right in Wilson Park. An exact copy of this tree stands about 300 feet behind Mount Vernon in the national park.

Alderman Thiel: We had a meeting at St. James Methodist Church and I did not get the feeling that anyone was extremely concerned about it that lived in the vicinity. When I first heard about it my first reaction was it would not be in another park but when I discovered there was no need for this in another location and the more I looked at where this is located and how well concealed this is going to be then I thought that is kind of a mute point. At the end of the term when it is terminated they have to remove everything.

Can we have the revenue from this, because it is located in Walker Park, go into the parks fund for operations?

City Attorney Kit Williams: I don't think you can word this lease like that. You can designate that the money from this goes to certain funds.

Alderman Thiel moved to amend the resolution to state the proceeds from the cell tower lease will be designated to the Park Fund. Alderman Lucas seconded the motion.

Alderman Ferrell: I support the tower; I do not support the amendment. I can see other places saying they want money earmarked as well.

Jeff Erf, a citizen: If you are going to earmark it I would like to see you earmark it for Walker Park.

Alderman Thiel: I did consider that. I certainly advocate for as much maintenance as possible for Walker Park and I will continue to do so and I know Adella will. I feel this money will benefit Walker Park as well as the other parks. I respect Mr. Erf's suggestion but I think I will leave the amendment as it is.

Alderman Gray: I support that as well. I think our city parks need the revenue.

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

Alderman Cook: To me the main topic is a policy decision of do we want cell towers in our park system. I have a lot of concerns about that. We try to preserve our park system as a natural place for people to come and enjoy. I think as we start placing towers in this park it will continue in other natural areas throughout the city. The money is certainly enticing; the city can use that revenue. I support the ordinance that Kit drafted that we want to use our city property as much as possible. I never envisioned when we passed that change that we would be talking about park space but that we would be thinking about water towers and city structures. For me the policy decision is to add them to the parks or not and I really support not putting them in the parks or natural spaces.

Alderman Allen: I believe there are some things more important than money.

Alderman Rhoads: My kids play soccer, they use the skate board park, the BMX thing, baseball and I think they will not mind the pine tree looking cell tower. I think the primary purpose of Walker Park is youth activities.

Alderman Thiel: This is just the first step in this process. This will have to go before the Planning Commission for a conditional use. The one at Fire Station 5 will be up before the Planning Commission looks at the conditional use for this one in Walker Park. If we find that one really objectionable we will have an opportunity to turn this conditional use down.

Jeff Erf: I am opposed to the resolution. I think it is a bad policy and a bad precedent to put cell towers in established community parks. I wonder how bad the city's financial situation is if we resort to putting up cell towers in our parks. It is a bad idea. I am concerned that it will take out that area for any future use that the Parks Department might want to use.

Will this structure have a strobe on top of it?

Dave Reynolds: It will have no light on it at all.

Jeff Erf: The Parks and Recreation Advisory Board have discussed this resolution and were opposed to it. I think you should support their action on this.

Mayor Coody: There is a resolution that the City Council put forward a while back basically saying that if a cell tower company wants to locate a tower in town that the first option should have the cell tower placed on public property. It does not necessarily mean a park. We have cell towers on our water tanks and sprinkled around town on public property. The theory is none of us like cell towers, we all have cell phones but none of us like cell towers, it has become a necessary evil. If we are going to have to look at the visual pollution of a cell tower then at least the taxpayers should have the benefit of the revenue that would come from that cell tower. If it does not go in at Walker parker it will be across the street. This area is going to get a cell tower and if it is going to be going up in this direct vicinity then the citizens might as well recoup a half a million dollars over ten years that we would not get if it were on outside public property. This is not some carte blanche thing to sprinkle cell towers over the parks. Cell towers only go where the cell tower companies need them. If they do go up the first option if there is available public property is to try to place them there so the taxpayer will get the financial benefit.

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

Resolution 118-07 as Recorded in the office of the City Clerk.

R-PZD 07-2531 (P.A.H. Facility): An ordinance establishing a residential planned zoning district titled R-PZD 07-2531, P.A.H. Facility, located at Ivey Lane, 1/4 mile east of highway 265; containing approximately 3.00 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 June 5, 2007 City Council meeting.*

Alderman Rhoads moved to suspend the rules and go to the third and final reading. Alderman Gray 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 7-1. Alderman Cook voting no.

Ordinance 5026 as Recorded in the Office of the City Clerk.

NEW BUSINESS:

R-PZD 07-2551 (Champions Club Condos): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2551, Champions Club Condos, located at the southwest corner of Razorback Road and 15th Street, east of the Crowne Apartments; containing approximately 4.42 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Mater Development Plan.

City Attorney Kit Williams read the ordinance.

Andrew Garner, Planning Division: Gave a brief description of the property. He stated there are a couple of waivers that are being requested for this project. One is for the breezeway for the entrance onto 15th Street to span over a utility easement and there are a couple of waivers for the green space requirements mainly due to the fact that they are proposing more of an urban type development pattern. Andrew explained the green space waiver.

A discussion followed on the project.

Alderman Thiel voiced her concern about so much residential at this location and that at one time they had talked about more mixed use particularly at the corner.

Andrew Garner: There is some commercial being developed adjacent to the west of this property.

Alderman Thiel: But that is all the way down to I-540.

Andrew Garner: No it is right adjacent to this property.

Alderman Allen: Can you tell me about the design standards whether they changed or evolved?

Andrew Garner: In general the Planning Commission and Planning staff has been in favor of the design. This came through last fall with essentially the same type of building facade. They

made a slight modification on the height of a retaining wall. We really did not have any negative feedback at all about the building. It is not subject to our commercial design standards at this time because they are only proposing residential for development. We generally looked at it for land use compatibility.

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

City Attorney Kit Williams read the ordinance.

This ordinance was Left on the Second Reading.

VAC 07-2568 (Mathias Shopping Centers, Inc.): An ordinance approving VAC 07-2568 submitted by Crafton, Tull, Sparks and Associates for property located at 1267 North Steamboat Drive to vacate utility easements across the subject property as the utilities have been relocated to allow development on the site.

City Attorney Kit Williams read the ordinance.

Andrew Garner: Gave a brief description of the vacation.

Alderman Lucas: I want to make sure that there is a cross access drive. I see it is connecting Steam Boat Drive and Colorado Drive allowing residents to access multiple commercial sites. I want to make sure that is still in there.

Andrew Garner: Yes. There has been an easement plat actually platted.

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.

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 5027 as Recorded in the Office of the City Clerk.

Amend Chapter 161: Zoning Regulations: An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height setback of buildings located in the Main Street Center Zoning District.

City Attorney Kit Williams read the ordinance.

Tim Conklin: Planning and Development Manager Director: Staff has brought this forward to clarify how we measure building height in the main street center zone. Basically we are establishing two zones.

Alderman Ferrell: They can still go for a variance.

Tim Conklin: That is correct. They could ask for a planned zoning district or a height variance to the Planning Commission.

Alderman Cook: I would like to hold this on the second reading if we could.

Alderman Lucas: Does this eliminate the setback?

Tim Conklin: It basically creates two business height zones. Tim explained the ordinance.

A discussion followed on the proposed ordinance.

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.

This ordinance was Left on the Second Reading.

(ADM 07-2566) Amend Chapters 151, 161, 162, 163 and 166: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Regulations, Chapter 162: Use Units, Chapter 163: Use Conditions, and Chapter 166: Development in order to assign Use Unit 29: Dance Halls, Use Unit 40: Sidewalk Cafes, and use Unit 5: Government Facilities to appropriate zoning districts and to remove references to the C-4 Zoning District and replace with the Downtown Core Main Street Center, and Downtown General Zoning District in the commercial design standards, and to add Animal Ordinance definitions to Chapter 151: Definitions.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance.

Alderman Cook: I think these are all good changes.

Alderman Cook 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 Cook 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 5028 as Recorded in the Office of the City Clerk.

(ADM 07-2588) Amend Chapters 151, 161 and 163: 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.

City Attorney Kit Williams read the ordinance.

Tim Conklin gave a brief description of the ordinance.

Alderman Allen: Some home occupations might not be suited. You are saying that any of those would have to have a conditional use?

Tim Conklin: We are saying they are conditional uses right now and we are recommending they be allowed as of right in the downtown core main street center and the downtown general zoning districts. Currently in the code it says home occupation, so if you occupy a dwelling and want to have a business that is not allowed by right. If you have a business it is allowed by right. We are recommending that you be allowed to live in your house and have a home occupation without having a conditional use approved by the Planning Commission.

Alderman Ferrell: Provided you stay within the parameters of the code.

Tim Conklin: Provided that it is no greater than 300 square feet of that structure. If it is more than 300 square feet you would need to meet the building codes that are adopted by the city for that type of use, which those uses are currently as of right for an artist studio, professional office, restaurant and that type of thing.

Alderman Allen: I was just thinking of things that might not be particularly appealing. I was just wondering if this was all inclusive or if there would be some things that would be accessed individually.

Tim Conklin: Home occupations do not outline all the different types of uses that you would have. Tim read the list of uses.

Alderman Gray 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.

Daniel Hintz, Executive Director of Fayetteville Downtown Partners: One of the reasons we brought this recommendation for consideration with city staff we identified this as one of four necessary components for the creation of the cultural arts district as part of that infrastructure. It supports artistic entrepreneurs, considered part of our small business community and it strengthens Fayetteville's brand as an epic center for arts and culture. This was identified through several public meetings through the ordinance review committee and vetted through quite a bit of our businesses in the downtown area.

Alderman Thiel: This went through the ordinance review committee and was recommended.

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.

Alderman Cook: I think the home occupation definition 30% of one floor not to exceed 300 feet is pretty minimal quite frankly of how much space it would affect in one structure. Will there be some opportunities for questionable businesses; we can always have that in any area. As far as the downtown area I think that is a reasonable change. I think there is a lot of that that actually occurs in the downtown area right now. I don't see a problem for that.

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

Ordinance 5029 as Recorded in the Office of the City Clerk.

Smith Communications South Industrial Park Cell Tower Site: A resolution to approve a lease with Smith Communications for a cell tower site in the South Industrial site for an initial rental of \$850.00 monthly with 50/50 revenue sharing of all cell phone antenna revenue after the initial sublessee.

Ray Boudreaux: We are leasing a small lot, 75 x 75 in the south industrial park across from the Arkansas Western Gas site, for \$850 per month the subsequent users pay 50% to the city after the initial construction of the tower.

City Attorney Kit Williams: We will also have the right to place a couple antennas for the city if 911, police or fire need some locations for antennas without charge to the city.

Alderman Allen: I think this is an appropriate place for a cell tower. When this technology becomes extinct will this tower be removed?

Ray Boudreaux: Yes.

City Attorney Kit Williams: Paragraph 10 states removed at the end of term. The only thing that will be left is the foundation.

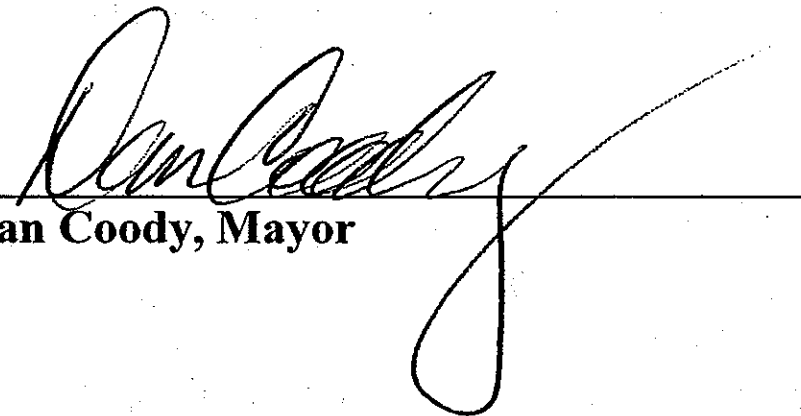
Alderman Thiel: Isn't there a trail in this area?

Ray Boudreaux: Yes, but it is north of there, way north of there.

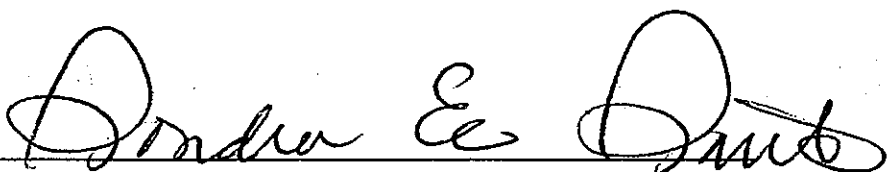
Alderman Ferrell moved to approve the resolution. There was no second to the motion. Upon roll call the resolution passed unanimously.

Resolution 119-07 as Recorded in the office of the City Clerk.

Meeting adjourned at 7:40 PM



Dan Coody, Mayor



Sondra Smith, City Clerk/Treasurer

Approved
6-19-07

Nominating Committee Report
Meeting: Monday, June 11, 2007
Room 326, City Hall 5:00 p.m.
Members Present – Kyle Cook, Adella Gray, Robert Rhoads

The following candidates are being submitted to the entire City Council for consideration.

Audit Committee

- **Anthony Bryant** – One unexpired term ending 12/31/09.

Board of Adjustments

- **Bob Nickell** – One unexpired term ending 03/31/10.

Construction Board of Adjustments and Appeals

- **Dennis Becker** - One unexpired term ending 03/31/10.

Environmental Concerns Committee

There were no applications received.

Fayetteville Arts Council

- **Julie Gabel** – One citizen at large term
- **Michael Landman** - One citizen at large term
- **Bryan Gott** - One citizen at large term
- **Mark Landon Smith** – One citizen at large term
- **John O'Connell** - One citizen at large term
- **Dede Peters** – One working artist term
- **Kathy Thompson** - One working artist term
- **LaDawna Whiteside** - One working artist term
- **Hank Kaminsky** - One working artist term

Historic District Commission

- **Cheri Coley** – One term ending 06/30/10
- **Karon Reese** – One term ending 06/30/10.

Planning Commission

- **Porter Winston** – One unexpired term ending 03/31/09.

Public Facilities Board

There were no applications received.

Telecommunications Board

- ***Fred Cusanelli*** – One term ending 06/30/11
- ***Shelli Bell*** – One term ending 06/30/11

Tree and Landscape Advisory Committee

There were no applications received.

Walton Arts Center Council

- ***Curt Rom*** – One term ending 06/30/10
- ***Jeff Schomburger*** – One term ending 06/30/10

Walton Arts Center Foundation

- ***Jeff Dunn*** – One term ending 06/30/10

Youth Activities Committee

There were no applications submitted.



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING STAFF MEMO

To: Mayor Dan Coody
City Council
Kit Williams, City Attorney

Through: Tim Conklin, Planning and Development Management Director

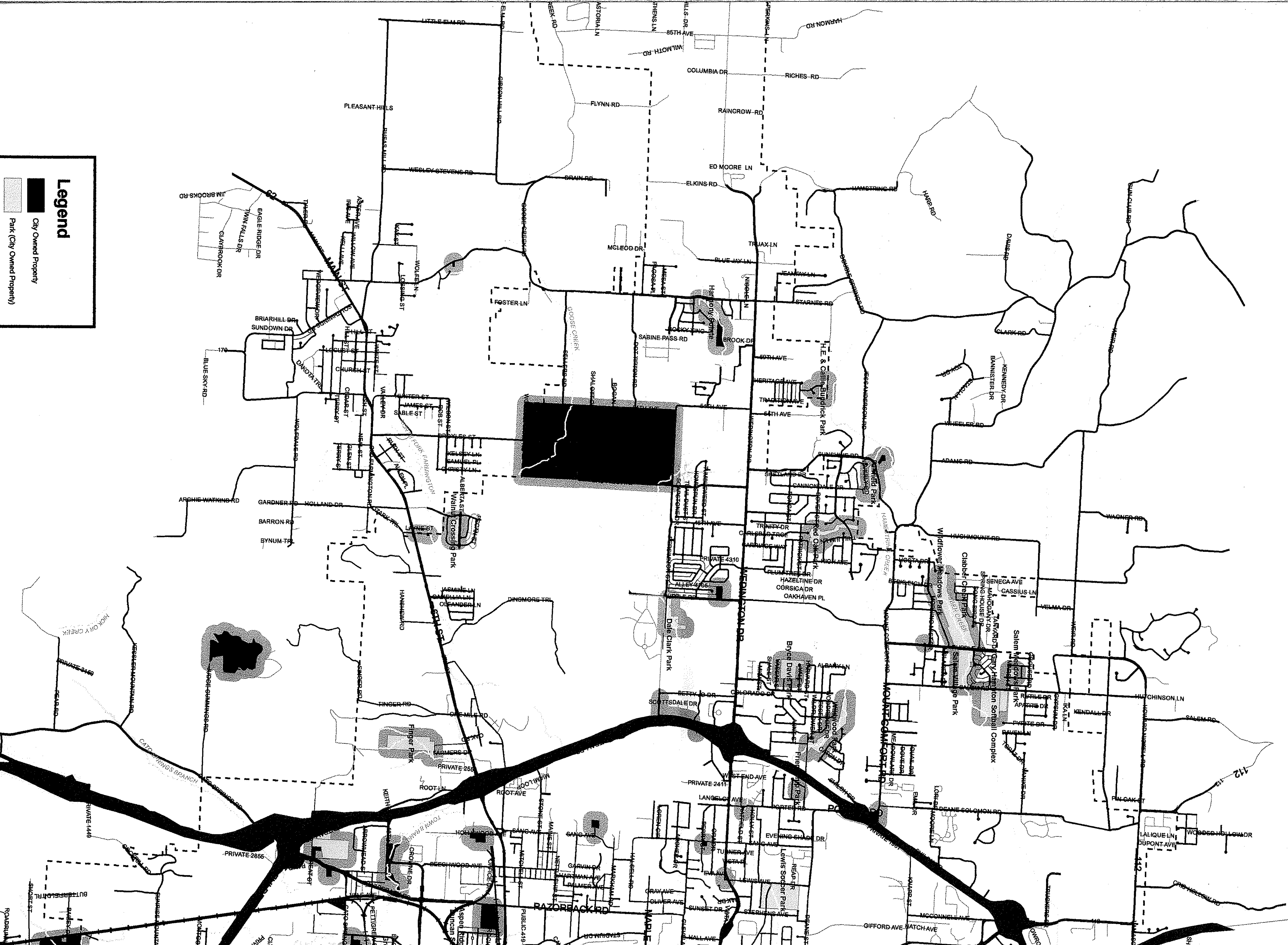
From: Leif Olson, Long Range Planner

Date: June 26, 2007

Subject: Map of City owned property

The City Council requested a map of City owned property at the City Council Agenda Session on May 29, 2007. The GIS staff has provided the attached map showing City owned property in red, City Parks property in green, and City Rights-of -Way in blue. We will be discussing this map and Staff's proposed policy changes regarding the South Fayetteville Community Development Corporation and Habitat for Humanity of Washington County at the next City Council Agenda Session on July 10, 2007.

RECEIVED
JUN 26 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



A.10. Stephens Insurance, LLC.
Handed out at the City Council meeting

RESOLUTION NO. _____

7/17/07

A RESOLUTION TO APPROVE A CONTRACT WITH STEPHENS INSURANCE, LLC TO PROVIDE ANNUAL INSURANCE BENEFITS, CONSULTING AND BROKERAGE SERVICES FOR THE AMOUNT OF \$50,000.00, PLUS ADDITIONAL SERVICE FEES NOT TO EXCEED \$33,130.00 AND TO APPROVE A BUDGET ADJUSTMENT OF \$46,880.00

WHEREAS, Stephens Insurance, LLC was selected through RFP 07-08 to provide Benefits Consulting and Insurance Brokerage Services to the City of Fayetteville and its employees; and

WHEREAS, except for an extra cost web-based employee benefits enrollment, administration and management system, the services shall be covered by its basic fee of \$4,167.00 monthly (\$50,000.00 annually).

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 one year Benefits Consulting and Insurance Brokerage Services contract with Stephens Insurance, LLC attached as Exhibit A for a base expenditure of \$4,167.00 monthly (\$50,000.00 annually) plus not to exceed \$33,130.00 for a web-based employee benefits enrollment, administration and management system, and authorizes Mayor Coody to execute this contract.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$46,880.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



City Council Meeting July 17, 2007

CITY COUNCIL SUPPLEMENTAL MEMO

TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director
FROM: Missy Leflar, Human Resources Division Manager *ML*
DATE: July 11, 2007
SUBJECT: Benefits Broker Contract

Revised Budget Impact

The transmittal memo for Item A-10, Page 3 of 20, provides the current and future year budget impact.

Based upon additional due diligence with the IT division of the company that would be creating the open enrollment platform, the following should be inserted rather than the "Budget Impact" in the initial memo:

The initial budget impact would be \$4,500 less than the \$87,630 previously assessed. Revised initial budget impact: \$83,130.

The subsequent annual budget impact, if renewed annually by future Councils, would be \$12,355 greater than the \$52,865.00 previously assessed. Revised subsequent annual budget impact: \$65,520.

Analysis of FTE hours saved still supports a conclusion of cost efficiency in procuring the benefits management platform.

*B.2. Amend Chapter 161: Zoning Districts
Handed out at the City Council Meeting*

Ozark Mountain Smokehouse Sound Survey 7/17/07

On Sunday the 15th of July at 7:00pm I attended a meeting between the Locust Avenue Housing Association and The Ozark Smoke House located at the corner of Dickson Street and Church Avenue.

The purpose of the meeting was to check the noise levels while playing a variety of amplified music, ranging from AC/DC, Hip-Hop, and Country. The readings were taken at the East and West property lines, of the Ozark Smoke House, and at the address of 224 N. Avenue at set levels of volume ranging from 3.5, 4.5, and 5.5. All readings were taken for a minimum of 30 seconds, to as long as 2 minutes. It should be noted the stage was moved from the eastside of the garden to the Westside of the garden at the time of the readings.

The first set of readings, were taken on the eastside property line at 7:24pm, while standing on the sidewalk, with the volume set at 3.5. The reading ranged from a low of 57.0db to a high of 59.9db, with an average of 58.45db keeping it below the residential level of 60db. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 60.2db to a high of 63.1db, with an average of 61.65db putting it just above the residential level of 60db. The next reading was taken with the volume set at 5.5. The reading ranged from a low of 66 decibels to a high of 69.9db, with an average of 67.95db, putting it above the residential of 60db. Although two of the readings were above the residential allowed decibel levels, all three were under the commercial set level of 75db for that time of the day. I also checked the decibel levels inside the garden with the volume set at 5.5, the reading ranged from a low of 84db to a high of 91db, with an average of 87.5db. **See diagram label A**

The second set of readings, were taken at the Westside property line of the Ozark Smoke House, from behind and above a 6ft privacy fence, while standing directly behind the stage.

Again the readings were taken with the volumes set at 3.5, 4.5, and 5.5. With the volume set at 5.5, the reading ranged from a low of 80db to a high of 83db, with an average of 81.5db, putting it well above the residential level of 60db. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 77db to a high of 80db, with an average of 78.5db, putting it well above the residential level of 60db. The next reading was taken with the volume set at 3.5. The reading ranged from a low of 73db to a high of 77db with an average of 75db, still above the residential level of 60db. **See diagram label B**

The next reading was taken with the volume set at 3.5. The reading ranged from a low of 60db to a high of 62.4, with an average of 61.2db. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 63db to a high of 67db with an average of 65db. The next reading was taken with the volume set at 5.5. The reading ranged from a low of 65db with a high of 71.1, with an average of 68.5db. During these readings there were Jar-flies up in the trees producing their sound raising the

levels as high as 5dbs. The resident at 224 N. Locust, stated the sound was acceptable when the volume was set at 3.5, even at that setting, the dbs were just above the residential level of 60dbs, reading an average of 61.8. **See diagram label C**

The next set of readings took place at a residence located at 224 N. Locust Avenue. The readings were taken on the back porch, and in the upstairs bedroom and restroom with the window opened and shut to the bathroom. **See diagram label D**

The next readings were taken from the up stairs bedroom and bathroom, with the volume set at 3.5. The first was taken from the bathroom with the window closed. The reading ranged from a low of 46dbs to a high of 50dbs, with an average of 48dbs. The next was done with the window open. The reading ranged from a low of 52dbs to a high of 58.3dbs, with an average of 55.15dbs. Both reading were below the residential level of 60dbs for that time of the day. Although the sound was below the allowed dbs you could still hear the bass and somewhat feel it. **See diagram label D**

After obtaining all of the readings, we met back at the Ozark Smoke House to go over the readings and to answer any questions. After the meeting, I took a noise reading of the participants carrying on normal conversations. The reading ranged from a low of 64.4dbs to a high of 68.6dbs, with an average of 66.5dbs.

I then had the DJ set up the stage on the eastside of the garden. I wanted to see what the differences would be between the two stages. I took three readings on the west side property line with the levels set at 3.5, 4.5, and 5.5, with one reading taken from the backyard of 224 N. Locust Avenue.

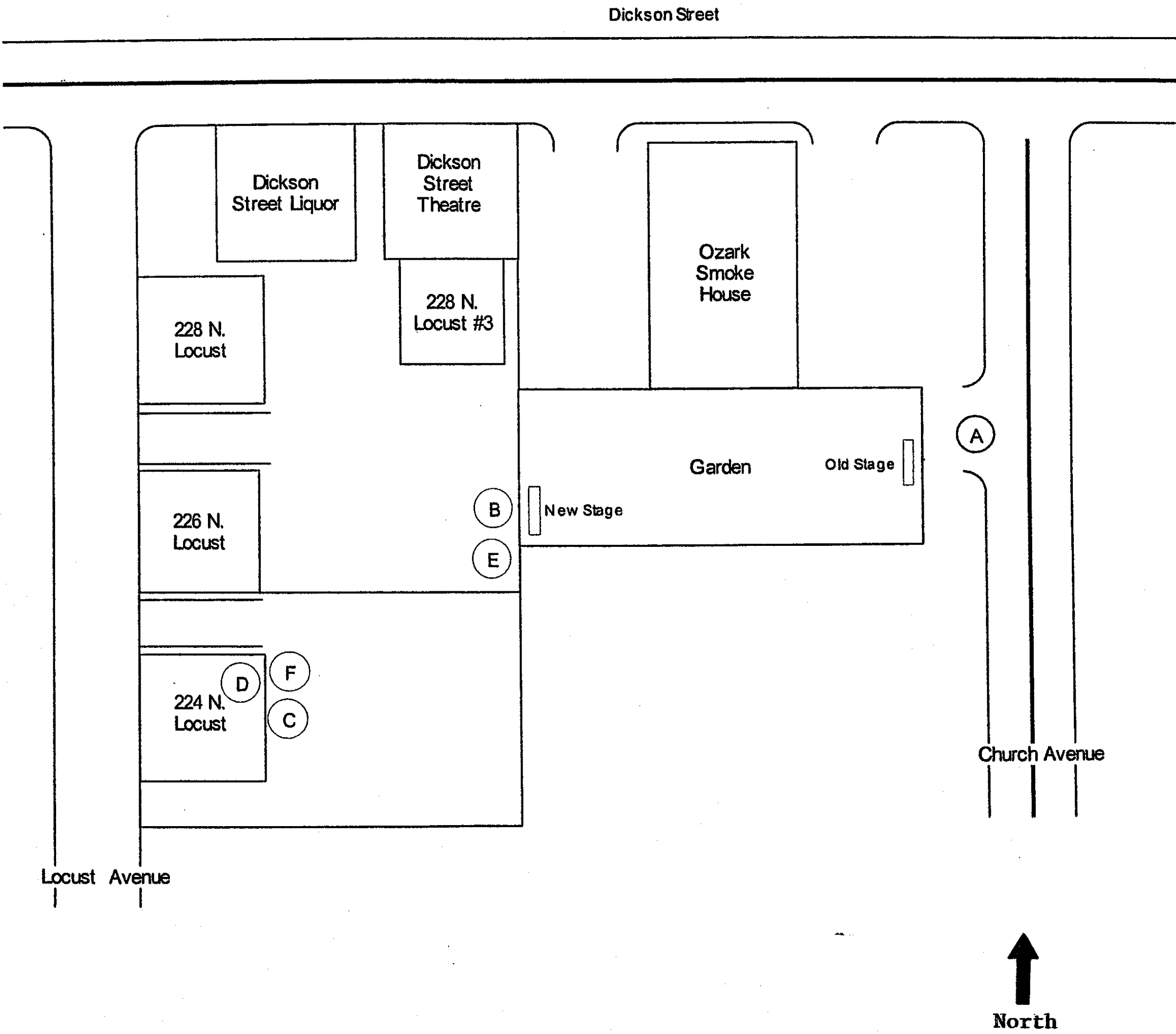
The first reading was with the volume set at 3.5. The reading ranged from a low of 70.2dbs to a high of 75.6dbs, with an average of 72.9dbs. The second reading was taken with the volume set at 4.5. The reading ranged from a low of 77dbs to a high of 82.6dbs, with an average of 79.8dbs. The third reading was taken with the volume set at 5.5. The reading ranged from a low of 80.1dbs to a high of 84.6dbs, with an average of 82.35dbs. **See diagram label E**

The fourth reading was taken from the backyard of 224 N. Locust Avenue, with the volume set at 5.5. The reading ranged from a low of 68.8dbs to a high of 72.1dbs, with an average of 70.45dbs. **See diagram label F**

I noted several differences in the positioning of the stage. With the stage on the east side, the sound was being funneled towards the residents on Locust Avenue. The apartments to the south of the Ozark Smoke House did this, along with the tree canopy. Instead of the sound traveling up and out it was funneled down and towards Locust Avenue. I also believe with stage being on the east side, the complaints will go down, and possibly come to an end.

NOT TO SCALE

Incident #07-68808





C. G. Growth Group, LLC.

Handed out at the
City Council Meeting
7/17/07

LEASE

1. PARTIES:

This lease, dated this _____ day of _____, 2007, between Growth Group Building, LLC, Fayetteville, Arkansas, (hereinafter called "GROWTH GROUP"), and City of Fayetteville, Arkansas (hereinafter called "the CITY");

W-I-T-N-E-S-S-E-T-H

2. CONSIDERATION:

Each of the parties acknowledges receipt of valuable consideration from the other and each of them act herein in further consideration of the covenants of the other as herein stated.

3. PREMISES:

GROWTH GROUP does hereby grant, demise and lease unto the CITY the premises or space in the office building which is located at 112 West Center, in Fayetteville, Washington County, Arkansas, (hereinafter referred to as "Building"), on the basement floor(s) of Building, consisting of 1234 square feet (hereinafter referred to as "Premises").

4. USE OF PREMISES:

Premises are to be used and occupied continuously throughout the term hereof for general office purposes and computer database use and all uses customarily and incidentally related thereto.

5. TERM OF LEASE:

TO HAVE AND TO HOLD unto the CITY the above described PREMISES for a period of three years commencing on the 1st day of June, 2007, and ending on the 30th day of June 2010, (the "Primary Term") with the option to extend for two additional terms of three (3) years.

*Term
beginning
date
incorrect*

6. RENTAL:

The CITY shall pay GROWTH GROUP as rental for Premises for the term herein specified, unless adjusted or escalated as herein provided, an annual sum of fourteen thousand eight hundred eight and 00/100 Dollars (\$14,808.00), which is to be paid in equal monthly installments of one thousand two hundred thirty four

and 00/100 Dollars (\$1234.00), payable in advance on the first day of each month throughout the term or period of this Lease. In addition to the rental amount stated above, the CITY shall pay GROWTH GROUP for Common Area Maintenance charges of three thousand seven hundred two and 00/100 dollars (\$3,702.00) annually, or three hundred eight and 00/100 dollars (\$308.00). If the CITY shall have fully performed this Lease during the term hereof, then the CITY shall have the option to extend this lease for two additional terms of three (3) years at the rentals specified herein. The CITY shall notify GROWTH GROUP in writing ninety (90) days in advance if the CITY wishes to exercise this option.

7. ADJUSTMENT OF RENTAL:

It is further understood and agreed, subject to the conditions and provisions hereinafter stated, that the above stipulated rental, payable monthly, shall be adjusted or escalated for each lease year throughout the term or period of this Lease subsequent to the base year, as such terms are hereinafter defined, in accordance with the following provisions and formula:

"Base Year" shall be 2007.

"Adjusted Lease Year" shall mean each successive calendar year following the Base Year.

If GROWTH GROUP desires to adjust the annual rental, it shall, by written notice to the CITY within thirty (30) days before or after the commencement of an adjusted lease year, make reference to the Consumer Price Index maintained by the United States Bureau of Labor Statistics, or such other Federal Agency which maybe preparing and maintaining such statistical data. Particular reference shall be made to the index figures for "All Items" for Urban Wage Earners and Clerical Workers in the United States, and not in any particular community surveyed. In the event the percentage change in such index figures between the Base Year of this Lease and the Adjusted Lease Year set forth in the notice required hereunder, equals to or exceeds one percent (1%) of such index figure, then for the succeeding Adjusted Lease Year, the annual rental hereunder shall be adjusted upward in accordance with such percentage.

8. SERVICES TO BE FURNISHED BY GROWTH GROUP:

GROWTH GROUP shall furnish the CITY while occupying Premises the following services on all days except Sundays, Holidays, and as otherwise stated:

- (a) Water. Cold water from mains for drinking, lavatory and toilet purposes drawn through fixtures installed by GROWTH GROUP, or by the CITY with GROWTH GROUP's written consent, and hot water for

lavatory purposes from regular Building supply at the prevailing temperature. The CITY shall pay GROWTH GROUP reasonable rates fixed by GROWTH GROUP for water furnished for any other purposes. The CITY shall not waste or permit the waste of water. If the CITY fails to pay promptly GROWTH GROUP'S proper charge for water, GROWTH GROUP, upon of not less than ten (10) days' notice, may discontinue furnishing that service and no such discontinuance shall be deemed an eviction or disturbance of THE CITY'S use of Premises or render GROWTH GROUP liable for damages or relieve THE CITY from any obligation.

- (b) Heating and air conditioning shall be available to the CITY twenty-four (24) hours per day, seven (7) days per week, except for periods of maintenance or repair. Wherever heat generating machines or equipment are used in Premises which affect the temperature otherwise maintained by the air conditioning system, GROWTH GROUP reserves the right to install supplementary air conditioning units in Premises and the cost, operation and maintenance thereof shall be paid by the CITY to GROWTH GROUP at reasonable rates.
- (c) Nightly Housekeeping and Janitor Service Monday through Friday in and about Premises. The CITY shall not provide any janitor services without GROWTH GROUP's written consent and then only subject to supervision of GROWTH GROUP and at the CITY's sole responsibility and by janitor contractor or employees at all times satisfactory to GROWTH GROUP.
- (d) Electrical Current for Standard Building Lighting Fixtures provided by GROWTH GROUP and for ordinary purposes connected with the aforesaid use of Premises. All other electrical consumption by the CITY in Premises, including consumption for lighting fixtures beyond normal building standards shall be paid by the CITY to GROWTH GROUP at reasonable rates.
- (e) Electrical lighting services and heating and air conditioning for all public areas of Building in the manner and to the extent deemed by GROWTH GROUP to be standard.
- (f) Passenger Elevator service in common with GROWTH GROUP and other tenants, shall be provided twenty-four (24) hours per day, seven (7) days per week, except for periods of maintenance or repair.

INTERRUPTION OF SERVICE. GROWTH GROUP does not warrant that any service will be free from interruptions caused by repairs, renewals, improvements, changes of service, alterations, strikes, lockouts, labor controversies, civil commotion, riot, accidents, inability to obtain electrical power, fuel, steam, water, supplies or labor or other cause beyond the reasonable control of GROWTH GROUP. No such interruption of service shall be deemed an eviction or disturbance of the CITY's use and possession of Premises or any part thereof, or render GROWTH GROUP liable to the CITY for damages, or relieve the CITY from performance of the CITY's obligations under this Lease. The CITY hereby waives and releases all claims against GROWTH GROUP for damages for interruption or stoppage of service.

In the event that by agreement with the CITY, GROWTH GROUP furnishes extra or additional services to be paid for by the CITY, a failure to pay for such services within ten (10) days after the CITY's receipt of written notice thereof shall, ipso facto, authorize GROWTH GROUP, in GROWTH GROUP's discretion and without further notice, to discontinue such services. The CITY's obligation to pay for such additional services shall be deemed additional rental due hereunder and the same shall be subject to all of the provisions pertaining to the payment of rental.

Any additional service charges paid by the CITY to GROWTH GROUP for extra or additional services pursuant to this paragraph 8 shall be subject to adjustment in the same manner as the Base Rent as provided for in Paragraph 7 hereof.

9. QUIET POSSESSION:

The CITY shall keep and perform all of its covenants of this Lease on the part of the CITY to be performed, and GROWTH GROUP shall guarantee to the CITY the quiet, peaceful and uninterrupted possession of Premises.

10. LAWFUL USES:

Premises during the term of the Lease shall be used for the purpose of office space and only and exclusively for lawful purposes, and no part of Premises or improvements thereon shall be used in any manner whatsoever for any purposes in violation of the laws of the United States, the State of Arkansas, or the ordinances and the laws of the City of Fayetteville.

11. MAINTENANCE OF PREMISES:

The CITY is or shall become familiar with Premises, acknowledges that the same are received by the CITY in good state of repair, accepted by the CITY in the condition in which they are now or shall be when ready for occupancy, and that GROWTH GROUP shall not be liable to the CITY or the CITY's agents, employees, invitees or visitors for any injuries, death or damage to persons or property due to condition, design, or defect in building or its mechanical systems or elsewhere in Premises or Building which may now exist or hereafter occur unless the same results from the gross negligence or willful misconduct of GROWTH GROUP. The CITY accepts Premises as suitable for the purposes for which the same are leased and agrees that no representations except such as are contained herein or endorsed hereon have been made to the CITY respecting the condition of Premises. Notwithstanding the foregoing, GROWTH GROUP shall have the carpets on the Premises cleaned before the CITY takes possession of the Premises.

12. WASTE:

The CITY shall not commit or permit any waste to be committed whatsoever.

13. NUISANCES:

The CITY shall not create or allow any nuisance to exist in Premises, and that it shall abate any nuisance caused by the CITY that may arise promptly and free of expense to GROWTH GROUP.

14. INVALIDATION OF INSURANCE:

The CITY shall not suffer anything to be or remain upon or about Premises which will invalidate any policy of insurance which GROWTH GROUP may now or hereafter have upon Building.

15. INCREASED PREMIUMS:

The CITY shall not suffer anything to be or remain upon or about Premises nor carry on nor permit upon Premises any trade or occupation or suffer to be done anything which may render an increased or extra premium payable for the insurance of Premises or Building against fire, casualty, liability or any other insurable causes, unless consented to in writing by GROWTH GROUP and if so consented to the CITY shall pay such increase or extra premium within ten (10) days after the CITY shall have been advised of the amount thereof.

16. ALTERATIONS:

The CITY shall have the right to make no changes, alterations, floor covering, or additions in Premises until it has first obtained GROWTH GROUP'S approval in writing, which approval shall not be unreasonably withheld. Such changes, alterations, floor covering or additions, when made to Premises by the CITY shall at once become the property of GROWTH GROUP and shall be surrendered to GROWTH GROUP upon termination in any manner of the Lease; but this clause shall not apply to movable fixtures or furniture of the CITY.

17. USE OF BUILDING NAME:

The CITY shall not, except to designate the CITY's business address (and then only in a conventional manner and without emphasis or display), use the name E. J. Ball Plaza, Inc., or E. J. Ball Plaza, or any simulation or abbreviation of such name for any purpose whatsoever. GROWTH GROUP shall have the right to change the name of the building at any time. The CITY will discontinue using any such name and any simulation or abbreviation thereof for the purpose of designating the CITY's business address within thirty (30) days after the GROWTH GROUP shall notify the CITY that Building is no longer known by such name. Notwithstanding the provisions herein, the CITY shall be entitled to use the name "E. J. BALL PLAZA" as designating the building in connection with its address and for advertising purposes.

18. SIGNS:

The CITY shall not paint, display, inscribe, maintain or affix any sign, picture, advertisement, notice, lettering or direction on any part of the outside, except on hallway doors, of Premises, and then only such name or names or matter and in such color, size, style, character and material as may be first approved by GROWTH GROUP in writing. GROWTH GROUP shall have the right to remove, at the CITY's expense, all matter other than that above provided for without notice to the CITY.

19. DEFACING PREMISES AND OVERLOADING:

The CITY shall not place anything or allow anything to be placed near the glass of any door, partition, wall or window which may be unsightly from outside Premises, and the CITY shall not place or permit to be placed any article of any kind on any window ledge or on the exterior walls. Blinds, shades, awnings, or other forms of inside or outside window coverings, or window ventilators or similar devices, shall not be placed in or about the outside windows in Premises except to the extent that the character, shape, color, material and make thereof is

approved by the GROWTH GROUP, and the CITY shall not do any painting or decorating in the Premises or make, paint, cut or drill into, or in any way deface any part of Premises or Building without the written consent of GROWTH GROUP. The CITY shall not overload any floor or part thereof in Premises, or any facility in Building or any public corridors or elevators therein while bringing in or removing any large or heavy articles, and GROWTH GROUP may direct and control the locations of safes and all other heavy articles. Furniture and other large or heavy articles may not be brought into Building, removed therefrom or moved from place to place within any portion of Premises or other portion of the Building or its equipment that would exceed the allowable load limits as set forth in rules of Building.

20. REPAIRS:

The CITY shall at its costs and expense, repair and replace any damage or injury done to Premises, or Building or any part thereof, caused by the CITY, or its agents, employees, invitees or visitors; and should the CITY fail to make such repairs or replacements within fifteen (15) days of the CITY's receipt of written notice thereof from GROWTH GROUP, GROWTH GROUP may, at its option, make such repairs and replacements and the CITY shall pay the cost thereof to GROWTH GROUP upon demand.

21. SUBLETTING:

Neither this Lease, nor any interest therein, nor any estate created hereby shall pass to any trustee or receiver in bankruptcy, or to any other receiver or assigns for the benefit of creditors or otherwise by operation of law.

The CITY agrees not to assign, sublet, or in any manner transfer this Lease or any estate or interest therein without the previous written consent of the GROWTH GROUP, or allow anyone to come in with, through or under it without like consent. Consent of the GROWTH GROUP to one assignment of this Lease or to one subletting of the Premises, shall not operate to exhaust GROWTH GROUP'S rights under this paragraph. The CITY shall continue to be liable under said Lease notwithstanding that the GROWTH GROUP has consented to such assignment or subletting.

22. ATTORNEY FEES:

The CITY shall pay all costs of collection, including reasonable attorney fees, if all or any part of the rent reserved herein is collected after maturity with the aid of any attorney; and also, the CITY shall pay GROWTH GROUP's reasonable attorney fees in the event it becomes necessary for GROWTH GROUP

to employ an attorney to force the CITY to comply with any of the covenants, obligations, or conditions imposed by this Lease, and GROWTH GROUP shall pay the CITY's reasonable attorney's fees in the event it becomes necessary for the CITY to employ an attorney to force GROWTH GROUP to comply with any of the covenants, obligations, or conditions imposed by this Lease.

23. RULES OF BUILDING:

The CITY shall comply, and cause the CITY's agents, employees, invitees and visitors to comply, fully with all requirements of the rules of Building which may be made by GROWTH GROUP, and any amendments or modifications thereto. The Rules and Regulations of Building are attached hereto as Exhibit A and made a part of this Lease.

24. ENTRY FOR REPAIRS, ETC.:

GROWTH GROUP, its officers, agents or representatives shall have the right to enter into and upon Premises at all reasonable times to inspect same or make such repairs or alterations as GROWTH GROUP may deem necessary or desirable. The CITY shall permit GROWTH GROUP at reasonable times to inspect, erect, use and maintain, pipes, ducts, conduits and similar devices in and through Premises, and to make any necessary repairs or alterations. GROWTH GROUP shall be allowed to take all material into and upon Premises that may be required therefore without the same constituting an eviction of the CITY in whole or in part and the rent reserved shall in no way abate while said repairs and maintenance are being made, by reason of loss or interruption of business of THE CITY, or otherwise unless such repairs and maintenance shall render the Premises untenable for a period of three days, in which case the rent shall abate until the Premises are returned to a reasonable state.

25. SURRENDER OF PREMISES:

Upon any termination of this Lease, by expiration, lapse of time or otherwise:

(a) The CITY shall immediately vacate Premises and surrender Premises to GROWTH GROUP in good order, condition and repair, reasonable wear and tear and casualty damage to be repaired by GROWTH GROUP excepted.

(b) The CITY shall surrender all keys of Premises to GROWTH GROUP.

- (c) The CITY grants to GROWTH GROUP full authority and license to enter Premises and take possession thereof.
- (d) All installations, decorations, additions, partitions, hardware, light fixtures, non-trade fixtures and improvements, temporary or permanent, except movable furniture and equipment belonging to the CITY, in or upon Premises, whether placed there by the CITY or GROWTH GROUP, shall be GROWTH GROUP's property and shall remain upon Premises, all without compensation, allowance or credit to the CITY.

26. RIGHTS RESERVED TO GROWTH GROUP:

GROWTH GROUP shall subject to the CITY's right to abate rent in the event Premises are rendered untenable for more than three (3) days as set in Paragraph 6 of the Rider hereto, have the following rights exercisable without notice unless expressly set forth herein and without liability to the CITY for damage or injury to property, persons or business (all claims for damage therefore being hereby released by the CITY), and without effecting an eviction or disturbance of the CITY's use of possession or giving rise to any claim for setoffs:

- (a) To name the building and change the name or street address of the building.
- (b) To install and maintain signs on the exterior and interior of the building.
- (c) To designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverage, foods, towels, vending machines, or toilet supplies used or consumed on Premises, and the CITY shall not place any vending or dispensing machines of any kind in or about Premises without the prior written consent of GROWTH GROUP.
- (d) To retain at all times, and to use in emergency instances, keys to all doors within and into Premises. With the express exception of the Server Room, the CITY shall not replace any locks without the prior written consent of GROWTH GROUP.
- (e) To decorate, remodel, repair, alter or otherwise prepare Premises for re-occupancy during the last six months of the term hereof, if during or prior to such time the CITY vacates the Premises, or at any time after the CITY abandons Premises.

- (f) Upon not less than 24 hour advance written notice, to enter Premises at reasonable hours to make inspections or to exhibit Premises to prospective tenants, purchasers, or others or for other reasonable purposes, except in emergencies then Lessor can enter at anytime. The Server Room is expressly exempt from this provision.
- (g) To have access to all mail chutes according to the rules of the United States Postal Office.
- (h) To require all persons entering or leaving Building, during such hours as GROWTH GROUP may from time to time reasonably determine, to identify themselves to watchman by registration or otherwise and to establish their right to enter or leave, and to exclude or expel any peddler, solicitor or beggar at any time from Premises or Building.
- (i) To approve the weight, size and location of safes, computers (other than desk top models), and other heavy articles in and about Premises and building and to require all such items and other office furniture and equipment to be moved in and out of building and Premises only at such times and in such manner as GROWTH GROUP shall direct and in all events at the CITY's sole risk and responsibility.
- (j) To decorate and to make at any time or times, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to Premises, Building or part thereof as GROWTH GROUP may deem necessary or desirable and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through Premises or any part of Building all material and equipment required; and to close or temporarily suspend operation of entrances, doors, corridors, elevators or other facilities, provided that GROWTH GROUP shall cause only such inconveniences or annoyance to the CITY as is reasonably necessary in the circumstances.
- (k) To do or permit to be done any work in or about Premises or Building or any adjacent or nearby building, land, street, or alley.
- (l) To grant to anyone the exclusive right to conduct any lawful business or render any lawful service in Building.

- (m) To close Building at 6:00 p.m. or at such other reasonable time as GROWTH GROUP may determine, subject, however, to the CITY's right to admittance 24 hours a day, seven days a week, under such regulations as shall be prescribed from time to time by GROWTH GROUP.
- (n) To designate and approve, prior to installation, all types of window shades, blinds, drapes, awnings, window ventilators and other similar equipment, and to control all internal lighting that maybe visible from the exterior of Building.
- (o) To have and retain a paramount title to Premises free and clear of any act of the CITY.

27. DEFAULT:

The following events shall be deemed to be events of default by THE CITY under this Lease:

- (a) The CITY shall fail to pay any installment of rent hereby reserved and such failure shall continue for a period of ten days after the CITY's receipt of written notice thereof from GROWTH GROUP.
- (b) The CITY shall fail to comply with any term, provision or covenant of this Lease, other than the payment of rent, and shall not cure such failure within fifteen days after the CITY's receipt of written notice thereof
- (c) The CITY or any guarantor of the CITY's obligations shall make an assignment for the benefit of creditors.
- (d) The CITY shall file a petition under any section or chapter of the Bankruptcy Codes, 11 USC §101 et seq, as amended, or under any similar law or statute of the United States or any State thereof; or the CITY or any guarantor of the CITY's obligations shall be adjudged bankrupt or insolvent in proceedings filed against the CITY or any guarantor of the CITY's obligations thereunder and such adjudication shall not be vacated or set aside or stayed within the time permitted by law.
- (e) A receiver or trustee shall be appointed for all of or substantially all of the assets of the CITY and such receivership shall not be terminated or stayed within the time permitted by law.

- (f) The CITY shall desert or vacate any substantial portion of Premises.

Upon the occurrence of any of such events of default, GROWTH GROUP shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever; provided, however, that GROWTH GROUP's actions shall at all times comply with all applicable state and municipal laws, rules and regulations:

- (a) Terminate this Lease, in which event the CITY shall immediately surrender the Premises to GROWTH GROUP, and if the CITY fails to do so, GROWTH GROUP may without prejudice to any other remedy which it may have for possession or arrearages in rent, enter upon and take possession and expel or remove the CITY and any other person who may be occupying Premises or any part thereof, without being liable for prosecution or any claim of damages therefore; and the CITY agrees to pay to GROWTH GROUP the amount of all loss and damage which GROWTH GROUP may suffer directly by reason of such termination.
- (b) Enter upon and take possession of the Premises and expel or remove the CITY and any other person who may be occupying Premises or any part thereof, without terminating this lease, make such alterations and repairs as may be necessary in order to relet the Premises, and relet the Premises or any part thereof for such term and at such rental and upon such other terms and conditions as GROWTH GROUP in its sole discretion may deem advisable; upon each such reletting all rentals received by GROWTH GROUP from such reletting shall be applied: First, to the payment of any indebtedness other than rent due hereunder from the CITY to GROWTH GROUP; second, to the payment of any costs and expenses of such reletting including brokerage fees and attorney's fees and costs of such alterations and repairs; third, to the payment of any rent due and unpaid hereunder; and the residue, if any, shall be held by GROWTH GROUP and applied in payment of future rent as the same may become due and payable hereunder. If such rentals received from such reletting during any month shall be less than the rent to be paid during that month by the CITY hereunder, the CITY shall pay any such deficiency to GROWTH GROUP upon demand. No such reentry or taking possession by GROWTH GROUP shall be construed as an election on its part to terminate this lease unless a written notice of such intention shall be given to the CITY; and any attempt by GROWTH GROUP to mitigate its claim for damages against the

CITY by reletting the Premises shall not be construed as a waiver of its right to damages under this section.

- (c) Enter upon Premises by force if necessary without being liable for prosecution or any claim for damages therefore, and do whatever the CITY is obligated to do under the terms of this Lease; and the CITY agrees to reimburse GROWTH GROUP on demand for any expenses GROWTH GROUP may incur in thus effecting compliance with the CITY's obligations under this Lease.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided, or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to GROWTH GROUP hereunder or of any damages accruing to GROWTH GROUP by reason of the violation of any of the terms, provisions and covenants herein contained. No waiver by GROWTH GROUP of any violation or breach of any of the terms, provisions and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants herein contained. Forbearance by GROWTH GROUP to enforce one or more of the remedies herein provided upon any event of default shall not be deemed or construed to constitute a waiver of such default.

28. ESTOPPEL CERTIFICATE BY THE CITY:

From time to time, upon not less than ten (10) days' prior request by GROWTH GROUP, the CITY shall execute and deliver to GROWTH GROUP a statement in writing certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified and certifying the modifications), (b) the dates to which the rent and other charge have been paid, and (c) that so far as the person making the certificate knows, GROWTH GROUP is not in default under any provision of this Lease.

29. SUBORDINATION OF LEASE:

The rights of the CITY under this Lease shall be and are hereby made subject and subordinate at all times to the lien of any mortgage or mortgages (or trust indentures) now or hereafter in force against the land, Building, the fee or the underlying leasehold estate, if any, and to all renewals, modifications, consolidations, replacements and extensions thereof; and to all advances made or hereafter to be made upon the security thereof, and the CITY shall execute such further instruments subordinating this Lease to such lien as shall be requested by

GROWTH GROUP. The CITY agrees in the event of any proceedings are brought for the foreclosure of any such mortgage to attom to the purchaser upon any such foreclosure sale and to recognize such purchaser as GROWTH GROUP under this Lease. The CITY agrees to execute and deliver at any time and from time to time upon the request of the GROWTH GROUP any instrument which may be reasonably necessary or appropriate in any such event to evidence such attornment. The CITY further waives the provisions of any statute or law now or hereafter in effect which may give or purport to give the CITY any right to terminate or otherwise adversely affect this Lease in the event any such foreclosure proceeding is brought.

30. RENEWAL OR AMENDMENT:

No renewal or amendment of this Lease shall be binding on either party unless it be in writing and signed by GROWTH GROUP and the CITY.

31. WAIVER OR BREACH:

No waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

32. HOLDING OVER:

No holding over by the CITY after the term of this Lease, or any renewed term either with or without consent and acquiescence of GROWTH GROUP shall operate to extend Lease for a longer period than one month. Any holding over with consent of GROWTH GROUP shall thereafter constitute this Lease a lease from GROWTH GROUP's consent after expiration or termination, the CITY shall pay as liquidated damages one hundred fifty percent (150%) of the rent for said holdover period.

33. COVENANTS TO RUN TO HEIRS, ETC.:

All covenants, conditions, agreements and undertakings in this Lease contained shall extend and inure to the benefit of GROWTH GROUP and its successors and assigns and, subject to paragraph 21 hereof and paragraph 11 of the Rider hereto, to the successors and assigns of the CITY the same as if they were in every case named and expressed; and except as herein otherwise provided, all said covenants, conditions and agreements shall be binding upon the successors and assigns of the respective parties.

34. DAMAGE BY FIRE OR OTHER CASUALTY:

If any part of Premises or a material portion of Building in which Premises are located which affects the CITY's occupancy is rendered untenable by fire or other casualty, GROWTH GROUP may elect (a) to terminate this Lease as of the date of the fire or casualty by notice to the CITY within sixty (60) days after the date of fire or casualty or (b) to repair, restore or rehabilitate Building or Premises at GROWTH GROUP's expense, in which event this Lease shall not terminate but rent shall be abated on per diem basis while Premises are untenable pro rated for that portion of the CITY's Premises that are untenable. If GROWTH GROUP elects so to repair, restore or rehabilitate Building or Premises, said work shall be undertaken and prosecuted with all due diligence and speed. In the event of termination of the Lease pursuant to this paragraph, rent shall be apportioned on a per diem basis and paid to the date of the fire or casualty.

35. CONDEMNATION:

If the land or building, or any part thereof, or any interest therein, be taken by virtue of eminent domain or for any public or quasi-public use or purpose, GROWTH GROUP shall have the right to terminate this Lease at the date of such taking or within six (6) months thereafter by giving the tenant sixty (60) days' prior notice of the date of such termination. Any interest which the CITY may have or claim to have in any award resulting from any condemnation proceedings shall be limited to the unamortized value or any permanent improvements to the structure of Building paid for by the CITY and any claim for furniture or fixtures of any nature whatsoever shall be excluded.

36. NOTICES:

Any notice required or desired to be given in connection with this Lease shall be in writing sent by certified or registered mail, postage prepaid. Such notice to GROWTH GROUP shall be sent to E. J. Ball Plaza, Inc., P. O. Box 17, Fayetteville, Arkansas, 72702.

37. LATE PAYMENT PENALTY:

A late payment charge of 11/2% per month will be charged on the unpaid balance of all overdue accounts, or the maximum allowed by law, whichever is less. Penalty to attach if not paid by fifth of the month.

39. TIME:

Time is of the essence regarding this Lease.

40. RECORDING:

This Lease shall not be recorded. Should either party deem it essential that said Lease be recorded, then the parties agree to execute in duplicate originals for recording only a "Short Form Lease" which shall not exceed two pages.

41. CAPTIONS:

The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

42. ENTIRE AGREEMENT:

This Lease contains the entire agreement of the parties hereto with respect to the matters contained herein and no other representations, inducements, promises or agreements, oral or otherwise, have been made between the parties. Submission of the Lease for examination does not constitute a reservation of or option for Premises. This Lease becomes effective only upon execution and delivery by both GROWTH GROUP and the CITY. All exhibits and riders attached to this Lease and initialed by GROWTH GROUP and the CITY are incorporated into and made a part of this Lease.

43. RIDER:

GROWTH GROUP and the CITY have, on the date aforesaid, executed the Rider attached hereto and fully incorporate herein by reference.

IN TESTIMONY WHEREOF, the above named GROWTH GROUP and the above named CITY OF FAYETTEVILLE have executed this instrument in duplicate originals on the day and year set forth in Paragraph 1 of this Lease.

GROWTH GROUP BUILDING

By: _____


J. MITCHELL MASSEY
Managing Member

CITY OF FAYETTEVILLE

By: _____

DAN COODY
Mayor

ATTEST:

By: _____

Sondra E. Smith, City Clerk/Treasurer

EXHIBIT "A"

RULES

The following regulations govern occupancy of E. J. Ball Plaza:

1. No mechanical machinery, steam engine, boiler or stove may be operated without the written consent of GROWTH GROUP. This Lease and these Rules, when executed, shall constitute GROWTH GROUP's written consent for the CITY to install a fire suppression system, and an emergency Back-up Generator.

2. GROWTH GROUP shall have the right to prescribe the weight and position of safes, computers and other heavy equipment which shall, in all cases, in order to distribute their weight, stand on supporting devices approved by GROWTH GROUP. All damage done to the Building by placing in or taking out any property of the CITY while in the Building shall be repaired promptly at the expense of the CITY.

3. Should the CITY require telegraphic, telephonic, annunciator or other communication services, GROWTH GROUP shall direct where and how wires are to be introduced and placed and none shall be introduced or placed except as GROWTH GROUP shall direct. GROWTH GROUP and the CITY shall coordinate the introduction and placement of the required fiber connection to the Premises.

4. No inflammable or explosive article may be brought into or stored in the Building. the CITY may not use oil, burning oil, burning fluid, kerosene, gasoline, or other fuels in the Building.

5. Food for consumption in the Building will not be prepared, nor facilities for the preparation of food installed, without written consent of GROWTH GROUP. Leased Premises will not be used for housing, lodging, sleeping or any immoral or illegal purposes.

6. Musical instruments and sound producing equipment may not be used inside or outside the Premises in a manner such that they may be heard outside the leased Premises.

7. The CITY will not permit odors or objectionable noise to emanate from the leased Premises.

8. The CITY will not disturb, solicit or canvass any occupant of the Building and shall cooperate with GROWTH GROUP to prevent such activities.

9. The CITY shall store all its trash and garbage within its Premises. No tenant shall accumulate trash within the Premises, and the Premises shall be subject to periodic inspection by local Fire Department officials. No material shall be placed in the trash boxes or receptacles if such material is of such nature that it may not be disposed of in the ordinary and customary manner of removing and disposing of trash and garbage in the City of Fayetteville without being in violation of any law or ordinance governing such disposal. All garbage and refuse disposal shall be made only through entryways and elevators provided for such purposes and at such times as GROWTH GROUP shall designate.

10. GROWTH GROUP reserves the right to exclude from the Building between the hours of 6:00 p.m. and 8:00 a.m. on week days and all day on Sunday and legal holidays all persons not possessing a pass to the Building signed by the CITY. The CITY is responsible for all persons to whom they issue such passes and shall be liable to GROWTH GROUP for all acts of such persons.

11. The CITY shall install biometric locks, limiting access to the Server Room and other sensitive areas of the Premises..

12. GROWTH GROUP will provide and maintain in the lobby of the Building an alphabetical directory board of the tenants and no other directory shall be permitted without previous consent in writing by GROWTH GROUP.

13. None of the entries, passages, doors or hallways shall be blocked or obstructed, or any rubbish, litter, trash or material of any nature placed, emptied or thrown into these areas, or such areas be used at any time except for access or egress by the CITY, the CITY's agents, employees or invitees.

14. No portion of Premises or any other part of the Building shall at any time be used or occupied as sleeping or lodging quarters.

15. The toilet rooms, toilets, urinals, wash bowls and other apparatus shall not be used for any purpose other than that for which they were constructed, no foreign substance of any kind whatsoever shall be thrown therein and the expense of any breakages, stoppage or damage resulting from the violation of this rule shall be borne by the CITY who or whose employees or invitees shall have caused it.

16. No bicycle, vehicle of any type, dog (except in the company of a blind person) or any other animal or bird may be brought into the Building.

17. The CITY is granted permission to install a wireless point-to-point antenna.

18. No other radio or television antennas may not be installed on the roof, outside of the Building, or in any other part of the Building other than inside the leased Premises. Signs may not be installed on the outside of the Building. All interior signs must be approved by GROWTH GROUP prior to installation.

19. The CITY will not use any illumination or power any equipment from a source other than that provided by GROWTH GROUP, with the express exception of the emergency back-up generator referenced above.

20. With the express exception of the fiber connection referenced above, no wires, cables, or lines may be brought into the leased Premises nor may any electrical device be operated which may emanate electrical waves capable of interfering with radio or television reception in or broadcasting from the Building.

21. Movement in or out of the Building of furniture, office equipment or other bulky materials, or movement through Building entrances or lobby shall be restricted to hours designated by GROWTH GROUP. All such movement shall be under supervision of GROWTH GROUP and in the manner agreed in writing between the CITY and GROWTH GROUP by prearrangement before performance. Such prearrangement initiated by the CITY will include determination by GROWTH GROUP and subject to his decision and control of the time, method and routing of movement, limitations imposed by safety or other concerns which may prohibit any articles, equipment or any other item from being brought into the Building. The CITY is to assume all risk as to damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property and personnel of GROWTH GROUP if damaged or injured as a result of acts in connection with carrying out this service for the CITY from time of entering property to completion of work; and GROWTH GROUP shall not be liable for acts of any person engaged in, or damage or loss to any of said property or persons resulting from any act in connection with such service performed for the CITY and the CITY hereby agrees to indemnify and hold harmless GROWTH GROUP from and against any such damage, injury or loss, including attorney's fee, unless such loss is caused by the gross negligence or willful misconduct of GROWTH GROUP.

22. Due to the sensitive nature of the computer server equipment to be housed on the Premises, the CITY shall install biometric locks. No access may be had without supervision by City Staff.

23. No furniture or other items may be placed near the glass portion of any window, door, partition, or wall which may appear unsightly when seen from a corridor or outside the Building.

24. The CITY will cooperate with GROWTH GROUP in maintaining maximum effectiveness of the cooling system. The CITY shall install and maintain a specialized cooling system for its Server Room.

25. GROWTH GROUP will not be responsible for lost or stolen property, equipment, money or jewelry from the CITY's area or public rooms regardless of whether such loss occurs when area is locked against entry or not.

26. These Rules and Regulations are in addition to, and shall not be construed to in any way modify, alter or amend, in whole or in part, the terms, covenants, agreements and conditions of any lease in the Building.

27. GROWTH GROUP reserves the right to make such other regulations as in its reasonable judgment may be required for the safety, care and cleanliness of the Building and for the preservation of good order therein. The CITY agrees to abide by all such regulations as herein are stated and which may be later adopted.

Kit - 7/17/07

Has not had time
to review & has
issues with this
lease. This lease
will be changed per
Kit -

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
July 17, 2007**

A meeting of the Fayetteville City Council will be held on July 17, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Fayetteville Attainable Housing, Leif Olson - Agenda Session Only

A. CONSENT:

- 1. Approval of the June 19, 2007 City Council meeting minutes and the July 3, 2007 City Council meeting minutes.**
- 2. Golden Circle Ford, Bid # 07-51:** A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.
- 3. Landers-McClarty Ford, Bid # 07-52:** A resolution awarding Bid # 07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.
- 4. Landers-McClarty Ford, Bid # 07-53:** A resolution awarding Bid # 07-53 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

5. **Landers-McClarty Ford, Bid # 07-54:** A resolution awarding Bid # 07-54 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.
6. **Landers-McClarty Ford, Bid # 07-55:** A resolution awarding Bid # 07-55 to Landers-McClarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.
7. **Urban Table, LLC:** A resolution approving a lease with The Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area.
8. **Arkansas Urban and Community Forestry Assistance Grant:** A resolution authorizing the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project; and approving a budget adjustment recognizing the grant revenue.
9. **Garver Engineers, LLC Amendment No. 1:** A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road.
10. **Stephens Insurance, LLC:** A resolution to approve a contract with Stephens Insurance, LLC to provide annual insurance benefits, consulting and brokerage services for the amount of \$50,000.00, plus additional service fees not to exceed \$37,630.00 and to approve a budget adjustment of \$51,380.00.
11. **Scull Creek Trail Lighting Phase II, Bid # 07-01:** A resolution approving the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.
12. **Scull Creek Trail Lighting Phase II, Bid # 07-59:** A resolution awarding Bid # 07-59 and approving a contract with XXXXXX in the amount of \$XXXXXX for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a %XX project contingency in the amount of \$XXXXXX.

B. UNFINISHED BUSINESS:

- 1. Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height setback of buildings located in the Main Street Center Zoning District. *This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 3, 2007 City Council meeting and Tabled to the July 17, 2007 City Council meeting.*
- 2. Amend Chapter 161: Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. *This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting.*

C. NEW BUSINESS:

- 1. Kenneth E. Schoby Offer and Acceptance Contract:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.
- 2. ANX 07-2620 (Keenan):** An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.
- 3. RZN 07-2621 (Keenan):** An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.
- 4. RZN 07-2592 (Bellwood S/D Ph II):** An ordinance rezoning that property described in rezoning petition RZN 07-2592, for approximately 8.41 acres, located west of Ruppel Road, south of Bellwood Subdivision Phase I from RMF-12, Residential Multi-Family, 12 units per acre, to RMF-18, Residential Multi-Family, 18 units per acre.
- 5. VAC 07-2644 (Zaxby's):** An ordinance approving VAC 07-2644 submitted by Jim Harrelson with Engineering Services Incorporated for property located on 6th Street between Lewis Avenue and Eastern Street to vacate a portion of a utility easement on the subject property.

6. **Growth Group, LLC:** A resolution approving a lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00.
7. **United Engines:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a 150kW generac back-up power generator from United Engines in the amount of \$31,489.00 plus applicable taxes and shipping for the Information Technology Division; and approving a budget adjustment in the amount of \$65,000.00.
8. **CUP 07-2560 Bohot Appeal:** An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.
9. **Fayetteville School Board Support:** A resolution in support of the Fayetteville School Board's careful study and consideration of options for the Fayetteville High School.

D. INFORMATIONAL:

City Council Tour: July 16, 2007

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 2
Golden Circle Ford,
Bid # 07-51
Page 1 of 6

17-Jul-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 07-51 to Golden Circle Ford of Jackson, Tennessee in the amount of \$40,898.14 for the purchase of one mid size regular cab dump truck for use by the Transportation Division.

\$40,898

Cost of this request

\$

513,193.00

Category/Project Budget

Light/Medium Duty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

144,861.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.1

Project Number

\$

368,332.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐


Department Director

6-29-07
Date

Previous Ordinance or Resolution #


City Attorney

7/3/2007
Date

Original Contract Date:

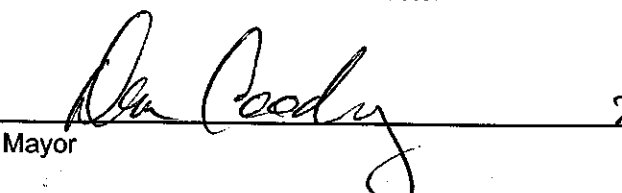
Original Contract Number:


Finance and Internal Service Director

7-3-07
Date

Received in City Clerk's Office




Mayor

7/3/07
Date

Received in Mayor's Office



Comments:



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

A.2
Golden Circle Ford,
Bid # 07-51
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations 
From: David Bragg, Fleet Operations Superintendent
Date: June 27, 2007
Subject: Purchase of one mid size Dump Truck

RECOMMENDATION: That City Council approve the purchase of one mid size regular cab dump truck for use by the Transportation Division

BACKGROUND: Bid #07-51 was opened on June 12, 2007 for one mid size regular cab dump truck for assignment to the Transportation Division. Seven bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Golden Circle Ford of Jackson, TN meets all specifications.

I recommend acceptance of the bid from Golden Circle Ford in the amount of \$40,898.14.

This unit is a replacement for unit #318, a 1999 Ford F-350 dump truck with 105,000 miles that is no longer dependable for daily service. The higher GVW rated F-550 is more suitable for the daily mission of this type equipment.

Funds are available for this purchase in Fleet Replacement Project 02078 – Light/Medium Duty Trucks.

Purchase of the dump truck from Golden Circle Ford was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-51 TO GOLDEN CIRCLE FORD OF JACKSON, TENNESSEE FOR THE PURCHASE OF ONE (1) MID-SIZE REGULAR CAB DUMP TRUCK IN THE AMOUNT OF \$40,898.14 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 #07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-51
6/12/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-51, Regular Cab Dump Truck

BIDDER	Manufacturer	Model	TOTAL PRICE
✓ 1 Golden Circle Ford	Ford Crysteel	F550 2008 E Series Tipper 2007	\$31,712.14 \$9,186.00 \$22,526.14 40898 14
2 Landers Ford #1	Ford Davis	2008 F550 2007 TA3-9	\$32,310.00 \$9,496.00 \$22,814.00 41806.00
3 Landers Ford #2			\$0.00
4 Landers McLarty Ford	Ford Davis	2008 F550 2008 TA3-9	\$32,153.14 \$9,496.00 \$22,657.14 41649 14
5 Lewis Ford Sales	Ford	2008 F550 2007 Hilbit 9 Ft. XPC	\$35,410.00 \$11,714.00 \$23,696.00 47124.00
6 Peterbilt of Fort Smith			No Bid
7 Riser Ford & Lincoln Mercury	Ford Davis	2008 F550 2008 TA39	\$31,510.00 \$9,496.00 \$23,014.00 41006 22

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

CERTIFIED: _____ P. VICE PURCH MGR _____ WITNESS _____ DATE



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

A. 2
Golden Circle Ford,
Bid # 07-51
Page 5 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: June 20, 2007

SUBJECT: Award of Bid 07-51

Bid #07-51 was opened on June 12, 2007 for one mid size regular cab dump truck for assignment to the Transportation Division. Seven bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Golden Circle Ford of Jackson, TN meets all specifications.

I recommend acceptance of the bid from Golden Circle Ford in the amount of \$40,898.14.

This unit is a replacement for unit #318, a 1999 Ford F-350 dump truck with 105,000 miles that is no longer dependable for daily service. The higher GVW rated F-550 is more suitable for the daily mission of this type equipment.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Medium/Heavy Trucks.

Cc:
Gary Dumas

APPROVED
6/26/2007
[Signature]

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 3
Landers-McClarty Ford,
Bid # 07-52
Page 1 of 6

17-Jul-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 07-52 to Lander's McClarty Ford of Bentonville, Arkansas in the amount of \$50,285.14 for the purchase of one crew cab utility body truck with crane for use by the Transportation Division.

\$50,285.00

Cost of this request

\$

513,193.00

Category/Project Budget

Light/Medium Duty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

185,759.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.1

Project Number

\$

327,434.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐



Department Director

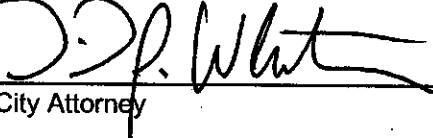
6-28-07

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

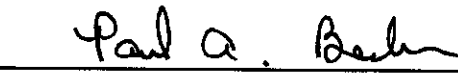
7/3/2007

Date

Received in City Clerk's Office

ENTERED

6/28/07



Finance and Internal Service Director

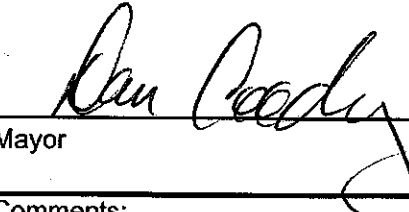
7-3-07

Date

Received in Mayor's Office

ENTERED

7/3/07



Mayor

7/3/07

Date

Comments:



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

A. 3
Landers-McClarty Ford,
Bid # 07-52
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations 

From: David Bragg, Fleet Operations Superintendent

Date: June 27, 2007

Subject: Purchase of one Crew Cab Utility Body Truck with Crane

RECOMMENDATION: That City Council approve the purchase of one crew cab utility body truck with crane for use by the Transportation Division.

BACKGROUND: Bid #07-52 was opened on June 12, 2007 for one crew cab chassis with utility body and crane for assignment to the Transportation Division. Eight bid responses were received. A detailed tabulation sheet is attached.

During the past year, fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$50,285.14.

This unit is a replacement for unit #319, a 1999 Ford F-350 dump truck with 101,000 miles that is no longer dependable for daily service. The crew cab with utility body is more suitable for moving work crews and equipment to and from job sites than the current dump truck.

Funds are available for this purchase in Fleet Replacement Special Project 02078 – Light/Medium Trucks.

Purchase of this truck from Landers McLarty Ford was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-52 TO LANDERS-MCCLARTY FORD FOR THE PURCHASE OF ONE (1) CREW CAB UTILITY BODY TRUCK WITH CRANE IN THE AMOUNT OF \$50,285.14 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 #07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.

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

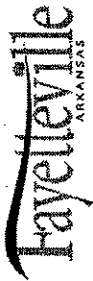
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-52
6/12/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-52, Crew Cab Chassis with Utility Truck Body and Cran

BIDDER	Manufacturer	Model	TOTAL PRICE
✓ 1 Golden Circle Ford	Ford	2008 F350 2007 Omaha Standard 108LPD54V 2007 Auto Crane 3203 PRX-PM	\$26,677.14 \$7,251.00 \$10,149.00 <u>\$44,077.14</u>
2 Landers Ford #1	Ford	2008 F450 2007 Omaha Standard 108LPD54V 2007 Auto Crane 3203PPX-FM	\$32,791.14 \$7,251.00 \$10,149.00 <u>\$50,191.14</u>
4 Landers McLarty Ford #1	RKI	2008 Ford F450 2007 RKI L60DW94 32003ERX15	\$29,973.00 \$20,897.00 Included with line item 2 <u>\$50,870.00</u>
5 Landers McLarty Ford #2		2008 Ford F350 Crew 4x2 Reading Classic 108 2007 Auto Crane PRX11	\$28,430.14 \$21,855.00 Included with line item 2 <u>\$50,285.14</u>
6 Lewis Ford Sales			No Bid <u>\$0.00</u>
7 Peterbilt of Fort Smith			No Bid <u>\$0.00</u>
8 Riser Ford & Lincoln Mercury		2008 Ford F350 2008 Napahide 610 LPJ1 2008 Auto Crane 3203PRX	\$26,827.00 \$9,264.00 \$10,238.00 <u>\$46,329.00</u>

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

CERTIFIED: _____ P. VICE PURCH MGR _____ WITNESS _____ DATE _____

TRANS - 1



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

A. 3
Landers-McClarty Ford,
Bid # 07-52
Page 5 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: June 20, 2007

SUBJECT: Award of Bid 07-52

Bid #07-52 was opened on June 12, 2007 for one crew cab chassis with utility body and crane for assignment to the Transportation Division. Eight bid responses were received. A detailed tabulation sheet is attached.

During the past year, fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$50,285.14.

This unit is a replacement for unit #319, a 1999 Ford F-350 dump truck with 101,000 miles that is no longer dependable for daily service. The crew cab with utility body is more suitable for moving work crews and equipment to and from job sites than the current dump truck.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Medium/Heavy Trucks.

Cc:
Gary Dumas

APPROVED

6/26/2007

28RB

City Of Fayetteville (Not a Purchase Order)										Requisition No. Date: 6/21/2007
Vendor # 14257 Vendor Name: LANDER'S MCLARTY FORD										P.O Number Expected Delivery Date:
Address:										Mail Yes: No: XX_
City:										Taxable Yes: XX_ No:
State:										Division Head Approval Yes: No:
Requester Barbara Olsen										Extension: 485
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #	
1	2008 FORD F350 4 x 2 TRUCK	1	EA	\$50,285.14	\$50,285.14	9700.1920.5802.00	02078.1			
2	W/ READING CLASSIC 108 UTILITY		EA		\$0.00					
3	BODY AND 2007 PRX11 AUTOCRANE		EA		\$0.00					
4	TO BE UNIT #361, FA #700361		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					
Subtotal: 50,285.14										
Tax: EXEMPT										
Total: 50,285.14										
Special Instructions:										
Approvals:										
Mayor:										
Finance & Internal Services Director:										
Dispatch Manager:										
Department Director:										
Budget Manager:										
Utilities Manager:										
Purchasing Manager:										
IT Manager:										

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

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 4
Landers-McClarty Ford,
Bid # 07-53
Page 1 of 6

17-Jul-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 07-53 to Lander's McClarty Ford of Bentonville, Arkansas in the amount of \$50,703.14 for the purchase of one regular cab 4X4 utility body truck with crane for use by the Fleet Division.

\$50,703.00

Cost of this request

\$

513,193.00

Category/Project Budget

Light/Medium Duty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

236,044.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.1

Project Number

\$

277,149.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

Mayor

Date

Received in Mayor's Office

Comments:



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

A. 4
Landers-McClarty Ford,
Bid # 07-53
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations 
From: David Bragg, Fleet Operations Superintendent
Date: June 27, 2007
Subject: Purchase of one Regular cab 4x4 Utility Body Truck with Crane

RECOMMENDATION: That City Council approve the purchase of one regular cab 4x4 utility body truck with crane for use by the Fleet Operations Division.

BACKGROUND: Bid #07-53 was opened on June 12, 2007 for one regular cab 4x4 chassis with utility body and crane for assignment to the Fleet Operations Division. Eight bid responses were received. A detailed tabulation sheet is attached.

During the past year, Fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$50,703.14.

This unit is a replacement for unit #295, a 1992 Ford F-350 service body truck that is no longer dependable for daily service. Four wheel drive is required for the off road construction and inclement weather conditions encountered by Fleet maintenance personnel and was previously approved by the equipment committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02078 – Light/Medium Trucks.

Purchase of this truck from Landers McLarty Ford was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-53 TO LANDERS-MCCLARTY FORD FOR THE PURCHASE OF ONE (1) REGULAR CAB 4x4 UTILITY BODY TRUCK WITH CRANE IN THE AMOUNT OF \$50,703.14 FOR USE BY THE FLEET 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 #07-53 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

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

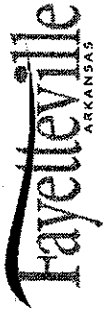
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-53
6/12/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-53, Cab and Chassis with Utility Truck Body and Crane

BIDDER	Manufacturer	Model	TOTAL PRICE
✓ 1 Golden Circle Ford	Ford	2008 F350 2007 Omaha Standard 108LPD54V 2007 Auto Crane 3203PRXFM	\$26,974.14 \$7,233.00 \$10,156.00
2 Landers Ford #1	Ford	2008 F350 2007 RKI L60DW94 2007 RKI 3200-3ERX15	\$27,170.00 \$20,897.00 Included in bid price
4 Landers McLarty Ford #1	Ford	2008 F350 4x4 2007 Reading Classic 108 2007 Auto Crane PRX11	\$28,848.14 \$21,855.00 Included
5 Landers McLarty Ford #2	Ford	2008 F350 4x4 2007 RKI L60DW94 2007 RKI 3200-3ERX15	\$28,848.14 \$20,597.00 Included
6 Lewis Ford Sales			No Bid \$0.00
7 Peterbilt of Fort Smith			No Bid \$0.00
✓ 8 Riser Ford & Lincoln Mercury		2008 F350 2008 Napahide 6108D54LR51 2008 Auto Crane 3203PRX	\$26,470.00 \$9,391.00 \$10,238.00

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

CERTIFIED: _____ P. VICE PURCH MGR WITNESS _____ DATE _____

FLEET - 1

\$48,067.00

\$50,703.14

\$49,445.14

\$46,099.00



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

A. 4
Landers-McClarty Ford,
Bid # 07-53
Page 5 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: June 20, 2007

SUBJECT: Award of Bid 07-53

Bid #07-53 was opened on June 12, 2007 for one regular cab 4X4 chassis with utility body and crane for assignment to the Fleet Operations Division. Eight bid responses were received. A detailed tabulation sheet is attached.

During the past year, fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of ~~\$49,445.14~~ ^{50,703.14}.

This unit is a replacement for unit #295, a 1992 Ford F-350 service body truck that is no longer dependable for daily service. Four wheel drive is required for the off road construction and inclement weather conditions encountered by fleet maintenance personnel and was previously approved by this committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Medium/Heavy Trucks.

Cc:
Gary Dumas

APPROVED

6/26/2007

[Signature]

City Of Fayetteville

(Not a Purchase Order)

Vendor #		14257		Vendor Name: LANDER'S MCLARTY FORD		Requisition No.		Date: 6/21/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX			
Requester Barbara Olsen				Zip Code		Ship to code: 050		Divisog Head Approval Yes: No:	
				Requester's Employee # 1940		Extension: 485			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2008 FORD F350 4 x 4 TRUCK	1	EA	\$50,703.14	\$50,703.14	9700.1920.5802.00	02078.1		
2	W/ READING CLASSIC 108 UTILITY		EA		\$0.00				
3	BODY AND 2007 PRX11 AUTO CRANE		EA		\$0.00				
4	TO BE UNIT #362, FA #700362		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: 50,703.14

Tax: EXEMPT

Total: 50,703.14

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: 

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 5
Landers-McClarty Ford,
Bid # 07-54
Page 1 of 6

17-Jul-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 07-54 to Lander's McClarty Ford of Bentonville, Arkansas in the amount of \$36,481.14 for the purchase of one regular cab 4X4 utility body truck for use by the Water and Sewer Division.

\$36,481.00

Cost of this request

\$ 513,193.00

Category/Project Budget

Light/Medium Duty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 286,747.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.1

Project Number

\$ 226,446.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

Mayor

Date

Received in Mayor's Office

Comments:



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

A. 5
Landers-McClarty Ford,
Bid # 07-54
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council

Thru: Gary Dumas, Director of Operations 

From: David Bragg, Fleet Operations Superintendent

Date: June 27, 2007

Subject: Purchase of one Regular cab 4x4 Utility Body Truck

RECOMMENDATION: That City Council approve the purchase of one regular cab 4x4 utility body truck for use by the Water and Sewer Division.

BACKGROUND: Bid #07-54 was opened on June 12, 2007 for one regular cab 4x4 chassis with utility body for assignment to the Water and Sewer Division. Seven bid responses were received. A detailed tabulation sheet is attached.

During the past year, Fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$36,481.14.

This unit is a replacement for unit #280, a 1997 Ford F-250 service body truck that is no longer dependable for daily service. The higher GVW rated F350 is more suitable for the current mission of this equipment. Four wheel drive is required for the off road construction conditions encountered by maintenance crews and was previously approved by the equipment committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02078 – Light/Medium Trucks.

Purchase of this truck from Landers McLarty Ford was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-54 TO LANDERS-MCCLARTY FORD FOR THE PURCHASE OF ONE (1) REGULAR CAB 4x4 UTILITY BODY TRUCK IN THE AMOUNT OF \$36,481.00 FOR USE BY THE WATER & SEWER 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 #07-54 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-54

6/12/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-54, Cab Chassis with Utility Truck Body - 13,000

BIDDER	Manufacturer	Model	TOTAL PRICE
✓ 1 Golden Circle Ford	Ford	2007 Omaha Standard 132D54VHT	\$26,840.14 \$8,290.00 \$35,130.14
2 Landers Ford #1	Ford	2008 F350 2007 RKST84DW1294	\$27,157.00 \$11,580.00 \$38,737.00
✓ 4 Landers McLarty Ford	Ford	2008 F350 2008 Reading Classic 45132	\$27,493.14 \$8,988.00 \$36,481.14
5 Lewis Ford Sales			No Bid
6 Peterbilt of Fort Smith			No Bid
7 Riser Ford & Lincoln Mercury	Ford	2008 F350 2008 Napahide 7132D54J1SP	\$26,740.00 \$9,828.00 \$36,568.00

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

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE



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

A. 5
Landers-McClarty Ford,
Bid # 07-54
Page 5 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: June 20, 2007

SUBJECT: Award of Bid 07-54

Bid #07-54 was opened on June 12, 2007 for one regular cab 4X4 chassis with utility body for assignment to the Water and Sewer Division. Seven bid responses were received. A detailed tabulation sheet is attached.

During the past year, fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$36,481.14.

This unit is a replacement for unit #280, a 1997 Ford F-250 service body truck that is no longer dependable for daily service. The higher GVW rated F-350 is more suitable for the current mission of this equipment. Four wheel drive is required for the off road construction conditions encountered by maintenance crews and was previously approved by this committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Medium/Heavy Trucks.

Cc:
Gary Dumas

APPROVED

6/26/2007

2013

City Of Fayetteville

(Not a Purchase Order)

Vendor # 14257 Vendor Name: LANDER'S MCLARTY FORD										Requisition No. Date: 6/22/2007
Address:										P.O Number Expected Delivery Date:
City:										Mail Yes: No: XX Taxable Yes: XX No:
Requester Barbara Olsen										Division Head Approval Yes: No:
Item Description										Ship to code: 050 Requester's Employee # 1940 Extension: 485
Item	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	1	EA	\$36,481.14	\$36,481.14	9700.1920.5802.00	02078.1				
2		EA		\$0.00						
3		EA		\$0.00						
4		EA		\$0.00						
5		EA		\$0.00						
6		EA		\$0.00						
7		EA		\$0.00						
8		EA		\$0.00						
9		EA		\$0.00						
10		EA		\$0.00						
		Lot		\$0.00						
Shipping/Handling										
Special Instructions:										Subtotal: 36,481.14 Tax: EXEMPT Total: 36,481.14
Approvals:										Purchasing Manager: IT Manager:
Mayor:										Department Director:
Finance & Internal Services Director:										Budget Manager:
Dispatch Manager:										Utilities Manager:

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 6
Landers-McClarty Ford,
Bid # 07-55
Page 1 of 6

17-Jul-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid 07-55 to Lander's McClarty Ford of Bentonville, Arkansas in the amount of \$89,336.28 for the purchase of two regular cab 4X4 utility body trucks for use by the Water and Sewer Division.

\$89,336.00

Cost of this request

\$ 513,193.00

Category/Project Budget

Light/Medium Duty Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 323,228.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.1

Project Number

\$ 189,965.00

Remaining Balance

Shop Fund

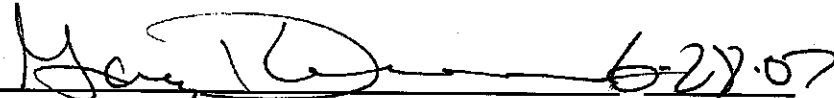
Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

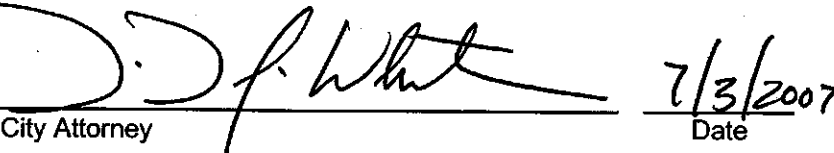

Department Director

6-27-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

7/3/2007
Date

Received in City Clerk's Office

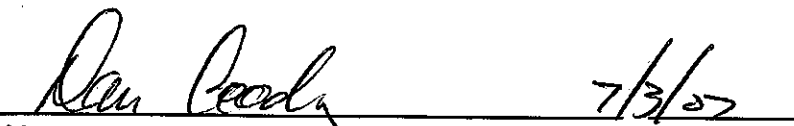
ENTERED
7/28/07


Finance and Internal Service Director

7-3-07
Date

Received in Mayor's Office

ENTERED
7/3/07


Mayor

7/3/07
Date

Comments:



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

A. 6
Landers-McClarty Ford,
Bid # 07-55
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations 
From: David Bragg, Fleet Operations Superintendent
Date: June 27, 2007
Subject: Purchase of two Regular cab 4x4 Utility Body Trucks

RECOMMENDATION: That City Council approve the purchase of two regular cab 4x4 utility body trucks for use by the Water and Sewer Division.

BACKGROUND: Bid #07-55 was opened on June 12, 2007 for two regular cab 4x4 chassis with utility body for assignment to the Water and Sewer Division. Seven bid responses were received. A detailed tabulation sheet is attached.

During the past year, Fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$89,336.28.

These units are replacements for units #321 and #322, both 1999 Ford F-350 service body trucks that are no longer dependable for daily service. The higher GVW rated F-550 is more suitable for the current mission of this equipment. Four wheel drive is required for the off road construction conditions encountered by maintenance crews and was previously approved by the equipment committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02078 – Light/Medium Trucks.

Purchase of these trucks from Landers McLarty Ford was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-55 TO LANDERS-MCCLARTY FORD FOR THE PURCHASE OF TWO (2) REGULAR CAB 4x4 UTILITY BODY TRUCKS IN THE AMOUNT OF \$89,336.28 FOR USE BY THE WATER & SEWER 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 #07-55 to Landers-McClarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

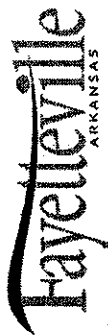
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

BID: 07-55

6/12/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-55, Cab Chassis with Utility Truck Body - 17,500

BIDDER	Manufacturer	Model	TOTAL PRICE
✓ 1 Golden Circle Ford	Ford	2007 Omaha Standard 132D54VH	\$34,827.14
			\$8,290.00
			<u>\$26,537.14</u>
2 Landers Ford #1	Ford	2008 F550	\$35,528.00
	2007 RKI	ST84DW1294	\$11,580.00
			<u>\$23,948.00</u>
✓ 4 Landers McLarty Ford	Ford	2008 F550	\$35,680.14
		2008 Reading Classic 132	\$8,988.00
			<u>\$89,336.28</u>
5 Lewis Ford Sales			No Bid
6 Peterbilt of Fort Smith			No Bid
7 Riser Ford & Lincoln Mercury	Ford	2008 F550	\$34,707.00
		2008 Napahide 7132D54J1	\$9,828.00
			<u>\$24,879.00</u>
			<u>\$89,070.00</u>

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

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE



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

A. 6
Landers-McClarty Ford,
Bid # 07-55
Page 5 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: June 20, 2007

SUBJECT: Award of Bid 07-55

Bid #07-55 was opened on June 12, 2007 for two regular cab 4X4 chassis with utility body for assignment to the Water and Sewer Division. Seven bid responses were received. A detailed tabulation sheet is attached.

During the past year, fleet staff has done extensive research on durability of various manufacturers of utility bodies and determined that the quality and durability of Reading bodies is superior to any other in the mid price range. Reading bodies are available to all truck dealers from numerous sources. Specifications for this bid call for "Reading utility body or approved equal". All competitive brand bodies bid list numerous exceptions and are not approved as equal to the body specified.

The bid from Landers-McLarty Ford of Bentonville is the only bid that meets all specifications.

I recommend acceptance of the bid from Landers-McLarty Ford in the amount of \$89,336.28.

These units are replacements for units #321 and #322, both 1999 Ford F-350 service body trucks that are no longer dependable for daily service. The higher GVW rated F-550 is more suitable for the current mission of this equipment. Four wheel drive is required for the off road construction conditions encountered by maintenance crews and was previously approved by this committee during 2007 budget preparation.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Medium/Heavy Trucks.

Cc:
Gary Dumas

APPROVED 6/26/2007
DRB

City Of Fayetteville

(Not a Purchase Order)

Vendor #		14257		Vendor Name:		LANDER'S MCLARTY FORD		Requisition No.		Date:	
Address:				Fob Point:				P.O Number		Expected Delivery Date:	
City:				State:				Mail Yes: No: XX			
Requester		Barbara Olsen		Ship to code:		050		Taxable Yes: No: XX			
Requester's Employee #		1940		Requester's Employee #		1940		Division Head Approval		Quotes Attached Yes: No:	
Description		Quantity		Unit of Issue		Unit Cost		Extended Cost		Account Numbers	
1	2008 FORD F550 4 x 4 TRUCKS	2	EA	\$44,668.14	\$89,336.28	9700.1920.5802.00	02078.1				
2	W/ READING CLASSIC 132 UTILITY		EA		\$0.00						
3	BODIES, TO BE UNIT #364, FA 700364		EA		\$0.00						
4	AND UNIT #365, FA #700365		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: 89,336.28	
		Tax: EXEMPT	
		Total: 89,336.28	

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

17-Jul-07

City Council Meeting Date

Connie Edmonston 
Submitted By

Parks & Recreation
Division

Operations
Department

Action Required:

Resolution to approve a lease with The Urban Table, LLC for the patio within the Square Garden on the Town Square.

\$0

Cost of this request

Account Number

Project Number

Category/Project Budget

Funds Used to Date

Remaining Balance

Program Category / Project Name

Program / Project Category Name

Fund Name

Budgeted Item

Budget Adjustment Attached

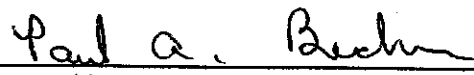
 6-28-07
Department Director Date

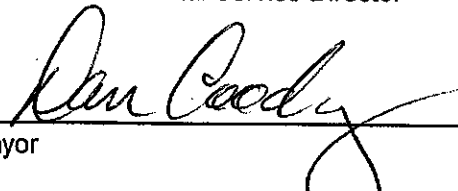
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

 7/2/2007
City Attorney Date

 7-2-07
Finance and Internal Service Director Date

 7/2/07
Mayor Date

Received in City Clerk's Office

ENTERED

7/29/07

Received in Mayor's Office

ENTERED

7/3/07

Comments: Approval of the lease for the Town Square patio area would provide \$2,400 annually in revenue.

City Council Meeting of July 17, 2007

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director
Date: June 28, 2007
Subject: **Resolution to approve a lease with The Urban Table, LLC for the patio within the Square Gardens on the Town Square**

RECOMMENDATION

Staff recommends approval of the attached resolution providing the lease of the 1,671.16 square feet patio to The Urban Table, LLC within the Square Gardens on the Town Square for an annual rental rate of \$2,400.

BACKGROUND

In the past, the City has leased the patio within the Square Gardens to two restaurants including Hog City and Sodie's. This arrangement was beneficial to both parties. Former tenants provided some improvements to make the small patio space more usable. The City has made no investment in the patio area which is under utilized by the public.

A new tenant, The Urban Table LLC, is requesting to lease the patio area from the City to provide an outdoor dining area for their restaurant. Urban Table is a full-service, casual dining restaurant which will feature classic and new American fare (Eg. steaks, seafood, burgers, salads and sandwiches). It will be open for lunch and dinner, seven days a week. There will also be a sports-style bar and grill located downstairs that will open mid-afternoons. Urban Table will open in early August. Attached is a site plan of the patio area designated with the diagonal lines.

DISCUSSION

The proposed lease includes the following:

1. Term of the lease is two (2) years, with a three (3) percent increase in rent for an additional period of two (2) years if agreeable by both parties.
2. Annual rental rate is \$2,400 payable in advanced monthly installments of \$200.
3. The leased patio is to be used only as an outdoor dining area and for no other purpose without the written consent of the City.
4. Only live non-amplified music is permitted which can not be loud enough to disturb persons enjoying the Square Gardens.
5. The City reserves the right to close the patio area for renovation to the Square Gardens as deemed necessary.
6. Either party may terminate the lease by providing written notice not less than sixty (60) days before the date of termination.

Staff views the lease of the small 1,676 square feet patio that is not currently being utilized by the public, as an enhancement and promotion of citizens, as well as visitors, to utilize our Town Square. In addition, it will provide an outdoor dining experience for citizens to enjoy the beautiful Square Gardens.

BUDGET IMPACT

The City would receive \$200 per month or \$2,400 annually for leasing this patio.

Attachments:

Lease Agreement (3)
Patio Layout

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE WITH THE URBAN TABLE, LLC FOR THE PATIO WITHIN THE SQUARE GARDENS FOR USE AS AN OUTDOOR DINING AREA.

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 Lease with The Urban Table, LLC of the patio within The Square Gardens for use as an outdoor dining area. A copy of the Lease, marked Exhibit "A," is attached hereto and made a part hereof.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

LEASE

This Agreement, made and entered into this ____ day of _____, 2007, by and between the City of Fayetteville ~~of Fayetteville~~, whose address is 113 West Mountain and The Urban Table, LLC whose address is 5405 West Wheeler Road, Fayetteville, Arkansas, 72704.

WITNESSETH:

1. **LEASED PREMISES.** For and in consideration of the rents, covenants and agreements herein entered into and agreed upon by The Urban Table, LLC as obligations to the City of Fayetteville, the City of Fayetteville leases to The Urban Table, LLC subject to the terms and conditions contained herein, the improved seating area adjoining the old Post Office Building within the fence containing approximately 1,676.16 square feet more or less, situated in Washington County, Arkansas as shown by the Site Plan of Wittenberg, Delony & Davidson, Inc. as attached as Exhibit A. To have and to hold said premises unto said The Urban Table, LLC, for and during the term herein stated, subject to the covenants, terms, conditions and liens herein contained.

2. **TERM.** This lease shall commence on _____, 2007 and shall extend for an initial term of two (2) years. If The Urban Table, LLC shall have fully performed every agreement and covenant on The Urban Table, LLC part to have been kept and performed under the term of this lease at the time of exercise and at the time of renewal, The Urban Table, LLC is hereby granted the right if mutually agreeable with the City of Fayetteville and option to extend this lease, upon the same terms, with a three (3) percent increase in rent for an additional period of two (2) years, with such option to be exercised in writing by The Urban Table, LLC not later than one hundred eighty (180) days prior to the expiration of the basic or original term of this lease.

3. **RENT.** The Urban Table, LLC agrees to pay to City of Fayetteville the annual rental rate of \$2,400.00 payable in monthly installments of \$200.00 each, to be paid in advance beginning on the first day of _____, 2007 and on the first day of each and every month thereafter. No security deposit shall be required.

4. **USE.** The Urban Table, LLC agrees to use the leased premises for the purpose of operating an outdoor dining area and for no other purpose or purposes without the written consent of the City of Fayetteville having been obtained in advance.

5. **CONSTRUCTION OF IMPROVEMENTS.** Any alteration of the improvements within the City of Fayetteville's leased premises must be approved by the Mayor prior to such alteration.

6. **INGRESS AND EGRESS.** Except for emergency and handicapped access, all ingress and egress to and from the leased premises shall be through the Old Post Office building. Handicapped access is limited to the east area of the leased premises. Permission from the City of Fayetteville must be obtained for special event access to the patio area from the east entry.

7. **MUSIC.** The Urban Table, LLC agrees that only live non-amplified music will be permitted on the leased premises which shall not be loud enough to disturb persons enjoying the Square Gardens.

8. **SIGNS AND ADVERTISING.** No sign, picture, advertisement, or notice shall be displayed on any part of the leased premises visible to the public without the previous consent, in writing, or the City of Fayetteville.

9. **LITTER REMOVAL.** The Urban Table, LLC shall provide daily litter removal from the portion of the Town Square in front of its public entrances.

10. **NON-SUCCESSION.** This lease agreement shall inure only to the benefit of and be binding upon the parties hereto and not to their respective heirs, successors and assigns. This lease is not assignable without the consent of the City of Fayetteville.

11. **TAXES.** The Urban Table, LLC shall pay any and all ad valorem taxes special improvement district taxes levied and assessed against said premises and the improvements located thereon during the term of this lease.

12. **COMPLIANCE WITH LAWS.** The Urban Table, LLC agrees not to violate any law, ordinance, rule or regulation of any government authority having jurisdiction of the leased premises.

13. **INSURANCE OF THE URBAN TABLE, LLC'S PROPERTY.** The Urban Table, LLC shall be solely responsible for maintaining insurance on its property, including but not limited to movables, trade fixtures installed by The Urban Table, LLC, furniture, furnishings and inventory.

14. **RIGHT OF INSPECTION.** The City of Fayetteville shall have the right, in person or through the City of Fayetteville's duly authorized representative, at all reasonable times to inspect the leased premises.

15. **RIGHT OF SQUARE GARDEN RENOVATION.** The City of Fayetteville reserves the right to close the patio area for renovation to the square

gardens as deemed necessary. Rent will be prorated during this time frame; however, lessee will be responsible for storing and securing all of the lessee's amenities on the patio during this time. It is the intent of the City of Fayetteville to minimize the time in which the patio area would need to be closed.

16. ALTERATIONS. The Urban Table, LLC shall have the right and privilege to make, at The Urban Table, LLC's expense, ordinary repairs and alterations to the leased premises; however, no alterations shall be made without the prior written consent of the City of Fayetteville.

17. FIXTURES. All trade fixtures installed by The Urban Table, LLC or acquired by The Urban Table, LLC independently of this lease shall remain The Urban Table, LLC's property and may be removed by The Urban Table, LLC at the expiration of this lease; provided, however, The Urban Table, LLC shall restore the leased premises and repair any damage thereto caused by such removal.

18. ACCEPTANCE OF PREMISES. The Urban Table, LLC acknowledges it has inspected the premises and determined them adequate for its intended uses. The Urban Table, LLC accepts the premises in their current condition.

19. MAINTENANCE OF LEASED PREMISES. The Urban Table, LLC shall be liable for all license fees, occupation taxes and the like in connection with the operation of any business on the leased premises, and shall pay all charges incurred by The Urban Table, LLC in connection with utility services of whatever kind or nature including any sewer charges and pickup of The Urban Table, LLC's trash and garbage.

The Urban Table, LLC shall be responsible for maintaining the improvements upon the leased premises in a satisfactory condition and the premises shall, at all times, be maintained in a neat and orderly condition. The Urban Table, LLC's business operations will be carried on in accordance with the highest standards for such businesses, particularly in the areas of cleanliness and service.

20. INDEMNIFICATION OF CITY OF FAYETTEVILLE. The Urban Table, LLC shall defend, indemnify and hold the City of Fayetteville harmless against any expense, claim, loss or liability as the result of any breach by The Urban Table, LLC, The Urban Table, LLC's agents, servant, employees, customers, visitors or licensees, of any covenant or condition of this lease, or as a result of The Urban Table, LLC's use or occupancy of the demised premises, or the carelessness, negligence of improper conduct of The Urban Table, LLC, The

Urban Table, LLC's agents, servants, employees, customers, visitors or licensees. To facilitate the provisions hereof, The Urban Table, LLC shall keep and maintain at all times during the term of this lease, or any extension thereof, in full force and effect with a company or companies acceptable to City of Fayetteville, insurance against third party liability by reason of The Urban Table, LLC's occupancy of the demised premises with limits of liability thereunder of not less than \$100,000.00 per person and \$500,000.00 per accident with \$500,000.00 coverage for property damage.

21. RETURN OF LEASED PROPERTY. At the end of the term of this lease, or upon any other earlier termination, The Urban Table, LLC agrees promptly and peaceably to restore possession of the leased premises to the City of Fayetteville in as good condition as they were when delivered to The Urban Table, LLC, ordinary wear and tear excepted. To accommodate this covenant, The Urban Table, LLC hereby waives any and all notice to which The Urban Table, LLC may be entitled under the laws of the State of Arkansas as a prerequisite to a suit against The Urban Table, LLC for the unlawful detention of the property.

22. NOTICES. Any notice called for or permitted under the terms hereof shall be given in writing and sent by certified mail to The Urban Table, LLC, at 5405 West Wheeler, Fayetteville, AR 72704 and to the Mayor's Office, City of Fayetteville, 113 W. Mountain St., Fayetteville, AR 72701. If such certified mail is returned to sender, the City of Fayetteville may provide adequate notice by posting said Notice on the premises.

23. WASTE. The Urban Table, LLC agrees not to commit waste, not permit waste to result or to be done to or upon the aforesaid property and premises; not to conduct any other business thereon or therein, nor store or permit to be stored thereon or therein any explosives, combustible substances or materials or any nature, which would increase the fire hazard or cause a premium to be charged for insurance higher than that charged for the present use of said property; and not to operate nor permit to be operated, nor to exist thereon or therein, any public or private nuisance.

24. RIGHT TO CURE. If The Urban Table, LLC shall default in any of the covenants, agreements, conditions, or undertakings herein contained to be kept, observed and performed by The Urban Table, LLC, the City of Fayetteville shall give notice of such default in writing to The Urban Table, LLC and The Urban Table, LLC shall have thirty (30) days from and after the giving of such notice to eliminate and/or cure the cause of such default. If said default is eliminated or cured within the aforementioned thirty (30) days, The Urban Table, LLC shall not be considered in default or in breach of this lease.

25. **TERMINATION.** Each party may terminate this lease by providing written notice to the other not less than sixty (60) days before the date of termination.

26. **SEVERABILITY.** Each paragraph of this lease agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs will remain in full force and effect.

27. **INTERPRETATION.** This lease agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

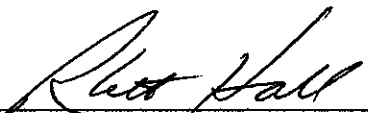
28. **ENTIRE AGREEMENT.** This lease agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto.

29. **NON-WAIVER PROVISION.** The failure of the City of Fayetteville or The Urban Table, LLC to insist upon the strict and literal performance of any agreement or conditions herein or to exercise any option retained or granted by reason of a default by The Urban Table, LLC shall not constitute a waiver of the City of Fayetteville's right thereafter to insist upon and enforce full performance of such conditions and agreements.

IN WITNESS WHEREOF, the City of Fayetteville and The Urban Table, LLC have hereunto set their hands and seals and have caused their names to be hereunto affixed by the undersigned officers who are duly authorized to act, on this ____ day of _____, 2007.

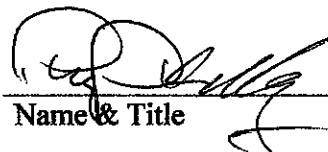
THE URBAN TABLE, LLC

CITY OF FAYETTEVILLE, ARKANSAS

By: 
Rhett Hall, President
The Urban Table, LLC

By: _____
DAN COODY
Mayor


Judy K Hall, Chairperson
The Urban Table, LLC

Attest: 
Name & Title

Attest: _____
Sondra Smith, City Clerk

City of Fayetteville Staff Review Form

A. 8
Arkansas Urban and Community
Forestry Assistance Grant
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

7/17/2007

City Council Meeting Date
Agenda Items Only

Sarah K. Patterson

Submitted By

Parks and Recreation

Division

Operations

Department

Action Required:

Resolution approving Parks and Recreation to accept a 50 / 50 Matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission, in an amount of \$10,000 for Red Oak Park Stream Stabilization Project.

\$76,802

Cost of this request

2250.9255.5806.00

4470.9470.5806.00

Account number

02015.1

Project Number

\$

145,954.00

Category / Project Budget

\$

-

Funds Used to Date

\$

145,954.00

Remaining Balance

Gordon Long/ Red Oak Improvements

Program Category / Project Name

Parks Development

Program / Project Category Name

Sales Tax / Park Development

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☒

Department Director
6-29-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney
7/3/07
Date
 Received in City
Clerk's Office
ENTERED
6/29/07

Finance and Internal Service Director
7-3-07
Date
 Received in
Mayor's Office
ENTERED
7/3/07

Mayor
7/3/07
Date

Comments: Red Oak Park Improvements is an approved and budgeted project for 2007. This 50/50 grant would be easily matched by existing funds and in-kind contributions.

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody
City Council

Thru: Gary Dumas, Operations Director
Connie Edmontson, Parks and Recreation Director

From: Sarah K. Patterson, Urban Forester

Date: June 27, 2007

Subject: Urban and Community Forestry Assistance Grant Acceptance

RECOMMENDATION

Approval of a resolution authorizing the City to accept a \$10,000 grant from the Arkansas Forestry Commission 2007 Urban and Community Forestry Assistance Grant for the streambank stabilization project in Red Oak Park.

BACKGROUND

The Arkansas Forestry Commission offers a grant every year to communities for urban forestry projects. This is a 50/50 reimbursable matching grant program. The grant is funded by the United States Department of Agriculture. The grant will be awarded in July 2007 and will run until July 2008. The maximum amount allowed is \$20,000. Funding by the USDA for this kind of assistance has been cut slowly from the State's budget over the last years and scheduled to cease by 2009. The application for this grant is very competitive among other community projects around the state.

DISCUSSION

Red Oak Park was deeded to the City 1995 to meet Parkland Dedication requirements. This park is approximately 8.72 acres and has many amenities such as a pavillion, picnic tables, a trail, and basketball court. The park serves the Bridgeport, Fieldstone, Willow Springs and surrounding subdivisions.

The Park is currently experiencing severe erosion from stormwater runoff after the high density of development. The Arkansas Game and Fish Commission has served as a consultant for a stabilization project. It is the intent of this project to restore the creek to allow for continued use of the park and future trail connectivity.

The upper portion of the channel will be modified to create a larger area to handle the runoff events. Both banks will be shaped to increase the total channel area. This shaping will involve the removal of soil and some trees. The newly shaped banks will be planted in grass, fertilized, and covered with coconut matting to encourage rapid revegetation. A

variety of shrubs and small trees will be added for further stabilization. In the lower portion, a series of stone grade-control structures and rock-line plunge pools will be added to help prevent further erosion of bed material.

This grant is a competitive 50/50 reimbursement grant allowing in-kind and/or cash match. It is the intent that the majority of the match will be in-kind from collaborations between City staff and volunteers. Volunteers will assist in the planting while Park Maintenance staff will operate equipment to reshape the drainage channel according to the plan from Arkansas Game and Fish. In addition, matching funds for this grant are provided in the Red Oak Park Capital Project. The grant term is for 1 year to begin July 1, 2007. All receipts, volunteer, and staff hours will be submitted in a final report by July 1, 2008 followed by a reimbursement check from the Arkansas Forestry Commission.

BUDGET IMPACT

The Red Oak Park Project budget was adopted with the 2007 budget. Arkansas Game and Fish estimated the total cost as \$76,802.

ATTCHMENTS

Arkansas Forestry Commission Urban and Community Grant Award Notification
Grant Agreement Form between Arkansas Forestry Commission and City of Fayetteville

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE PARKS AND RECREATION DIVISION TO ACCEPT A 50/50 MATCHING ARKANSAS URBAN AND COMMUNITY FORESTRY ASSISTANCE GRANT FROM THE ARKANSAS FORESTRY COMMISSION IN THE AMOUNT OF \$10,000.00 TO FUND THE RED OAK PARK STREAM STABILIZATION PROJECT; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment recognizing the grant revenue.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 8
Arkansas Urban and Community
Forestry Assistance Grant
Adjustment Number 5 of 10

Budget Year 2007	Department: Operations Division: Parks & Recreation Program: Parks Development Capital	Date Requested 6/28/2007	
--------------------------------	--	--	--

Project or Item Added/Increased: \$10,000 in the Gordon Long/Red Oak Improvements capital project.	Project or Item Deleted/Reduced: None. To recognize \$10,000 in the State Grants - Capital account of the Parks Development Fund.
---	--

Justification of this Increase: Grant funds are being accepted for the Red Oak Park Stream Stabilization Project. This is a 50/50 Matching Grant.	Justification of this Decrease: This adjustment is administrative. An Arkansas Urban & Community Forestry Assistance Grant was received for the Red Oak Park Stream Stabilization Project at Red Oak Park. This adjustment recognizes that revenue which will be processed upon completion of the grant, July 2008.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Park improvements	2250	9255	5806	00	10,000	02015	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants-Capital	2250	0925	4302	00	10,000	02015	1

Approval Signatures <i>Ernie E. Brown</i> Requested By <i>[Signature]</i> Budget Manager <i>Paul A. Bucher</i> Finance & Internal Services Director _____ Mayor 6-28-07 Date 7-3-07 Date 6-29-07 Date 7-3-07 Date _____ Date	Budget Office Use Only Type: A B C D E Posted to General Ledger Posted to Project Accounting Entered in Category Log Initial Date Initial Date Initial Date
--	---



John T. Shannon

State Forester

June 15, 2007

City of Fayetteville
Sarah Patterson
Parks and Recreation
113 W. Mountain Street
Fayetteville, AR 72701

Dear Sarah Patterson:

I am very pleased to award a grant for \$10,000 to the City of Fayetteville after a detailed review of the Urban & Community Forestry Assistance Grant applications by the grant review committee. The Arkansas Forestry Commission has assigned this project the number UCF07-07. Please sign the enclosed agreement and return to my office.

Your vision will help to foster stewardship of our natural resources and enhance the character and economic viability of our communities. With eighty percent of our citizens living in urban areas it is important that we keep our communities healthy through proper planning and management of our community forest.

Thank you for your dedication in furthering the importance of Arkansas' natural resources.

Sincerely yours,

A handwritten signature in cursive script that reads "Patti Erwin".

Patti Erwin

GRANT AGREEMENT
BETWEEN
ARKANSAS FORESTRY COMMISSION
AND
City of Fayetteville

6/15/2007 – 7/1/2008

This Grant Agreement is hereby entered into by and between the Arkansas Forestry Commission, hereafter referred to as 'AFC', and the City of Fayetteville, hereafter referred to as 'Grantee.'

All funds must be used for the purposes stated below. Any modification of purpose, final product, grant award, or matching contribution must be requested in writing and approved by the AFC. All printed materials must have prior approval by AFC. Grantee must raise the entire balance of funds necessary to complete the budget as proposed, from non-federal sources. Grant funds cannot be used for food.

Purpose: Stream bank restoration \$10,000 (up to \$5,000 for rock).

The \$10,000 grant will be paid on a reimbursement basis upon submission of approved cost records, documentation AND a final project report. The amount paid will equal 50% of the approved project costs, not to exceed either the grant amount or the out-of-pocket expenses. The Grantee shall be responsible for a minimum match of \$10,000 in eligible cash purchases or in-kind contributions. Written prior approval of trees and shrubs is required before purchasing.

The Grantee shall be responsible for providing proof-of-payment records for all purchases and in-kind contributions. These include source documentation such as invoices, canceled checks, paid receipts, payroll or time and attendance records, contract documents, and valuation letters for third-party in-kind contributions. Cost records must be retained for three years following conclusion of the project.

The Grantee shall submit a final project performance report, a financial summary with supporting documentation, and a copy of any product developed through the grant within 30 days of project completion, or by **July 1, 2008**, at the latest.

The State Forester and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the Grantee which are pertinent to the grant in order to make audits, examinations, excerpts, and transcripts.

(For Tree Planting Projects Only) Trees must be maintained for three full years following planting. The Grantee must replace any dead trees within the period of this three-year period. Prior approval is required for substitutions. **All trees must be inspected by an AFC County Forester prior to planting.**

The Grantee agrees to include in all promotion, publicity, programs, advertising, and in any printed materials pertaining to all AFC Urban Forestry funded programs and/or projects, the following credit line: "This project is supported in part by the Arkansas Forestry Commission's Urban Forestry Program and the U. S. Forest Service."

If a Grantee materially fails to comply with any term of this award, as stated above, the AFC may disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for the Grantee, withhold further awards for the program, demand repayment of the grant, or take other legally available remedies.

The Grantee agrees not to discriminate against any employee, applicant for employment or any person participating in any aspect of this grant on the basis of race, creed, color, national origin, religion, sex, age or physical or mental disability.

The Grantee may terminate this entire Agreement, without cause, prior to the expiration of the grant period, upon sixty (60) days written notice. Upon cancellation of this Agreement and release of the unexpended grant funds, the Grantee is fully released of all obligations under this Agreement.

If any part of this Agreement shall be deemed to be or shall, in fact, be invalid, inoperative, or unenforceable as applied, such circumstance shall not have the effect of rendering any other provision of this Agreement invalid, inoperative, or unenforceable to any extent whatever.

We accept this grant subject to the terms and provisions stated above.

Signature Patti Erwin
Date 6/18/2007
Name Patti S. Erwin
Urban Forestry Coordinator
Arkansas Forestry Commission
Organization

Signature [Signature]
Date 7/3/07
Name _____
Grantee
Organization _____

GRANT AGREEMENT
BETWEEN
ARKANSAS FORESTRY COMMISSION
AND
City of Fayetteville

6/15/2007 – 7/1/2008

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Purpose: Stream bank restoration \$10,000 (up to \$5,000 for rock).

The \$10,000 grant will be paid on a reimbursement basis upon submission of approved cost records, documentation AND a final project report. The amount paid will equal 50% of the approved project costs, not to exceed either the grant amount or the out-of-pocket expenses. The Grantee shall be responsible for a minimum match of \$10,000 in eligible cash purchases or in-kind contributions. Written prior approval of trees and shrubs is required before purchasing.

The Grantee shall be responsible for providing proof-of-payment records for all purchases and in-kind contributions. These include source documentation such as invoices, canceled checks, paid receipts, payroll or time and attendance records, contract documents, and valuation letters for third-party in-kind contributions. Cost records must be retained for three years following conclusion of the project.

The Grantee shall submit a final project performance report, a financial summary with supporting documentation, and a copy of any product developed through the grant within 30 days of project completion, or by **July 1, 2008**, at the latest.

The State Forester and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of the Grantee which are pertinent to the grant in order to make audits, examinations, excerpts, and transcripts.

(For Tree Planting Projects Only) Trees must be maintained for three full years following planting. The Grantee must replace any dead trees within the period of this three-year period. Prior approval is required for substitutions. **All trees must be inspected by an AFC County Forester prior to planting.**

The Grantee agrees to include in all promotion, publicity, programs, advertising, and in any printed materials pertaining to all AFC Urban Forestry funded programs and/or projects, the following credit line: "This project is supported in part by the Arkansas Forestry Commission's Urban Forestry Program and the U. S. Forest Service."

If a Grantee materially fails to comply with any term of this award, as stated above, the AFC may disallow all or part of the cost of the activity or action not in compliance, wholly or partly suspend or terminate the current award for the Grantee, withhold further awards for the program, demand repayment of the grant, or take other legally available remedies.

The Grantee agrees not to discriminate against any employee, applicant for employment or any person participating in any aspect of this grant on the basis of race, creed, color, national origin, religion, sex, age or physical or mental disability.

The Grantee may terminate this entire Agreement, without cause, prior to the expiration of the grant period, upon sixty (60) days written notice. Upon cancellation of this Agreement and release of the unexpended grant funds, the Grantee is fully released of all obligations under this Agreement.

If any part of this Agreement shall be deemed to be or shall, in fact, be invalid, inoperative, or unenforceable as applied, such circumstance shall not have the effect of rendering any other provision of this Agreement invalid, inoperative, or unenforceable to any extent whatever.

We accept this grant subject to the terms and provisions stated above.

Signature Patti S. Erwin
Date 6/18/2007
Name Patti S. Erwin
Urban Forestry Coordinator
Arkansas Forestry Commission
Organization

Signature [Signature]
Date 7/3/07
Name _____
Grantee

Organization

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

7/17/2007

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution authorizing execution of Amendment No. 1 to the Engineering Contract with Garver Engineers, LLC in an amount not to exceed \$716,850 for preliminary and final design and related services for Mount Comfort Road, from I-540 to Ruppel Road.

\$ 716,850.00

Cost of this request

\$ 24,737,669.83

Category / Project Budget

Transportation Bond Improvements

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 1,147,860.05

Funds Used to Date

Street Improvements

Program / Project Category Name

06035.1510

Project Number

\$ 23,589,809.78

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

 7-29-07
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

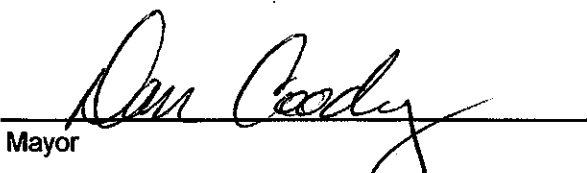
 7/2/2007
City Attorney Date

Original Contract Number: _____

Paul A. Becker 7-2-07
Finance and Internal Service Director Date

Received in City Office

ENTERED
6/29/07
P.H.

 7/3/07
Mayor Date

Received in Mayor's Office

ENTERED
7/2/07
P.H.

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: June 29, 2007

Subject: A resolution authorizing execution of Amendment No. 1 to the Engineering Contract with Garver Engineers, LLC in an amount not to exceed \$716,850 for preliminary and final design and related services for Mount Comfort Road, from I-540 to Ruppel Road.

RECOMMENDATION:

Staff recommends approval of Amendment No. 1 to the Contract with Garver Engineers, LLC for professional services for Mount Comfort Road, from I-540 to Ruppel Road.

BACKGROUND:

Mount Comfort Road is included in the proposed Transportation Improvement Bond Program, and is also partially funded by Capital Improvement Funds. Previously, the intersection with I-540, Shiloh Drive, and Dean Solomon Road was established as a separate project from the rest of Mount Comfort Road.

Under the original contract, Garver provided traffic studies, design surveys and conceptual design services for Mount Comfort Road, from I-540 to west of Ruppel Road. The conceptual design has been completed by Garver and reviewed by the Street Committee, adjacent property owners, and the general public.

DISCUSSION:

Under this Contract Amendment, Garver will provide preliminary and final design services necessary to produce construction plans and specifications for use by the City. Garver will also provide property surveys, legal descriptions for right of way and easements to be acquired, and related services to support property acquisition by the City.

The amount of this Contract Amendment will not exceed \$716,850. The original contract amount was \$320,050; therefore, the total amended contract amount is \$1,036,900.

BUDGET IMPACT:

This contract will be paid from funds available in the Transportation Improvement Bond Program and in the Capital Improvement Fund.

RESOLUTION NO. _____

A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1 TO THE CONTRACT WITH GARVER ENGINEERING, LLC IN AN AMOUNT NOT TO EXCEED \$716,850.00 FOR PRELIMINARY AND FINAL DESIGN AND RELATED SERVICES FOR IMPROVEMENTS TO MOUNT COMFORT ROAD FROM I-540 TO RUPPLE ROAD.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the Contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road. A copy of Amendment No. 1, marked Exhibit "A" is attached hereto and made a part hereof.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

**AMENDMENT TO AGREEMENT FOR
PROFESSIONAL ENGINEERING SERVICES
CITY OF FAYETTEVILLE
FAYETTEVILLE, ARKANSAS**

CONTRACT AMENDMENT NO. 1

Mount Comfort Road Improvements

This Contract Amendment No. 1, dated _____, 2007 shall amend the original contract between the CITY OF FAYETTEVILLE, ARKANSAS and GARVER ENGINEERS, LLC, (Garver) dated September 19, 2006 for professional engineering services in connection with the Mount Comfort Road Improvements Project, from Interstate 540 to Ruppel Road, (the "Project"). This Contract Amendment No. 1 adds professional engineering and surveying services for the Design Phase Services, as described herein.

The contract is hereby modified as follows:

SECTION 2 - BASIC SERVICES OF GARVER

The following Sections supercede corresponding Sections in the original contract.

2.1 General

2.1.1.2 The Scope of Services to be furnished by GARVER during the remainder of the Design Phase is included in Section 2.2 hereafter and in Appendix A attached hereto and made part of this Agreement.

2.2 Design Services

2.2.1 GARVER will perform engineering and related services in order to prepare drawings and related services as described in Appendix A.

2.2.1.3 When requested by the CITY OF FAYETTEVILLE's City Engineer, prepare for and attend up to two Street Committee meetings and one City Council meeting to provide support for the project, for each submittal phase.

2.3 Bidding Phase

2.3.1 The scope of services to be furnished by GARVER during the Bidding Phase is described in detail in Appendix A attached hereto and made part of this Agreement.

SECTION 6 – PAYMENTS TO GARVER

6.1 Compensation

CITY OF FAYETTEVILLE shall pay GARVER an amount **not to exceed \$1,036,900** in accordance with the provisions described in the following paragraphs. CITY OF FAYETTEVILLE shall pay GARVER for time spent on the project at the rates shown in attached Appendix A-2 for each classification of GARVER's personnel. In addition, reimbursable expenses, including but not limited to printing, courier service, reproduction, and travel will be billed. For informational purposes, a breakdown of GARVER's estimated costs is included in Appendix A-2. The rates shown in Appendix A-2 will be increased annually with the first increase effective on or about May 1, 2008. Underruns in any phase may be used to offset overruns in another phase as long as the overall contract amount is not exceeded.

6.1.2 Property Surveys and Property Acquisition Documents

For Property Surveys and Property Acquisition Documents, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$143,250**.

6.1.4 Preliminary Design

For the Preliminary Design described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$279,050**.

6.1.5 Final Design

For the Final Design described herein, CITY OF FAYETTEVILLE shall pay GARVER an

amount estimated to be **\$280,550**.

6.1.6 Bidding Services

For the Bidding Services described herein, CITY OF FAYETTEVILLE shall pay GARVER an amount estimated to be **\$14,000**.

IN TESTIMONY OF WHICH, this instrument has been executed on behalf of GARVER ENGINEERS, and has been executed on behalf of the CITY OF FAYETTEVILLE, in three (3) counterparts, each of equal force, on the day and year first above written.

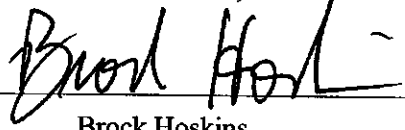
CITY OF FAYETTEVILLE

By: _____

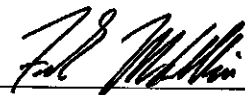
Title: _____

ATTEST: _____

GARVER ENGINEERS, LLC

By: 
Brock Hoskins

Title: Vice President

ATTEST: 

APPENDIX A – SCOPE OF SERVICES

Amendment No. 1

2.2 Design Surveys, Property Surveys, and Property Acquisition Documents

2.2.2 Property Surveys

Garver will field-locate existing monumentation representing right of way and/or easements based on record data which will be provided by the City. Garver will also provide staking and/or pinning as requested by the City.

2.2.3 Property Acquisition Documents

The Engineer will provide mapping as required for preparing Right-of-Way/Easement acquisition documents for the Owner's use in acquiring the property. Documentation will include a key map showing all affected properties and an individual tract map with description of temporary and permanent acquisition for each property. The Owner will provide a standard easement acquisition document or "go-by" example for use by the Engineer. The fee for providing property acquisition documentation is based on permanent right of way and temporary construction easements for no more than 85 properties and includes utility and off-site (adjacent to the project) drainage easements. Property acquisition document preparation will begin after receiving the Owner's comments from the Preliminary Design review.

2.5 Preliminary Design

The preliminary design phase submittal will include preliminary typical sections, plan and profile sheets showing horizontal and vertical geometry, signalization plans for the intersections of Porter Road and I-540 Southbound ramp, relocated Shiloh Drive and Mount Comfort Road, Mount Comfort Road and Salem Road, Mount Comfort Road and Ruppel Road (north), cross sections, right-of-way requirements, maintenance of traffic plans, driveways, drainage improvements, water and sewer relocation plans, sidewalks, signing and striping plans, and an opinion of probable construction cost. The preliminary design phase will represent approximately 60 percent of final construction contract plans. This submittal will not include technical specifications or "front end" contract documents. The Engineer will not begin final design until the preliminary design is approved by the Owner in writing. The Engineer will furnish three sets of Preliminary Plans to the Owner.

The Engineer will furnish plans to all known utility owners potentially affected by the project. The Engineer will include the surveyed locations of the observable and marked utilities in the construction plans.

The Engineer will furnish plans to AHTD for their review and comment. The Engineer will not be required to produce plans and specifications in AHTD standard format.

Garver will prepare for and attend two Street Committee or City Council Meetings.

2.6 Final Design

During the final design phase of the project, the Engineer will conduct final designs to prepare construction plans and specifications, for two construction contracts, including final construction details and quantities, special provisions, opinion of probable construction cost. The Engineer will also make

final field inspection with Owner, make any needed plan changes as a result of the final field inspection and/or special easement acquisition considerations, and complete the construction documents as required to advertise for bids. Unless the Owner prefers and provides a specific construction contract, the Engineer will furnish an industry standard construction contract form for review by the City Attorney. The Owner will furnish standard technical specifications for incorporation into the construction contract documents.

The Engineer will prepare, submit, and coordinate approval of a Storm Water Pollution Prevention Plan (SWPPP) with ADEQ.

Garver will prepare for and attend two Street Committee or City Council Meetings.

The Engineer will furnish plans to all known utility owners potentially affected by the project. The Engineer will conduct coordination meetings among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. The Engineer will include the surveyed locations of the observable and marked utilities in the construction plans. The Engineer will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.

The Engineer will furnish plans to AHTD and the Arkansas Department of Health for their review and comment and support the City with AHTD permit acquisition. The Engineer will not be required to produce plans and specifications in AHTD standard format. The Owner will pay the ADH review fee outside of this agreement.

The overall project improvements will be represented by one construction contract (one set of construction contract documents) but will likely be accomplished in two phases. The documents will indicate a division between Phase 1 and Phase 2 at a location between Raven Lane and Alpine Avenue, approximate conceptual design station 70+00. Phase 1 will be the portion of the project east of Raven lane including the relocated Shiloh Drive and Mount Comfort Intersection and I-540 ramps. Phase 2 will be the portion of the project east of existing Rupple Road (south) to approximately east of Raven Lane.

2.7 Environmental Surveys, Permitting, and Coordination with COE

These services are not part of this contract.

2.8 Traffic Studies and Signalization Design

The Engineer will coordinate with the City's Traffic Division for proper phasing design of signalization for the intersections of Porter Road and I-540 Southbound ramp, relocated Shiloh Drive and Mount Comfort Road, Mount Comfort Road and Salem Road, Mount Comfort Road and Rupple Road (north). Signalization design shall be incorporated into the construction plans and specifications.

2.9 Drainage Study for Bridge

These services are not part of this contract.

2.10 Bidding Services

As an alternate to the traditional design-bid-build project delivery method, the City has elected to use the Construction Manager at Risk method. Garver will assist the City in the evaluation process by participating in up to five interview meetings with prospective contractors, initial and final, for a total of 10 interview meetings.

2.12 Construction Phase Services

The scope of Construction Phase Services will be added with a future amendment to this agreement.

2.13 Project Deliverables

The following will be submitted to the City of Fayetteville, or others as indicated, by Garver:

1. Three copies of the Preliminary Design with opinion of probable construction cost.
2. One copy of the Preliminary Plans to each potentially affected utility company.
3. Three copies of the Preliminary Design Plans to the AHTD.
4. Three copies of the Final Design with opinion of probable construction cost.
5. Three copies of the revised Final Design with opinion of probable construction cost.
6. One copy of the revised Final Plans to each potentially affected utility company.
7. Three copies of the Final Plans and Specifications to the AHTD.
8. Three copies of the Final Plans and Specifications to the Contractor.
9. Two copies of the right-of-way acquisition documents.

2.14 Extra Work

The following items are not included under this agreement but will be considered as extra work:

1. Construction Phase Services.
2. Redesign for the City's convenience or due to changed conditions after prior approval or conflicting direction from the City.
3. Submittals or deliverables in addition to those listed in paragraph 2.13.
4. Environmental Assessment.
5. Wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
6. Pavement Design beyond that furnished in the Geotechnical Report.
7. Design of any utilities relocation other than water and sewer.
8. Bridge or other significant structural design.
9. Street lighting or other electrical design beyond that required for traffic signalization.
10. Construction materials testing.
11. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.

Extra Work will be as directed by the City of Fayetteville in writing for an additional fee as agreed upon by the City of Fayetteville and Garver.

2.15 Schedule

Garver will begin work under this Agreement within ten (10) days of a Notice to Proceed and will complete the work in accordance with the schedule below:

<u>Phase Description</u>	<u>Calendar Days</u>
Preliminary Design - Phase 1	75 days from approval of Conceptual Design
Preliminary Design - Phase 2	135 days from approval of Conceptual Design
Signalization Design - Phase 1	30 days from approval of Preliminary Design
Signalization Design - Phase 2	30 days from approval of Preliminary Design
Property Acquisition Documents Phase 1	30 days from approval of Preliminary Design- Phase 1
Property Acquisition Documents Phase 2	60 days from approval of Preliminary Design - Phase 2
Final Design - Phase 1	60 days from approval of Preliminary Design - Phase 1
Final Design - Phase 2	90 days from Approval of Preliminary Design - Phase 2

Appendix A-2

Garver Engineers Hourly Rate Schedule

Classification	Rates
Senior Project Manager	\$ 194.00
Project Manager	\$ 162.00
Aviation Planner	\$ 103.00
Automation/Controls Specialist	\$ 125.00
Senior Project Engineer	\$ 127.00
Operations Specialist	\$ 114.00
Project Engineer	\$ 110.00
Senior Design Engineer	\$ 94.00
Sr. Construction Engineer	\$ 92.00
Construction Engineer	\$ 78.00
Design Engineer/Designer	\$ 78.00
Sr. Environmental Scientist	\$ 102.00
Environmental Scientist	\$ 55.00
CADD Administrator	\$ 98.00
Senior CADD Technician	\$ 97.00
CADD Technician	\$ 68.00
Senior Construction Observer	\$ 92.00
Construction Observer	\$ 73.00
Senior Project Surveyor	\$ 108.00
Project Surveyor	\$ 79.00
Party Chief	\$ 75.00
Instrument Man	\$ 50.00
Rodman	\$ 42.00
Administration	\$ 85.00
Clerical I	\$ 64.00
Clerical II	\$ 48.00
2-Man Crew (Survey)	\$ 148.00
3-Man Crew (Survey)	\$ 193.00
2-Man Crew (GPS Survey)	\$ 198.00
3-Man Crew (GPS Survey)	\$ 243.00

APPENDIX A-2

CITY OF FAYETTEVILLE MOUNT COMFORT ROAD IMPROVEMENTS

FEE SUMMARY

	Original Contract	Amendment No. 1	Total
Traffic Studies	\$29,080	\$0	\$29,080
Schematic Study	\$49,500	\$0	\$49,500
Signalization Design	\$0	\$37,500	\$37,500
Surveys - Design	\$97,100	\$0	\$97,100
Surveys - Property	\$0	\$42,300	\$42,300
Drainage Study	\$0	\$0	\$0
Environmental Handling and Documentation	\$0	\$0	\$0
Conceptual Design	\$104,020	\$0	\$104,020
Preliminary Design	\$0	\$260,300	\$260,300
Final Design	\$0	\$261,800	\$261,800
Property Acquisition Documents	\$0	\$100,950	\$100,950
Contractor Procurement Assistance Services	\$0	\$14,000	\$14,000
Construction Support Services	\$0	\$0	\$0
Subtotal NTE Fee	\$279,700	\$716,850	\$996,550
<u>Subcontracted Services</u>			
Geotechnical Services	\$22,750	\$0	\$22,750
Record Research	\$0	\$0	\$0
ARKUPS - Utility Locates	\$17,600	\$0	\$17,600
Estimated Subcontract Fees	\$40,350	\$0	\$40,350
Total NTE Fee	\$320,050	\$716,850	\$1,036,900

APPENDIX A-2
CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Surveys - Property

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech / Draftsman	Tech / Draftsman	Clerical	Survey Crew	Senior Const Engineer	Const Engineer	Senior Const Observer	Const Observer
1. Surveys - Property (8.5 Maximum)	\$194.00	\$182.00	\$127.00	\$110.00	\$94.00	\$78.00	\$108.00	\$79.00	\$97.00	\$68.00	\$48.00	\$148.00	\$92.00	\$78.00	\$92.00	\$75.00
Coordinate Property Data from Owner/Abstractor	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr
Field Research Controlling corners and Property corners							12	30				40				
Field Ties to recovered Controlling corners and Property corners							12	16				80				
Data Processing							6	12								
Property Line and Existing Right-of-Way/Easement Definition							60	80								
Subtotal - Surveys Property	0	0	0	0	0	0	102	154	0	0	0	120	0	0	0	0
2.																
Hours	0	0	0	0	0	0	102	154	0	0	0	120	0	0	0	0
Salary Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$11,016.00	\$12,166.00	\$0.00	\$0.00	\$0.00	\$17,760.00	\$0.00	\$0.00	\$0.00	\$0.00
SUBTOTAL - SALARIES	\$40,942.00															

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$184.00
Postage/Freight/Courier	\$50.00
Office Supplies/Equipment	\$0.00
Communications	\$50.00
Survey Supplies	\$0.00
Aerial Photography	\$720.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$374.00

Subtotal	\$42,306.00
SUBCONSULTANTS	\$0.00
TOTAL COST:	\$42,306.00
TOTAL COST WITH ESCALATION:	\$42,306.00

APPENDIX A-2

CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Signalization Design - Phase 1

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech / Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Const Engineer	Const Engineer	Senior Const Observer	Const Observer
1. Civil Engineering	\$184.00 hr	\$162.00 hr	\$127.00 hr	\$110.00 hr	\$94.00 hr	\$78.00 hr	\$108.00 hr	\$79.00 hr	\$97.00 hr	\$68.00 hr	\$48.00 hr	\$148.00 hr	\$92.00 hr	\$78.00 hr	\$92.00 hr	\$73.00 hr
Signalization Plans																
Specifications		44		12		72				90						
		8				8					8					
Subtotal - Civil Engineering	0	52	0	12	0	80	0	0	0	90	8	0	0	0	0	0
2. Structural Engineering																
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	0	52	0	12	0	80	0	0	0	90	8	0	0	0	0	0
Salary Costs	\$0.00	\$8,424.00	\$0.00	\$1,320.00	\$0.00	\$6,240.00	\$0.00	\$0.00	\$0.00	\$6,120.00	\$384.00	\$0.00	\$0.00	\$0.00	\$0.00	\$22,488.00
SUBTOTAL - SALARIES																

DIRECT NON-LABOR EXPENSES	
Document Printing/Reproduction/Assembly	\$112.00
Postage/Freight/Courier	\$50.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$0.00

Subtotal	\$22,650.00
SUBCONSULTANTS	\$0.00
TOTAL COST:	\$22,650.00
TOTAL COST WITH ESCALATION:	\$22,650.00

**CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS**

WORK TASK DESCRIPTION		Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Const. Observer
1. Civil Engineering																	
Signalization																	
Plans			28		12		48				56						
Specifications			4				4					4					
Subtotal - Civil Engineering		0	32	0	12	0	52	0	0	0	56	4	0	0	0	0	0
2. Structural Engineering																	
Subtotal - Structural Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																	
Subtotal - Mechanical Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																	
Subtotal - Electrical Engineering		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hour		0	32	0	12	0	52	0	0	0	56	4	0	0	0	0	0
Salary Costs		\$0.00	\$5,184.00	\$0.00	\$1,320.00	\$0.00	\$4,096.00	\$0.00	\$0.00	\$0.00	\$3,944.00	\$192.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES		\$14,896.00
DIRECT NON-LABOR EXPENSES		
Document Printing/Reproduction/Assembly	\$104.00	
Postage/Freight/Courier	\$50.00	
Office Supplies/Equipment	\$0.00	
Communications	\$0.00	
Survey Supplies	\$0.00	
Aerial Photography	\$0.00	
GPS Equipment	\$0.00	
Computer Modelling/Software Use	\$0.00	
Traffic Counting Equipment	\$0.00	
Travel Costs	\$0.00	\$154.00
Subtotal		\$14,850.00
SUBCONSULTANTS		\$0.00
TOTAL COST:		\$14,850.00
TOTAL COST WITH ESCALATION:		\$14,850.00

APPENDIX A-2

CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Preliminary Design - Phase 1

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Const. Observer
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering																
Preliminary Plans																
Address Conceptual Plan Review Comments	2	4	4			8										
Plan & Profile Sheets	2	4	12			120				120						
Typical Sections			4			8				8						
Drainage			8			24				40						
Intersecting Street Plans			8			8				8						
Driveways			4			4				4						
Drainage Improvements - Streets		2	8			40				8						
Drainage Improvements - Outlets and Offsets		2	4			24				8						
Details			8			8				8						
Pavement Design			4			4										
MOT/Sequence of Construction	2	2	8			8										
Sidewalks and Trails			4			8				8						
Striping and Signage Plans			2			8				8						
Water Improvements			20			80										
Sanitary Sewer Improvements			20			80										
AHTD Design within AHTD ROW	2	2	16			24				32						
Stormwater and Erosion Control Plans			4			8				8						
Quantities			2			16				16						
Opinion of Probable Construction Costs			2			8										
Coordination with Geotechnical Subconsultant			4			4										
Meetings/Coordination with City Staff	2	2	8			8										
Meetings/Coordination with City Street Committee or Council	4	4	4			4				4						
Meetings/Coordination with AHTD	2	2	18			16										
Meetings/Coordination with Public	2		4							2						
Utility Companies Coordination			8			8				2						
QC Review	4	4	16			16				16						
Subtotal - Civil Engineering	22	32	208	0	216	384	0	0	0	288	12	0	0	0	0	0
2. Structural Engineering																
Retaining Wall Design			24			24				16						
Special Structures			16			16				16						
Subtotal - Structural Engineering	0	0	40	0	32	40	0	0	32	0	0	0	0	0	0	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	22	32	248	0	248	424	0	0	32	288	12	0	0	0	0	0
Salary Costs	\$4,268.00	\$5,184.00	\$31,242.00	\$0.00	\$23,312.00	\$33,072.00	\$0.00	\$0.00	\$3,104.00	\$19,584.00	\$576.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES		\$120,342.00
DIRECT NON-LABOR EXPENSES		
Document Printing/Reproduction/Assembly	\$758.00	
Postage/Freight/Courier	\$100.00	
Office Supplies/Equipment	\$0.00	
Communications	\$0.00	
Survey Supplies	\$0.00	
Aerial Photography	\$0.00	
GPS Equipment	\$0.00	
Computer Modeling/Software Use	\$0.00	
Traffic Counting Equipment	\$0.00	
Travel Costs	\$958.00	
Subtotal	\$121,300.00	
SUBCONSULTANTS	\$0.00	
TOTAL COST:	\$121,300.00	
TOTAL COST WITH ESCALATION:	\$121,300.00	

APPENDIX A-2

CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Preliminary Design - Phase 2

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech./ Draftsman	Clerical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Const. Observer
1. Civil Engineering	\$184.00	\$162.00	\$127.00	\$110.00	\$94.00	\$78.00	\$108.00	\$79.00	\$97.00	\$59.00	\$48.00	\$148.00	\$92.00	\$78.00	\$92.00	\$73.00
Preliminary Plans																
Address Conceptual Plan Review Comments	2	4	4			8										
Plan & Profile Sheets	2		24			120				160						
Typical Sections			8			12				12						
Cross Sections (Roadway, Sideways, Driveways, Cross Drainage)			8			24				32						
Intersecting Street Plans			8			24				24						
Driveways			4			8				16						
Drainage Improvements - Streets		4	8			40				40						
Drainage Improvements - Outlets and Offsets		4	4			24				16						
Details			8			8				24						
Pavement Design			4			4										
MOT/Sequence of Construction	2	2	8			16										
Sidewalks and Trails		2	8			8				16						
Striping and Signage Plans		2	8			8				16						
Water Improvements		2	40			120										
Sanitary Sewer Improvements		2	40			120										
Stormwater and Erosion Control Plans		2	8			16				16						
Quantities		2	4			8										
Option of Probable Construction Costs		2	4			12										
Coordination with Geotechnical Subconsultant		2	8			8										
Meetings/Coordination with City Staff	2		8			8				4						
Meetings/Coordination with City Street Committee or Council	4	4	4			4				4						
Meetings/Coordination with Public	2		4			4				2						
Utility Companies Coordination			8			8				2						
QC Review	4	4	16			24				24						
Subtotal - Civil Engineering	18	36	248	0	300	392	0	0	0	400	8	0	0	0	0	0
2. Structural Engineering																
Retaining Wall Design			16			16				8						
Special Structures			16			16				8						
Subtotal - Structural Engineering	0	0	32	0	32	32	0	0	16	0	0	0	0	0	0	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Hours

Salary Costs

18	36	280	0	332	424	0	0	16	400	8	0	0	0	0	0	0
\$3,492.00	\$5,632.00	\$35,580.00	\$0.00	\$31,208.00	\$33,072.00	\$0.00	\$0.00	\$1,552.00	\$27,200.00	\$384.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

SUBTOTAL - SALARIES		\$138,300.00
DIRECT NON-LABOR EXPENSES		
Document Printing/Reproduction/Assembly	\$525.00	
Postage/Freight/Courier	\$75.00	
Office Supplies/Equipment	\$0.00	
Communications	\$0.00	
Survey Supplies	\$0.00	
Aerial Photography	\$0.00	
GPS Equipment	\$0.00	
Computer Modeling/Software Use	\$0.00	
Traffic Counting Equipment	\$0.00	
Travel Costs	\$100.00	\$700.00
Subtotal		\$139,000.00
SUBCONSULTANTS		\$0.00
TOTAL COST:		\$139,000.00
TOTAL COST WITH ESCALATION:		\$139,000.00

**CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD**

Final Design - Phase 1

WORK TASK DESCRIPTION															
Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech. / Draftsman	Clrical	Survey Crew	Senior Constr. Engineer	Const. Engineer	Senior Constr. Observer	Constr. Observer
hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr
1. Civil Engineering															
Final Plans															
2	4	8		8	8										
Address Preliminary Plan Review Comments															
		12		80	80				80						
Typical Sections															
		4		4	4				8						
Cross Sections (Roadway, Sideroads, Driveways, Cross Drainage)															
		4		18	18				18						
Intersecting Street Plans															
		4		4	4				8						
Driveways															
		2		4	4				4						
Drainage Improvements - Streets															
	4	8		16	16				16						
Drainage Improvements - Outlets and Offalls															
	4	4		18	18				8						
Details															
		8		8	8				16						
Pavement Design															
MOT/Sequence of Construction															
	4	8		8	8										
Sidewalks and Trails															
	2	8		8	8				16						
Striping and Signage Plans															
	2	8		8	8				16						
Water Improvements															
	4	16		80	80										
Sanitary Sewer Improvements															
	4	18		60	60										
A-HTD Design within AHTD ROW															
	4	16		24	24				40						
Stormwater and Erosion Control Plans															
	2	8		8	8				8						
SWPPP															
	2	8		8	8				8						
Front End Specifications															
	2	16		8	8										
Technical Specifications															
	2	16		8	8										
Revisions/Additions due to Property Acquisitions															
		8		8	8				8						
Quantities															
	2	8		12	16										
Opinion of Probable Construction Costs															
	2	4		4	4				4						
Estimate of Construction Time															
		4		4	4				4						
Coordination with Geotechnical Subconsultant															
		4		4	4										
Meetings/Coordination with City Staff															
2	4	8		8	8					2					
Meetings/Coordination with AHTD															
		16		8	16				24	4					
Meetings/Coordination with City Street Committee or Council															
4	4	4		4	4				4						
Meetings/Coordination with Public															
		4		4	4										
Utility Companies Coordination															
2	4	8		8	8					4					
QC Review															
	8	24		16	16										
Final Review/Walkthrough with City															
		8		4						4					
Health Department Coordination															
		4		4											
Subtotal - Civil Engineering															
10	64	278	0	244	320	8	0	0	284	10	0	0	0	0	0
2. Structural Engineering															
Retaining Wall Layout/Elevations															
		24		24					24						
Structural Details															
		8		8											
Subtotal - Structural Engineering															
0	0	32	0	32	0	0	0	0	24	0	0	0	0	0	0
3. Mechanical Engineering															
Subtotal - Mechanical Engineering															
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering															

[illegible]

SUBTOTAL - SALARIES

DIRECT NON-LABOR EXPENSES

SMALL PRINT-LABOR EXPENSES	
Document Printing/Reproduction/Assembly	\$1,500.00
Postage/Freight/Counter	\$144.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Traffic Costs	\$100.00

Subtotal

\$125,750.00

SUBCONSULTANTS

\$0.00

TOTAL COST:

\$125,750.00

TOTAL COST WITH ESCALATION:

\$125,750.00

APPENDIX A-2
CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Final Design - Phase 2

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Const. Engineer	Const. Engineer	Senior Const. Observer	Constr. Observer
	\$194.00 hr	\$162.00 hr	\$127.00 hr	\$110.00 hr	\$94.00 hr	\$78.00 hr	\$108.00 hr	\$79.00 hr	\$97.00 hr	\$68.00 hr	\$48.00 hr	\$148.00 hr	\$92.00 hr	\$78.00 hr	\$92.00 hr	\$73.00 hr
1. Civil Engineering																
Final Plans																
Address Preliminary Plan Review Comments	2	4	8		16	16										
Plan & Profile Sheets			24			120				120						
Typical Sections						12				12						
Cross Sections (Roadway, Sideroads, Driveways, Cross Drainage)			8			24				24						
Intersecting Street Plans						24				24						
Driveways			4			8				16						
Drainage Improvements - Streets		4	8			24				24						
Drainage Improvements - Outlets and Office Details		4	4			16				8						
Pavement Design			16		8	8				24						
MOT/Sequence of Construction		4	8		8	8										
Sidewalks and Trails		2	8		8	8				16						
Striping and Signage Plans		2	8		8	8				16						
Water Improvements		4	24		100											
Sanitary Sewer Improvements		4	24		100											
Stormwater and Erosion Control Plans		2	8		8	8				8						
SWPPP		2	8		8	8				8						
Front End Specifications																
Technical Specifications		2	8		8	8										
Revisions/Additions due to Property Acquisitions			8		8	8				8						
Quantities		2	8		12	16										
Opinion of Probable Construction Costs		2	4		4	4										
Estimate of Construction Time			4		4	4				4						
Coordination with Geotechnical Subconsultant			4		4											
Meetings/Coordination with City Staff	2	4	8		8	8					2					
Meetings/Coordination with City Street Committee or Council	4	4	4			4				4						
Meetings/Coordination with Public Utility Companies Coordination			4													
QC Review	2	4	8		12	12					4					
Final Review/Walkthrough with City Health Department Coordination		8	24		16	24										
			8		4											
			4		4											
Subtotal - Civil Engineering	10	58	272	0	320	388	0	0	8	316	8	0	0	0	0	0
2. Structural Engineering																
Retaining Wall Layout/Elevations																
Structural Details			16		16					24						
			8		8											
Subtotal - Structural Engineering	0	0	24	0	24	0	0	0	0	24	0	0	0	0	0	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0												

DIRECT NON-LABOR EXPENSES	
Document Printing/Reproduction/Assembly	\$600.00
Postage/Freight/Courier	\$55.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$235.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$180.00
Subtotal	
SUBCONSULTANTS	
TOTAL COST:	
TOTAL COST WITH ESCALATION:	

APPENDIX A-2

CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Property Acquisition Documents - Phase 2

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech / Draftsman	Tech / Draftsman	Clerical	Survey Crew	Senior Const Engineer	Const Engineer	Senior Const Observer	Const Observer
	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr	hr
1. Acquisition Documents (+/- 60 Parcels)																
Permanent Right-of-Way Acquisition Documents																
Temporary Construction Easements																
Coordination with Owner																
Right-of-way and Easement Map																
Stake Proposed Right-of-way and Easements (one time)																
Subtotal - Acquisition Documents	0	0	0	0	0	0	128	334	30	0	80	140	0	0	0	0
Hours	0	0	0	0	0	0	128	334	30	0	80	140	0	0	0	0
Salary Costs	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$13,824.00	\$26,388.00	\$2,910.00	\$0.00	\$2,880.00	\$20,720.00	\$0.00	\$0.00	\$0.00	\$66,720.00

SUBTOTAL - SALARIES

\$66,720.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$1,400.00
Postage/Freight/Courier	\$106.00
Office Supplies/Equipment	\$0.00
Communications	\$550.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$324.00
Subtotal	\$69,100.00

SUBCONSULTANTS

\$0.00

TOTAL COST:

\$69,100.00

TOTAL COST WITH ESCALATION:

\$69,100.00

APPENDIX A-2

CITY OF FAYETTEVILLE
MOUNT COMFORT ROAD IMPROVEMENTS

Contractor Procurement Assistance Services

WORK TASK DESCRIPTION	Senior Project Manager	Project Manager	Senior Project Engineer	Project Engineer	Senior Design Engineer	Design Engineer	Senior Project Surveyor	Project Surveyor	Senior Tech./ Draftsman	Tech. / Draftsman	Clerical	Survey Crew	Senior Constr. Engineer	Const. Engineer	Senior Constr. Observer	Constr. Observer
1. Civil Engineering	\$194.00	\$162.00	\$127.00	\$110.00	\$94.00	\$78.00	\$108.00	\$78.00	\$97.00	\$68.00	\$48.00	\$148.00	\$92.00	\$78.00	\$82.00	\$73.00
Dispense plans and specs to prospective bidders																
Addendums/Inquiries																
Pre-Bid Meeting																
Bid Opening																
Prepare bid tabulation																
Evaluate bids and recommend award																
Prepare construction contracts																
Notice to Proceed																
Initial CMAR Interview Meetings	20	20	20													
Final CMAR Interview Meetings	20	20	20													
Subtotal - Civil Engineering	0	40	40	0	0	0	0	0	0	0	0	0	0	0	0	0
2. Structural Engineering																
Subtotal - Structural Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3. Mechanical Engineering																
Subtotal - Mechanical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4. Electrical Engineering																
Subtotal - Electrical Engineering	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hours	0	40	40	0	0	0	0	0	0	0	0	0	0	0	0	0
Salary Costs	\$0.00	\$6,480.00	\$5,080.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
SUBTOTAL - SALARIES																\$11,560.00

DIRECT NON-LABOR EXPENSES

Document Printing/Reproduction/Assembly	\$2,000.00
Postage/Freight/Courier	\$340.00
Office Supplies/Equipment	\$0.00
Communications	\$0.00
Survey Supplies	\$0.00
Aerial Photography	\$0.00
GPS Equipment	\$0.00
Computer Modeling/Software Use	\$0.00
Traffic Counting Equipment	\$0.00
Travel Costs	\$100.00
Subtotal	\$2,440.00

Subtotal

SUBCONSULTANTS

\$0.00

TOTAL COST:

\$14,000.00

TOTAL COST WITH ESCALATION:

\$14,000.00

City of Fayetteville
Staff Review Form
City Council Agenda Items

or
Contracts
7-17-07
~~7-17-07~~

City Council Meeting Date

Missy Leflar
Submitted By

Human Resources
Division

Operations
Department

Action Required:

Staff requests approval of a contract with Stephens, Inc. LLC for benefits broker services in the annual amount of \$50,000 plus additional service fees in the not to exceed \$37,630. Staff also requests approval of a Budget Adjustment for \$51,380.

\$50,000 Annual Cost
\$62,630 (2007 Impact)

Cost of this request

\$ 246,690

Category / Project Budget

Services & Charges

Program Category / Project Name

1010.1210.5314.00

Account Number

\$ 111,887

Funds Used to Date

Human Resources

Program / Project Category Name

\$ 134,803

Remaining Balance

General

Fund Name

Project Number

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 of Fayetteville, Arkansas
Budget Adjustment Form**

A. 10
Stephens Insurance, LLC
Page 2 of 20

Budget Year 2007	Department: Operations Division: Human Resources Program: Human Resources	Date Requested 7/3/2007	Adjustment Number
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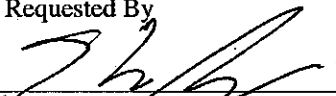
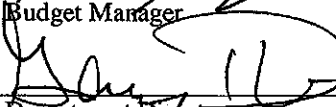
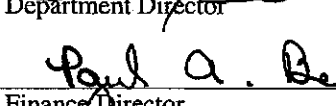
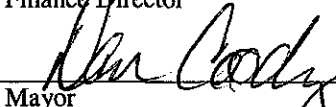
Project or Item Added/Increased: \$51,380 is being requested in the Professional Services account of the Human Resources program.	Project or Item Deleted/Reduced: None. \$51,380 from the General Fund Use of Fund Balance account.
Justification of this Increase: The additional funding is needed for Benefit Broker Services with Stephens, Inc. LLC.	Justification of this Decrease: There is sufficient funding remaining in the General Fund to comply with City Policy.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number
Professional services	1010	1210	5314	00	51,380	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	51,380	

Approval Signatures		Budget Office Use Only	
Requested By 	Date 7-3-07	Type: A B C <u>D</u> E	
Budget Manager 	Date 7-3-07	Posted to General Ledger	Initial _____ Date _____
Department Director 	Date 7-3-07	Posted to Project Accounting	Initial _____ Date _____
Finance Director 	Date 7-3-07	Entered in Category Log	Initial _____ Date _____
Mayor 	Date 7/3/07		

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director
FROM: Missy Leflar, Human Resources Division Manager
DATE: July 3, 2007
SUBJECT: Benefits Broker Contract

Recommendation

Staff recommends approval of the attached Benefits Broker contract with Stephens, Inc. and approval of a budget adjustment.

Background

A Request for Bids for a Benefits Broker was placed by the City Purchasing Office. In response, six bids were received and reviewed by Committee formed for that task. The Committee was comprised of representatives from Purchasing, Payroll, Human Resources, Uniformed employees (in this case, Fire), and the City Council (Alderswoman Gray). The top four candidates were selected by the Committee. A day was devoted to interviews. The Committee discussed the top two candidates and voted. Stephens, Inc. was selected as the best candidate to meet the City's benefits needs.

Discussion

The Human Resources Division is the Division that will work the most closely with the Benefits Broker on a regular basis. Selection was made with an eye toward greater long term efficiencies and savings, both in labor and costs. In the short term, this will involve a greater initial financial outlay than the City has made in recent years for a Benefits Broker. But the long term benefits – especially in terms of avoiding preventable problems and providing better benefits and service to City employees – should outweigh the short term costs. In particular, it is believed there will be improved communications with HR staff as well as with City employees at benefits election time each fall, which should prevent a multitude of preventable problems that have occurred in the past. There should be tangible labor cost savings in changing annual open benefits enrollment to an electronic format, as well as greater time saving efficiencies in day to day benefits related tasks (helping employees and providing needed data to payroll for related payroll deductions). All other things being equal, City employee time is better spent on productive tasks than on fixing preventable problems.

Budget Impact

Based upon a 12 month year – although we are actually already half way through the year - the initial budget impact would be \$87,630. This may end up being a lesser amount by approximately \$18,000+, commensurate with the Broker's success at negotiating with carriers concerning some one time open enrollment electronic platform costs. It is our understanding the Broker has had past success in such negotiations.

The subsequent annual budget impact, if renewed annually by future Councils, would be \$52,865.00.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH STEPHENS INSURANCE, LLC TO PROVIDE ANNUAL INSURANCE BENEFITS, CONSULTING AND BROKERAGE SERVICES FOR THE AMOUNT OF \$50,000.00, PLUS ADDITIONAL SERVICE FEES NOT TO EXCEED \$37,630.00 AND TO APPROVE A BUDGET ADJUSTMENT OF \$51,380.00

WHEREAS, Stephens Insurance, LLC was selected through RFP 07-08 to provide Benefits Consulting and Insurance Brokerage Services to the City of Fayetteville and its employees; and

WHEREAS, except for an extra cost web-based employee benefits enrollment, administration and management system, the services shall be covered by its basic fee of \$4,167.00 monthly (\$50,000.00 annually).

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 one year Benefits Consulting and Insurance Brokerage Services contract with Stephens Insurance, LLC attached as Exhibit A for a base expenditure of \$4,167.00 monthly (\$50,000.00 annually) plus not to exceed \$37,630.00 for a web-based employee benefits enrollment, administration and management system, and authorizes Mayor Coody to execute this contract.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$51,380.00.

PASSED and APPROVED this 3rd day of July, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville, Arkansas
Ref: RFP 07-08, Benefits Consulting and Insurance Brokerage Services
Contract

This Agreement is made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Stephens Insurance, LLC.

WHEREAS, City of Fayetteville at its _____, 2007 public meeting awarded the project for **Benefits Consultant** to Stephens Insurance, LLC, and;

WHEREAS, Stephens Insurance, LLC and City of Fayetteville, for the consideration hereinafter named, agree and acknowledge that:

Stephens Insurance, LLC agrees to provide all the staff, facilities, materials, equipment and labor necessary to carry out, in good faith, the complete requirements of the project specified in strict conformity with all sections of the **RFP # 07-08**, hereinafter set forth, whose program services together with the Consultant's Proposal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto, shall form essential parts of this Agreement as if fully contained herein.

Stephens Insurance, LLC agrees to commence the services included in this Contract on a date to be specified in a written Notice to Proceed from City of Fayetteville, and shall provide such services for a period of one (1) year after the commencement date specified in the Notice to Proceed, subject to the renewal and early termination provisions hereof.

City of Fayetteville agrees to pay Stephens Insurance, LLC in current funds for the performance of this Contract in accordance with the **Fee Schedule**, attached hereto.

Beginning on the commencement date specified in the Notice to Proceed, City of Fayetteville shall pay Stephens Insurance, LLC twelve (12) equal monthly installments of \$4,167 for the Base Services described in the Fee Schedule. Additional Fees owed with respect to Additional Services provided (as such capitalized terms are defined in the Fee Schedule) shall be payable with the next monthly payment for Base Services due after receipt of invoice. For each Additional Service requested, City of Fayetteville shall owe an amount equal to the cost incurred by Stephens Insurance, LLC in procuring such Additional Service. Stephens Insurance, LLC shall promptly respond to any documentation requests by City of Fayetteville as necessary to allow City of Fayetteville to evaluate the services performed and accuracy of invoices for monies due.

As part of the Base Services, Stephens Insurance, LLC shall keep City of Fayetteville personnel informed concerning key insurance policy terms, including coverage exclusions and financial considerations.

Upon the commencement date specified in the Notice to Proceed, Stephens Insurance, LLC shall begin facilitating the implementation of benefitsCONNECT, a web-based employee benefits enrollment, administration and management system. This service shall constitute an Additional Service under the Fee Schedule.

To the fullest extent permitted by laws, statutes, rules and regulations, Stephens Insurance, LLC shall indemnify and hold harmless City of Fayetteville, and its Officers, Directors, Employees, Agents, and other Consultants of each and any of them from and against claims, costs, damages, losses, and expenses, including but not limited to all fees and charges of attorneys and other professionals and all court costs, arising out of or resulting from performance of the Work, but only to the extent caused in whole or in part by acts or omissions of Stephens Insurance, LLC its Officers, Directors, Employees, Agents, and anyone directly, or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, cost, damage, loss, or expense is caused in part by a party indemnified hereunder, except that no party shall indemnify any other party or person for their own sole negligence. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

Stephens Insurance, LLC agrees to comply with the laws of the State of Arkansas, including, without limitation, all applicable laws and regulations concerning conflicts of interest. Notwithstanding statutory exemptions or exclusions, Stephens Insurance, LLC agrees to subject itself to the jurisdiction and process of the Courts of Washington County, State of Arkansas as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including all issues relating to liability for taxes, licenses or fees levied by the State. Stephens Insurance, LLC irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract, shall be brought in any court in Washington County, Arkansas.

Stephens Insurance, LLC hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.

Stephens Insurance, LLC assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Stephens Insurance, LLC the sole point of contact with regard to contractual matters. Subcontracting of any part of the work or service contemplated by this Agreement may not be entered in by Stephens Insurance, LLC without prior written approval by City of Fayetteville; provided, however, that City of Fayetteville hereby agrees to the use and/or retention by Stephens Insurance, LLC of the following subcontractors in connection with the services to be performed hereunder:

1. Stephens Insurance, LLC will contract with Comm5 Web Systems for the licensing and support of the benefitCONNECT system.
2. Johnston and Matthews, Inc. will be retained to install, and perform computer services in connection with, the benefitCONNECT system.
3. Matria Healthcare will be retained to provide services in connection with UBA Wellness Works, an Additional Service described in the Fee Schedule.

No assignment or transfer of this Agreement or any right accruing here under shall be made in whole or in part by Stephens Insurance, LLC without the express written consent of City of Fayetteville.

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

Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and/or the Fayetteville City Council **in advance** of the change in scope, cost or fees. Notwithstanding the foregoing, City of Fayetteville shall remain obligated to pay Stephens Insurance, LLC for its costs, as they may increase or decrease from time to time, in procuring any Additional Service requested by City of Fayetteville.

As provided in RFP # 07-08, Stephens Insurance, LLC shall disclose all compensation received by it from any source as a result of the marketing or placement of insurance programs for City of Fayetteville, and City of Fayetteville shall receive an offset against fees owed to Stephens Insurance, LLC in an amount equal to any such compensation.

A waiver by either party of any breach of the provisions hereof shall not be deemed a waiver of any succeeding breach of such provision or any other provision of this Agreement. Should any term, provision or other part of this Agreement be declared illegal or unenforceable, it shall be excised or modified to conform to the appropriate laws or regulations, and the remainder of the Agreement shall not be affected but shall remain in full force and effect.

The provisions, covenants, and conditions in this Agreement apply to and bind the parties, their legal heirs, representatives, successors and assigns.

No modification or amendment of the terms hereof shall be effective unless written and signed by the authorized representatives of all parties hereto.

This Agreement constitutes the final and complete agreement and understanding between the parties regarding the subject matter hereof. All prior and contemporaneous Agreements and understandings, whether oral or written, are to be without effect in the construction of any provisions or term of this Agreement if they alter, vary or contradict this Agreement.

Stephens Insurance, LLC and City of Fayetteville, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2007.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
DAN COODY, Mayor

ATTEST:

BY _____
SONDRA SMITH, City Clerk

Consultant Firm's Authorized Signature

BY _____
PRINTED NAME AND TITLE

ATTEST: CONSULTANT FIRM'S SECRETARY

BUSINESS ADDRESS

City of Fayetteville

***RFP 07-08, Benefits Consulting & Insurance Brokerage
Services***

FEE SCHEDULE

Stephens Insurance
An Affiliate Company of Stephens Inc.

<u>Name</u>	<u>Brief Description</u>	<u>Summary</u>	<u>Pricing</u>
Base Services			
Benefits Consulting & Insurance Brokerage Services	Consulting and brokerage services as outlined in the response.	Consultative approach to plan development, analysis, and implementation using best in class practices with experienced benefits team local representation with a national presence.	\$50,000 per year In twelve (12) equal monthly payments of \$4,167.00 (the " Base Fee ")
The following services are included in the base fee.			
Analysis Tools			
Integrated Reports (Exhibit A)	A suite of reports designed to present a wide variety of insurance plan data.	An Excel based program designed to evaluate current, future or plan history.	Included in base fee.
UBA Health Plan Survey (Exhibit L)	The survey report provides vital benchmark statistics on hundreds of health plan factors. The data enables employers to compare their plans with those of similar employers based on type of industry, number of covered employees, or location.	The results are of tremendous value in helping employers evaluate the effectiveness of their current plans and to knowledgeably make future adjustments to keep their benefits both competitive and cost-effective.	Included in base fee.
Medical Reserve Calculator (Exhibit O)	Calculate IBNR and claims reserve requirements for self-funded plans.	An actuarial tool for accurately determining IBNR, medical plan reserve requirements and claim run-out liability for self-funded and fully insured clients.	Included in base fee.
PriceMODELER (Exhibit B)	Determine the cost impact on a plan when changing plan design.	Assess the financial impact of plan options using the most accurate utilization benchmarks.	Included in base fee.
ROI Calculator	ROI calculator built in an Excel	Calculate the annual projected savings	Included in base fee.

(Exhibit I)	spreadsheet.	resulting from the implementation of "Benefits Passport" technology.	
Stop Loss Analyzer (Exhibit P)	Develop accurate specific and aggregate stoploss levels, calculate appropriate specific stop loss premium.	An actuarial tool for determining the best stop loss deductible for an individual client and calculate the true premium. Actuarially determine the aggregate attachment point.	Included in base fee.
Client Tools			
Employee Benefit Center (Exhibit D)	On-line client-specific employee benefits handbook and information center plus pre-screened wellness resources for employees. One of the components of "Benefits Passport".	A single sight for employee benefits communication. Encourages self-service of benefits plan. Provides employee wellness management, financial calculators, and life events counseling.	Included in base fee.
Employee Benefits Video Library (Exhibit F)	A series of educational vignettes designed to help employees and their families gain a better understanding of the how s and why s of their benefits plan through a more personal learning experience.	27 individual vignettes, each on a specific topic, explain the basics and importance of a particular benefit plan in easy to understand language. Employers can select which of the videos to make available to their employees. Videos can be streamed online via an EBC and can be viewed on a computer, they can be viewed in DVD or VHS formats.	Included in base fee.
Employee Resource Center (Exhibit E)	Non-client specific EBC site with health and financial wellness resources. One of the components of "Benefits Passport".	For clients where building a custom EBC is not appropriate or needed. Provides employee wellness management, financial calculators, and life events counseling.	Included in base fee.

HRinsider <i>(Exhibit G)</i>	Professionally prepared online resource credible benefits-specific & legislative info for human resource professionals.	A single location for the inside info on daily benefit news, education, compliance & legislative information. Source of professionally produced health & wellness brochures, various benefit booklets from Fisher & Phillips, FAQs, forms and links to pre-screened benefits websites. Includes and FSA/HRA/HSA eligible expense table.	Included in base fee.
HRinsider Bulletin <i>(Exhibit G)</i>	Monthly best-of-HRinsider newsletter	Important benefits & human resource news, information, and legislation.	Included in base fee.
Compliance Tools			
SPD Wrap-around Plan Document/SPD Template	Cost-effective way to provide a Plan Document or SPD for fully insured plans.	When accompanied by the appropriate Insurance Contracts or Certificates of Coverage, this document, along with the Contracts and Certificates, becomes the Plan Document or SPD respectively.	Included in base fee.
Miscellaneous Tools			
SurveyMonkey <i>(Exhibit M)</i>	Create professional online surveys quickly and easily.	Design surveys for employers, collect responses, and analyze results.	Included in base fee.
EluminateLIVE <i>(Exhibit Q)</i>	On-line virtual conference room.	Conduct meetings & presentations through the internet. Collaborate from locations anywhere in the world through the web. Meetings can be recorded for playback at a later date. Recorded meetings can be easily linked from your website,	Included in base fee.

		HRinsider, or EBC.	
The following services are not included in the Base Fee and are referred to collectively herein as the “Additional Services.” Each Additional Service is available upon request at an additional fee which shall be equal to the cost incurred by Stephens Insurance, LLC in procuring such service on behalf of City of Fayetteville (the “Additional Fee”).			
Analysis Tools			
BMI Claims Auditing <i>(Exhibit N)</i>	Cost effective independent claims auditing services.	Catch errors in processing, potentially saving money. Take corrective actions to minimize errors and eliminate payment of benefits not intended by the plan.	Additional fee.
D2HawkeyeExplorer <i>(Exhibit C)</i>	Extensive and detailed data warehouse reports. Predictive modeling of potential large claimants. Rx savings analysis. Provider charge analysis.	Produce useful medical claim utilizations & financial reports. More effective plan management via actionable, informative reports. Significant cost containment opportunities via identification of potential large claim before they occur.	Additional fee.

Client Tools

benefitsCONNECT <i>(Exhibit H)</i>	Paperless, web-based employee benefits enrollment, administration and management system. One of the components of <i>Benefits Passport</i> .	Includes employee self-service & human resource administrative access. Streamline the enrollment process, enhance benefits management, and improve information sharing among employees, employers, brokers, TPAs and benefits providers. Dramatically increases data accuracy and administrative efficiency, while improving employer communication.	Additional fee.
Health Advocate	Serves as a liaison for employees and dependents with healthcare providers, insurance plans, and other health-related community resources.	Assists employers and their employees/dependents through a staff of personal health advocates who are registered nurses. Offers a broad menu of cost-effective services, including assistance finding primary care, specialist physicians and medical institutions, and solving claims, billing and related administrative problems. Also helps members access community resources, including senior care services that fall outside traditional health insurance coverage.	Additional fee, which shall initially be \$1.25 PEPM
UBA Wellness Works <i>(Exhibit R)</i>	UBA WellnessWorks is a complete health-management solution which provides employers with integrated resources strategically designed	UBA WellnessWorks is designed to be simple and easy to understand for you and your employees. It eliminates guesswork by combining the right	Additional fee.

	to improve the lives and health of their employees and organizations.	programming, effective communications, meaningful incentive strategies, and ease of administration to make a wellness program successful in your organization.	
Compliance Tools			
HIPPA Only (Exhibit J)			
HIPAA Compliance Kit	HIPAA Compliance Kit with policies and procedures.	Offered by Fisher & Phillips.	Additional fee.
HIPAAAnswers	Web-based HIPAA compliance solution.	Web-based service that helps organizations understand and comply with the HIPAA privacy transactions, security and identifier regulations, and maintain ongoing compliance.	Additional fee.
Risk Management Packages (Exhibit K)			
Ask a Labor Lawyer	Direct access to a labor lawyer at Fisher & Phillips	A tremendous resource for difficult questions.	Additional fee.
FPHR Consulting Online	Provides employers with state compliant employee handbooks, employment applications, and arbitration/at-will agreements.	Applications and arbitration agreements are provided at no charge; employee handbooks are available at a very cost effective price.	Additional fee.
PreventionPoint	Provides online human resource education & training solutions for regulatory compliance and preventive labor and employment relations.	PreventionPoint s online and CD-based training courses give employers the training resources the Supreme Court has mandated, and include such features as a secure database tracking system,	Additional fee.

		custom report generation, interactive no-fail testing, automatic notification of completion, and certification of completion. PreventionPoint training has been approved in several instances by the Federal Government's Equal Employment Opportunity Commission (EEOC) and several state agencies as being compliant to carry out a company's training objectives.	
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Other Compliance Tools

Medicare Part D Services	Optional service for employers who have retiree populations and are interested in pursuing the 28% federally tax exempt retiree drug subsidy for their related Medicare eligibles.	Reden & Anders can determine whether the current plans offered to retirees are eligible for subsidy, complete the application for the subsidy, and file the necessary claim to collect the subsidy.	Additional fee.
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Stephens Insurance Agency
BenefitsConnect - Pricing Summary

City of Fayetteville

January 2008 - 12/31/2009

A. First Year Implementation Schedule of Fees						
	No. of Users	Forms / Hours		Per Unit Cost		Total
		Months/	Annual			
1. System Development	1	\$	4,195.00	\$	4,195.00	\$ 4,195.00
2. PEPM Estimated Annual Fee (Average Employee Count 750*12 = 3000)	9000	\$	0.50	\$	4,500.00	\$ 4,500.00
3. Annual User Fee - Client Access License(s)	2	\$	1,432.50	\$	2,865.00	\$ 2,865.00
Additional Client Access License(s)	0	\$	-	\$	-	-
4. Design Cost						
a. Portal	1	\$	800.00	\$	800.00	\$ 800.00
b. Ipay	1	\$	4,500.00	\$	4,500.00	\$ 4,500.00
c. N/A	0	\$	-	\$	-	-
5. Setup Fee For Electronic Feed Distribution						
a. EDI 1 - Cigna (Medical)	1	\$	1,835.00	\$	2,293.75	\$ 2,293.75
b. EDI 2 - Delta Dental - Arkansas (Dental)	1	\$	1,835.00	\$	2,293.75	\$ 2,293.75
c. EDI 3 - Reliance Standard - (Group Life, Disability and Vol Life)	1	\$	1,835.00	\$	2,293.75	\$ 2,293.75
d. EDI 4 - New EDI	1	\$	5,995.00	\$	7,493.75	\$ 7,493.75
d. EDI 4 - Payroll	1	\$	3,995.00	\$	3,995.00	\$ 3,995.00
6. Annual Technical Support Fee	60	\$	40.00	\$	2,400.00	\$ 2,400.00
Total						\$ 37,630.00

NOTES

PAYMENT METHOD

A. Implementation Schedule of Fees

	January 2008 - 12/31/2009	
	Annual Fees	Monthly Installments
1. System Development	\$ 4,195.00	\$ -
2. PEPM Estimated Annual Fee (Average Employee Count 750*12 = 3000)	\$ -	\$ 375.00
3. Annual User Fee - Client Access License(s)	\$ 2,865.00	\$ -
Additional Client Access License(s)	\$ -	\$ -
4. Form Development Cost		
a. Portal	\$ 800.00	\$ -
b. Ipay	\$ 3,000.00	\$ 125.00
c. N/A	\$ -	\$ -
5. Setup Fee For Electronic Feed Distribution		
a. EDI 1 - Cigna (Medical)	\$ 2,293.75	\$ -
b. EDI 2 - Delta Dental - Arkansas (Dental)	\$ 2,293.75	\$ -
c. EDI 3 - Reliance Standard - (Group Life, Disability and Vol Life)	\$ 2,293.75	\$ -
d. EDI 4 - New EDI	\$ 7,493.75	
d. EDI 4 - Payroll	\$ 3,995.00	
6. Annual Technical Support Fee	\$ 2,400.00	\$ -
Total	\$ 31,630.00	\$ 500.00
		\$ 37,630.00

Fees Paid By Client

Stephens Insurance, LLC
Compensation Disclosure Notice for the State of Arkansas

Stephens Insurance, LLC will be representing the City of Fayetteville as a benefits consultant pursuant to the RFP 07-08 Benefits Consulting and Insurance Brokerage Services Contract executed by the parties. As part of its services under the contract, Stephens Insurance, LLC and its representatives will, from time to time, be representing the City of Fayetteville as a broker in connection with insurance products. All compensation of Stephens Insurance, LLC and its representatives in connection with such brokerage activities will be paid solely by the City of Fayetteville as provided under the contract.

The undersigned certifies that the above information was provided on the date set forth below.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____

Name: _____

Date: _____

=====

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF ADDITIONAL LIGHT FIXTURES AND POLES UNDER BID #07-01 FROM ILLUMINETRICS, AUTHORIZED AGENTS FOR DYNAMIC LIGHTING, INC. AND COMPOSITE MATERIALS TECHNOLOGIES SOUTH CAROLINA, LLC IN THE AMOUNT OF \$72,590.00 FOR PHASE II OF THE 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 Bid #07-01 and approves the purchase of light fixtures and poles from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:	7/16/2007
										P.O Number:	Expected Delivery Date:	
Vendor Name: CMT South Carolina, LLC										Mail Yes: ☐	No: ☐	
Address:										Taxable Yes: ☐	No: ☐	Quotes Attached Yes: ☒ No: ☐
City:										State:	Zip Code:	Ship to code:
Requester: MATT MIHALEVICH										Requester's Employee #:	2509	Extension: 416
Item Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #				
1 LEGACY FIBERGLASS POLE W/DECORATIVE BASE	61	EA	587.00	\$35,807.00	4470.9470.5814.05	02016.9						
2 RES # __-07 BID #07-01				\$0.00								
3				\$0.00								
4				\$0.00								
5				\$0.00								
6				\$0.00								
7				\$0.00								
8				\$0.00								
9				\$0.00								
10				\$0.00								
Shipping/Handling				Lot								
Special Instructions:										Subtotal:	\$35,807.00	
										Tax:	\$0.00	
										Total:	\$35,807.00	

Approvals:

Mayor: Paul A. Becker

Finance & Internal Services Director:

Dispatch Manager: _____

Department Director:

Budget Manager: _____

Utilities Manager: _____

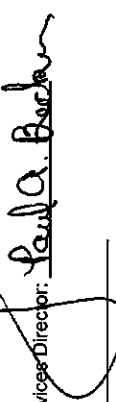
Purchasing Manager: _____

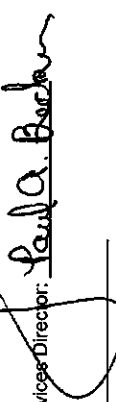
IT Manager: _____

Other: _____

City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date: 7/16/2007	
Vendor #: 16264 Vendor Name: DYNAMIC LIGHTING INC										P.O. Number:	Expected Delivery Date:	
Address:										Mail Yes: ☐ No: ☐	Quotes Attached	
City:										State:	Yes: ☒ No: ☐	
Requester: MATT MIHALEVICH										Requester's Employee #:	Extension: 416	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #			
1	LIGHT FIXTURES FOR SCULL CREEK	61	EA	603.00	\$36,783.00	4470.9470.5814.05	02016.9					
2	RES # __-07 BID #07-01				\$0.00							
3					\$0.00							
4					\$0.00							
5					\$0.00							
6					\$0.00							
7					\$0.00							
8					\$0.00							
9					\$0.00							
10					\$0.00							
					Shipping/Handling	Lot						
Special Instructions:												
Subtotal: \$36,783.00 Tax: \$0.00 Total: \$36,783.00 Purchasing Manager: _____ IT Manager: _____ Other: _____												

Approvals: 

Mayor: 

Finance & Internal Services Director: 

Dispatch Manager: _____



Department Director: _____

Budget Manager: _____

Utilities Manager: _____

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-59 AND APPROVING A CONTRACT WITH XXXXXXXXXXXX IN THE AMOUNT OF \$XXXXXXXXX FOR THE INSTALLATION OF THE LIGHTING FOR PHASE II OF THE SCULL CREEK TRAIL; AND APPROVING A %XX PROJECT CONTINGENCY IN THE AMOUNT OF \$XXXXXX.

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 #07-59 and approves a contract with XXXXXXXXXXXX in the amount of \$XXXXXXXXX for the installation of the lighting for Phase II of the Scull Creek Trail.

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

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

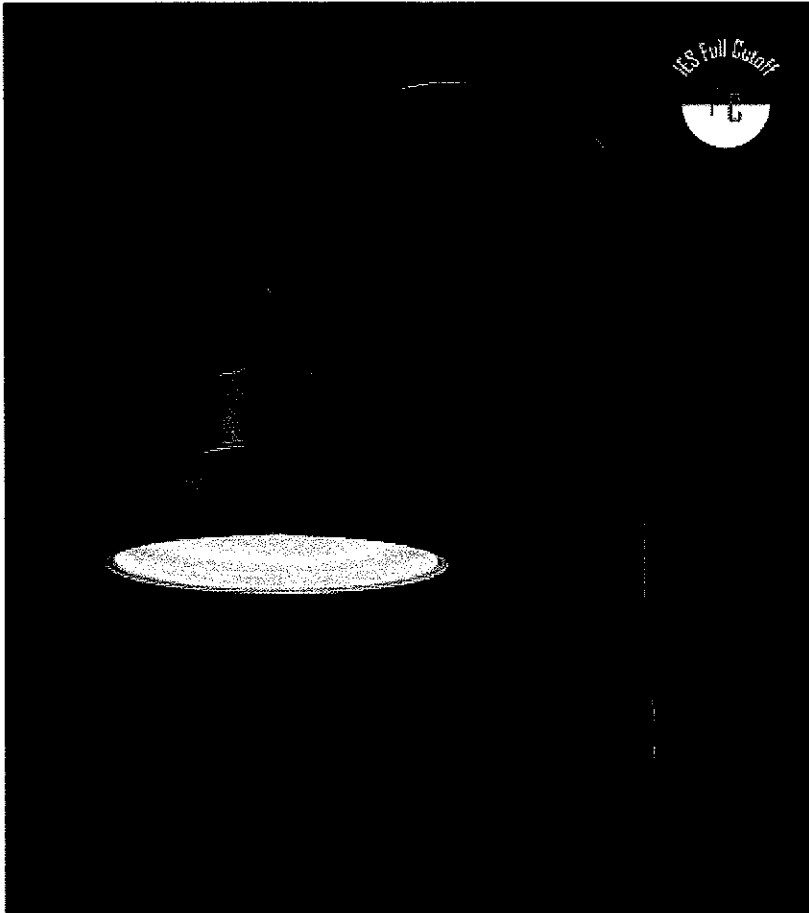
By: _____
SONDRA SMITH, City Clerk/Treasurer

The Scully Creek Trail Lighting Project was advertised on June 15th and June 22nd 2007 as bid number 07-59; official bids will be opened on July 10th, 2007.

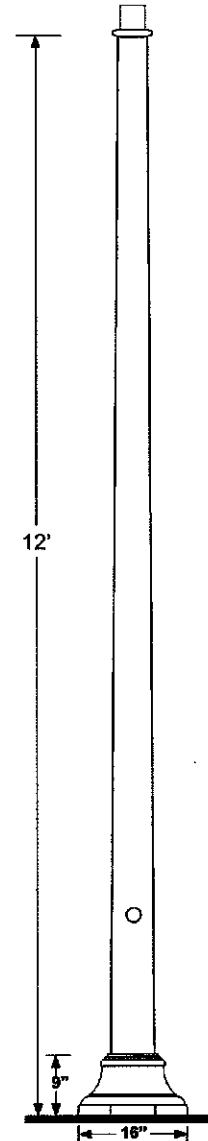
TRAIL LIGHTING STYLE

D142 Series Dynamic Lighting, Inc.

Model #PT40 / D142-RFS22 / 175MH – 240v / BLK / HR3-GL



**Direct Bury 12' Composite Materials Technology (CMT) Legacy
fiberglass pole with decorative base
Model #LFY12-T-3-T400X4.5-S**



City Of Fayetteville (Not a Purchase Order)										Requisition No.:	Date:	7/16/2007
										P.O Number:	Expected Delivery Date:	
Vendor #: _____ Vendor Name: _____										Mail Yes: _____ No: _____		
Address: _____										Taxable Yes: _____ No: _____	Quotes Attached Yes: _____ No: _____	
City: _____ State: _____										Zip Code: _____	Ship to code: _____	
Requester: MATT MIHALEVICH										Requester's Employee #: 2509	Extension: 416	
Item Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #				
1 SCULL CREEK TRAIL LIGHTING INSTALLATION	1	JOB	0.00	\$0.00	4470.9470.5814.05	02016.9						
2 RES #_-07 BID #07-59				\$0.00								
3				\$0.00								
4				\$0.00								
5				\$0.00								
6				\$0.00								
7				\$0.00								
8				\$0.00								
9				\$0.00								
10				\$0.00								
Shipping/Handling					Lot							
Special Instructions:										Subtotal:	\$0.00	
										Tax:	\$0.00	
										Total:	\$0.00	
Approvals:										Scull Creek Lighting Bid # 07-59 Page 3 of 4 Revision 04/7/08		
Mayor: _____										Department Director: _____		
Finance & Internal Services Director: _____										Budget Manager: _____		
Dispatch Manager: _____										Utilities Manager: _____		
										Purchasing Manager: _____		
										IT Manager: _____		
										Other: _____		

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

6/19/2007

City Council Meeting Date

T.C.
Tim Conklin

Submitted By

Planning and Development Mgt.

Division

Operations

Department

Action Required:

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING REGULATIONS IN ORDER TO CLARIFY LANGUAGE REGULATING THE HEIGHT STEPBAC OF BUILDINGS LOCATED IN THE MAIN STREET CENTER ZONING DISTRICT.

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

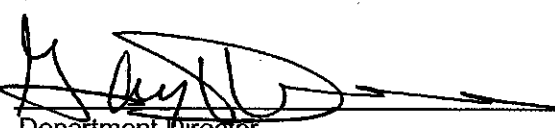
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

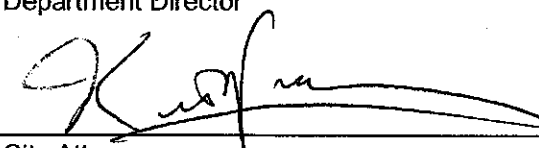

Department Director

5-30-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

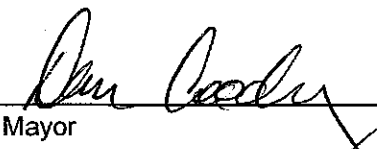
5-31-07
Date

Paul a. Beich
Finance and Internal Service Director

5-31-07
Date

Received in City Clerk's Office

ENTERED
5/31/07


Mayor

6/14/07
Date

Received in Mayor's Office

ENTERED
5/31/07

Comments:

*7/3/07 City Council Meeting - Left on the second reading & tabled to 7/17/07
Left on the second reading 6/19/07*

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director
From: Leif Olson, Long Range Planner
Date: May 30, 2007
Subject: **Administrative item amending the building height regulations for the Main Street Center Zoning District to clarify the 15 foot stepback requirement. (ADM 07-2516)**

RECOMMENDATION

Planning Staff and the Planning Commission recommend an ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville, Chapter 161: Zoning Regulations in order to clarify language regulating the building height stepback of buildings located in the Main Street Center Zoning District.

BACKGROUND

The City Council adopted the Downtown Master Plan Zoning Ordinance on October 3, 2006. Planning Staff has identified a potential issue with regard to requiring the 15 foot stepback of the principal building façade above the fourth story. The ordinance allows a building to be located in a build to zone between 0 and 25 feet from the front property line. When a building is placed at the 0 foot setback a 15 foot stepback is required above the fourth floor in order to promote a pedestrian scaled street environment and adequate provisions for light and air movement. However, if the building is to be located further than 15 feet back from the street frontage, the 15 foot stepback above the fourth floor is unwarranted. Staff proposes changing the building height language in the Main Street Center Zoning District in order to allow buildings located at least 15 feet back from the front property line or master street plan right-of-way to construct 6 stories without a stepback of the principal building façade. This will create two building height zones: 1) within 15 feet of a property line or master street plan right-of-way, a maximum of 4 stories/56 feet, whichever is less; 2) beyond 15 feet of a property line or master street plan right-of-way, a maximum of 6 stories/84 feet, whichever is less.

DISCUSSION

This item was heard at the regular Planning Commission on May 29, 2007. The Planning Commission voted 7-0-0 to recommend approval of the amendment to the City Council. The Planning commission also discussed and recommended that all buildings be limited to the 4 stories or 56 feet if they are located within 15 feet from the front property line or master street plan right-of-way.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT ORDINANCE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING REGULATIONS IN ORDER TO CLARIFY LANGUAGE REGULATING THE HEIGHT STEPBACK OF BUILDINGS LOCATED IN THE MAIN STREET CENTER ZONING DISTRICT:

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 amends Title XV: Unified Development Ordinance of the Code of Fayetteville by repealing §161.21(G) in its entirety and enacting a new §161.21(G) as follows:

“(G) *Height Regulations.* A building or a portion of a building that is located between 0 and 15 feet from the front property line or any master street plan right-of-way line shall have a maximum height of 4 stories or 56 feet, whichever is less. A building or a portion of a building that is located 15 feet or greater from the front property line or any master street plan right-of-way line shall have a maximum height of 6 stories or 84 feet, which ever is less.”

PASSED and **APPROVED** this the 19th day of June, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

ADM 07-2516: Administrative Item (BUILDING HEIGHT STEPBACK IN MSC ZONING DISTRICT) An ordinance to amend the building height regulations for the Main Street Center Zoning District.

Tim Conklin, Planning and Development Management Director, gave the staff report. He described the amendment as a means to clarify the building setback in the Main Street Center zoning district, which has a stepback requirement at 15 feet from the front property line. The intent of the amendment is to clarify that there are actually two building height zones, one of a maximum of four stories/56 feet from 0-15 feet from the front property line and one of maximum of six stories/84 feet beyond 15 feet from the front property line.

No public comment was received.

Commissioner Lack stated this was a good change, that it seemed it resulted from learning from the implementation of the regulations recently adopted. He stated that one thing caused some concern, the reference to "front property line" in the code language. Lack cited a situation where a sliver of property could be in front of a property being developed, and how this reference to a front property line could be confusing.

Kit Williams, City Attorney, noted that the phrases "front property line" was used many times in the code, and it could be difficult to replace this language without replacing it elsewhere.

The Planning Commission and staff discussed various language options regarding Master Street Plan right-of-way and front property lines, with several different variations.

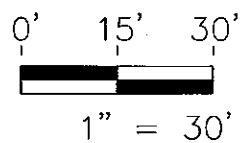
Jeremy Pate, Director of Current Planning, stated that the concern was duly noted, and staff will attempt to address the issue with a modification to the amendment if this goes forward to the City Council.

Motion:

Commissioner Lack stated he was in favor of the amendment, and made a motion to forward it to the City Council with a recommendation of approval, with the modifications to be made by staff. **Commissioner Graves** seconded the motion. **Upon roll call, the motion passed with a vote of 7-0-0.**

PROPOSED AMENDMENT

MAIN STREET CENTER



15' or
greater setback
6 stories
84' max.
height

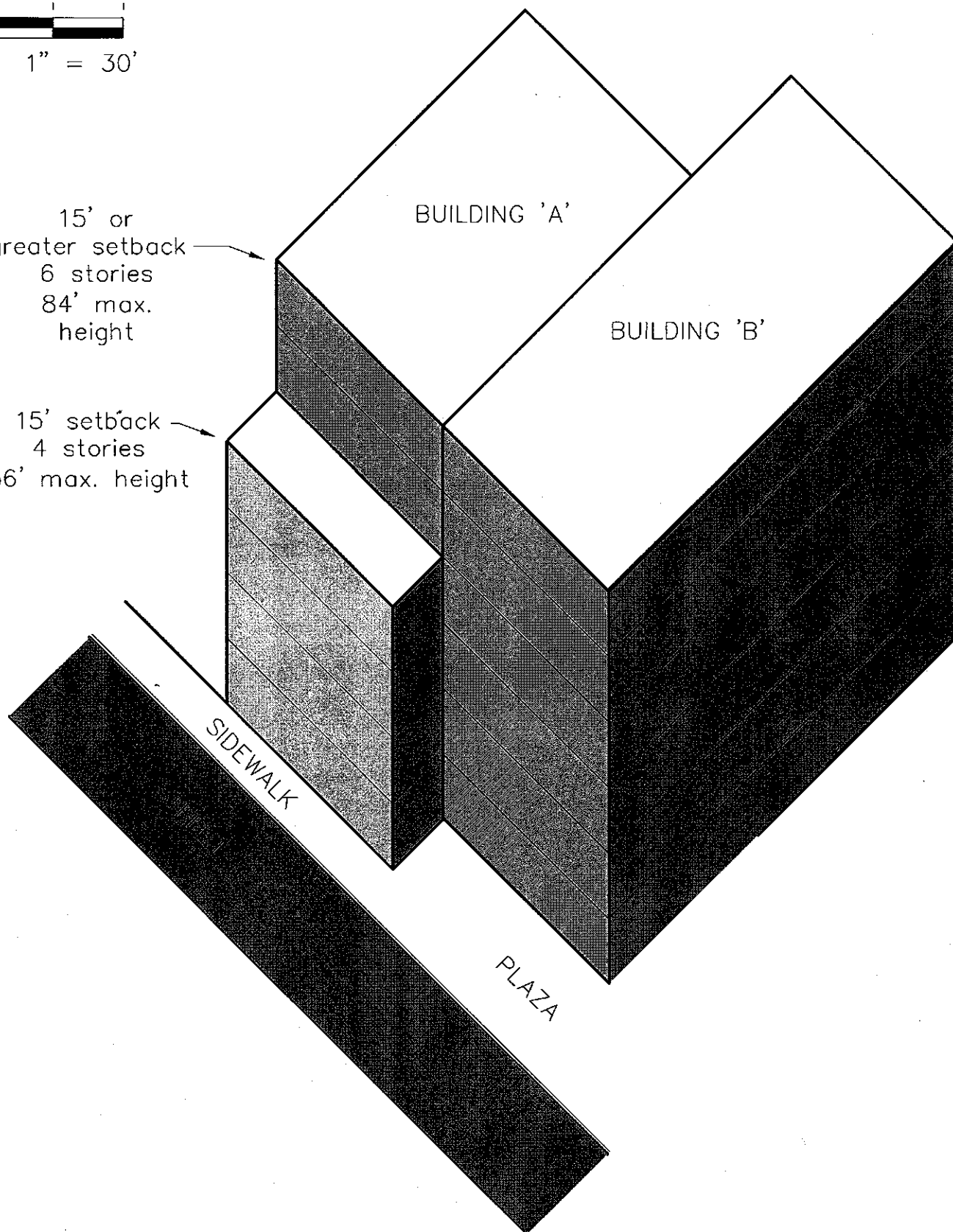
15' setback
4 stories
56' max. height

BUILDING 'A'

BUILDING 'B'

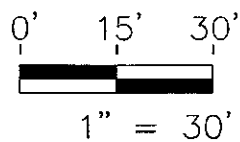
SIDEWALK

PLAZA



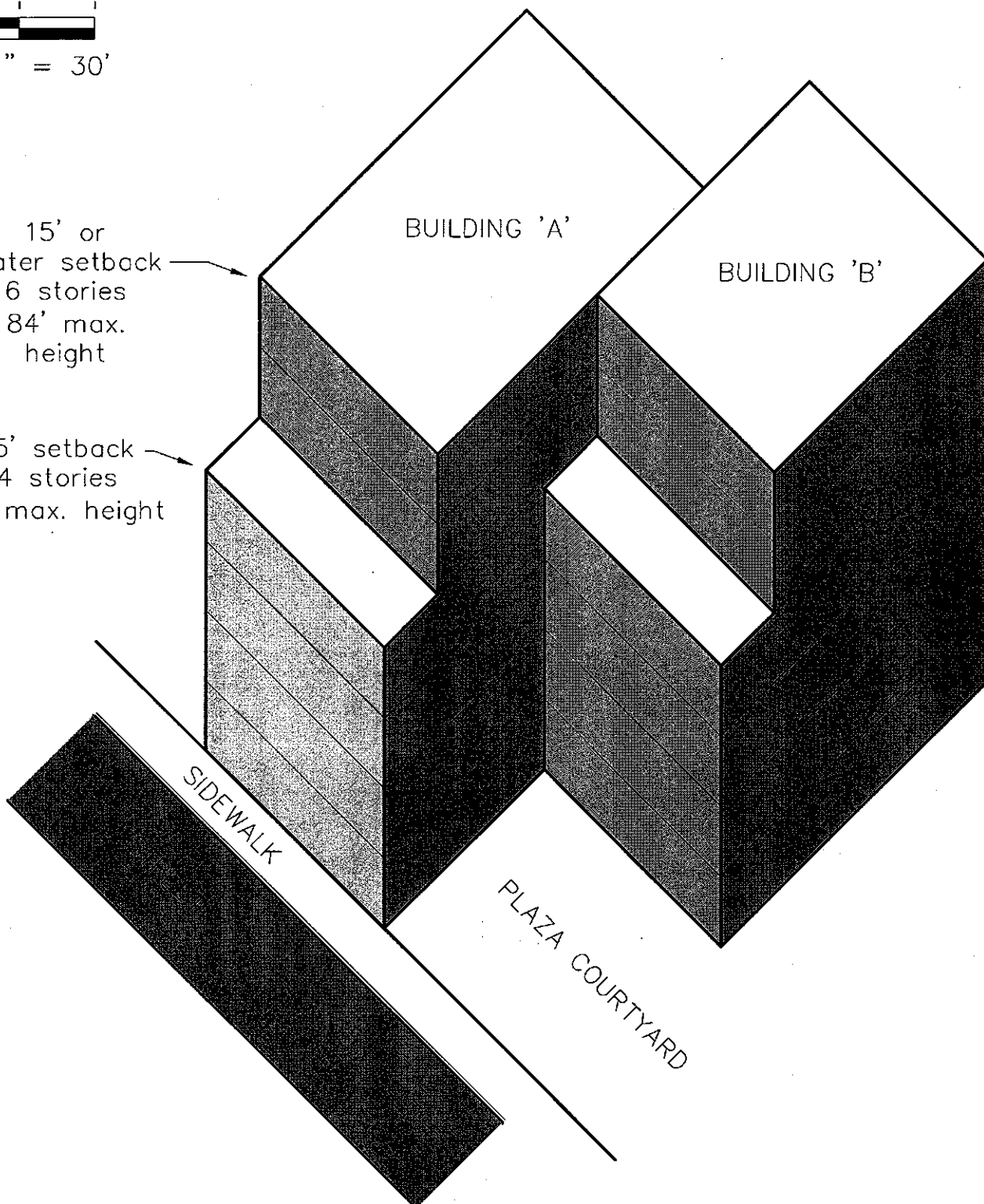
CURRENT ORDINANCE

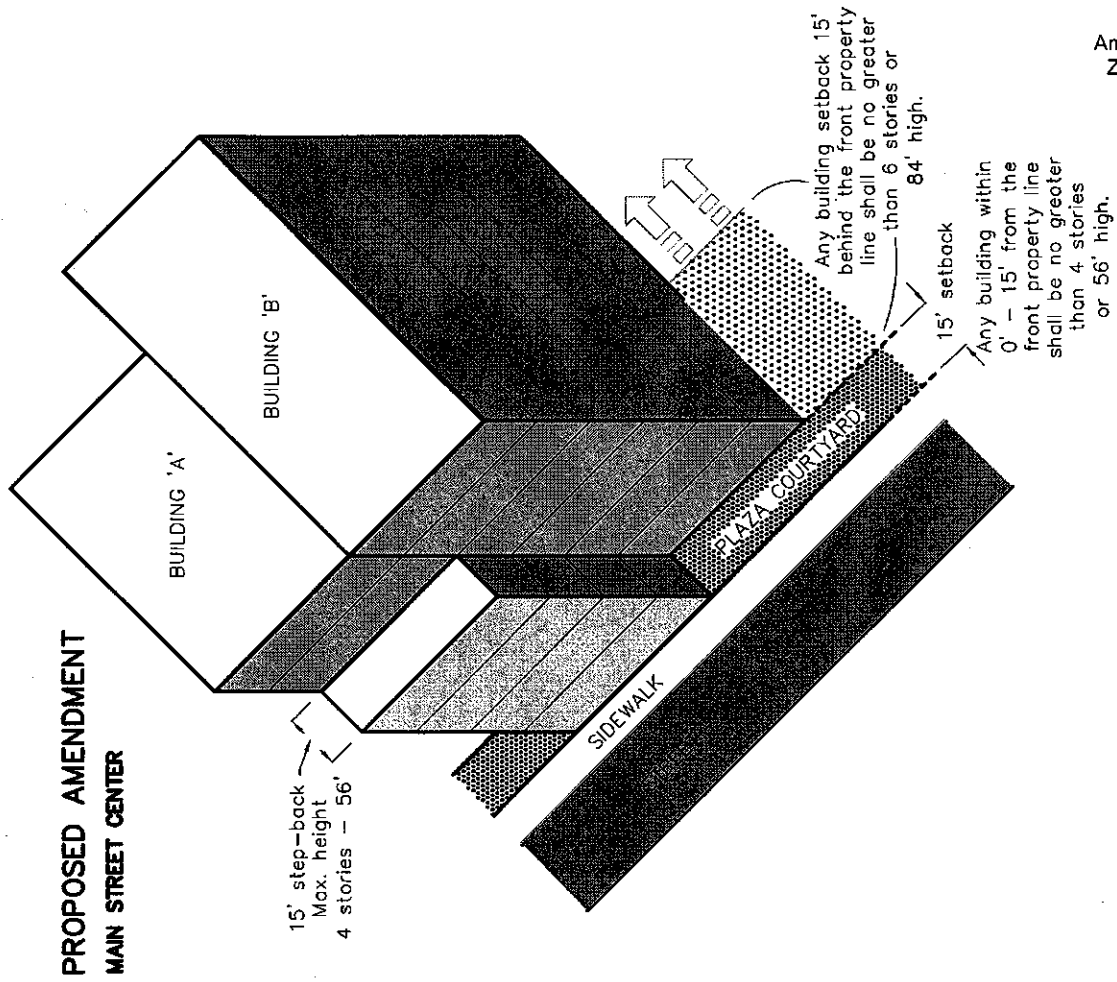
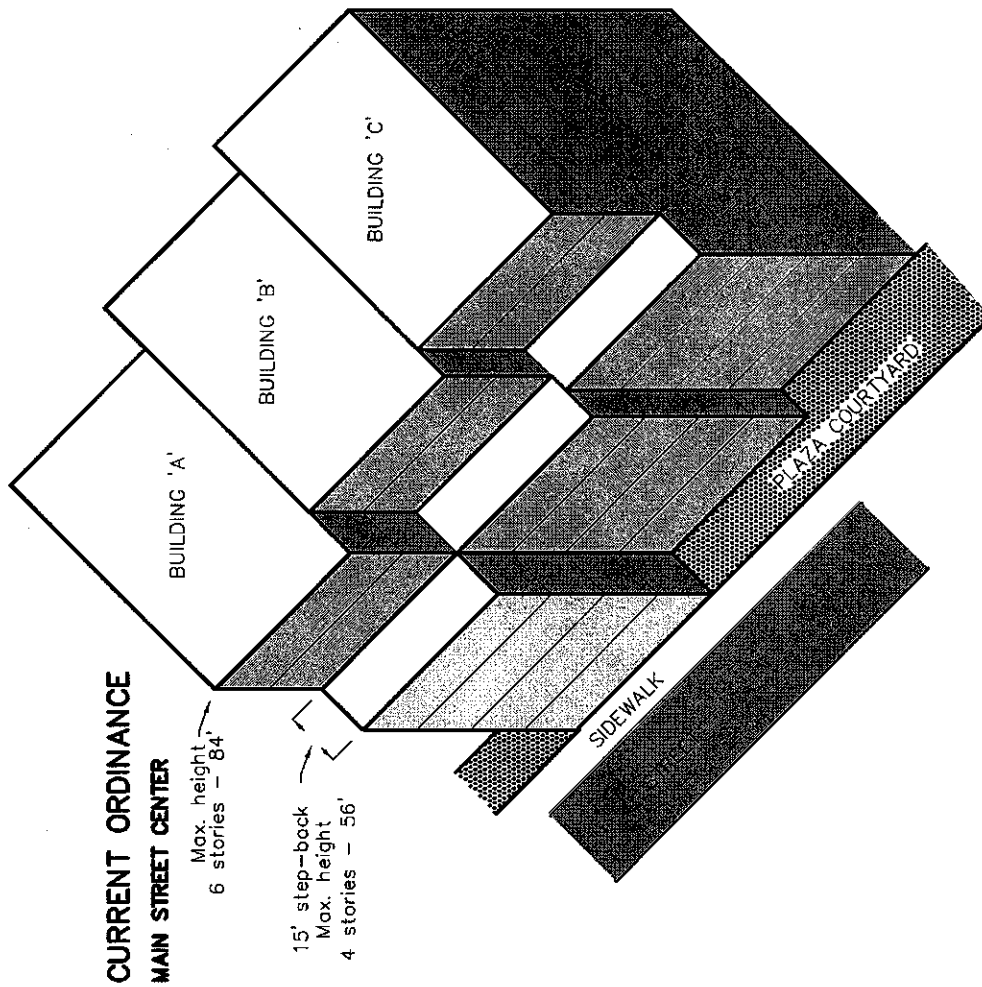
MAIN STREET CENTER



15' or
greater setback
6 stories
84' max.
height

15' setback
4 stories
56' max. height





City of Fayetteville Staff Review Form

B. 2
Amend Chapter 161:
Zoning Regulations
Page 1 of 28

City Council Agenda Items
and
Contracts, Leases or Agreements

7/3/2007

City Council Meeting Date
Agenda Items Only

Tim Conklin

Submitted By

Planning and Development Mgt.

Division

Operations

Department

Action Required:

To amend Title 15, Chapter 16.1, Section 161.22 Downtown General of the UDC to consider the Downtown General zoning district as a commercial zone when located between Watson Street, West Avenue, Saint Charles Avenue, Block Avenue, and Spring Street and as a residential zone for all other locations for the purposes of Chapter 96: Noise Control.

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

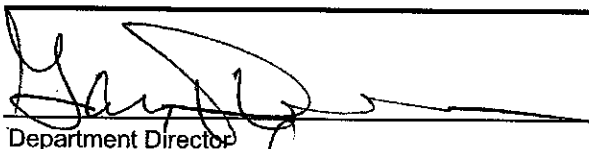
Fund Name

Budgeted Item

☐

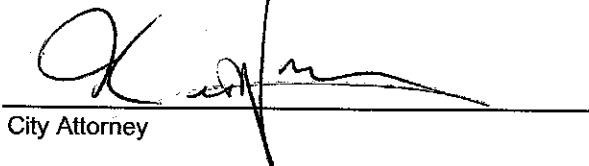
Budget Adjustment Attached

☐


Department Director

6-15-07
Date

Previous Ordinance or Resolution #


City Attorney

6-18-07
Date

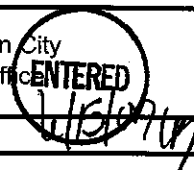
Original Contract Date:

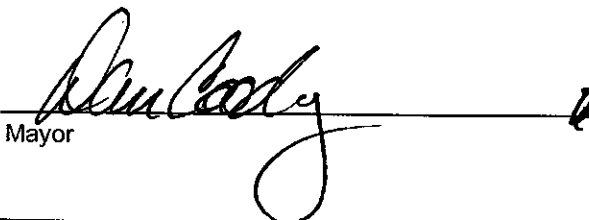
Original Contract Number:


Finance and Internal Service Director

6-18-07
Date

Received in City
Clerk's Office




Mayor

6/18/07
Date

Received in
Mayor's Office



Comments:

7-3-07 City Council Meeting - Left on the First Reading

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: June 12, 2007

Subject: Approval of a proposed amendment to consider the Downtown General zoning district as a commercial zone between Watson Street, West Avenue, Saint Charles Avenue, Block Avenue, and Spring Street between 1 p.m. to 11 p.m. and as a residential zone for all other locations and times for the purposes of Chapter 96: Noise Control.

RECOMMENDATION

Staff recommends approval of the proposed amendment to consider the Downtown General zoning district as a commercial zone between Watson Street, West Avenue, Saint Charles Avenue, Block Avenue, and Spring Street between 1 p.m. to 11 p.m. and as a residential zone for all other locations for the purposes of Chapter 96: Noise Control.

BACKGROUND

Last year, the City rezoned several downtown blocks between Spring Street and Dickson Street from C-3 Central Commercial to Main Street Center and Downtown General. At the time of the zoning action, each new district was designated as a commercial or residential district for purposes of measuring sound related to the Noise Ordinance.

The City has been approached by the operator of Ozark Mountain Smokehouse related to how noise is measured from the existing outdoor patio. The patio along with the associated outdoor music has existed for many years on Dickson Street.

Due to the rezoning of a portion of the block to Downtown General, the outdoor music at this location has violated the noise ordinance based upon the residential designation on three separate occasions.

BUDGET IMPACT

None

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 161: ZONING DISTRICTS IN ORDER TO CONSIDER SPECIFIC AREAS THAT ARE CURRENTLY ZONED DOWNTOWN GENERAL A COMMERCIAL ZONING DISTRICT BETWEEN 1 P.M. TO 11 P.M. AND AS A RESIDENTIAL ZONE FOR ALL OTHER LOCATIONS AND TIMES FOR THE PURPOSES OF THE NOISE ORDINANCE.

WHEREAS, the City of Fayetteville recognizes that the Dickson St. area is primarily commercial; and

WHEREAS, the City of Fayetteville recognizes that an appropriate level of noise is acceptable adjacent to Dickson St; and

WHEREAS, the City of Fayetteville has determined that the existing noise ordinance is effectual and sufficiently restrictive;

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

Section 1. That Chapter 161: Zoning Districts is amended by inserting language in §161.22 Downtown General Zoning District. A copy of which marked Exhibit "A" is attached hereto and made a part hereof.

DRAFT

PASSED and APPROVED this the ____ day of ____, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"

Chapter 161: Zoning Districts shall be amended by removing §161.22(A) and replacing it with the following language:

This section shall be removed:

~~161.22 (A) — Purpose. Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street / Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. For the purposes of Chapter 96: Noise Control, the Downtown General district is a residential zone~~

This language shall be inserted:

161.22 (A) Purpose. Downtown General is a flexible zone, and it is not limited to the concentrated mix of uses found in the Downtown Core or Main Street / Center. Downtown General includes properties in the neighborhood that are not categorized as identifiable centers, yet are more intense in use than Neighborhood Conservation. There is a mixture of single-family homes, rowhouses, apartments, and live/work units. Activities include a flexible and dynamic range of uses, from public open spaces to less intense residential development and businesses. **For the purposes of Chapter 96: Noise Control, the Downtown General district is a commercial zone when located between Watson Street, West Avenue, Saint Charles Avenue, Block Avenue, and Spring Street between the hours of 1 p.m. and 11 p.m. and is a residential zone for all other locations and times.**

Close Up View



Overview



0 87.5 175 350 525 700
 Feet

June 20, 2007

Mayor Dan Coody
City of Fayetteville City Council

Dear Mayor and City Council,

I am writing regarding a proposed amendment to the Fayetteville Noise ordinance. This amendment will create a Noise Overlay for one block on either side of Dickson St. running the length of the Entertainment District. The Overlay's effect will be the restoration of allowed noise levels to those that existed before the Council adopted the new downtown zoning map last year.

As explained below, time is of the essence for us. We request that the council consider and act on this issue as quickly as possible, and re-establish the code under which we have operated for so long.

My business is the Ozark Mountain Smokehouse which I purchased late last year from Frank Sharp. You are probably aware that the Smokehouse operates a processing plant in Fayetteville on Hwy 62, a restaurant/deli, and, for the last 20 years or so, a catering venue on Dickson St. Our catering venue, The Garden Room, is located in our gathering space and garden at the rear of the Dickson St. property. Weddings, corporate gatherings, and the occasional social group are our primary customers in this venue and they usually request meal service, bar service and frequently employ a band or DJ to entertain.

This year for the first time, the Fayetteville Police cited the Garden Room for violations of the noise ordinance, a total of four times. With only a single previous noise warning in, in late 2006, after 20 years of events, our catering operation has had an exemplary record in adhering to the municipal code in all aspects.

These citations and last year's warning are not the result of any alteration of our hours of operation, the length or quantity of our events, or the increased volume of our entertainment. Instead, we have discovered that after the passage of the '06 zoning map change, parcels along Locust Ave., to the west and southwest of our Dickson St. property, were placed in the DG zone (the Smokehouse is in MSC or Main Street Center, a commercial zone). For the purposes of the noise ordinance, the DG zone is treated as a residential zone. The language of the noise ordinance restricts the decibel level for daylight noise in the MSC zone (our zone) to 75 DB, but in the DG zone the allowed level is only 60 Db. I am not an acoustical engineer, but I understand that the difference between 60 Db and 75 Db is substantial: 60 Db is equivalent to normal conversation and 75 Db is closer to noise produced by heavy street traffic.

Until late last year when the Council adopted the new downtown Fayetteville zoning map, (an admirable effort) our entire block was zoned C-3, a commercial zone, and was treated as such by the Fayetteville Noise ordinance. The zone change however brought

with it the unintended consequence (according to Fayetteville planning and administration personnel) of lowering the allowed noise level for our business. We believe that no other business on Dickson St. has been affected by the change in the zoning law, and consequently the noise ordinance, as we have.

This noise overlay, as proposed, will restore for us maximum noise level requirements of 75 Db until 11 PM at night, a limit we have historically been allowed to observe.

The upshot of the current situation is that we cannot now hold any sort of performance in our Garden at any time of the day because the noise level cannot help but surpass the Decibel reading allowed in the abutting DG zone. If we cannot use our garden for events, we cannot continue our catering business.

For us the impact is even more serious. As the new owner of the company, I have great faith in the Smokehouse product and have been working to improve its marketing and its retail locations. As we look to rebuild this company though, and make it a strong Fayetteville business again, the catering operation generates vital cash that helps fund our other manufacturing and retail operations while we rebuild. At the risk of sounding portentous, as I see it, this noise ordinance issue poses an existential threat to the survival of the entire company, its 60 years of history here in Fayetteville, and its 30 full- and part-time employees.

In the last month, we have tried to negotiate with the complainant, we have required some functions to move indoors (to the tremendous anger of our patrons), and we have discussed potential changes to our policies to make this problem manageable. We have already lost a major event, booked for months, due to this issue, and others await the outcome of your vote before making their own decision. We rely on the spring, summer, and fall events that can be held outside for the bulk of our income. I am fearful for all that I have invested in this company to date.

We hope that the Council will suspend its rules and act on this matter at its July 3rd meeting as we have fallen victim to a hitch in the law that no one foresaw or intended when last year's zoning maps were updated.

Thank you so much for your timely consideration of this issue, which is most important to us.

Sincerely,

Tom Bourdeaux
President
OMSH LLC

Kim Flanery Coats
224 N. Locust Ave.
Fayetteville, AR 72701

June 25, 2007

Mayor Dan Coody
City of Fayetteville City Council
Fayetteville, AR 72701

In re: Proposed zoning variance – noise
control

Dear Mayor Coody and City Council Members:

I request that the City Council table any discussion of the proposed amendment to rezone the Downtown General zoning district to increase the maximum allowable noise level from the current level of 60 dB to noise levels of 75 dB in a section of the Downtown General district between Watson Street, West Avenue, St. Charles Avenue, Block Avenue, and Spring Street. The proposal is tentatively slated as the seventh and final item of new business on the City Council agenda for July 3, 2007, and I hope that the council will postpone any discussion of the proposed ordinance until its July 17 meeting. If however, council hears discussion on the merits of the proposal at its July 3 meeting, I object to the proposed zoning variance, for the reasons set out below.

I ask the City Council to postpone the discussion on the amendment until its July 17 meeting because the amendment is tentatively set to be heard on July 3, one day before the national holiday. Many interested residents who may wish to participate in the discussion are likely to be out of town. I would like to discuss my objections to the amendment with the City Council, but will be unable to attend the meeting on that date. Many of my neighbors have indicated to me that they will be unable to attend. It is my understanding that even Tim Conklin, who proposed the amendment, will be unable to attend the July 3 meeting.

If, however, council considers the amendment at the July 3 meeting, I would like to express my strong objection to it. It is my understanding that Mr. Conklin, Fayetteville's Director of Planning and Development, submitted the proposal based solely on the request of one property owner, Tim Bourdeaux, the new owner of the Ozark Mountain Smokehouse, following Mr. Bourdeaux's letter to the City Council dated June 20, 2007. Based on Mr. Bourdeaux's request, Mr. Conklin has recommended a zoning amendment to allow a portion of the Downtown General district to increase its maximum allowable noise levels from 60 dB to 75 dB, so that Mr. Bourdeaux can continue to operate the Smokehouse as an entertainment venue on his "backyard" patio, which he describes as located at the "rear of the Dickson St. property," with bands and DJs who play music at noise levels up to 75 dB.

I am one of several residents who live on Locust Avenue and who have complained on numerous occasions about the noise levels from the Smokehouse. My property borders the Smokehouse property; the northeast corner of my back yard connects to the southwest

corner of that property so that my back yard abuts what Mr. Bourdeaux describes as the rear "garden" of his property.

The amendment would set noise levels in the excluded zone, which includes my home, at commercial levels. However, much of the proposed area between Watson Street, West Avenue, St. Charles Avenue, Block Avenue, and Spring Street, is residential property. Realistically, the only commercial properties that would be impacted by a change in the noise ordinance are the businesses along Dickson Street. Mr. Bourdeaux's property is one of the few commercial properties that would be affected by the amendment. The other venues on Dickson Street where live music is regularly played outdoors are The Gypsy and Jose's. Both of those venues set up outdoor stages that face Dickson Street, rather than back up to homes behind Dickson Street. If Mr. Bourdeaux's petition succeeds, his business would be the only commercial venture along Dickson Street that would be playing amplified music outside at levels up to 75 dB in a setting removed from the commercial activity along Dickson Street, and instead tucked back in what he describes as the "private, secluded, more natural setting" at the rear of his business, which abuts several private residences. No loud music escapes from that rear patio area onto the commercial entertainment district along Dickson Street. The Smokehouse rear patio is separated from the commercial entertainment district by the Smokehouse's deep setback and its large, shaded front patio.

The Smokehouse could play music at the commercial level on its spacious front patio that faces Dickson Street. It is my understanding that Mr. Bourdeaux has declined to do so, however, because his patrons desire to hear amplified music at 75 dB in the "natural" setting under the trees on the Smokehouse back patio. Ironically, most of the trees and shade his patrons enjoy are the trees located on my property and my neighbors' property.

I moved into my home in August, 2003. Since that time, I have complained to the Fayetteville police department about the noise levels from the Smokehouse at least several dozen times, and perhaps as many as over a hundred times. Although I rarely left my name with the police department, because my children's anxiety about the loud noise would have increased if uniformed police officers were knocking on my door, I have regularly complained about the noise since 2003. It was not until earlier this spring, however, that I began to register my name when I called to complain.

In his June 20 letter to the council, Mr. Bourdeaux suggests that the problem "is neither more noise nor longer hours; it's the new zoning," which resulted in what he called the "unintended consequence" of lowering the allowed noise level for the business. This is incorrect; it is purely coincidental that the timing of my more regular complaints and the more frequent complaints from my neighbors occurred at approximately the same time as any changes to the noise ordinances. In fact, some of the difference can be attributed to the fact that permanent residents now live in the homes to the north and the south of my property, and did not in previous years. Mr. Bourdeaux notes that he bought the Smokehouse last year, so perhaps he is unaware of the ongoing complaints from neighbors over the past several years. However, in a cover story published in the Northwest Arkansas Times on June 25, Mr. Bourdeaux is quoted as saying he spoke to "the" complaining resident, suggesting that only one resident is complaining. This is not correct. Many of my neighbors are distressed by the excessive noise.

Mr. Bourdeaux correctly notes that the difference in a noise level of 60 Db and 75 Db is substantial. If a band plays on the back patio of the Smokehouse, and the noise level registers at the residential level of approximately 60 dB or lower, the use and enjoyment of my home is, unfortunately, diminished. I cannot open my windows to enjoy the fresh air on a

pleasant afternoon without being disturbed. I cannot sleep with my windows open. I cannot sit on my back deck with my children and enjoy a calm, quiet evening. I cannot entertain friends with a cookout on my back deck. My children cannot play outside in my back yard without complaining about the noise. It is annoying.

If, however, a band plays at the Smokehouse and generates a noise level of 75 dB, it is virtually intolerable to be inside my home. My walls and windows shake. My floors shake. Even inside my home with the doors and windows closed, I cannot hear my telephone ring; I cannot hear a knock on my front door; I cannot hear another person in the room speak to me. Small items on my dresser have literally shook so severely that they have fallen onto the floor due to the repercussions from the noise. At that noise level, my children cannot sleep. At that noise level, my quality of life has been significantly impaired.

The Fayetteville noise ordinance defines a noise disturbance as: "Any sound which: (1) Endangers or injures the safety or health of humans or animals; (2) Annoys or disturbs a reasonable person of normal sensitivities; or (3) Endangers or injures personal or real property." Ongoing, consistent, regularly occurring noise levels of up to 75 dB within a few feet of my back door clearly meets, and exceeds, this definition.

Mr. Bourdeaux suggests that the noise ordinance is an "existential threat" to the "survival" of his "entire company." He notes that his newly-acquired business has operated on the site for over 20 years. My home was built on Locust Avenue in 1904, and has been a private residence for over 100 years. Many of my neighbors who are disturbed by the noise from the Smokehouse have lived in downtown Fayetteville for over 20 years. As downtown residents, my neighbors and I love living in our vibrant mixed-use neighborhood. We care about the quality of life in downtown Fayetteville and we want to preserve the "neighborhood feel" of our streets.

The appropriate location for commercial businesses located within the Downtown General zone to play music at commercial decibel levels up to 75 dB is "streetside" on Dickson Street. If businesses generate excessive noise levels from the rear of the property, and the only non-patrons who hear the noise are residents, then the decibel levels should not be amended. As Fayetteville continues to adapt to our new zoning standards that include sufficient flexibility to support either business or residential activity, I hope the city can protect the quality of life for the downtown residents.

Sincerely,

Kim Flanery Coats

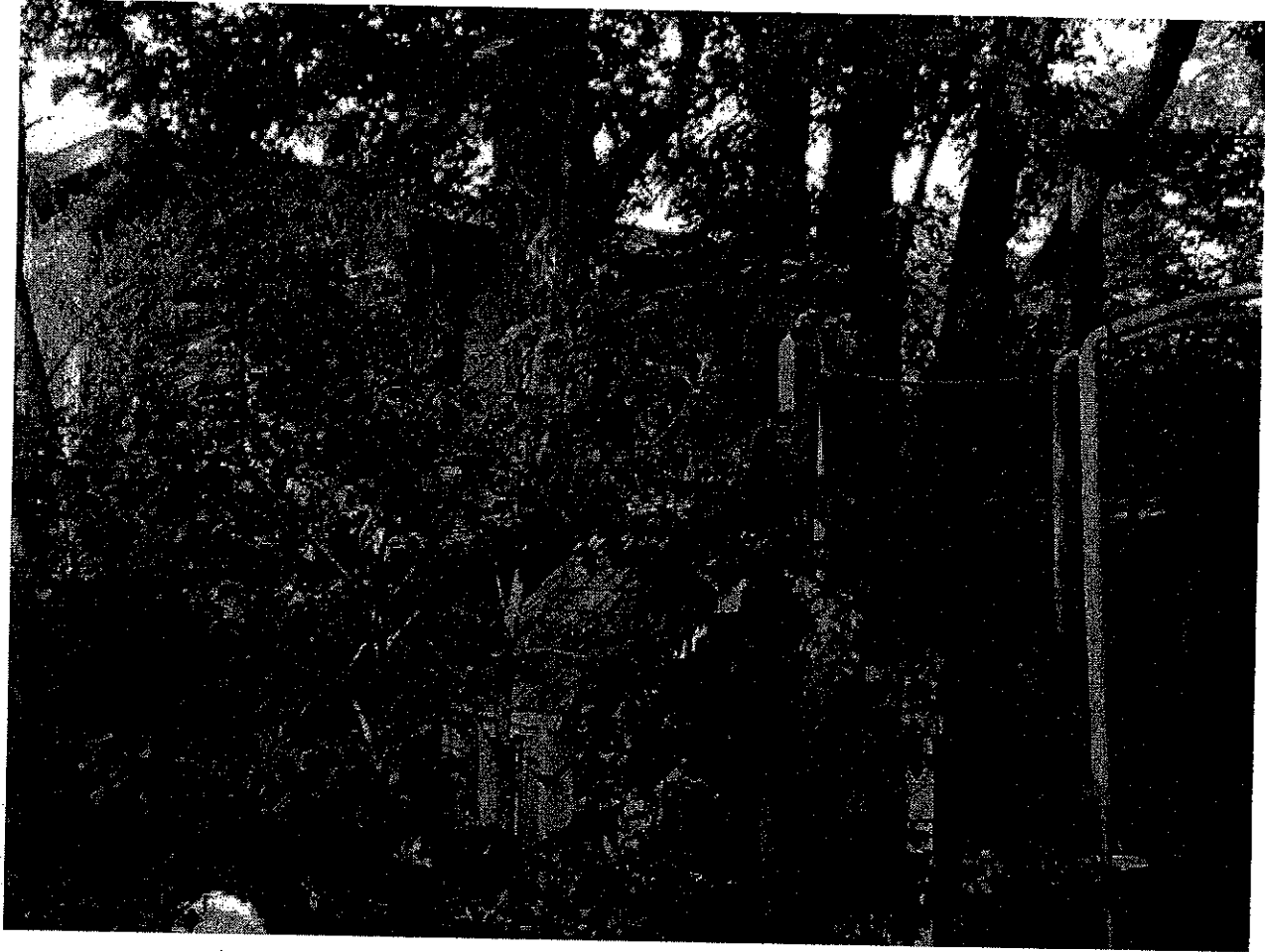
cc: Kyle B. Cook
Ward2_pos1@ci.fayetteville.ar.us

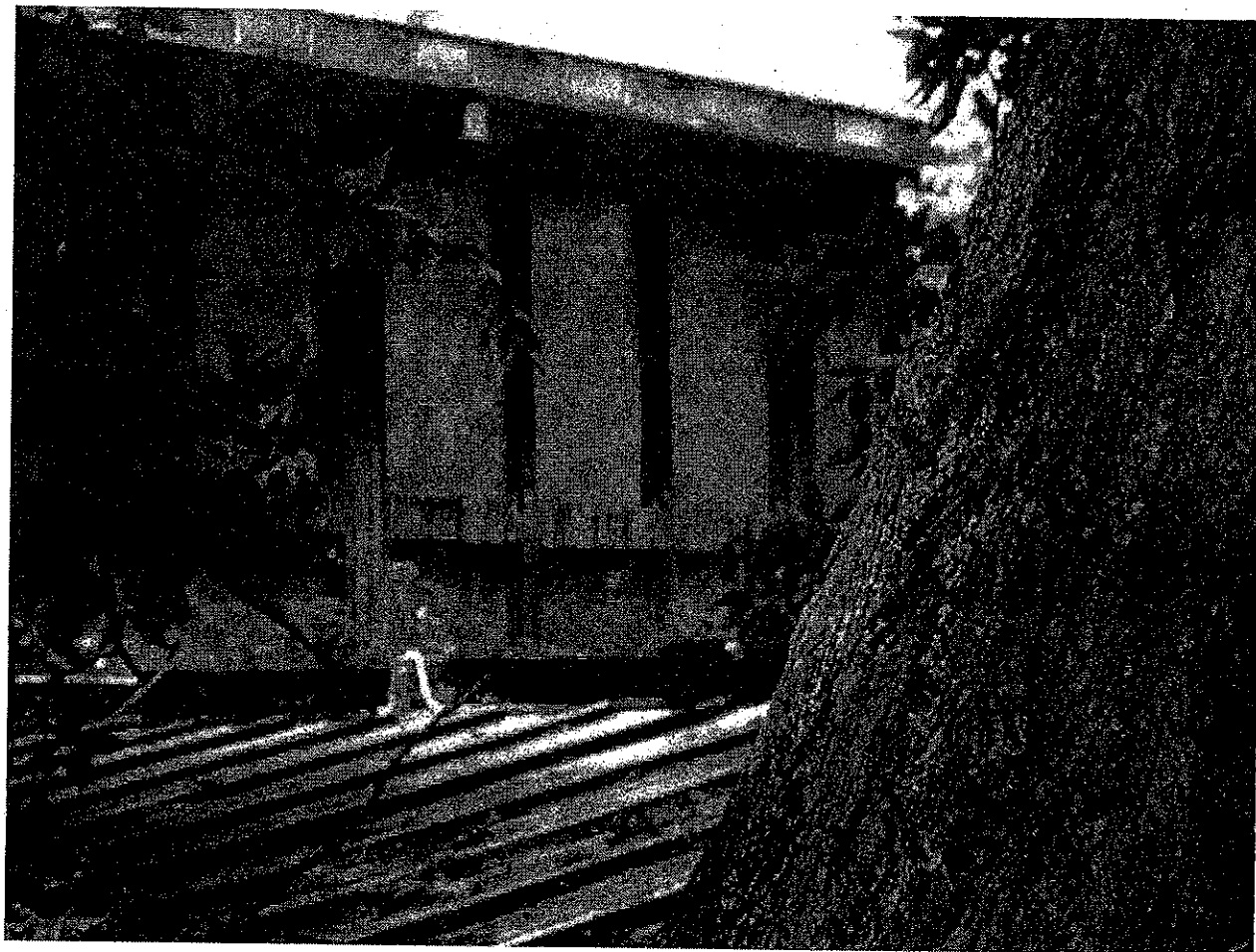
Nancy Gordon Allen
Ward2_pos1@ci.fayetteville.ar.us

Tim Conklin
City of Fayetteville
Planning and Development Management Director

Gary Dumas
City of Fayetteville
Director of Operations

Juli D. Dorrough
Chair - Dickson Street Neighborhood Association



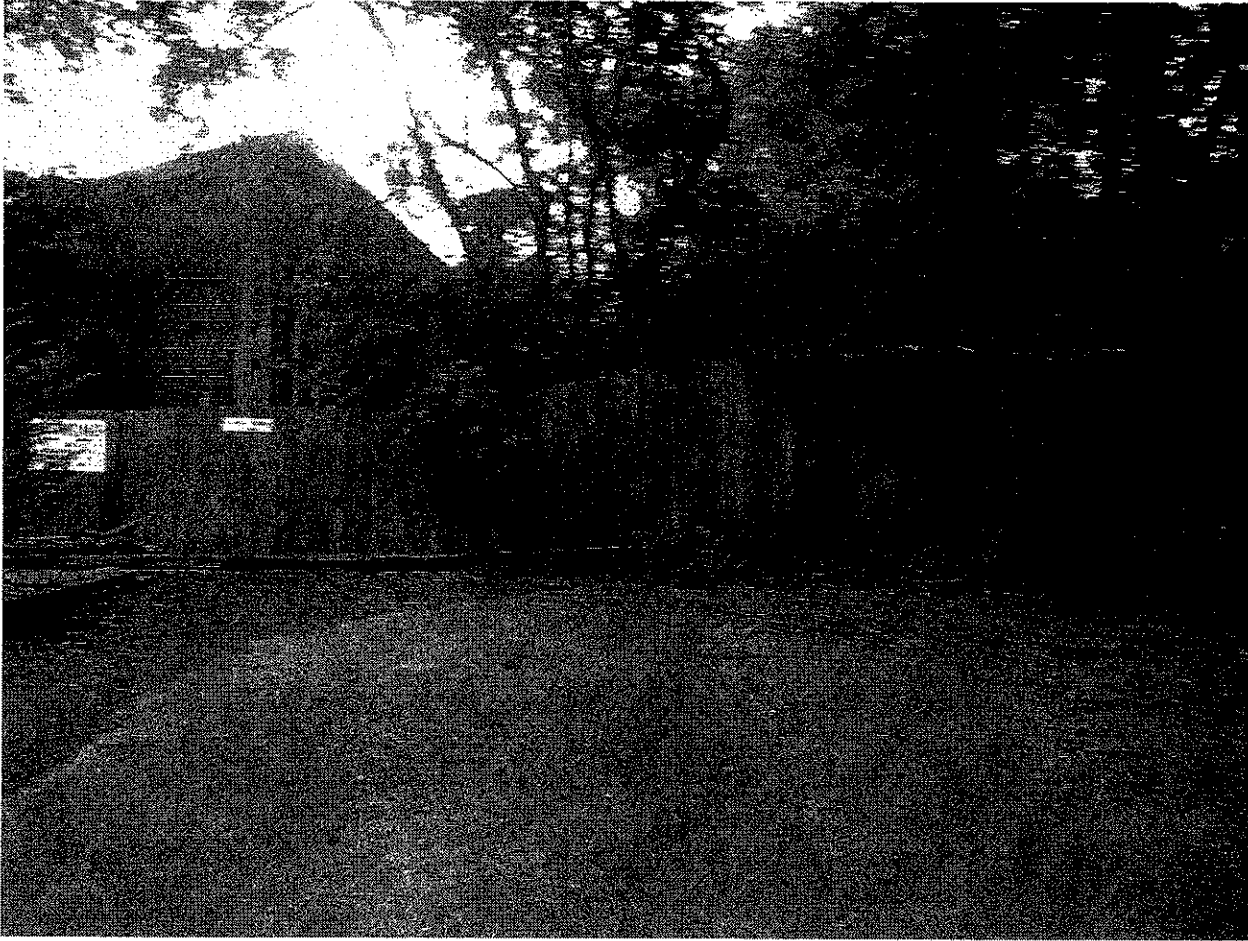


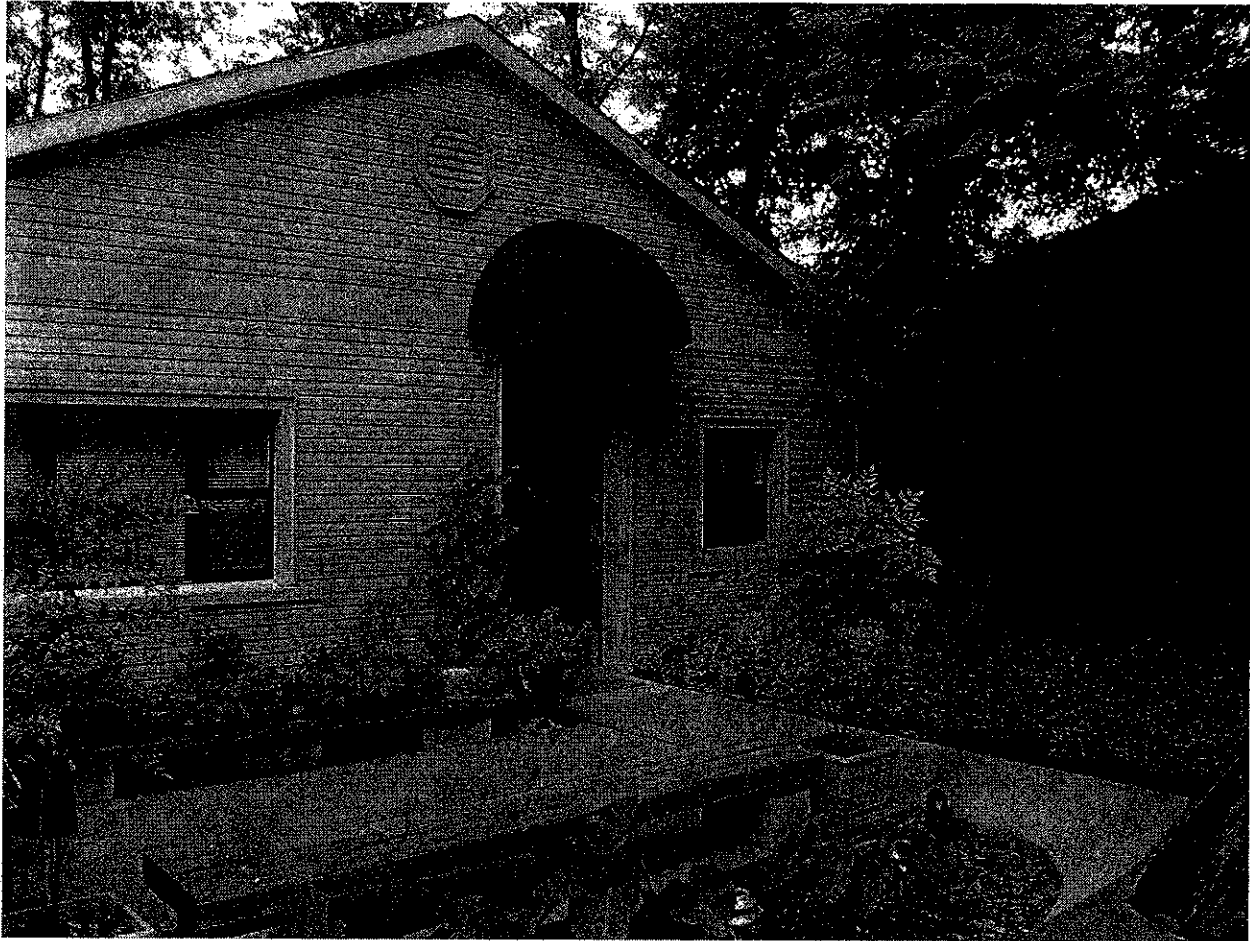




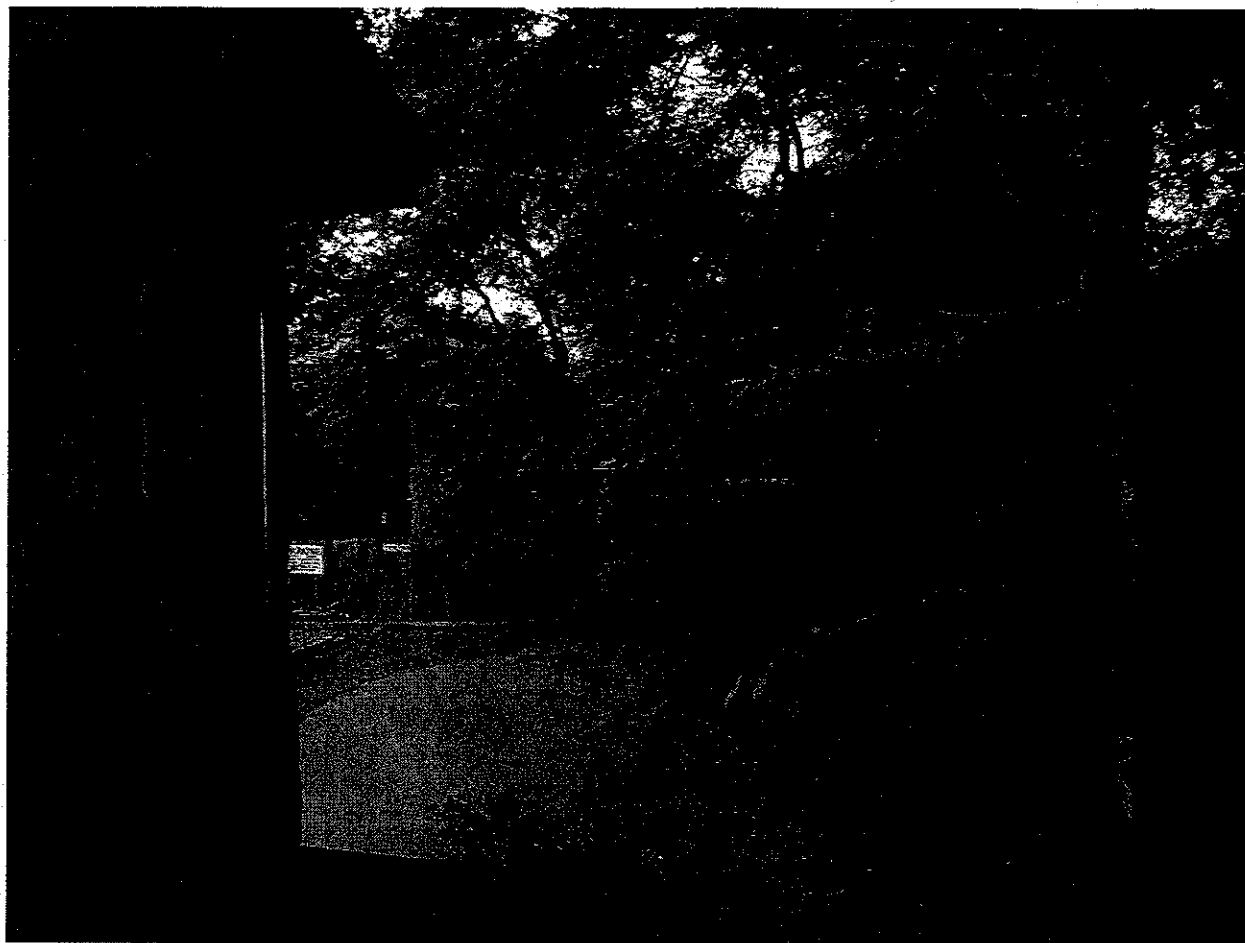


Dear Mr. Conklin My name is Rev. J.A. Gaglio I live at 226 N. Locust Ave. I have enclosed photos of how close the Garden Room is to my house and other homes.









From: Greg Tabor
To: Conklin, Tim
Date: 6/26/07 11:43AM
Subject: Fwd: Attached Image

Here are the noise complaints from the Smokehouse since November 1997, when we switched to our current computer system. I have also included the complaints that originated from 226 and 229 Locust. Please keep in mind this is not an all inclusive list. These lists only include the calls that came from the Locust Street addresses or calls that specifically named the Smokehouse or Garden Room by name or address. The "there is loud music coming from somewhere around Dickson Street" and calls of similar nature without specifics are not included and I would guess there would be a lot of them, but we have way of pulling that info. If you need anything else just let me know..

>>> <cid@ci.fayetteville.ar.us> 6/27/2007 12:29 am >>>

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	COMMON NAME	STR #	STREET NAME	FIRST LINE OF NARRATIVE
199800013162	Noise Comp	19980426	0:17:09	OZK MTN SMOKEHO	215	DICKSON	LIVE BAND
199800038997	Noise Comp	19981022	21:45:48	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC FROM INSIDE THE RESTAURANT. MDS
200000028791	Noise Comp	20000419	0:28:47	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC COMING FROM THE AREA BEHIND THIS.
200000079345	Noise Comp	20001022	22:38:11	SASSAPRAS	215	DICKSON	LIVE BAND...SFS
200500009171	Noise Comp	20050129	23:23:31	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC COMING FROM THIS LOCATION...MDS
200600048939	Noise Comp	20060513	22:16:27	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC FROM THE BACK OF THIS LOC. JW
200600066486	Noise Comp	20060701	22:58:27	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC FROM LIVE BAND AT THIS LOC. JR
200600066784	Noise Comp	20060708	21:54:41	OZK MTN SMOKEHO	215	DICKSON	LOUD BAND PLAYING AT THIS LOC. JW
200600074447	Noise Comp	20060722	22:38:32	OZK MTN SMOKEHO	215	DICKSON	THE GARDEN ROOM, LOUD MUSIC, THIS IS THE
200600085409	Noise Comp	20060819	18:05:33	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC...MTC
200600090705	Noise Comp	20060902	0:19:22	OZK MTN SMOKEHO	215	DICKSON	CALLER LIVES ON LOCUST AND IT SOUNDS LIKE THE
200600096293	Noise Comp	20060916	21:22:01	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC FROM A BAR IN THE AREA. JW
200600096308	Noise Comp	20060916	22:00:57	OZK MTN SMOKEHO	215	DICKSON	AT THE GARDEN ROOM, LOUD MUSIC SHAKING THE
200600096341	Noise Comp	20060916	23:21:42	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC COMING FROM THE GARDEN ROOM AT
200600103633	Noise Comp	20061006	21:20:41	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC ON BACK PATIO AT THIS LOC
200700036618	Noise Comp	20070420	21:25:13	OZK MTN SMOKEHO	215	DICKSON	LOUD BAND ON THE PATIO. MH
200700036670	Noise Comp	20070420	23:37:17	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC, COMING FROM THE BACK PATIO...ES
200700036688	Noise Comp	20070421	0:42:10	OZK MTN SMOKEHO	215	DICKSON	CALLER WOULD LIKE AN NOISE METER READING AS
200700039424	Noise Comp	20070428	21:49:16	OZK MTN SMOKEHO	215	DICKSON	IN THE GARDEN ROOM ON THE BACK PATIO, THERE
200700044345	Noise Comp	20070512	21:25:38	OZK MTN SMOKEHO	215	DICKSON	LOUD MUSIC FROM THIS LOC. JW
200700049995	Noise Comp	20070527	20:57:23	OZK MTN SMOKEHO	215	DICKSON	PLAYING MUSIC VERY LOUDLY. SDW
200700055206	Noise Comp	20070609	20:43:17	OZK MTN SMOKEHO	215	DICKSON	224 N LOCUST, LOUD MUSIC BOTHERING FEMALE

FINAL TOTALS
COUNT 22

*** END OF REPORT ***

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #	STREET NAME	FIRST LINE OF NARRATIVE
199800000512	Noise Comp	19980103	23:40:36	226	LOCUST	POSB AT 224, LOUD PARTY OUTSIDE, LOUD MUSIC
200700018193	Noise Comp	20070224	21:33:38	226	LOCUST	LOUD MUSIC IN THE AREA...JH
200700027941	Noise Comp	20070324	23:17:46	226	LOCUST	LOUD MUSIC COMING FROM DICKSON STREET THEATER
200700036665	Noise Comp	20070420	23:24:28	226	LOCUST	BACK DOOR, UP THE STAIRS, THAT IS WHERE THE
200700039432	Noise Comp	20070428	22:10:24	226	LOCUST	LOUD MUSIC COMING FROM THE GARDEN ROOM
200700044374	Noise Comp	20070512	22:31:16	226	LOCUST	THE GARDEN ROOM IS TOO LOUD, CALDER ADV HE

FINAL TOTALS
COUNT 6

*** END OF REPORT ***

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #	STREET NAME	FIRST LINE OF NARRATIVE
200300056559	Noise Comp	20030613	2:42:53	229	LOCUST	LOUD MUSIC...JPS
200300094796	Noise Comp	20030923	2:54:37	229	LOCUST	LOUD MUSIC...KMY
200300095479	Noise Comp	20030925	2:05:23	229	LOCUST	LOUD MUSIC COMING FROM THIS LOC..KMY
200300095491	Noise Comp	20030925	2:53:16	229	LOCUST	STILL BEING VERY LOUD..MRS
200300096200	Noise Comp	20030927	2:19:33	229	LOCUST	LOUD MUSIC..MRS
200300098327	Noise Comp	20031003	0:47:16	229	LOCUST	LOUD MUSIC..MRS
200300098346	Noise Comp	20031003	3:02:40	229	LOCUST	LOUD MUSIC..C2 SUBJ5...JPS
200300100072	Noise Comp	20031008	2:00:16	229	LOCUST	LOUD MUSIC..HDK
200300107772	Noise Comp	20031028	22:09:38	229	LOCUST	DOWNSTAIRS, LOUD MUSIC, POSB C2...JPS
200300108536	Noise Comp	20031031	0:57:22	229	LOCUST	LOUD MUSIC..MRS
200300110017	Noise Comp	20031104	1:09:45	229	LOCUST	LOUD MUSIC...KMY
200300125208	Noise Comp	20031217	19:32:20	229	LOCUST	LOUD MUSIC FROM THIS APT..SH
200300125251	Noise Comp	20031217	22:35:27	229	LOCUST	LOUD MUSIC..MRS

FINAL TOTALS
COUNT 13

*** END OF REPORT ***

Handed out at the
City Council Meeting
7-3-07.

D.7. New Business
Amend Chapter 161:
Zoning Regulations
Zoning Districts.

B.2

Amend Chapter 161:
Zoning Regulations
Page 26 of 28

Barbara L Brown, Ph.D.
Clinical Psychologist
PO Box 1491
Fayetteville, Arkansas 72702

June 29, 2007

Mayor Dan Coody
City of Fayetteville City Council

Dear Mayor and City Council,

Recently, I have read a letter written to you by Tom Bourdeaux, the President of OMSH LLC, Ozark Mountain Smokehouse. I am personally saddened and rather appalled that this business is having difficulties over the change in a noise order which has been heretofore extant in Fayetteville for many years.

My understanding is that the City Council's change of the zoning around the Dickson Street area has resulted in the unfortunate circumstance of the Ozark Mountain Smokehouse being unable to hold functions in their outdoor garden.

I have spoken with Tom Bourdeaux, the new owner of the Smokehouse, and have told him that, as the owner of 226 N. Locust, my wish is to return the noise level order to its original zoning.

At no time have I ever been bothered by the parties at the outdoor garden connected with the Smokehouse. I am a psychologist, and am careful that the psychotherapy in my office is not overwhelmed by noise coming from anywhere. As I work until the early evenings, my business has never experienced interference from the outdoor garden. In fact, I enjoy the ambience which the twinkling lights and music lend to the Dickson Street atmosphere as I am exiting my office on some evenings.

The Smokehouse events have not run past 11:00 p.m., and Tom Bourdeaux assured me that there would only be a couple of times a year that they might run later. I have spoken with my neighbor, whose house and front yard abut the Garden. He says that at no time has he had problems with noise from the Smokehouse---mostly because they close down around 11:00 p.m.

As I have lived in Fayetteville since 1979, I can certainly say that I have been a Smokehouse customer for years. Several of my friends have been married there. My son and his new wife have not had their own reception to date, and it was my plan to have it in the Smokehouse garden area.

This business is an institution in Fayetteville, and means quite a bit to many of us in this city.

I regret that my renters--who live above my office--chose to make this an issue. As they were evacuees from KATRINA, and had functioned in the French Quarter atmosphere for years, they have greatly enjoyed being around Dickson Street--it is kind of like our own little French Quarter. They had mentioned something to me about noise at night, but I gathered that they were mostly talking about the Dickson Street Theatre. Anyone who lives in this area knows that we are going to be able to hear some noise.... This ambience is why many people move into this neighborhood in the first place--for the culture, charm, fun, and to soak up some of the feeling of the "Fayetteville of old."

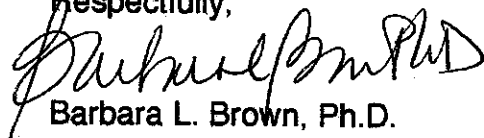
As the couple living above my office chose to stay past the time I had given to them, to "get on their feet," they have told me many times how much they like the neighborhood, and how they just did not want to leave. Bikes, Blues and BB-que, Spring Fest, Mardi Gras...all occasions have been fun for them and celebrated by them. It was not until Mr. Gaglio (JAG) obtained a job at WalMart and had a schedule change that the music from the garden at the Smokehouse became an issue. I had not been aware that a major issue had been made about the Smokehouse until I received a copy of Mr. Bourdeaux's letter on June 26th.

At that time, I called JAG, and told him I would NOT stand behind he and Brigitte in this unfortunate situation, and that I WOULD fight for the Smokehouse. After hearing my reasoning, JAG said, "WellOk." As of 6-29, I have spoken with Brigitte, and she indicated that they would be leaving for a family reunion this evening or tomorrow morning. Reportedly, they will be gone for a few days. We did not discuss this situation.

In many ways, it has been a pleasure for me to know and care about my new friends from New Orleans. I just do not think that they understood what the Smokehouse meant to so many of us here in Fayetteville. Unfortunately, they apparently grabbed onto a 'glitch' in the new zoning--one which could, in time, shut the Smokehouse down. I do not think that was their intent, but it has turned out this way. Perhaps we can make up for this situation soon.

Thank you for your consideration, and it is my fondest hope that you will be able to return the original noise ordinance level to the Garden--so that hundreds of people in our area are able to enjoy memorable times in this establishment.

Respectfully,



Barbara L. Brown, Ph.D.

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

C. 1
Kenneth E. Schoby
Offer and Acceptance
Page 1 of 10

7/12/2007

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve an Offer and Acceptance Contract with Kenneth E Schoby. Mailing Address: 2135 E. Huntsville Rd, Fayetteville, AR 72701, 479-443-2322

REVENUE

\$ 60,000.00

Cost of this request

1010.0001.4881.02

Account Number

NA

Project Number

\$ -

Budget

\$ 181.00

Funds Used to Date

\$ (181.00)

Remaining Balance

Contrib

Program Category / Project Name

General Fund Revenue

Program / Project Category Name

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

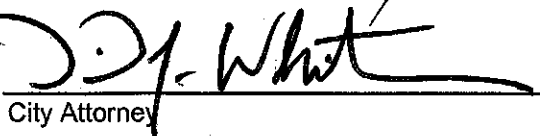

Department Director

6/15/07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

6/19/07
Date


Finance and Internal Service Director

7-2-07
Date

Received in City Clerk's Office



Received in Mayor's Office



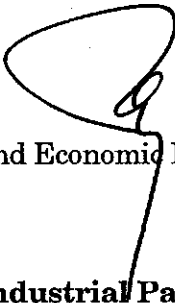

Mayor

7/12/07
Date

Comments: Earnest Deposit attached \$1000.00 check #6910, account of Sheet Metal Plus.

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and members of the City Council
THRU: Staff/Contract Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: June 15, 2007
SUBJECT: Sale of Lot 31E in the Fayetteville Industrial Park to Kenneth E. Schoby for \$60,000.00



RECOMMENDATION: Approve the sale of Lot 31E to Kenneth E. Schoby for \$60,000.00.

BACKGROUND: Kenneth Schoby has been considering this lot for six months. The City has shown this lot several times but has never received any real interest since the lot is very steep and the northern part is very low next to Town Branch. The site has only three acres of buildable land and that three acres will take a lot of special building methods.

DISCUSSION: Kenneth E. Schoby is the owner/operator of Sheet Metal Plus, Inc., a sheet metal business located at 2135 Huntsville Rd. in Fayetteville. He has outgrown the current location. He plans to construct several shop buildings in which to locate his business and similar businesses. He currently employs five people and with the new building hopes to double the number of employees. We have agreed to discount the price of the property in order to get the property on the tax rolls and recognizing the fact that the north 1.8 acres are unusable and his plans to leave the low area as green space.

BUDGET IMPACT: The proceeds will be placed in the economic development fund.

Attachments: Offer and Acceptance Contract
Industrial Park Map
Staff Review Form

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND KENNETH E. SCHOBY FOR THE SALE OF LOT 31E IN THE FAYETTEVILLE INDUSTRIAL PARK FOR \$60,000.00; APPROVING A BUDGET ADJUSTMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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 an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00. A copy of the contract is attached hereto marked Exhibit "A" and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment recognizing the revenue.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor and City Clerk to execute said agreement with Kenneth E. Schoby.

PASSED and APPROVED this ~~3rd~~^{19th} day of July, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

OFFER AND ACCEPTANCE CONTRACT

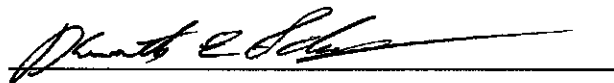
1. Kenneth E. Schoby offers to buy, subject to the terms and conditions set forth herein, the following described property:

SEE ATTACHED EXHIBIT "A"
FOR PROPERTY DESCRIPTION

2. **Purchase Price:** Subject to the following conditions, Kenneth E. Schoby shall pay for the property at closing, the total and cash payment of \$ \$60,000.00.
3. **Contingent Earnest Money Deposit:** Kenneth E. Schoby herewith tenders a check for \$ 1,000.00 to the City of Fayetteville, as earnest money, which shall apply on the purchase price. This offer of purchase is contingent upon approval of the City Council of the City of Fayetteville, Arkansas, and, if they do not so approve, the earnest money deposit will be returned to Kenneth E. Schoby by the City of Fayetteville. If title requirements are not fulfilled or the City of Fayetteville fails to fulfill any obligations under this contract, the earnest money shall be promptly refunded to Kenneth E. Schoby. If Kenneth E. Schoby fails to fulfill their obligations under this contract or, after all conditions have been met, Kenneth E. Schoby fails to close this transaction, the earnest money may, at the option of the City of Fayetteville, become liquidated damages to the City of Fayetteville.
4. Conveyance will be made to Kenneth E. Schoby by general Warranty Deed, except it shall be subject to recorded instruments and easements, if any, which do not materially affect the value of the property. Such conveyance shall include mineral rights owned by the City of Fayetteville.
5. The City of Fayetteville shall furnish a policy of title insurance in the amount of the purchase price from a title insurance company as selected by the City of Fayetteville. Kenneth E. Schoby and the City of Fayetteville shall share equally in the cost of the title insurance.
6. The City of Fayetteville agrees to allow Kenneth E. Schoby, if Kenneth E. Schoby so desires, at Kenneth E. Schoby's expense, to survey the property. The City of Fayetteville agrees to cure any title problems which may result from any differences between the recorded legal descriptions of the property and the survey description. Said title problems, if any, must be solved prior to closing to the satisfaction of the City of Fayetteville.
7. Taxes and special assessments due on or before closing shall be paid by the City of Fayetteville. Insurance, general taxes, ad valorem taxes, special assessments and rental payments shall be prorated as of closing.
8. The closing date shall be within **ninety (90)** days after approval of this offer by the City Council. If such date of closing falls on a weekend or holiday, it will be held the following working day.
9. Possession of the property shall be delivered to Kenneth E. Schoby on the date of closing.
10. The City of Fayetteville hereby grant(s) permission for Kenneth E. Schoby or their designates to enter the above described property and improvements for the purpose of inspection and/or surveying.
11. All fixtures, improvements and attached equipment are included in the purchase price.
12. Risk of loss or damage to the property by fire or other casualty occurring up to the time of closing is assumed by the City of Fayetteville.
13. The City of Fayetteville shall disclose to Kenneth E. Schoby any and all environmental hazards of which the City of Fayetteville has actual knowledge. Upon acceptance of all conditions and terms of this Offer and Acceptance, Kenneth E. Schoby and the City of Fayetteville shall share equally the costs of any and all testing for the existence of environmental hazards. Should the existence of environmental hazards be known or determined, the City of Fayetteville shall cure such, at their expense; or, in the alternative, at Kenneth E. Schoby's discretion, Kenneth E. Schoby may cure such environmental hazard, and the City of Fayetteville shall indemnify Kenneth E. Schoby for all costs associated with said cure.

OFFER AND ACCEPTANCE CONTRACT
Page 2 of 4

14. This agreement shall be governed by the laws of the State of Arkansas.
15. This agreement, when executed by both Kenneth E. Schoby and the City of Fayetteville shall contain the entire understanding and agreement of the parties with respect to the matters referred to herein and shall supersede all price or contemporaneous agreements, representations and understanding with respect to such matters, and no oral representations or statements shall be considered a part hereof.
16. This contract expires, if not accepted by the City of Fayetteville on or before the 7th day of August, 2007.
17. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within thirty (30) days of acceptance by the City of Fayetteville.
18. It is expressly understood by the parties that the price established by the City Council is a reduced price to benefit the creation of jobs in the Fayetteville Industrial Park and that should and that the sale of the property is not intended to be for speculation. Should Kenneth E. Schoby wish to sell the property before improvements are made, the City of Fayetteville shall have the right to purchase the property at the same price for which it was sold to Kenneth E. Schoby.
19. **NOTICE:** THE Kenneth E. Schoby AND THE CITY OF FAYETTEVILLE ASSERTS HEREBY ACKNOWLEDGES THAT THIS OFFER IS EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS OFFER OF PURCHASE BY THE CITY COUNCIL OF FAYETTEVILLE AND THAT THE FAILURE OF THE COUNCIL TO SO APPROVE WILL MAKE ALL PORTIONS OF THIS OFFER NULL AND VOID, INCLUDING, BUT NOT LIMITED TO, THE RETURN TO THE Kenneth E. Schoby OF THE \$ 1000.00 EARNEST MONEY DEPOSIT.



Date: 6/15/07

Date: _____

AGENT OR WITNESS:

Date: _____

City of Fayetteville, Arkansas,
A municipal corporation

Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

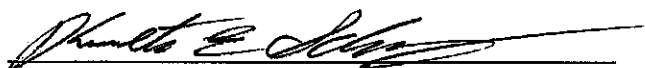
Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 3 of 4

EXHIBIT "A"
PROPERTY DESCRIPTION

That property described as Lot 31 E of the Fayetteville Industrial Park located in 23-16-30 Washington County,
AR at end of S. Leeper Drive containing 4.8 acres $\pm$.

SIGNED FOR IDENTIFICATION:



Date: 06/15/07

Date: _____

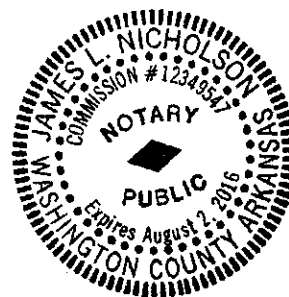
Dan Coody, Mayor

Date: _____

Sondra Smith, City Clerk

Date: _____

OFFER AND ACCEPTANCE CONTRACT
Page 4 of 4



ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

) ss.
)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared Keneth E. Schoby, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are Offerer of Fayetteville Arkansas and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said Himself, and further stated and acknowledged that he/she/they had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this 15th day of June, 2007.

James L. Nicholson
Notary Public

MY COMMISSION EXPIRES:

Aug 2, 2016

ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

) ss.
)

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

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

Notary Public

MY COMMISSION EXPIRES:

SHEET METAL PLUS, INC.

2135 E. HUNTSVILLE ROAD
FAYETTEVILLE, ARKANSAS 72701
(479) 443-2322

ARVEST BANK

81-87/829

6/15/2007

6910

PAY
TO THE
ORDER OF

CITY OF FAYETTEVILLE

One Thousand and 00/100

CITY OF FAYETTEVILLE

\$ 1,000.00

DOLLARS

MEMO

EARNEST MONEY

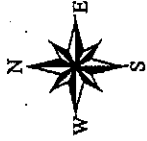
AUTHORIZED SIGNATURE

Kenneth E. Schoby

⑈006910⑈ ⑆082900872⑆ 000945790⑈

FAYETTEVILLE INDUSTRIAL PARK

FAYETTEVILLE, ARKANSAS



- Fayetteville Industrial Park
- City Owned Property (not for sale)
- Private Property
- Park Land and Greenway

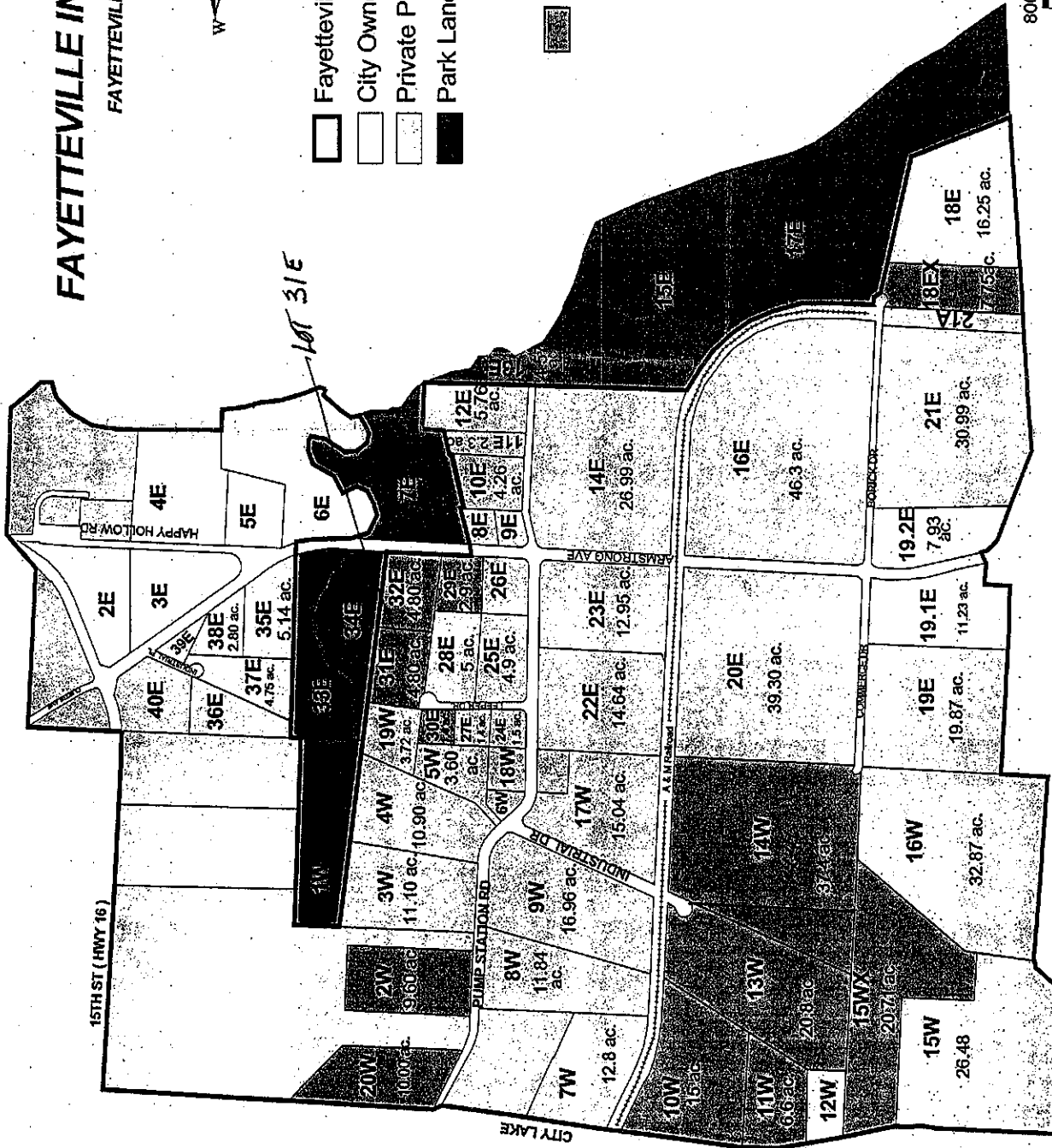
City Owned Property For Sale

Lot Price

2W	\$192,000
4W	\$300,000
14W	\$132,000
13W	\$416,000
14W	\$748,000
15WX	\$414,200
20W	\$260,000
18EX	\$155,000
29E	\$58,000
30E	\$28,000
31E	\$96,000
32E	\$96,000

and \$589,200

old incinerator



800 0 800 1600 Feet

APRIL 2, 2002

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

C. 1
Kenneth E. Schoby
Offer and Acceptance
Page 10 of 10

Budget Year 2007	Department: General Fund Revenue Division: Program:	Date Requested 6/20/2007	Adjustment Number
--------------------------------	---	--	-------------------

Project or Item Added/Increased: To recognize \$60,000 in additional revenue in the Gain/Loss - Sale of Assets account.	Project or Item Deleted/Reduced: None. The additional revenue will be placed into Designated Fund Balance to be used in the future for Economic Development purposes.
--	--

Justification of this Increase: The additional revenue will be received as a result of the sale of Industrial Park land to Kenneth Schoby.	Justification of this Decrease:
---	---------------------------------

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Use of designated fund bal	1010 0001 4999 98	60,000	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Gain/loss-sale of assets	1010 0001 4881 02	60,000	

Approval Signatures Requested By Budget Manager Department Director Finance Director Mayor _____ 6/20/07 Date 6-21-07 Date 6-22-07 Date _____ Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial _____ Date _____ Posted to Project Accounting Initial _____ Date _____ Entered in Category Log Initial _____ Date _____
---	---

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

C. 2
ANX 07-2620 (Keenan)
Page 1 of 18

17-Jul-07

City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 07-2620 (Keenan, 295): Submitted by Jorgensen and Associates for property located at 3845 Skillern Road. The property is in the Planning Area and contains approximately 3.00 acres. The request is to annex the subject property into the City of Fayetteville.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

Project Number

Remaining Balance

Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
Department Director

6-29-07
Date

[Signature]
City Attorney

7-2-07
Date

Paul A. Beck
Finance and Internal Service Director

7-2-07
Date

[Signature]
Mayor

7/2/07
Date

Received in City Clerk's Office

ENTERED

6/29/07

Received in Mayor's Office

ENTERED

7/2/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: June 28, 2007

Subject: Annexation for Keenan (ANX 07-2620)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of annexing the subject 3.00-acre property at 3845 Skillern Road into the City.

BACKGROUND

The property under review consists of 3.00 acres at 3845 Skillern Road. The property contains one residential structure. The applicant is requesting this property to be annexed into the City. The property is bordered by rural residential uses in the Planning Area to the north, south, and east, and the un-platted Crestmont Estates subdivision to the west in the City.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 25, 2007. The Planning Commission voted 8-0-0 to recommend approval of this annexation request to the City Council. No public comment was received.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED
IN ANNEXATION PETITION ANX 07-2620 (CC2007-03), FOR
PROPERTY LOCATED AT 3845 SKILLERN ROAD, CONTAINING
APPROXIMATELY 3.00 ACRES

**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 confirms the annexation to the City of Fayetteville of that property described in Exhibit "B" as shown on the map (Exhibit A) attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Three.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT "A"

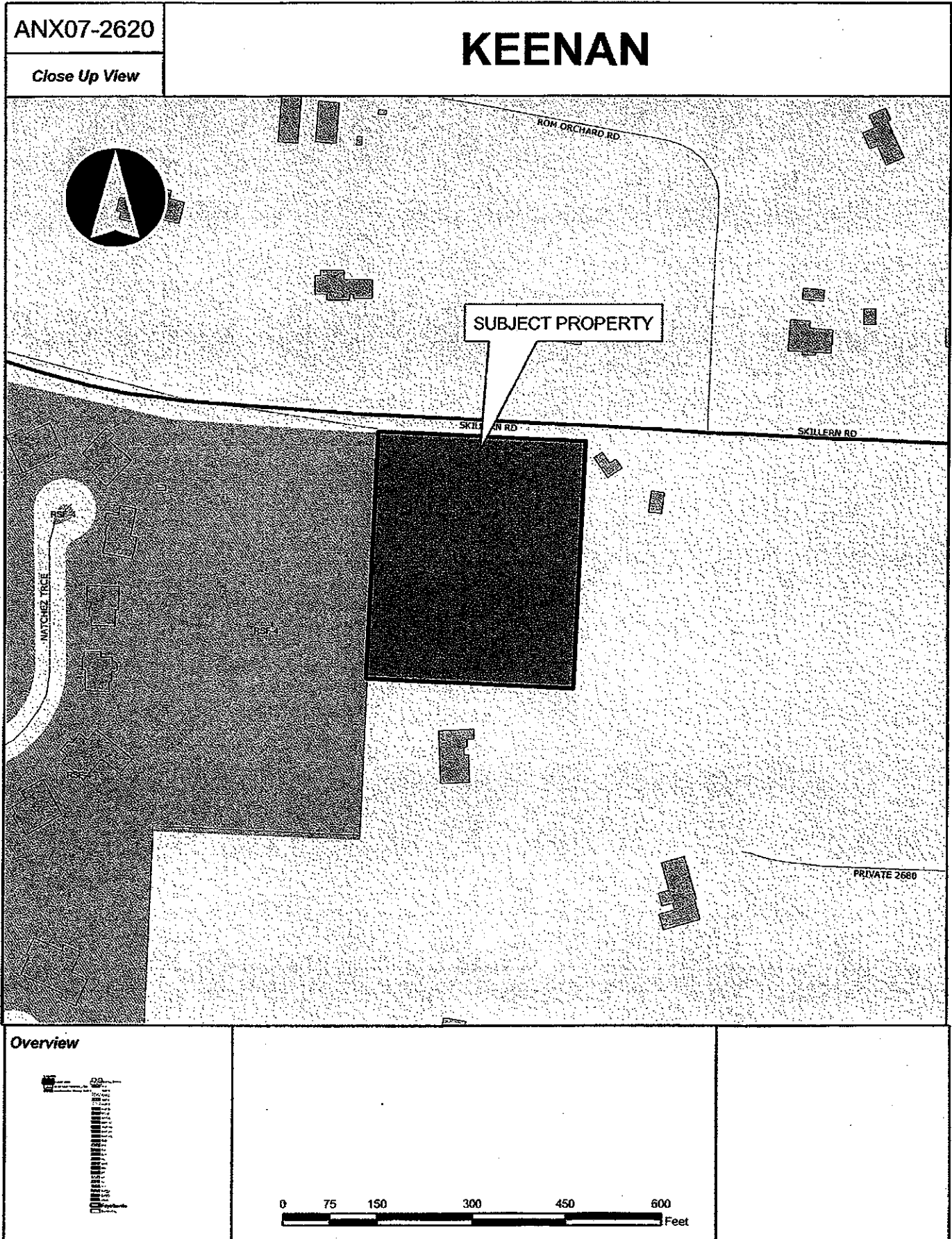


EXHIBIT "B"
ANX 07-2620

PART OF THE NE1/4 OF THE SE1/4 OF SECTION 31, T17N, R29W OF WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NE1/4, SE1/4 THENCE S00°45'10"E 395.04 FEET, THENCE S89°31'02"W 330.80 FEET, THENCE N00°43'23"W 395.04 FEET, THENCE N89°31'02"E 330.63 FEET TO THE P.O.B.; CONTAINING 3.00 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.



PC Meeting of June 25, 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: ~~June 19, 2007~~ Updated June 26, 2007

ANX 07-2620: Annexation (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is in the Planning Area and contains approximately 3.00 acres. The request is to annex the subject property into the City of Fayetteville.

Property Owner: James Keenan
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends approval of the requested annexation of 3.00 acres into the City of Fayetteville based on the findings herein. Incorporation of this property into the City of Fayetteville will establish zoning regulations and ensure compliance with ordinance regulations at the time of development.

PLANNING COMMISSION ACTION:	
Required	☒ YES
☒ Forward to C. C. (recommend approval)	
☐ Denied	
Date: <u>June 25, 2007</u> Motion: <u>Lack Second</u> Osiner Vote: <u>8-0-0</u>	
CITY COUNCIL ACTION:	
Required	☒ YES
☐ Approved	
☐ Denied	
Date: <u>July 17, 2007</u> (1 st reading if recommended)	

BACKGROUND:

Property description: The subject property contains one parcel of property containing 3.00 acres. The property is located at 3845 Skillern Road, just east of the recently constructed Crestmont Estates Subdivision, which has had infrastructure installed, but has not been final platted. Property north, south, and east of the subject property consists of rural residential land uses and is in the Planning Area. There is one house on the property and two houses adjacent to the south currently accessed through a private drive on the property.

Proposal: The applicant proposes annexation of 3.00 acres into the City of Fayetteville.

Public Comment: Staff has received no public comment concerning the requested annexation.

Recommendation: Staff recommends the incorporation of this property into the City of Fayetteville. Incorporation of this property will create an acceptable city boundary and ensure that development of the property is compliant with City regulations within an appropriate zoning district.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North, South, and East	Rural Residential	Planning Area
West	Crestmont Estates Subdivision (un-platted)	RSF-4, Residential Single-Family Four Units/Acre

INFRASTRUCTURE:

Streets: The site has access to Skillern Road, a Minor Arterial Street, which is currently an unimproved two-lane road. Street improvements to Skillern Road will be evaluated at the time of development.

Water: An 8" distribution main waterline is located adjacent to the northwest corner of the site on Skillern Road.

Sewer: The site has access to public sewer lines in the adjacent Crestmont Estates subdivision to the west.

Fire: The subject property is located approximately less than 1 mile from Fire Station #5 at the southwest corner of Crossover Road and Township Road, which will be opening in July 2007. Response time to the property is acceptable and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: City Plan 2025 identifies the portion of this property within the Planning Area as **Residential Neighborhood Area**.

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is not urban in character, although there are suburban single-family residential homes to the west in the Savannah Estates Subdivision, and the Crestmont Estates Subdivision has had infrastructure recently installed adjacent to the west. Essential public services are available to the site.

2. Areas that can be developed at urban densities.

Finding: Densities that characterize an urban area do not characterize the property; however, infrastructure to support suburban residential development on the property are present. The adjacent property to the west is zoned RSF-4 and is approved for an 11-lot subdivision on 4.88 acres, a density of 2.55 units per acre. The Savannah Estates Subdivision further to the west is developed at a slightly higher density. Adjacent property within the county to the north, south, and east would not allow for more than one residential unit per acre. These densities cannot support a complete, compact and connected urban development pattern. It is unlikely that the property can be developed at urban densities at this time and be compatible with surrounding properties, however it is appropriate to be developed at suburban densities.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: The city currently provides water service to the northwest corner of this property along Skillern Road, and provides sewer service to the adjacent single-family lots. This property is within this area of service, although the property does not currently have direct access to public sewer service. The City's Police and Fire Departments service properties on Skillern Road.

4. Areas where urban services are already provided.

Finding: Urban services are provided to residences along Skillern Road in this general area.

5. Areas where urban services are needed.

Finding: As stated in Finding No. 4 above, urban services are provided to the residences in the immediate vicinity. Sewer facilities would have to be extended to this

property at the time of development. Comments from the fire department and police department are included in this staff report and do not discuss a need for improved service.

12.3.5 ANNEXATION GUIDING POLICIES BOUNDARIES

12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property would result in property that is surrounded on three sides by unincorporated County; however, this configuration will not create a peninsula that would result in adverse impacts to the provisions of City services, or create an undesirable City boundary. The proposed annexation would not extend further east than the Covington Park Subdivision less than one-quarter mile to the south, and is currently served by adequate public services. The proposed annexation would encourage property to the south to be annexed, filling in a gap of unincorporated land and making for a more logical boundary.

12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the city limits to the west.

12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The annexation of this property would neither include nor exclude subdivisions/neighborhoods.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: The proposed annexation boundary follows property lines of the existing parcel which generally follows fencerows and tree-lines.

12.3.5.e The provision of services should be concurrent with development.

Finding: Annexation of the property as currently developed will not place an additional burden on the services within the area. Should this property remain in the Planning Area, the property could be developed with a minimum one-acre single family lots with septic systems, city water, and streets constructed to city standards. Incorporation of the property into the City of Fayetteville will ensure that the property is zoned such that it is compatible with surrounding properties, and development is in accordance with all city regulations, and would provide the opportunity to connect to City sewer.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: The property totals three acres and has one house with a very large yard/pasture and trees along the fence lines. No information has been presented to designate the subject property environmentally sensitive.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water service is currently available to the site on Skillern Road, and sewer service is available through the un-platted subdivision to the west. Annexation of the property and a zoning of RSF-4 is compatible with the adjacent property to the west and would not necessitate significant improvements to public services in this area. The City Fire and Police Departments determined that this annexation would not result in adverse impacts.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: This property is located in an area surrounded on the west by city limits. A general suburban development pattern occurs to the west in the City, with a more rural residential development pattern occurring in the surrounding property in the County, generally to the east. The annexation of property with a zoning of RSF-4 will not result in significant increase of demand on emergency and public services.

12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Water, fire and police protection are currently provided in the surrounding areas, and sewer service is provided to the property in the City to the west.

- 12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and future development of this property will not result in an increased demand on the existing infrastructure systems. As stated in the previous findings throughout this report, water is currently available to the site, and sewer service would be available with an extension of the sewer lines through the un-platted subdivision to the west. Upgrading of utilities to meet demands of development on this property is not anticipated.

- 12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 12.3.5.0 Develop a land use plan for annexation initiated by the city.

- 12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: Annexations are automatically zoned R-A, Residential Agricultural. The property owners request annexation with rezoning to RSF-4. Density and development on this property under the RSF-4 requirements would be compatible with the existing surrounding development patterns.

- 12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. These studies have been incorporated into the findings in this report.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: The applicant has proposed a lot split on this property. This lot split has been tabled at the applicant's request pending the outcome of the annexation and rezoning. The lot split would subdivide the three-acre parcel into two parcels, creating a tandem lot. This request would require conditional use approval by the Planning Commission if the property is annexed into the City. This lot split and conditional use permit is covered under a separate review from the annexation.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request. A legal ad and display have both been published in a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: It would be preferred for the two parcels adjacent to the south to be included in this annexation request in order to completely fill in a gap of unincorporated property. However, extending the city boundary as proposed would create an acceptable city boundary as discussed in Finding No. 12.3.5.a.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 3.00 acres.



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 20, 2007

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 07-2620 (KEENAN, 295) and rezoning RZN 07-2621 (KEENAN, 295) submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD would substantially alter the population density and thereby undesirably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

A handwritten signature in dark ink, appearing to read "Will Brown", written over a horizontal line.

Captain William Brown
Fayetteville Police Department

FIRE DEPARTMENT

From: Dale Riggins
To: Garner, Andrew
Date: 6/19/07 7:10AM
Subject: Re: Rezoning and Annexation for Keenan (ANX 07-2620; RZN 07-2621)

Andrew,
We really will not have any comments other than the standard comments about annexations and rezonings. This is less than 1 mile away from the new station 5 which will open in July.
If you need this in a memo type comment, just let me know.

Thanks

>>> Andrew Garner 06/18/07 3:08 PM >>>
Rezoning guys:

I don't remember if I sent this item for your review and comment, but I'm drafting a Planning Commission report by Wednesday 06/20/07. Please review and provide comments back to me in the next day or so. Sorry for the short notice and feel free to give me a call with any questions.

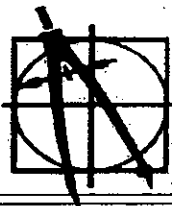
Thanks,
Andrew

10. ANX 07-2620: Annexation (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is in the Planning Area and contains approximately 3.00 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Andrew Garner

11. RZN 07-2621: Rezoning (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.00 acres. The request is to rezone the subject property to RSF-2, Residential Single Family, 2 units per acre. Planner: Andrew Garner

Andrew M. Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Tel. 479.575.8262
Fax. 479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

5/15/07

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept.
Re: Annexation/ Rezoning for Keenan

Attached herewith please find the applications and supporting documents required for the annexation/rezoning for James Keenan.

This property is located at 3845 Skillern Road which is just east of a recently constructed subdivision, which is just east of Savannah Estates Phase 4.

The entire property is 3.00 Acres and is bordered on the north by Skillern Road and on the west by a 60' wide access and utility easement.

Following annexation/rezoning we will be splitting the property.

The property will be served by an 8" sewer which is located in the subdivision to the west. Also the property will be served by an existing 8" waterline which is located on Skillern Road.

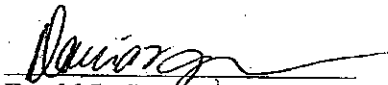
There is one house on this property and there are 3 houses located to the south.

With the addition of a proposed lot split we believe that this will not increase traffic on Skillern Road or the private drive substantially.

Please review and call concerning any questions you may have.

Thank you.

Sincerely,

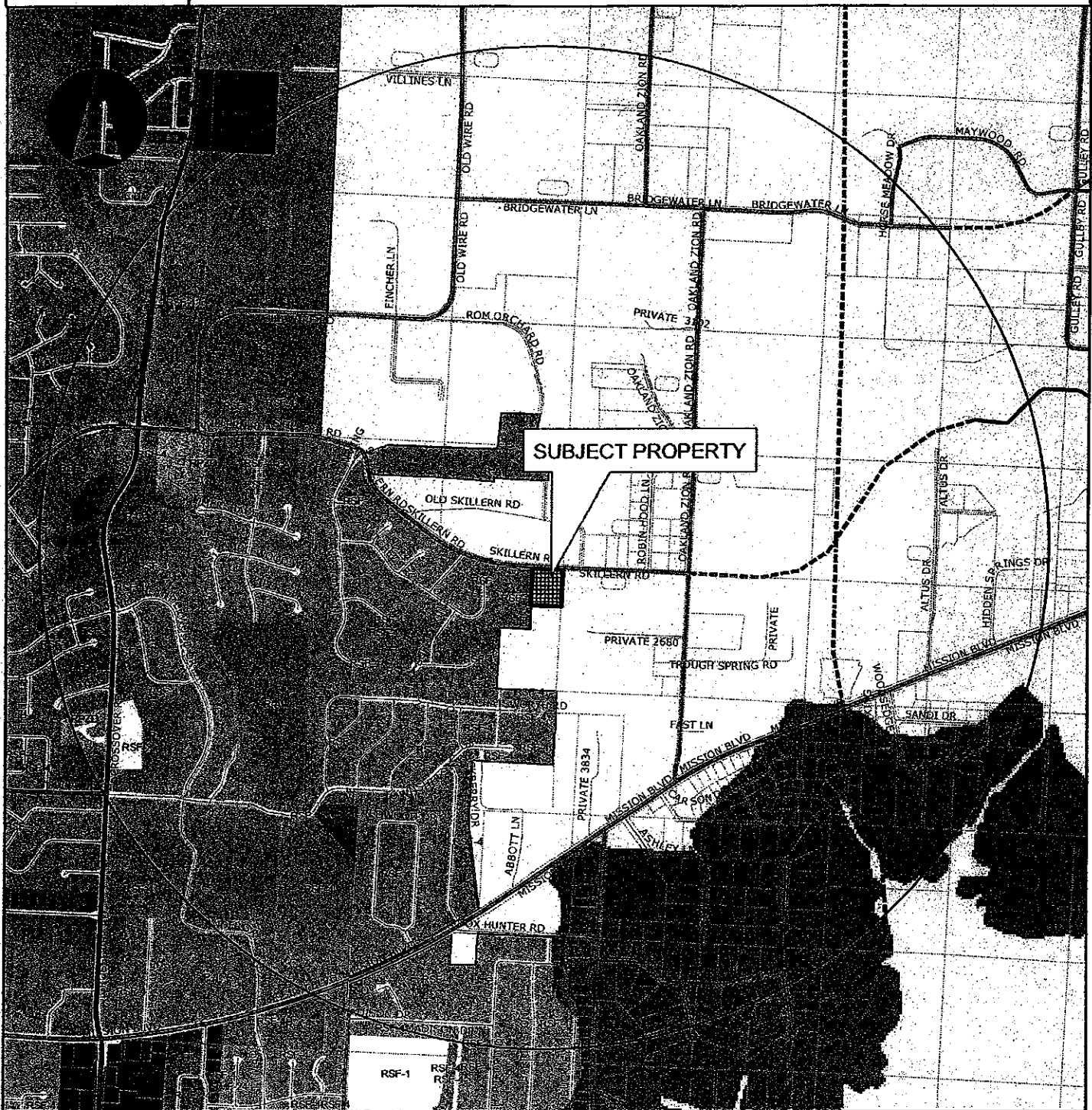


David L. Jorgensen, P.E.

ANX07-2620

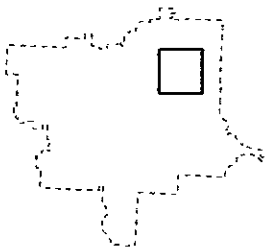
One Mile View

KEENAN



SUBJECT PROPERTY

Overview



Legend

Subject Property
ANX07-2620

Boundary

 Planning Area
 Overlay District
 Outside City

Legend

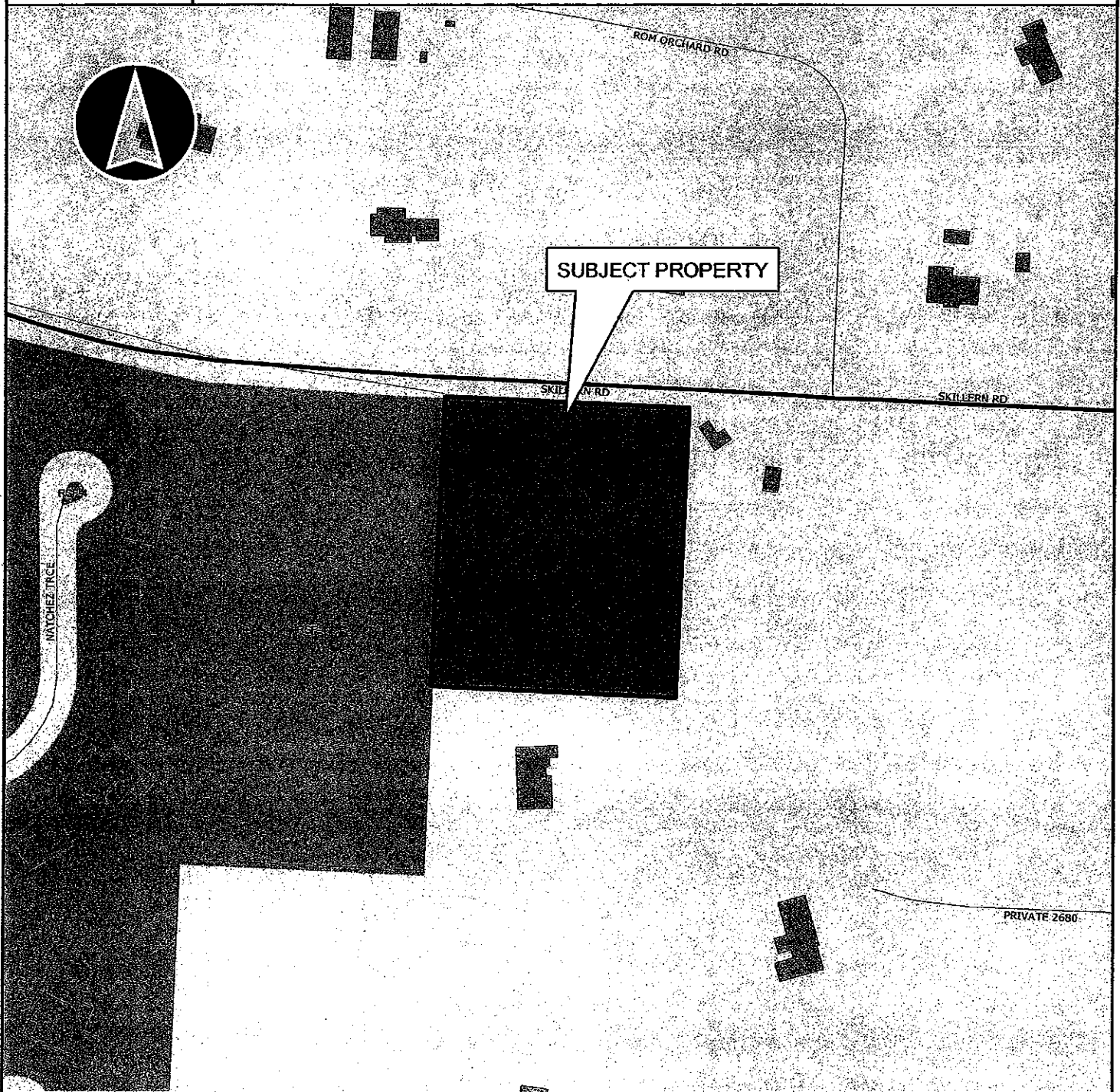
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

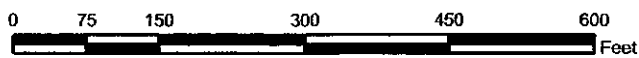
ANX07-2620

Close Up View

KEENAN



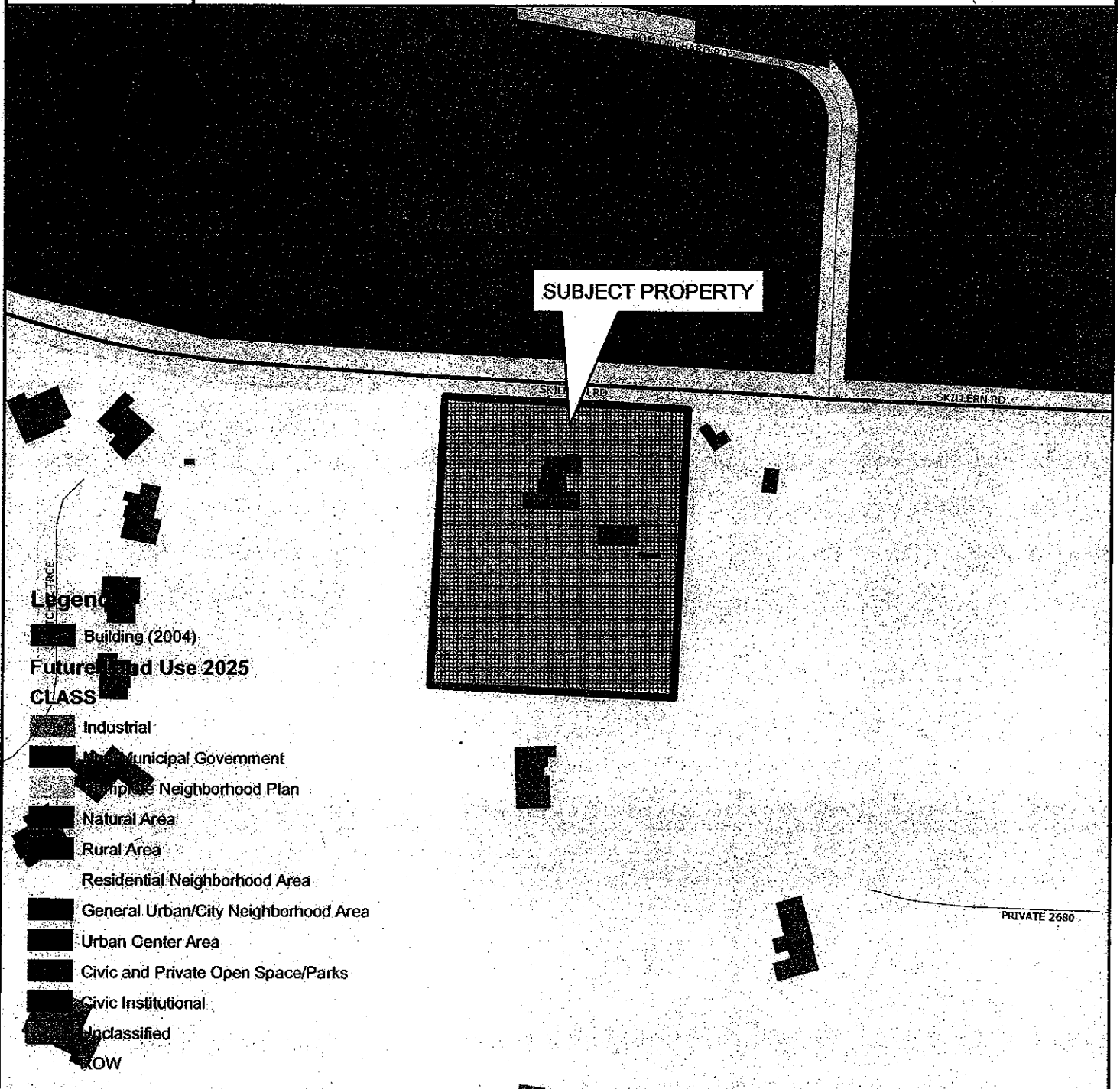
Overview



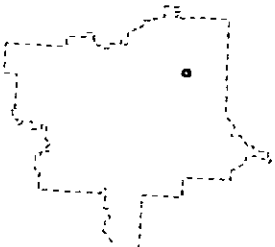
ANX07-2620

KEENAN

Future Land Use



Overview



Legend

Subject Property

ANX07-2620

Streets

Existing

Planned

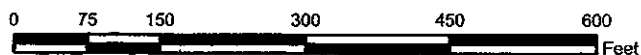
Boundary

Planning Area

Overlay District

Outside City

Legend



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

17-Jul-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2621: (Keenan, 295): Submitted by Jorgensen and Associates for property located at 3845 Skillern Road. The property is zoned R-A, Residential Agricultural, and contains approximately 3.00 acres. The request is to rezone the subject property to RSF-2, Residential Single Family, 2 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 6-29-07
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 7-2-07
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

Paul A. Becher 7-2-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
6/29/07

[Signature] 7/2/07
Mayor Date

Received in Mayor's Office
ENTERED
7/2/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: June 28, 2007

Subject: Rezoning for Keenan (RZN 07-2621)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of rezoning the subject property from R-A, Residential Agricultural to RSF-4 for approximately 3.00 acres located at 3845 Skillern Road. Upon further review of the application after the Planning Commission meeting, it is apparent that the applicant's re-zoning request is for RSF-2. Staff would be in support of either RSF-4 or RSF-2 zoning for the property.

BACKGROUND

The property under review consists of 3.00 acres at 3845 Skillern Road. The property contains one residential structure. The applicant is requesting this property to be annexed into the City, and if annexed it would automatically be zoned R-A. The applicant requests to rezone the property from R-A to RSF-2. The property is bordered by rural residential uses in the Planning Area to the north, south, and east, and the un-platted Crestmont Estates subdivision to the west in the City.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 25, 2007. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council. No public comment was received.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2621, FOR APPROXIMATELY 3.00 ACRES, LOCATED AT 3845 SKILLERN ROAD FROM R-A, RESIDENTIAL-AGRICULTURAL, TO RSF-2, RESIDENTIAL SINGLE FAMILY, 2 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to RSF-2, Residential Single Family, 2 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

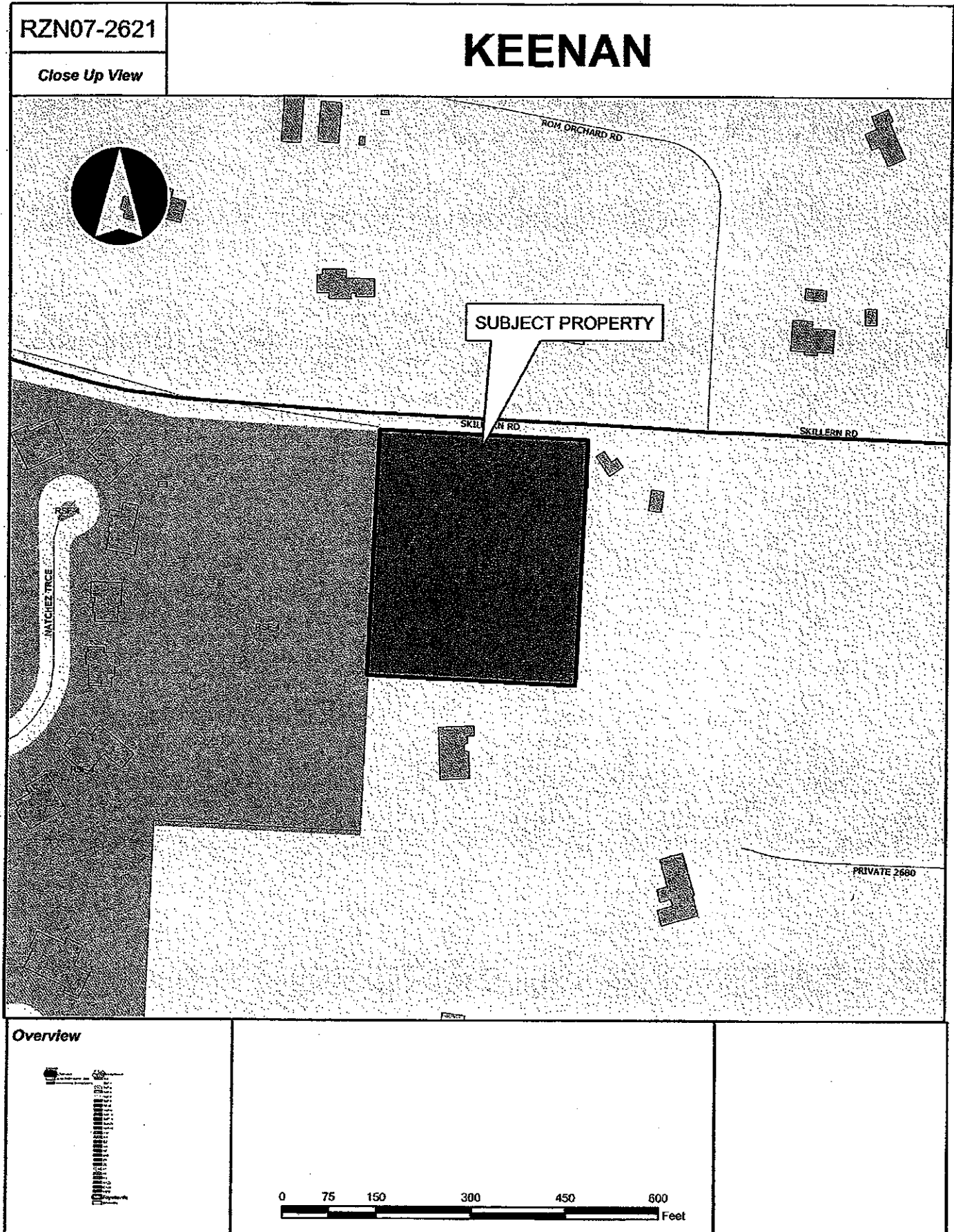


EXHIBIT "B"
RZN 07-2621

PART OF THE NE1/4 OF THE SE1/4 OF SECTION 31, T17N, R29W OF WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS: BEGINNING AT THE NE CORNER OF SAID NE1/4, SE1/4 THENCE S00°45'10"E 395.04 FEET, THENCE S89°31'02"W 330.80 FEET, THENCE N00°43'23"W 395.04 FEET, THENCE N89°31'02"E 330.63 FEET TO THE P.O.B.; CONTAINING 3.00 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.



PC Meeting of June 25, 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: ~~June 18, 2007~~ Updated June 26, 2007

RZN 07-2621: Rezoning (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.00 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre:

Property Owner: James Keenan
Planner: Andrew Garner

RECOMMENDATION:

Should the Planning Commission recommend approval of annexing this property into the City as part of ANX 07-2620 (Keenan), staff recommends approval of the requested rezoning request from R-A to RSF-4 based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Forward to City Council (recommend approval)	☐ Denied
Date: <u>June 25, 2007</u>			
Motion: <u>Lack</u>			
Second: <u>Trumbo</u>			
Vote: <u>8-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>July 17, 2007</u> (1 st reading if recommended)			

BACKGROUND:

Property description: The subject property contains one parcel of property containing 3.00 acres. The property is located at 3845 Skillern Road, just east of the recently constructed Crestmont Estates Subdivision, which has had infrastructure installed, but has not been final platted. Property north, south, and east of the subject property consists of rural residential land uses and is in the county. There is one house on the property and two houses adjacent to the south currently accessed through a private drive on the property.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North, South, and East	Rural Residential	Planning Area
West	Crestmont Estates Subdivision (un-platted)	RSF-4, Residential Single-Family Four Units/Acre

Proposal: Should the subject property be annexed into the City as part of ANX 07-2620 (Keenan) it would automatically be assigned the zoning designation of R-A, Residential-Agricultural. If the property is annexed, the applicant proposes to rezone the 3.00 acres from R-A to RSF-4 for a lot split. The zoning criteria for R-A and RSF-4 are attached to this report.

Recommendation: Staff recommends approval of the rezoning request. Development on this site will be regulated by the city allowing for a uniform and consistent development pattern. The development of the property for single-family residential use at four units per acre is comparable to surrounding properties and developments to the west.

INFRASTRUCTURE:

Streets: The site has access to Skillern Road, a Minor Arterial Street, which is currently an unimproved two-lane road. Street improvements to Skillern Road will be evaluated at the time of development.

Water: An 8" distribution main waterline is located adjacent to the northwest corner of the site on Skillern Road.

Sewer: The site has access to public sewer lines in the adjacent Crestmont Estates subdivision to the west.

Fire: The subject property is located approximately less than 1 mile from Fire Station #5 at the southwest corner of Crossover Road and Township Road, which will be opening in July 2007. Response time to the property is acceptable and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment

within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Residential Neighborhood Area**. Rezoning this property to RSF-4 would be consistent with the future land use plan designation of the property for residential development. The proposed RSF-4 zoning would be compatible with the adjacent RSF-4 zoning to the west and rural residential uses to the north, east, and south.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-4 zoning for single-family residential use is compatible with adjacent and nearby single family residential land use. Developments in the vicinity include residential subdivisions zoned RSF-4 (maximum four units per acre) and rural residential lots on larger parcels. In addition, Skillern Road is designated as a Minor Arterial on the Master Street Plan. The proposed rezoning is consistent with the Residential Neighborhood Area designation and surrounding land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to allow for a lot split of the property consistent with City land use objectives and policies.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will generate a minimal amount of additional traffic on the surrounding street system over the R-A zoning that is automatically assigned after an annexation. Based on the amount of frontage on Skillern Road (approximately 330'), the R-A tract could not be divided without a variance. If zoned for RSF-4, the property could yield a maximum of 12 units if a public street were built. These additional 12 units are not a likely scenario, however, if they were developed, it would not appreciably increase traffic danger and congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase population density. The proposed zoning would allow for 12 single family lots, as opposed to one lot under R-A zoning. However, this increase in single-family residences is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)



PC Meeting of June 25, 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: June 18, 2007

RZN 07-2621: Rezoning (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.00 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Property Owner: James Keenan
Planner: Andrew Garner

RECOMMENDATION:

Should the Planning Commission recommend approval of annexing this property into the City as part of ANX 07-2620 (Keenan), staff recommends approval of the requested rezoning request from R-A to RSF-4 based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
☐ Forward to City Council (recommend approval)		☐ Denied	
Date: <u>June 25, 2007</u>			
Motion: _____			
Second: _____			
Vote: _____			
CITY COUNCIL ACTION:		Required	<u>YES</u>
☐ Approved		☐ Denied	
Date: <u>July 17, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains one parcel of property containing 3.00 acres. The property is located at 3845 Skillern Road, just east of the recently constructed Crestmont Estates Subdivision, which has had infrastructure installed, but has not been final platted. Property north, south, and east of the subject property consists of rural residential land uses and is in the county. There is one house on the property and two houses adjacent to the south currently accessed through a private drive on the property.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North, South, and East	Rural Residential	Planning Area
West	Crestmont Estates Subdivision (un-platted)	RSF-4, Residential Single-Family Four Units/Acre

Proposal: Should the subject property be annexed into the City as part of ANX 07-2620 (Keenan) it would automatically be assigned the zoning designation of R-A, Residential-Agricultural. If the property is annexed, the applicant proposes to rezone the 3.00 acres from R-A to RSF-4 for a lot split. The zoning criteria for R-A and RSF-4 are attached to this report.

Recommendation: Staff recommends approval of the rezoning request. Development on this site will be regulated by the city allowing for a uniform and consistent development pattern. The development of the property for single-family residential use at four units per acre is comparable to surrounding properties and developments to the west.

INFRASTRUCTURE:

Streets: The site has access to Skillern Road, a Minor Arterial Street, which is currently an unimproved two-lane road. Street improvements to Skillern Road will be evaluated at the time of development.

Water: An 8" distribution main waterline is located adjacent to the northwest corner of the site on Skillern Road.

Sewer: The site has access to public sewer lines in the adjacent Crestmont Estates subdivision to the west.

Fire: The subject property is located approximately less than 1 mile from Fire Station #5 at the southwest corner of Crossover Road and Township Road, which will be opening in July 2007. Response time to the property is acceptable and above the City's goal of having the first unit on the scene within 6 minutes, 90% of the time, and the City's goal of assembling all responding units to the scene of a moderate risk assignment

within 10 minutes, 90% of the time. There should be no adverse effects on call volume.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Residential Neighborhood Area**. Rezoning this property to RSF-4 would be consistent with the future land use plan designation of the property for residential development. The proposed RSF-4 zoning would be compatible with the adjacent RSF-4 zoning to the west and rural residential uses to the north, east, and south.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The proposed RSF-4 zoning for single-family residential use is compatible with adjacent and nearby single family residential land use. Developments in the vicinity include residential subdivisions zoned RSF-4 (maximum four units per acre) and rural residential lots on larger parcels. In addition, Skillern Road is designated as a Minor Arterial on the Master Street Plan. The proposed rezoning is consistent with the Residential Neighborhood Area designation and surrounding land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The proposed zoning is justified in order to allow for a lot split of the property consistent with City land use objectives and policies.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will generate a minimal amount of additional traffic on the surrounding street system over the R-A zoning that is automatically assigned after an annexation. Based on the amount of frontage on Skillern Road (approximately 330'), the R-A tract could not be divided without a variance. If zoned for RSF-4, the property could yield a maximum of 12 units if a public street were built. These additional 12 units are not a likely scenario, however, if they were developed, it would not appreciably increase traffic danger and congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase population density. The proposed zoning would allow for 12 single family lots, as opposed to one lot under R-A zoning. However, this increase in single-family residences is consistent with land use, zoning, and development patterns in the immediate vicinity.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

POLICE DEPARTMENT

June 20, 2007

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed Annexation ANX 07-2620 (KEENAN, 295) and rezoning RZN 07-2621 (KEENAN, 295) submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD would substantially alter the population density and thereby undestrably increase the load on public services or create an appreciable increase in traffic danger and traffic congestion.

It is the opinion of the Fayetteville Police Department that this annexation and rezoning will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Sincerely,

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

Captain William Brown
Fayetteville Police Department

FIRE DEPARTMENT

From: Dale Riggins
To: Garner, Andrew
Date: 6/19/07 7:10AM
Subject: Re: Rezoning and Annexation for Keenan (ANX 07-2620; RZN 07-2621)

Andrew,
We really will not have any comments other than the standard comments about annexations and rezonings. This is less than 1 mile away from the new station 5 which will open in July.
If you need this in a memo type comment, just let me know.

Thanks

>>> Andrew Garner 06/18/07 3:08 PM >>>
Rezoning guys:

I don't remember if I sent this item for your review and comment, but I'm drafting a Planning Commission report by Wednesday 06/20/07. Please review and provide comments back to me in the next day or so. Sorry for the short notice and feel free to give me a call with any questions.

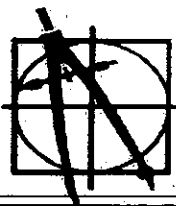
Thanks,
Andrew

10. ANX 07-2620: Annexation (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is in the Planning Area and contains approximately 3.00 acres. The request is to annex the subject property into the City of Fayetteville. Planner: Andrew Garner

11. RZN 07-2621: Rezoning (KEENAN, 295): Submitted by JORGENSEN & ASSOC for property located at 3845 SKILLERN ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.00 acres. The request is to rezone the subject property to RSF-2, Residential Single Family, 2 units per acre. Planner: Andrew Garner

Andrew M. Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Tel. 479.575.8262
Fax. 479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

5/15/07

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept.
Re: Annexation/ Rezoning for Keenan

Attached herewith please find the applications and supporting documents required for the annexation/rezoning for James Keenan.

This property is located at 3845 Skillern Road which is just east of a recently constructed subdivision, which is just east of Savannah Estates Phase 4.

The entire property is 3.00 Acres and is bordered on the north by Skillern Road and on the west by a 60' wide access and utility easement.

Following annexation/rezoning we will be splitting the property.

The property will be served by an 8" sewer which is located in the subdivision to the west. Also the property will be served by an existing 8" waterline which is located on Skillern Road.

There is one house on this property and there are 3 houses located to the south.

With the addition of a proposed lot split we believe that this will not increase traffic on Skillern Road or the private drive substantially.

Please review and call concerning any questions you may have.

Thank you.

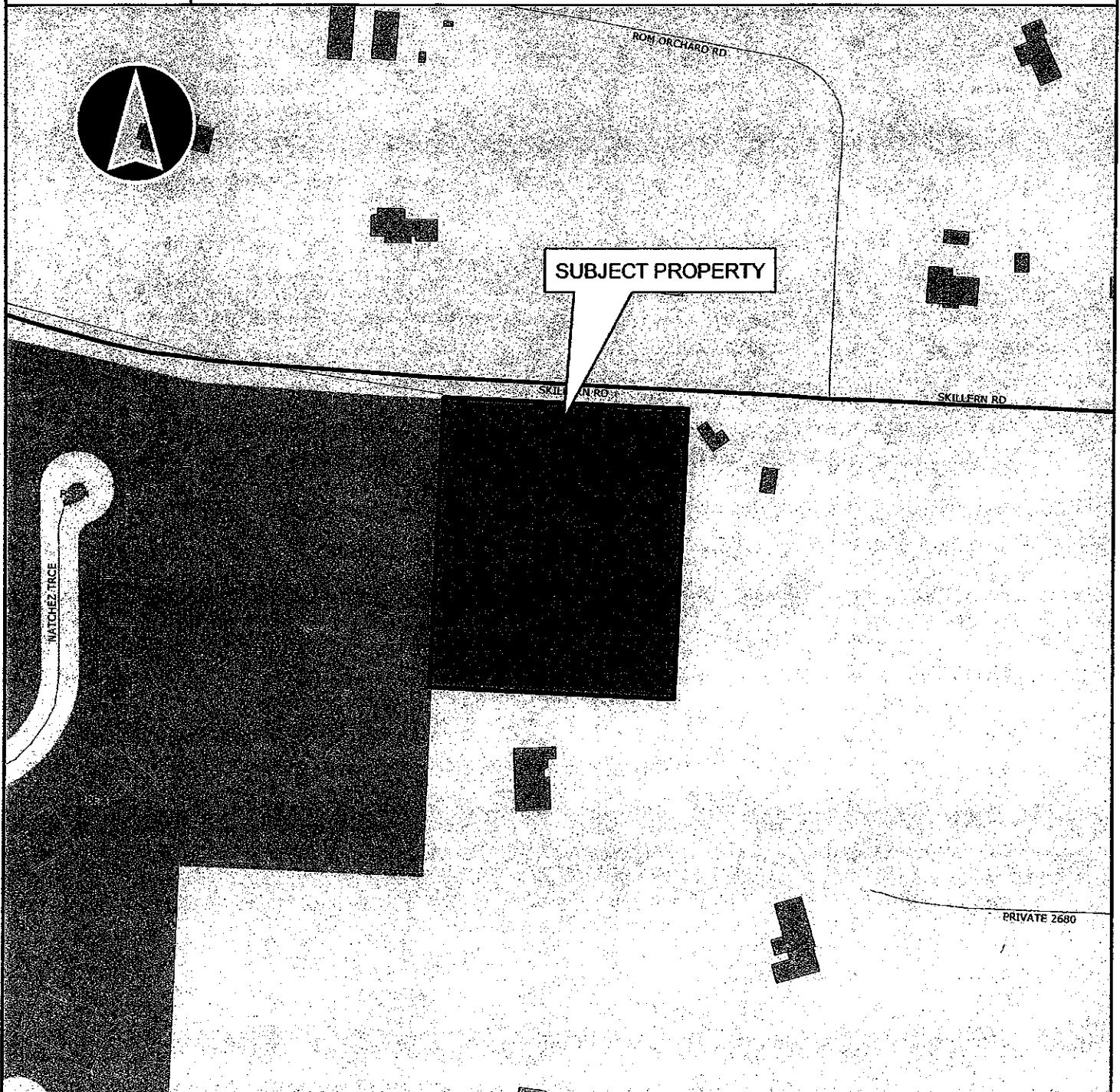
Sincerely;


David L. Jorgensen, P.E.

RZN07-2621

KEENAN

Close Up View



Overview

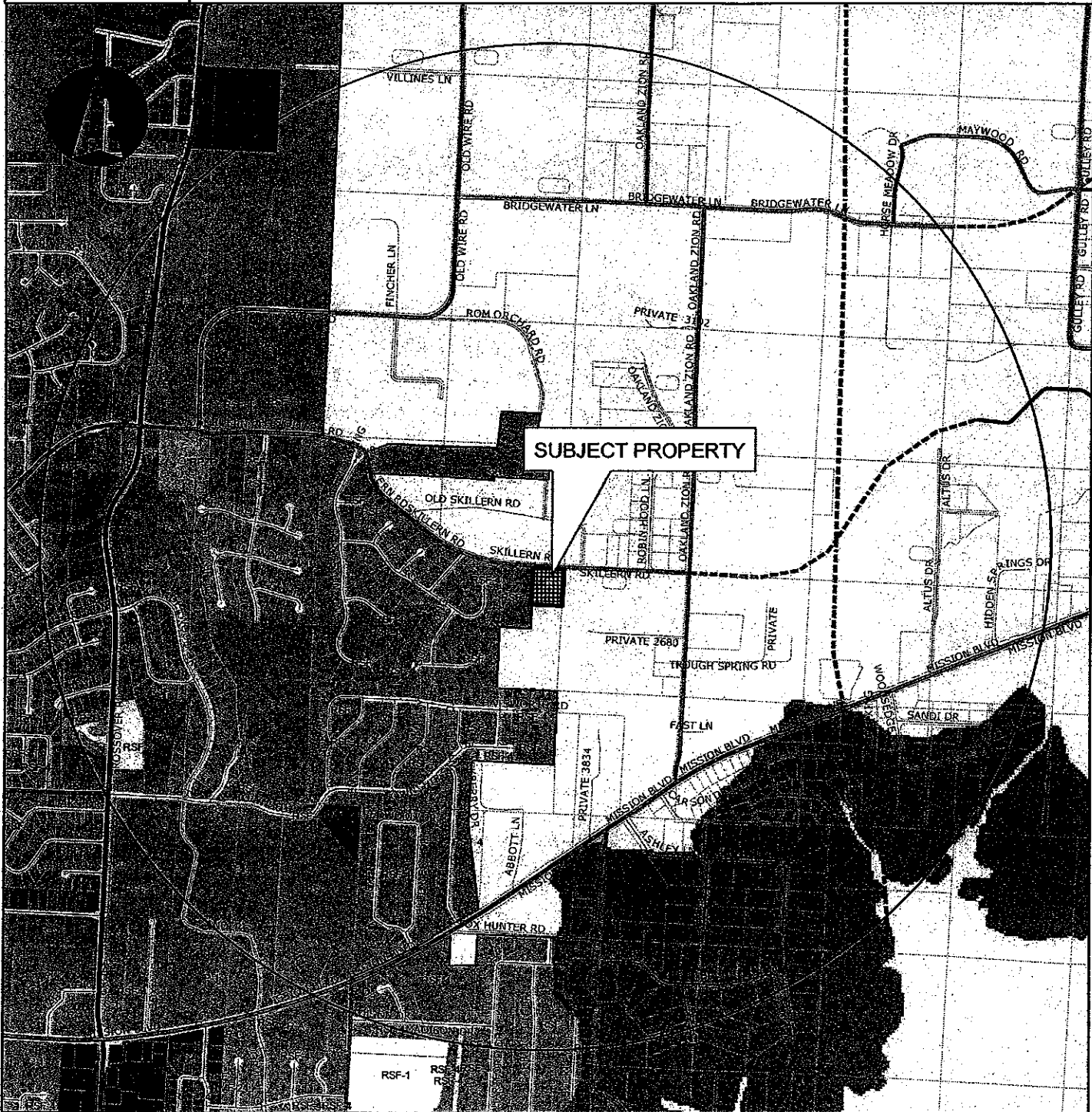


0 75 150 300 450 600 Feet

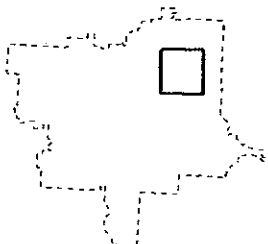
RZN07-2621

One Mile View

KEENAN



Overview



Legend

Subject Property

RZN07-2621

Boundary

Planning Area

Overlay District

Outside City

Legend

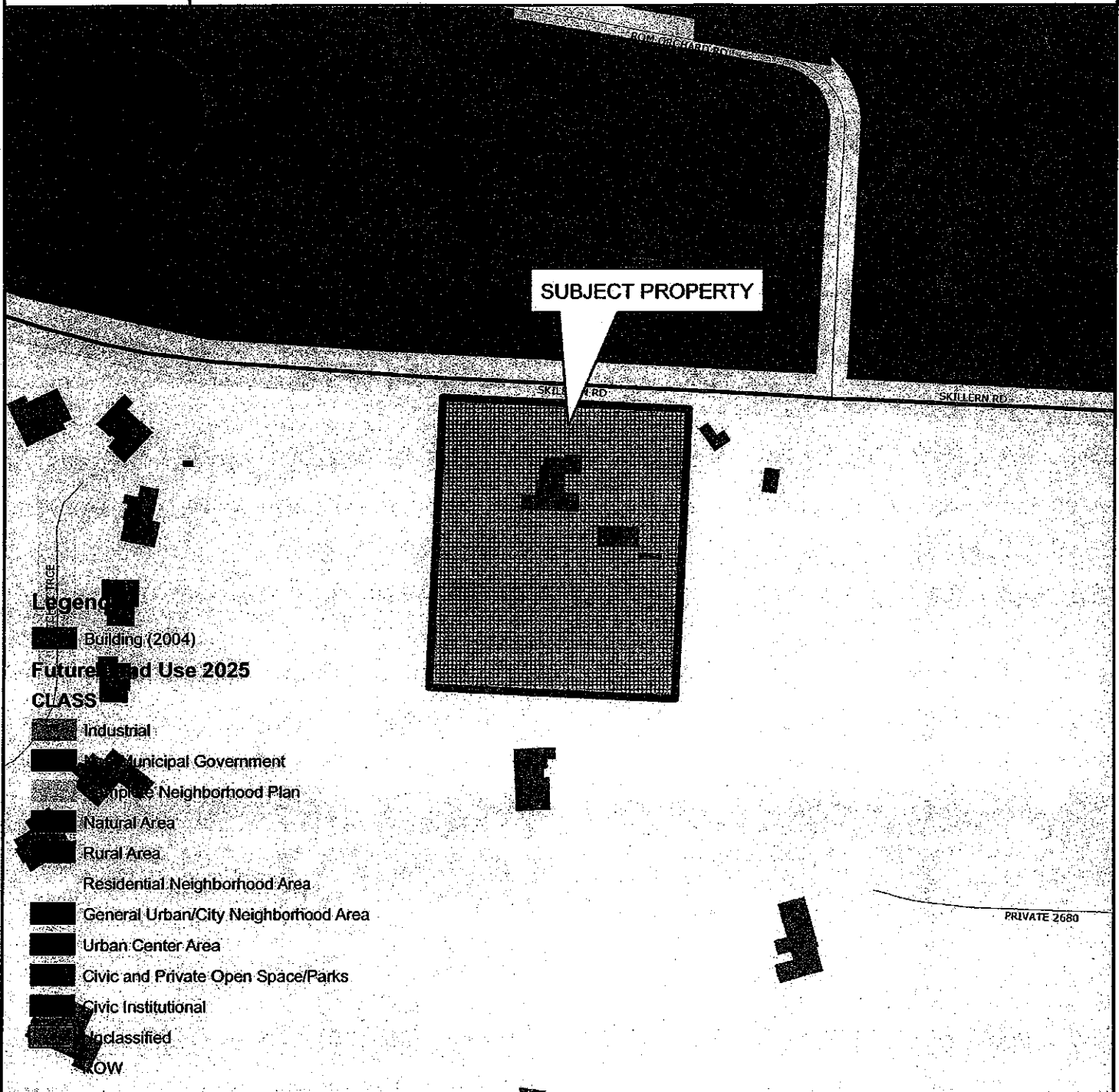
Hillside-Hilltop Overlay District

0 0.25 0.5 1
 Miles

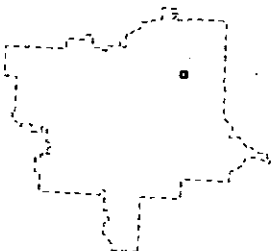
RZN07-2621

KEENAN

Future Land Use



Overview



Legend

Subject Property

RZN07-2621

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



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

17-Jul-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2592: (Bellwood S/D Ph II, 400): Submitted by Jorgensen and Associates for property located west of Ruppel Road, south of Bellwood Subdivision Phase I. The property is zoned RMF-12, Residential Multi-Family, 12 units per acre, and contains approximately 8.41 acres. The request is to rezone the subject property to RMF-18, Residential Multi-Family, 18 units per acre.

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

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 6-29-07
Department Director Date

[Signature] 7-2-07
City Attorney Date

Paul A. Beher 7-2-07
Finance and Internal Service Director Date

[Signature] 7/2/07
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED
6/29/07

Received in Mayor's Office
ENTERED
7/2/07

Comments:

City Council Meeting of July 17, 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: June 28, 2007

Subject: Rezoning for Bellwood S/D II (RZN 07-2592)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of rezoning the subject property from RMF-12, Residential Multi-family, 12 Units per Acre to RMF-18, Residential Multi-family, 18 Units per Acre subject to the Bill of Assurance offered by the applicant, for approximately 8.41 acres located west of Ruppel Road and north of Wedington Drive.

BACKGROUND

The subject property contains approximately 8.41 acres located west of Ruppel Road, north of Wedington Drive. Much of the surrounding property is currently under development or planned for development in the near future. These projects include Bellwood Subdivision and Oakbrooke Subdivision to the north and The Links at Fayetteville Master Development Plan to the east. The City Council approved a rezoning for the subject property and two adjacent properties with an associated Bill of Assurance on September 5, 2006 by Ordinance #4915. Connectivity, architectural design, compatibility with surrounding developments, improvements to infrastructure, landscaping, and pedestrian connectivity were established by the Bill of Assurance (see attached).

The applicant proposes to rezone the RMF-12 tract (8.41 acres) to RMF-18. The applicant has submitted a revised Bill of Assurance with the rezoning request to address the changes to the zoning designation for Parcel 2 from RMF-12 to RMF-18.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 25, 2007. The Planning Commission voted 8-0-0 to recommend approval of this rezoning request to the City Council. No public comment was received.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2592, FOR APPROXIMATELY 8.41 ACRES, LOCATED WEST OF RUPPLE ROAD, SOUTH OF BELLWOOD SUBDIVISION PHASE I FROM RMF-12, RESIDENTIAL MULTI-FAMILY, 12 UNITS PER ACRE, TO RMF-18, RESIDENTIAL MULTI-FAMILY, 18 UNITS PER ACRE.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From RMF-12, Residential Multi-Family, 12 units per acre to RMF-18, Residential Multi-Family, 18 units per acre, as shown on Exhibits "A" and "C" attached hereto and made a part hereof.

Section 2: That the rezoning of the subject property is subject to the Bill of Assurance offered by the applicant as shown in Exhibit "B" attached hereto and made a part hereof.

Section 3: 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

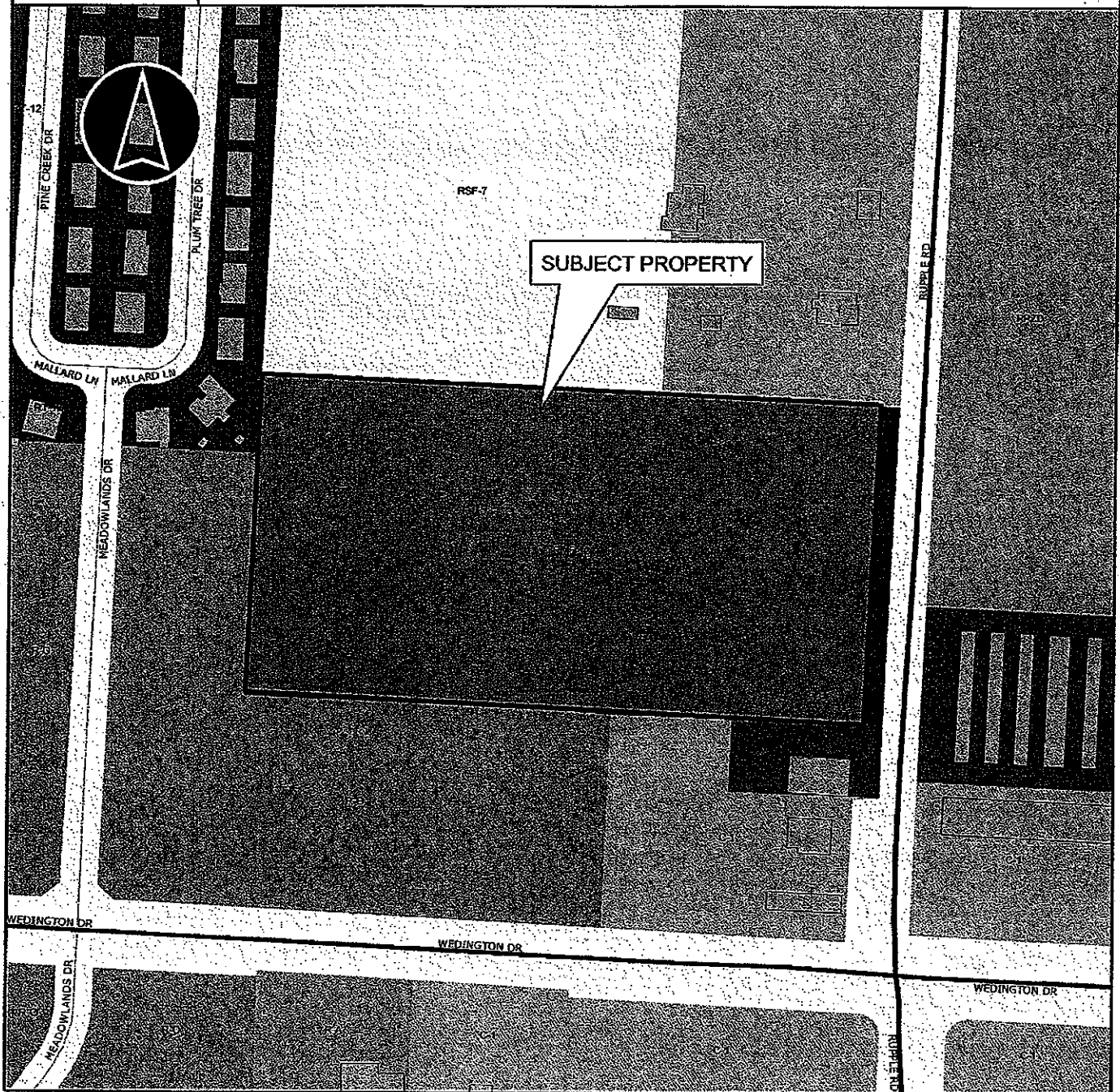
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2592

Close Up View

BELLWOOD S/D II



Overview



0 75 150 300 450 600
Feet

EXHIBIT "B"

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, (hereinafter "Petitioner") Dunnerstock Dev., Inc., hereby voluntarily offer this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if 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 Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioners' property shall be restricted as follows IF Petitioner rezoning is approved by the Fayetteville City Council.

The owner of the property (said property being located west of Ruppel Road and South of Bellwood Subdivision Phase 1 and being described on Exhibit A) is currently requesting a rezoning of said property. The property being rezoned was originally referred to as Parcel #2 and is currently zoned RMF-12 and the request is to rezone this portion to RMF-18. This parcel consists of 8.41 acres.

This new bill of Assurance shall accompany the parcel #2 and shall include:

- 1) This parcel #2 shall still have public access through the property and shall provide connectivity to the West, South, North and the Ruppel Road to the East.
- 2) This Parcel #2 shall have the buildings arranged to avoid a grid layout buildings shall be staggered to help avoid a grid layout.
- 3) Pedestrian access along all streets shall be required to encourage residents to walk to the market district.
- 4) Architectural design shall be reviewed by the Planning Commission as per the original Bill of Assurance. This review shall include type of material, color, arrangement of windows, doors, and compatibility with surrounding development.

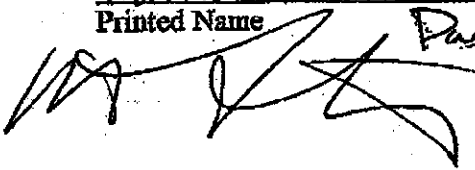
Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and

EXHIBIT "B"

shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above. I Mark Foster voluntarily offer all such assurances and sign our names below.

6-25-07
Date

MARK FOSTER Pres
Printed Name Partnership Decl.


P.O. 9087
Address

Fayetteville AR 72703

Judy Beard
NOTARY PUBLIC

My Commission Expires: April 8, 2017

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the 25 day of June, 2007, appeared before me, his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

Judy Beard
NOTARY PUBLIC

My Commission Expires: April 8, 2017



EXHIBIT "C"
RZN 07-2592

PARCEL #2: (TO BE REZONED TO RMF-18)

PART OF THE SW1/4 OF THE NE1/4 OF SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SW1/4, NE1/4 THENCE S89°57'48"E 421.61 FEET, THENCE S00°08'09"E 551.36 FEET TO THE P.O.B., THENCE EAST 840.03 FEET, THENCE S00°04'16"E 437.33 FEET, THENCE N89°50'11"W 839.55 FEET, THENCE N00°08'09"W 434.93 FEET TO THE P.O.B.; CONTAINING 8.41 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY RECORD.



PC Meeting of June 25, 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: ~~June 20, 2007~~ Updated June 28, 2007

RZN 07-2592: (BELLWOOD S/D II, 400): Submitted by JORGENSEN & ASSOC. for property located at W OF RUPPLE RD., S OF PHASE I OF BELLWOOD S/D. The property is zoned RMF-12, RESIDENTIAL MULTI-FAMILY, 12 UNITS PER ACRE and contains approximately 8.41 acres. The request is to rezone the subject property to RMF-18, Residential Multi-Family, 18 Units per Acre.

Planner: Jesse Fulcher

RECOMMENDATION:

Staff recommends approval of the requested rezoning from RMF-12 to RMF-18 based on the findings herein, and subject to the Bill of Assurance offered by the applicant.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☒ Forwarded to C.C.	☐ Denied
Date: <u>June 25, 2007</u>			
Motion: <u>Myers</u>			
Second: <u>Cabe</u>			
Vote: <u>8-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>July 17, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property Description: The subject property contains approximately 8.41 acres located west of Ruppel Road, north of Wedington Drive. Much of the surrounding property is currently under development or planned for development in the near future. These projects include Bellwood Subdivision and Oakbrooke Subdivision to the north and The Links at Fayetteville Master Development Plan to the east. Surrounding land use and zoning are listed in *Table 1*.

History: On April 24, 2006, the Planning Commission heard a request to rezone the subject property and two adjacent parcels to RSF-4. The Planning Commission voted 4-4-0 to forward the rezoning request with a recommendation for an RSF-4 zoning district, with Commissioners Anthes, Harris, Bryant, and Ostner voting no. Therefore, the motion failed due to lack of five affirmative votes, and the application for rezoning to RSF-4 was denied.

Those who voted against the motion discussed their concerns regarding the low single family density of four units per acre in this location. They recommended that property in close proximity to amenities such as the Boys and Girls Club, a school, a fire station and a future mixed use development (Wellspring Community) to the east should be zoned and developed at a density greater than RSF-4 will permit and potentially allow for more commercial uses.

The applicant did not appeal the Planning Commission action. Instead, the applicant submitted a Master Development Plan Residential Planned Zoning District application for the subject properties. Staff reviewed the application and found that the proposal lacked adequate detail for a Planned Zoning District. Because the remaining property may be sold, the applicant was hesitant to establish fixed development regulations on the properties. Since the proposed uses and densities on the PZD mirrored that of the RSF-7, RMF-12 and C-1 zoning districts, the applicant submitted a request to rezone the properties to these three zoning districts in accordance with the comments offered by the Planning Commission.

On July 24, 2006, the Planning Commission heard a request to rezone the properties to RSF-7 (Parcel 1), RMF-12 (Parcel 2) and C-1 (Parcel 3) containing approximately 6.89, 8.41 and 4.67 acres respectively. In association with the rezoning requests, the applicant submitted a Bill of Assurance, which primarily addressed the development of the property. Connectivity, architectural design, compatibility with Wellsprings PZD, improvements to infrastructure, landscaping, and pedestrian connectivity were established by the Bill of Assurance (see attached). The Planning Commission voted 6-1-0 to forward the rezoning request with a recommendation for approval to the City Council. The City Council approved the rezoning requests with the associated Bill of Assurance on September 5, 2006 by Ordinance #4915.

Proposal: The applicant proposes to rezone the RMF-12 tract (8.41 acres) to RMF-18. The applicant has submitted a revised Bill of Assurance with the rezoning request to address the changes to the zoning designation for Parcel 2 from RMF-12 to RMF-18.

Recommendation: Staff recommends approval of the rezoning request with the revised Bill of Assurance. The proposed zoning is consistent in density with the previously approved request and is compatible with the existing and future land uses within the area, and the residential population will benefit from the many amenities within walking distance of the property. Additionally, these zonings will allow for a complete neighborhood to be established, connected with living and retail opportunities in a compact area.

Table 1
Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Undeveloped	RSF-7, C-1
South	Undeveloped	R-O, C-1, C-2
East	The Links at Fayetteville, Self Storage Facility	R-PZD, C-2
West	Willow Springs S/D, Undeveloped	R-O, RT-12

INFRASTRUCTURE:

Streets: The site has access to Ruppel Road. Ruppel Road is an unimproved 2-lane paved roadway adjacent to this property. Ruppel Road has been identified as a roadway to be improved by the future Transportation Bond Program, though improvements may be required with future development, should it occur prior to the future street improvements.

Surrounding Master Street Plan Streets:

East: Ruppel Road (Principal Arterial)

Water: Public water is adjacent to the site. There is a 6" waterline running along the east side of Ruppel Road. There is also an 8" main located in the adjacent subdivision on the west side of the property. Water service will need to be extended within the property at the time of development.

Sewer: Sanitary sewer is available to the site. There is an 8" sanitary sewer main stubbed out to the property from the north and west. 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.

Drainage: Standard improvements and requirements for drainage will be required for the development.

Fire: These 8.41 acres are covered by Engine 7 located at 835 N Ruppel Road. The property is 0.5 miles from the station with an expected response time of 2 minutes. The Fire Department anticipates 34 (21 EMS – 13 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. Measured hydrant flow in the area is 1530 gallons/minute. The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

Police: It is the opinion of the Fayetteville Police Department that this annexation **will not** substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site as **City Neighborhood Area**. Rezoning this property from RMF-12 to RMF-18 with the associated Bill of Assurance that provides assurances for connectivity, architectural design, compatibility with applicant properties, landscaping, and pedestrian connectivity is compatible to the surrounding uses and development patterns, and consistent with the previously approved RMF-12 zoning designation.

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 land use planning objectives, principles, and policies and with land use and zoning plans. Additionally, the rezoning is consistent with the previous rezoning to RMF-12 that was recommended for approval by the Planning Commission and ultimately approved by the City Council. The Links at Fayetteville, which was recently approved by the City Council, is located to the east and will contain a mixture of land uses, included multi-family residential along Ruppel Road. The proximity of this property to two principal arterials - Wedington Drive and Ruppel Road – supports the higher density as a sound planning principle.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The requested rezoning is not necessarily justified or needed, as the property is currently zoned RMF-12. However, an increase in the density allowance will provide for additional housing units in close proximity to amenities such as the Boys and Girls Club, a school, a fire station and a future mixed use development (The Links at Fayetteville) to the east.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will result in additional traffic on Ruppel Road. Ruppel Road is a Principal Arterial street which will be improved to carry large volumes of traffic. A Principal Arterial can serve 17,600 vehicle trips per day and up to 20,600 vehicle trips per day with a left turn bay. The existing traffic signal at Ruppel Road and Wedington Drive will aid in facilitating safe traffic movements adjacent to the subject property. Additionally, the north section of Ruppel Road will be improved as part of The Links at Fayetteville PZD project. The Fayetteville Police Department finds that rezoning this property will not result in an appreciable increase in the level of traffic danger and congestion in the area.

Police - It is the opinion of the Fayetteville Police department that an appreciable increase and traffic danger and congestion will not be created by this rezoning request.

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 increase the population density above that which is currently allowed in RMF-12 zoning district.

Increased load on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. Significant adverse impacts to public services would not result with the incorporation of standard improvements as part of the development.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

161.11 District Rmf-12, Residential Multi-Family – Twelve Units Per Acre

(A) *Purpose.* The RMF-12 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a moderate density that is appropriate to the area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 12
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(D) *Bulk and area regulations.*

(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 and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
•Development	10,000 sq. ft.
•Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.

Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured home	3,000 sq. ft.
Apartment:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s)—Variances, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

161.13 District RMF-18, Residential Multi-Family – Eighteen Units Per Acre

(A) *Purpose.* The RMF-18 Multi-family Residential District is designed to permit and encourage the development of multi-family residences at a medium density that is appropriate to the area.

(B) *Uses.*
(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 10	Three-family dwellings
Unit 26	Multi-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 24	Home occupations
Unit 25	Professional offices
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	4 to 18
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(D) *Bulk and area regulations.*

(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 and more	90 ft.
Professional offices	100 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouse:	
Development	10,000 sq. ft.
Individual lot	2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	7,000 sq. ft.
Three or more	9,000 sq. ft.
Fraternity or Sorority	2 acres
Professional offices	1 acre

(3) *Land area per dwelling unit.*

Manufactured Home	3,000 sq. ft.
Apartments:	
No bedrooms	1,700 sq. ft.
One bedroom	1,700 sq. ft.
Two or more bedrooms	2,000 sq. ft.
Fraternity or Sorority	1,000 sq. ft. per resident

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	25 ft.

Cross reference(s) –Variances, Ch. 156.

(F) *Height regulations.* Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* None.

(Ord. No. 4325, 7-3-01)

BILL OF ASSURANCE FOR THE CITY OF FAYETTEVILLE, ARKANSAS

In order to attempt to obtain approval of a request for a zoning reclassification, the owner, (hereinafter "Petitioner") Dunnerstock Dev., Inc., hereby voluntarily offer this Bill of Assurance and enters into this binding agreement and contract with the City of Fayetteville, Arkansas.

The Petitioner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if 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 Petitioner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will reasonably rely upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioners' rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioners' property shall be restricted as follows IF Petitioner rezoning is approved by the Fayetteville City Council.

The owner of the property (said property being located west of Ruppel Road and South of Bellwood Subdivision Phase 1 and being described on Exhibit A) is currently requesting a rezoning of said property. The property being rezoned was originally referred to as Parcel #2 and is currently zoned RMF-12 and the request is to rezone this portion to RMF-18. This parcel consists of 8.41 acres.

This new bill of Assurance shall accompany the parcel #2 and shall include:

- 1) This parcel #2 shall still have public access through the property and shall provide connectivity to the West, South, North and the Ruppel Road to the East.
- 2) This Parcel #2 shall have the buildings arranged to avoid a grid layout buildings shall be staggered to help avoid a grid layout.
- 3) Pedestrian access along all streets shall be required to encourage residents to walk to the market district.
- 4) Architectural design shall be reviewed by the Planning Commission as per the original Bill of Assurance. This review shall include type of material, color, arrangement of windows, doors, and compatibility with surrounding development.

Petitioner specifically agrees that all such restrictions and terms shall run with the land and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Petitioners' rezoning is effective and

shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioners' property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above. I Mark Foster voluntarily offer all such assurances and sign our names below.

6-25-07
Date

MARK FOSTER Pres
Printed Name
Partnership Decl.

P.O. 9087
Address

Fayetteville AR 72703

Judy Beard
NOTARY PUBLIC

My Commission Expires: April 8, 2017

NOTARY OATH

STATE OF ARKANSAS)
COUNTY OF WASHINGTON)

And now on this the 25 day of June, 2007, appeared before me, his/her oath swore or affirmed that he agreed with the terms of the above Bill of Assurance and signed his name above.

Judy Beard
NOTARY PUBLIC

My Commission Expires: April 8, 2017





Fayetteville Fire Department

MEMO

To: Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 5, 2007
Re: Bellwood S/D II – Fire Department Comments

RZN 07-2592 (Bellwood S/D)

These 8.41 acres are covered by Engine 7 at 835 N Ruppel Road.

It is .3 miles from the station with an anticipated response time of 2 minutes.

The Fire Department anticipates 34 (21 EMS & 13 Fire/Other) calls for service, per year, once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.

The measured hydrant flow in this area has been recorded at 1530 gallon/minute.

There should be no adverse effects on our call volume or response time to this development

Please feel free to contact me if you have any questions concerning these comments.

Dale Riggins

Dale Riggins
Fayetteville Fire Department



R-PZD 07-2479: Planned Zoning District (ST. GEORGE TOWNHOMES, 405): Submitted by H2 ENGINEERING, INC. for property located at N OF MT COMFORT ROAD, E OF OAKLAND AVENUE, W OF STORER STREET AND S OF HAZEL STREET. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 1.65 acres. The request is for 32 residential attached town home units.

Planner: Jesse Fulcher

Public water is located adjacent to the site. An 8" main extension is proposed through the property at the time of development.

Sanitary sewer is available on the site. There is a 6" sewer main along both Storer and Oakland. 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 Oakland, Storer, Hazel and Mt. Comfort. Improvements to the adjacent streets will be evaluated at the time of development.

Standard improvements and requirements for drainage will be required for the development. This property is greatly affected by the 100 year floodplain.

RZN 07-2592: (BELLWOOD S/D II, 400): Submitted by JORGENSEN & ASSOC for property located at W OF RUPPLE RD., S OF PHASE I OF BELLWOOD S/D. The property is zoned RMF-12, RESIDENTIAL MULTI-FAMILY, 12 UNITS PER ACRE and contains approximately ~~2.25~~^{2.84} acres. The request is to rezone the subject property to RMF-18, Residential Multi-Family, 18 units per acre. Planner: Jesse Fulcher

Public water is located adjacent to the site. An 8" main is stubbed out to the property from the north. There is also a 6" main along Ruppel Road.

Sanitary sewer is available on the site. There is an 8" main stubbed out to the property from the north and the west. 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 Ruppel Road. Ruppel Road is an unimproved two lane paved roadway in this location. Improvements to the adjacent streets will be evaluated at the time of development.

Standard improvements and requirements for drainage will be required for the development. This property is greatly affected by the 100 year floodplain.

Date 5/23/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the Planned Zoning District **R-PZD 07-2479: (St. George Townhomes, 405):** Submitted by **H2 engineering Inc.** for property located at **N of Mt. Comfort Road, E of Oakland Avenue, W of Storer Street and S of Hazel Street.** The property contains **approximately 1.65 acres.** The request is for **32 residential attached town home units.**

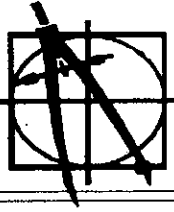
It is the opinion of the Fayetteville Police Department that this PZD **will not** substantially alter the population density or create an undesirable increase in police services. It **will not** create an appreciable increase in traffic danger and congestion in the area.

In response to **RZN 07-2592: (Bellwood S/D II, 400):** Submitted by **Jorgensen & Assoc.** for property located at **W of Ruppel Road, S of Phase 1 of Bellwood S/D.** The property contains **approximately 20.35 acres.** The request is to **rezone** the subject property to **RMF-18, 18 units per acre.**

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 police services. It **will not** create an appreciable increase in traffic danger and congestion in the area.

Sincerely,

Captain William Brown
Fayetteville Police Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

DAVID L. JORGENSEN, P.E., P.L.S.
CHRISTOPHER B. BRACKETT, P.E.

4/23/07

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Planning Dept
Re: Bellwood Subdivision Phase II (Rezoning Request for the RMF-12 Portion)

Enclosed herewith please find information on the above referenced project. This property is owned by Dunnerstock Development (Mark Foster).

The property is located west of Ruppel Road, south of Bellwood Phase I and north of the Wedington/Ruppel intersection. A mixed-use project is being planned on the east side of Ruppel Road at this time.

The property to the north (Bellwood Subdivision) is RSF-4; to the west is Willow Springs Subdivision RT-12; To the south is R-0, C-1 & C-2; To the southeast are storage units zoned C-2.

There are three different zonings on this property (RSF-7, RMF-12 & C-1). We are requesting to rezone the RMF-12 to RMF-18.

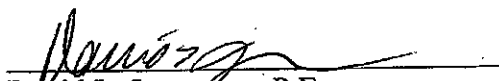
We will be connecting to the existing 8" sewer and water on the north. Also we will be connecting to the existing 6" water on Ruppel Road. There is also an existing sewer on Ruppel Road to the south.

Fire protection will be from the new fire station on Ruppel Road.

Please refer to the drawings and supporting documents.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

RZN 06-2171: Rezoning (DUNNERSTOCK, 400): Submitted by JORGENSEN & ASSOCIATES for property located west of Ruppel Road, east of Meadowlands Subdivision. The property is zoned RSF-1, Res. Single Family - 1 unit/acre, R-A, Res. Agricultural, and C-2, Thoroughfare Commercial and contains approximately 20 acres. The request is to rezone the subject property to RSF-7 (6.9 acres), RMF-12 (8.4 acres), and C-1 (4.7 acres.)

Anthes: Our fifth item tonight is Rezoning request 06-2172 for Dunnerstock. May we have the staff report, please?

Pate: I'll be doing that. Suzanne is not with us tonight. This is a property containing approximately 20 acres. The Planning Commission saw this a few months ago as a rezoning request from its current zoning, which has three existing zoning districts, that is, R-A, Residential Agricultural, 2.5 acres; RSF-1, which is Residential Single Family, 1 unit per acre on 16.77 acres; and C-2, which is our Thoroughfare Commercial zoning designation, on approximately one-half an acre. These properties or portions of them were in the City already two years ago when we did the island annexation. The 16.5 acres, RSF-1, were brought into the City along Ruppel Road. This request formerly was in April of this year. It was formerly for RSF-4. Staff did recommend approval of that zoning request; however, the Planning Commission voted 4 to 4 on this item and were split. Because of that split vote ... and a rezoning requires five affirmative votes to go forward to the City Council ... it did die for lack of majority vote. The applicant chose not to proceed with an appeal of that decision, and instead, has submitted this subject rezoning request. And to take you back to the discussion that night, and you have the minutes in your packet, the Planning Commission, at least the four of those who voted in favor, and several others, also, against this item, discussed items ... discussed issues such as density and the desire to have more density on this property. Also discussed was the potential for commercial property here, especially across from the Wellspring planned zoning district. In anticipation of those comments the applicant submitted a Master Development Plan to staff. The staff reviewed those plans, and finding that they were not complete to meet our Master Development Plan criteria, we met with the applicant on several occasions. I think the Catch-22 on this particular item is that there are portions of the property the applicant at this time doesn't have any intent in developing, although they're certainly not opposed to a commercial zoning or a multi-family/higher density zoning in this location. Therefore, it was very hard for them to commit and for staff to commit to a recommendation to the Planning Commission on a Master Development Plan when that concept really had not been fully evaluated.

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Because of that, this applicant has come forward with three different zoning districts. This is a proposal to rezone portions of the property, about 7 acres, to RSF-7, which is single family, 7 unit per acre density. It does allow for the smaller lots, 6,000 square feet, I believe; the RMF-12 zoning district on about 8.5 acres, which does allow for multi-family zoning up to 12 units per acre; and a C-1 zoning designation on approximately 4.5 acres. You can see the ... probably the best map to look at this at is on Page 30 and 32 in your staff report and those zoning designations and how those are surrounded by other development. To the east, of course, across Ruppel Road is the R-PZD for Wellspring. To the south of this property is property zoned C-1, C-2, and R-O. Most of those are either not fully developed, not developed at all, or an older development pattern. And then, of course, to the west is a portion of RT-12, which has developed into a single-family, small lot type of development pattern. The applicant has also submitted quite an extensive Bill of Assurance on Page ... starting on Page 17 of 32. Most of these assurances that have been offered by the applicant ... there are 10 of them ... deal with the compatibility of development to Wellspring, which was part of the discussion on that night of April when the Planning Commission last considered this. It speaks to public access through the property and having connectivity to the west, which is a vacant tract. It also speaks to how buildings should be arranged and have the Planning Commission review all these plats for architectural design standards, tree placement and plantings. Item Number 8 discusses types of material, colors and arrangement of windows, doors, things of that ... really a lot of architectural design that we typically don't see on residential projects specifically. Of course, the commercial design standards would apply to any commercial development. And lastly, it also discusses compatibility with Wellspring community to the east, and including architectural design and building arrangement, which, of course, you all are aware that that is more urban style of development with parking in the rear, primarily. So those are the types of things that we would present to the Planning Commission when and if a development plan would come to this body. With that Bill of Assurance as offered by the applicant, staff is recommending approval of these rezoning requests and recommend that you forward it to the Full Planning Commission, finding that it is compatible with, at the time this was reviewed, our General Plan 2020. I think it also ... we've come forward with several components of our General Plan ... or City Plan 2025 in a mixture of uses in complete and connected, specifically with the Bill of Assurance that talks about connectivity to those properties that can be connected and a mixture of uses in the same area. So with that, staff is recommending approval.

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Anthes: Thank you, Mr. Pate. Would any member of the public like to speak to this rezoning request for Dunnerstock? Seeing none, I'll close the public comment section and ask the applicant if they would like to make a presentation. Good evening.

Jorgensen: Yes, my name is Dave Jorgensen, and as Jeremy said, we are submitting this three-part rezoning request. As you probably remember, we had a RSF-4 request originally and then we had some dissension within the ranks of the Planning Commission. Basically, it was kind of a split deal. And so we've come back with this revised plan, hoping to satisfy those concerns and desires to have more of a diversity on the rezoning request. As you realize, we had the RSF-4, which was going to allow for single family residential and we thought that would be kind of the normal thing to ... normally request. In this request right here we have the combination of the RSF-7, the RMF-12, and the C-1, which allows for kind of a mixed use type of community here, and personally, I think it's a real good idea. It gives transition as you go from north to south and it also, with the Bill of Assurance, assures that we can get some compatibility with the project to the east across Ruppel Road. And as Jeremy also mentioned, the reason we didn't follow through on the Master Development Plan was this problem about the developer not necessarily being the developer of the other two parcels, namely the RMF-12 and the C-1. But the good news is that you have a chance to review each and every one of these things as it comes back through the process, and the next step will be the RSF-7. I know for a fact that's coming back pretty quick and I suspect the other two will come ... follow behind it, so ... I'll be glad to answer questions.

Anthes: Thank you, Mr. Jorgensen. Commissioners? I have one question, Mr. Pate. On the Bill of Assurance, Item Number 3 states, "Parcel #2 shall have the buildings arranged to avoid a grid layout or," quote, "row," unquote, "houses. Buildings shall be staggered to help avoid this grid layout." Can you clarify that intent?

Jorgensen: Now, what does that mean? What we want to do there is ... is bring something to the Planning Commission that's got some character rather than a row of condos or a row of townhouses and provide some ... something that will be more appealing to than just your basic, and I call it the grid layout, and that's all I'm trying to say right there. And I know this leaves it open for the Planning Commission to assist in the design process, but I know of a couple of projects like that that aren't the most desirable to have right there, and that's the purpose of this.

Anthes: Okay. I guess we just need to get on the books what that really means, because a row house typology is something that we have happening across

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the street at Ruppel Row and was received favorably by this Commission and so ... but you're talking more about identical units in a row; is that it?

Jorgensen: Yeah, right.

Pate: Yes.

Jorgensen: Maybe the terminology wasn't exactly right right there, but you're correct, though. The Ruppel Row project is really neat down there, and I wouldn't have a problem with that. But here again, it gives the chance ... it gives the Planning Commission a chance to look at it, and the Planning Staff. And I sense that the Planning Staff, when something is rezoned, well, then, you know, that's a ticket to jam-pack everything you possibly can in there, and I'm not saying that we're not going to attempt this for the developer, but we do want it to be compatible with the project across the street. And I'm not implying that it ... you know, it can't be the row house look, but it needs to be appealing.

Anthes: Does staff feel comfortable that you have enough direction on that?

? (Inaudible)

Pate: Well, I think ultimately, if you look at Number 10, it also states that it "shall be compatible with the Wellspring Community to the east" and including "architectural design and building arrangement." So I think we would do everything possible to work with the applicant at the time of development to satisfy that criteria and all the other nine criteria that the applicant specifically has offered. When this was first offered I know that we had spoken about that particular one because we had some questions about it, too, but as you know, a Bill of Assurance is offered by an applicant and we try not to mess with that too much. And so while we have some questions about that, I think ... as for the record, I think it is referring to identically designed apartment complex style structures that are either facing a street or in a grid. And so it would hopefully provide some sort of not ... something that's not identical, I guess. It's a little hard to get ... grasp that Number 3, to be honest, because everyone has their own idea about what that means.

Jorgensen: It definitely leaves it open for personal preference and possibly some confusion by the Planning Commission, and all I'm trying to do here is to let the staff know and the Planning Commission know that it's not the end of the world when we rezone this property. We want to be able to get the

Planning Commission
July 24, 2006
Page 11

Planning Staff's thoughts and recommendations as we go through each and every one of these projects.

Anthes: I have a question of the City Attorney. Mr. Williams, as far as clarification, are our comments here and in the minutes enough, or since the Bill of Assurance goes with the rezoning request and with the land, would it be helpful for the applicant to clarify that statement in the Bill of Assurance?

Williams: Basically, a Bill of Assurance is freely offered by a developer and you get what is offered. And if it's not what you all want and it's something that is so bad that the rezoning is not acceptable to you, then you can vote against the rezoning, but I don't think we need to be ... you know, giving advice to the applicant about "This is not a good Bill of Assurance and, therefore, do it like this or that." I don't think that's really within our power.

Anthes: I think I understand what the intent was, and that's what I was trying to get at. Commissioner Graves.

Graves: I think that the record has been made as to what's intended by that particular item and I'm in conformity with the City Attorney's advice that we shouldn't get into the business of trying to parse language on something that's been offered by the applicant to the City. I'm going to move that we forward to the City Council with a recommendation for approval on Rezoning 06-2172 for all the reasons that have been stated by staff.

Anthes: I have a motion. Do I hear a second?

Trumbo: Second.

Anthes: Okay. I have a motion by Commissioner Graves, a second by Commissioner Trumbo. Is there further discussion?

Ostner: Madame Chair.

Anthes: Commissioner Ostner.

Ostner: I have a question for staff. There is a new general plan interim map. How does this fit with that interim document?

Pate: In the actual map it's the exact same in this area. We reviewed this under the general guidance of the General Plan 2020, because this was submitted

Planning Commission
July 24, 2006
Page 12

approximately, 50, 60 days ago, which is well before this body reviewed that plan. So those are still operating under the direction of the General Plan 2020. As I mentioned, though, because we do have a resolution passed by the City Council, I did want to mention that we felt that it was still compatible with that plan as well. As far as a future land use designation and guide in this area, it would still comport to that.

Ostner: Well, I would ... I'm still concerned ... and I appreciate the applicant's efforts, I really do. This is a mixture of uses; however, they're ... they're still homogeneous zones that are delineated. And I appreciate the Bill of Assurance. I'm not going to try to mess with it. It does help me understand what you all are ... have in mind. I am probably going to vote against this. I ... by my figures, the C-1 comes to about, maybe, five acres, or 4.8-something. It's situated to face ... is that Ruppel?

Clark: Uh-huh.

Ostner: But most of this is housing, and I still think that this... that this intersection is prime for more commercial, and I'm not pushing for a giant strip commercial development, but that's ... that's how I see it. Even though this is much more amenable, I'm probably going to vote no, so ...

Jorgensen: Jeremy, does the Planning Commission have a drawing of what we were going to do, by any chance? I can't recall if ...

Pate: I believe so, yes.

Jorgensen: That shows the correct ...

Ostner: Could you hold it up so we can ...

Anthes: We have this one.

Jorgensen: Right. Okay. If you can refer to that drawing, the reason we broke it up this way, is you can see the property to the north is Bellwood Subdivision, Phase I, and what we're trying to do is transition into something commercial, something multi-family, and the reason for the layout is exactly that. To the north is the single-family project and then to the east of this proposed RSF-7 is the C-1, and we just felt like that would be kind of the transition point right there, and then to the south was the multifamily, RMF-12, and that's the reason for the layout as it happened that way. One other reason we didn't go more commercial is that it was pointed out to us that the Wellspring has a fair amount of ... not

necessarily commercial right directly across the street right there, but it's potentially a fair amount of commercial, right?

Pate: Yes. There's approximately, I believe, if my memory serves me correctly ... you're right ... 400,000 square feet of commercial, so that's ...

Jorgensen: A pretty good amount. And so there was ... that's the reason for our ... how it broke down this way. But you're right, the C-1 is 4.67 ... yeah, 4.67 acres, so it's not entirely commercial, that's for sure.

Ostner: Okay. The ... I understand those transition issues, but if the parcel number 1 that you're proposing RSF-7, or the RMF-12 and the southern parcel, number 2, were also commercial with this eastern tract I would vote for this. I can see that transition. But I see this as extending a whole bunch of transition to get residential and having a little bit of commercial left over. And I understand there is a bunch of commercial in Wellspring. That is going to be a different kind of commercial. It's ... it's slip in, slip into a building. The building will be built, there will be residential up above, and you slide in and you finish out. It's ... it's not come in, build your building, have your commercial. So it's a different type of commercial. So I think there is a difference between the Wellspring commercial and your average commercial.

Anthes: Is there further discussion? I have a motion to forward by Commissioner Graves, a second by Commissioner Trumbo. Will you call the roll?

Roll Call: The motion to forward RZN 06-2172 carries with a vote of 6-1-0.

**City of Fayetteville Arkansas
City Council
Meeting Minutes
August 15, 2006**

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.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the ordinance. He stated that staff recommended approval of this rezoning request.

Alderman Lucas: This isn't a PZD, this is just rezoning these three parcels, and nothing is in stone there?

Jeremy Pate: That's correct. They have submitted a pretty detailed Bill of Assurance that discusses that they will have connectivity to adjacent properties and that the overall development will be compatible with the Wellspring Development which is across Ruppel Road to the east. We are trying to initiate a lot of those discussions with the future development of the property. The applicants did submit a Planned Zoning District initially after that meeting, however this particular applicant is not intending on developing all that property so it was very hard for them to commit to any kind of drawing.

Alderman Lucas: So he is getting it rezoned to sell?

Jeremy Pate: That's correct.

Alderman Cook: I agree with Shirley, I would much rather see a PZD but at least we are seeing a mix of zoning here instead of one single zoning. Especially on this one location which is rapidly becoming a commercial node in this part of Fayetteville. I would much rather see a PZD on this location but I'm encouraged at least that there's a mix of zone.

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 Lucas: I would like to invite the developers to a Ward 4 Meeting to talk about this if you would like to come.

Alderman Jordan: We have found that in the past it causes a little less trouble when the people can see it and ask questions on it so I would really appreciate it if you could do that.

This ordinance was left on the second reading.

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

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.

City Attorney Kit Williams read the ordinance.

Alderman Lucas: I want to make sure that we do have that Bill of Assurance that there is only 17 houses going to be built.

Jeremy Pate: I'm not sure if it specifies the number of homes on that parcel.

Alderman Lucas: I thought that's what he said at the Ward 4 meeting.

Jeremy Pate: Limited to 17. That's correct.

Alderman Lucas: I think this is a good area for this. It's going to be compatible with Wellsprings when it's developed; it's going to be in the same order as Wellsprings. There was just one thing that brought up at the Ward 4 meeting by one gentleman, and I wanted to bring it forward because it's something that we need to keep on our minds. His concern was in our haste to achieve density in new development, because this was originally brought forward as RSF-4 and the Planning Commission sent it back saying it wasn't dense enough and so he's brought it back to RMF-12 and RSF-7. The concern was that in our haste to achieve density in the new developments that it appears to the Ward 4 citizens that is only being addressed in Ward 4, and they want the joy of density to be shared by all of Fayetteville. So just keep that in mind, and I think the Planning Commission needs to keep it in mind too, that all this should not be just developed in Ward 4. Thank you.

Mayor Coody: All right. Any other questions or comments from the Council on this? Anyone from the public have any comments on this item? Close it to public comment and bring it back to Council. What's the Council's wish here?

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

Ordinance 4915 as Recorded in the Office of the City Clerk

ORDINANCE NO. 4915

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 06-2172 FOR APPROXIMATELY 19.98 ACRES, LOCATED WEST OF RUPPLE 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

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:

Parcel #1 from RSF-1, Residential Single Family, 1 unit per acre to RSF-7, Residential Single Family, 7 units per acre as shown on Exhibit "A" and Exhibit "D" attached hereto and made a part hereof.

Section 2: That the zone classification of the following described property is hereby changed as follows:

Parcel #2 from RSF-1, Residential Single Family, 1 unit per acre, R-A, Residential-Agricultural, and C-2, Thoroughfare Commercial, to RMF-12, Residential Multi-Family, 12 units per acre as shown on Exhibit "B" and Exhibit "D" attached hereto and made a part hereof.

Section 3: That the zone classification of the following described property is hereby changed as follows:

Parcel #3 from RSF-1, Residential Single Family, 1 unit per acre to C-1, Neighborhood Commercial as shown on Exhibit "C" and Exhibit "D" attached hereto and made a part hereof.



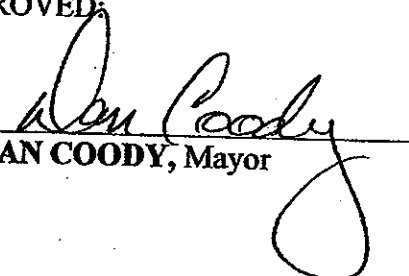
Section 4: That the rezoning is subject to the Bill of Assurance offered by the applicant and shown as Exhibit "E" attached hereto and made a part hereof.

Section 5: 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 5th day of September, 2006.

APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:

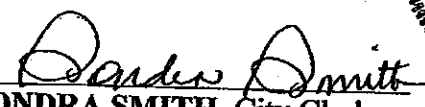

SONDRA SMITH, City Clerk



EXHIBIT "A"
RZN 06-2172 PARCEL 1

PARCEL #1: (TO BE REZONED TO RSF-7)

PART OF THE SW1/4 OF THE NE1/4 OF SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SW1/4, NE1/4 THENCE S89°57'48"E 421.61 FEET TO THE P.O.B., THENCE S89°57'48"E 545.43 FEET, THENCE SOUTH 551.01 FEET, THENCE WEST 544.12 FEET, THENCE N00°08'09"W 551.36 FEET TO THE P.O.B.; CONTAINING 6.89 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

EXHIBIT "B"
RZN 06-2172 PARCEL 2

PARCEL #2: (TO BE REZONED TO RMF-12)

PART OF THE SW1/4 OF THE NE1/4 OF SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SW1/4, NE1/4 THENCE S89°57'48"E 421.61 FEET, THENCE S00°08'09"E 551.36 FEET TO THE P.O.B., THENCE EAST 840.03 FEET, THENCE S00°04'16"E 437.33 FEET, THENCE N89°50'11"W 839.55. FEET, THENCE N00°08'09"W 434.93 FEET TO THE P.O.B.; CONTAINING 8.41 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

EXHIBIT "C"
RZN 06-2172 PARCEL 3

PARCEL #3: (TO BE REZONED TO C-1)

PART OF THE SW1/4 OF THE NE1/4 AND PART OF THE NW1/4 OF THE NE1/4 OF SECTION 12, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NW CORNER OF SAID SW1/4, NE1/4 THENCE S89°57'48"E 967.04 FEET TO THE P.O.B., THENCE N00°23'09"W 137.75 FEET, THENCE S89°57'48"E 296.73 FEET, THENCE S00°14'12"W 137.71, THENCE S00°04'16"E 550.86 FEET, THENCE WEST 295.91 FEET, THENCE NORTH 551.01 FEET, TO THE P.O.B.; CONTAINING 4.67 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

**BILL OF ASSURANCE
FOR
DUNNERSTOCK REZONING REQUEST**

The owner of the property (said property being located west of Ruppel Road and south of Bellwood Subdivision Phase 1 and being described on Exhibit A) is currently requesting a rezoning of said property and is offering this bill of assurance which shall accompany the rezoning.

The subject property consists of three parcels as follows;

- 1) Parcel #1 to be rezoned from RSF-1 to RSF-7 and contains 6.89 Acres. This RSF-7 rezoning would allow 48 lots but our plan will limit the lots to 17 (single family).
- 2) Parcel #2 to be rezoned from R-A & C-2 to RMF-12 and contains 8.41 Acres. This RMF-12 rezoning would allow 100 units.
- 3) Parcel #3 to be rezoned from RSF-1 to C-1 and contains 4.67 Acres. This C-1 rezoning would allow for neighborhood commercial. More specifically this zoning would allow for a small market district, which would include eating places, shops, professional offices.

Each parcel shall be submitted to the City Planning Division for review after it is rezoned. For Parcel #1 this would be standard preliminary plat/final plat process. For Parcel #1 and #2 this would require a Large Scale Development process.

This Bill of Assurance shall accompany each parcel of land (#1, 2, &3) and shall include the following;

- 1) Access to parcel #1 shall be to the north through Bellwood Subdivision Phase 1 and to Ruppel Road through Parcel #3. The street in Parcel 1 will connect to Parcel #2 for access.
- 2) Parcel #2 shall have public access through the property and shall provide connectivity to the west, south and to Ruppel Road.
- 3) Parcel #2 shall have the buildings arranged to avoid a grid layout or "row" houses. Buildings shall be staggered to help avoid this grid layout.
- 4) Pedestrian access shall be required in all 3 parcels to provide and encourage residents of this community to walk to the market district.
- 5) Waterlines & sewerlines will be extended through Parcel #1 to Parcel #2 and 3. Parcels 2 and 3 will also extend their waterline sewer to Ruppel Road.
- 6) Stormwater will be detained in Parcel #1 and #2 and will be sized for all three parcels.
- 7) Two trees shall be planted on each lot of Parcel #1 by the builder.

- 8) Architectural design shall be reviewed by the Planning Commission for all three parcels. The review shall include type of material, color, arrangement of windows, doors, etc. Each parcel shall be reviewed separately at the time each parcel is developed. (Parcel #1 will be developed first).
- 9) The developer of Parcel #1 will provide improvements to Ruppel Road as required by the City at the time Parcel #1 is developed.
- 10) Each parcel shall be compatible with the Wellspring Community to the east. This compatibility shall include architectural design & building arrangement. The City Planning Dept. shall review each development plan to determine that it is compatible with Wellspring.

The owner expressly grants to the City of Fayetteville the right to enforce any and all of the terms of this Bill of Assurance in the Chancery/Circuit Court of Washington County and agrees that if the Owner or Owners' 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 owner acknowledges that the Fayetteville Planning Commission and the Fayetteville City Council will **reasonably rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve the owners' rezoning request.

The Owner hereby voluntarily offers assurances that Owner and Owners property shall be restricted as follows **IF** Owners rezoning is approved by the Fayetteville City Council.

The Owner specifically agrees that all such restrictions and terms shall **run with the land** and bind all future owners unless and until specifically released by Resolution of the Fayetteville City Council. This Bill of Assurance shall be filed for record in the Washington County Circuit Clerk's Office after Owners' rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of property.

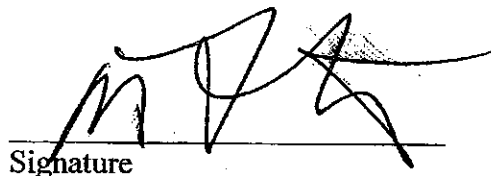
IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, Mark Foster, as the owner, **voluntarily offer** all such assurances and sign below.

7/19/06
Date

MARK FOSTER
Printed Name

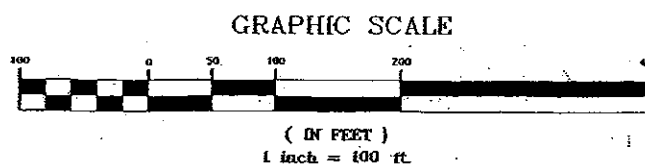
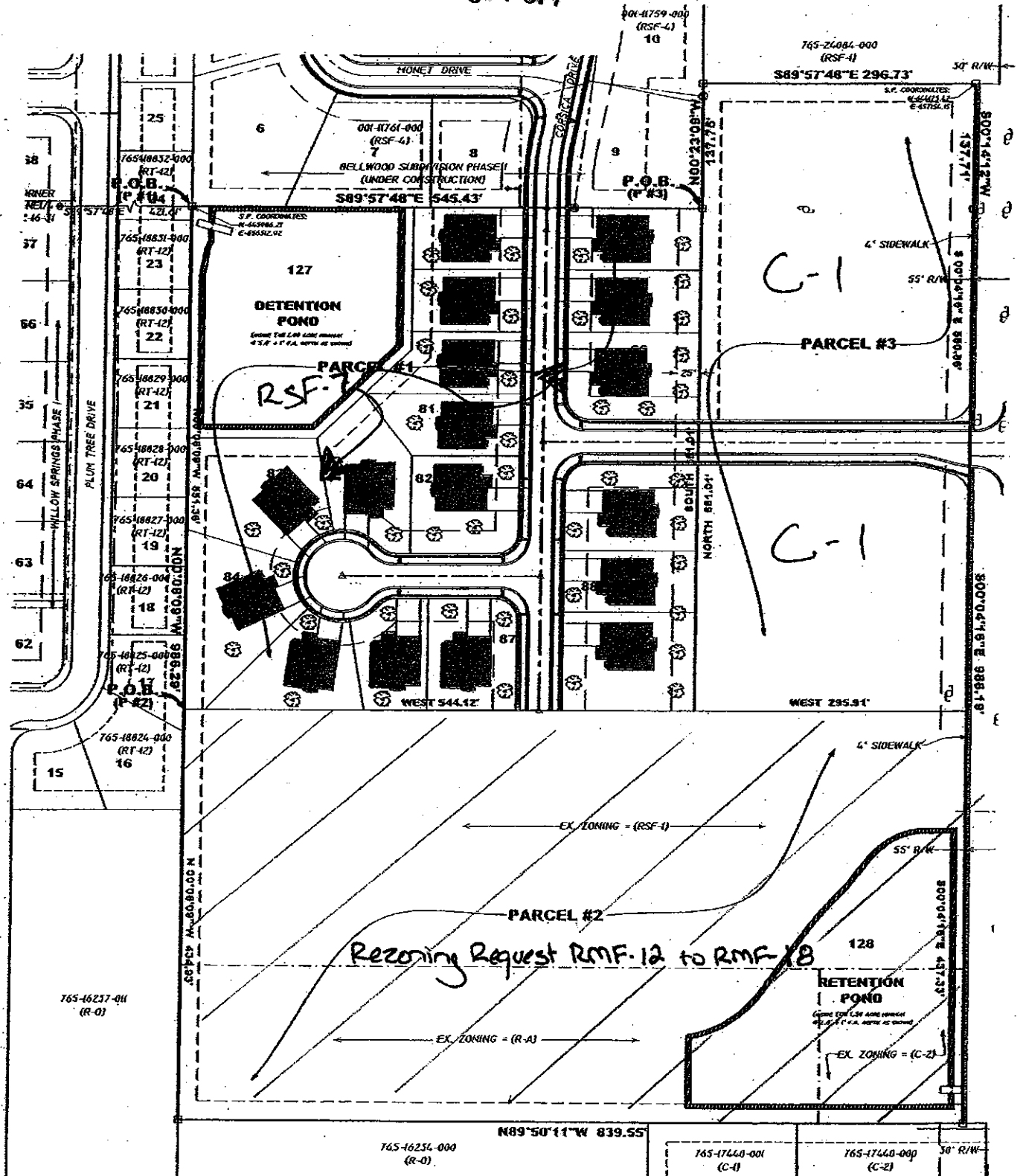
PO Box 9087
Address

FAYETTEVILLE, AR 72703


Signature

BILL OF ASSURANCE THAT ACCOMPANIES THIS REZONING REQUEST STATES THAT EACH PLANNING AREA SHALL BE REVIEWED BY THE PLANNING STAFF & PLANNING COMMISSION & SHALL BE COMPATIBLE WITH THE WELLSPRING PROJECT TO THE EAST. REFER TO BILL OF ASSURANCE FOR ADDITIONAL DETAILS.

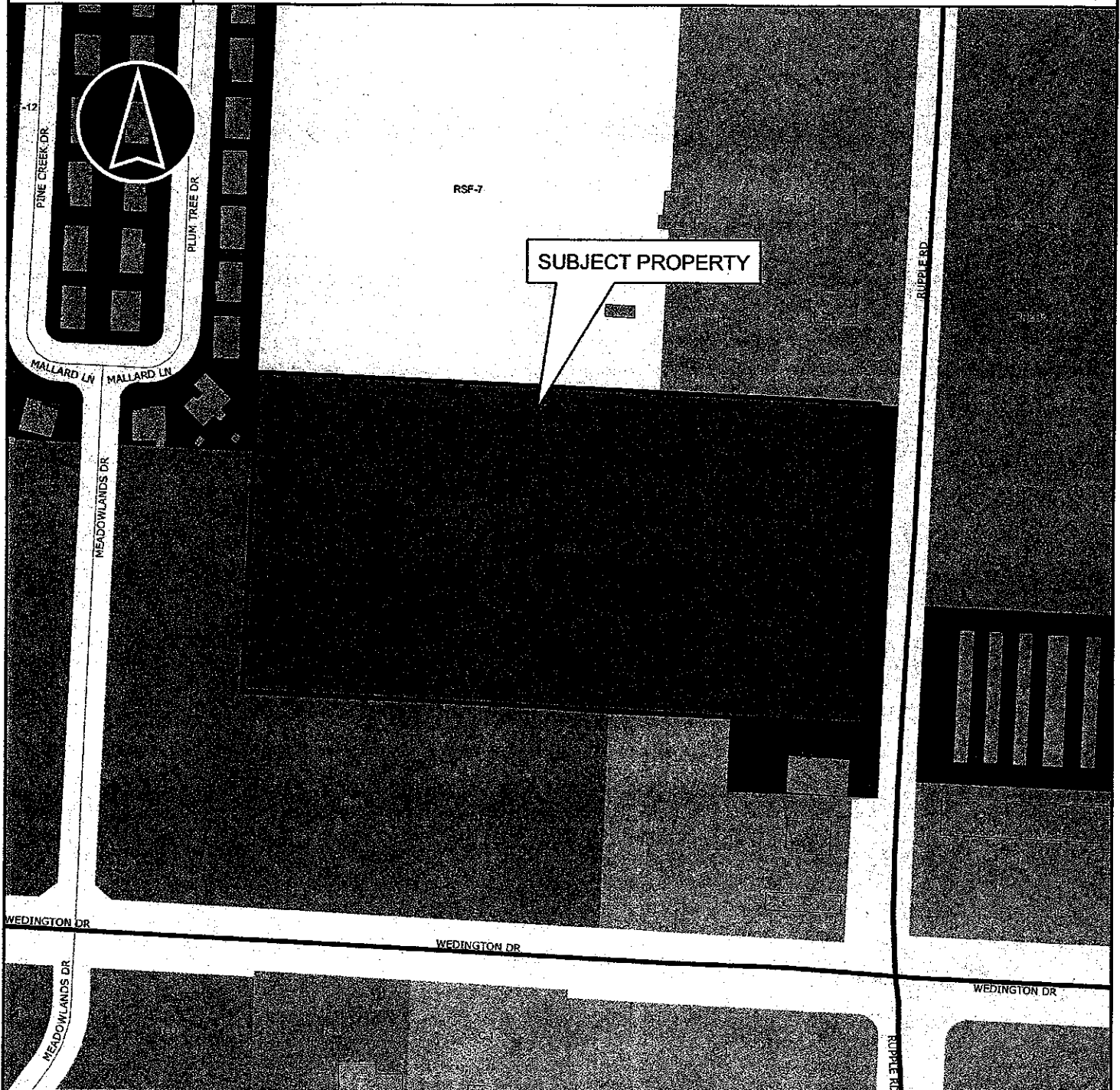
EXHIBIT "E" Page 7 of 7



RZN07-2592

BELLWOOD S/D II

Close Up View



Overview

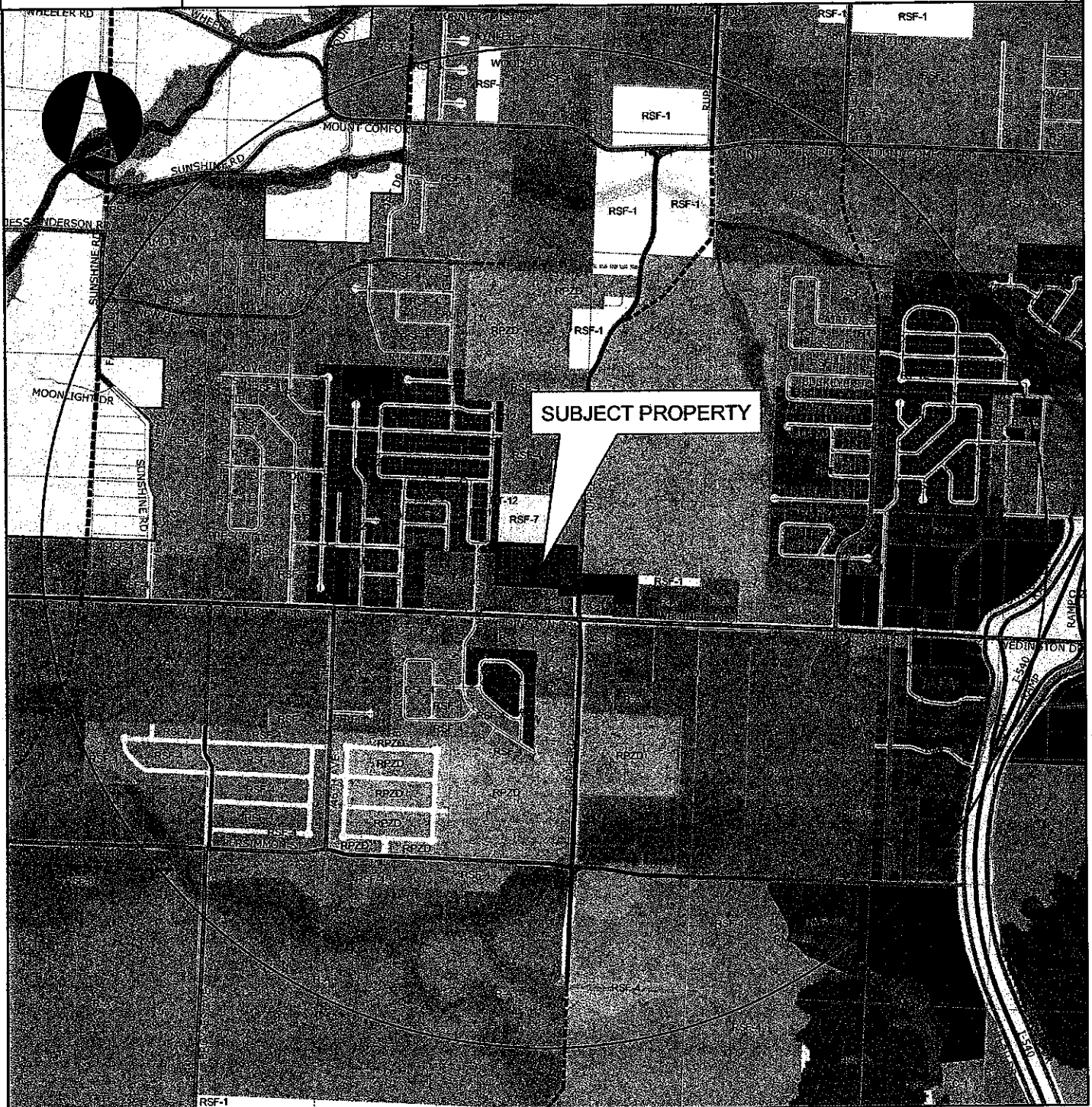


0 75 150 300 450 600 Feet

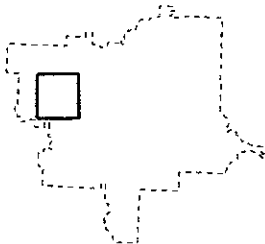
RZN07-2592

BELLWOOD S/D II

One Mile View



Overview



Legend

Subject Property

RZN07-2592

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

C. 5
VAC 07-2644 (Zaxby's)
Page 1 of 28

17-Jul-07

City Council Meeting Date


Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2644: (Zaxby's, 521): Submitted by Jim Harrelson for property located on 6th Street between Lewis Avenue and Eastern Street. The request is to vacate a portion of a utility easement within 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

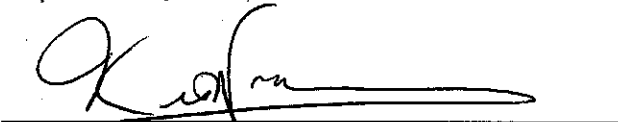
Budget Adjustment Attached


Department Director

6-29-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

7-2-07
Date

Original Contract Number: n/a


Finance and Internal Service Director

7-2-07
Date

Received in City Clerk's Office

ENTERED
6/29/07


Mayor

7/24/07
Date

Received in Mayor's Office

ENTERED
7/24/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: June 28, 2007

Subject: Easement Vacation for Zaxby's (VAC 07-2644)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a 15' general utility easement located within the Zaxby's Restaurant development site on the north side of 6th Street between Lewis Avenue and Eastern Street.

BACKGROUND

The Zaxby's development was approved by the Planning Commission in 2006 (LSD 05-1736) for a 3,378 square foot restaurant and associated parking. As part of the building permit review for this development, it was determined that a 15' alley that was vacated by City Council in 1980 still contains a utility easement. The location of the approved Zaxby's restaurant is bisected by this 15' utility easement. This easement is not needed for this development as a new easement plat is being processed dedicating new easements. Utility representatives have no objections to the requested vacation.

The request is to vacate approximately 0.10 acres of the existing utility easement.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City. This item was heard on consent at the regular Planning Commission meeting on June 25, 2007. The Planning Commission voted 8-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2644 SUBMITTED BY JIM HARRELSON WITH ENGINEERING SERVICES INCORPORATED FOR PROPERTY LOCATED ON 6TH STREET BETWEEN LEWIS AVENUE AND EASTERN STREET TO VACATE A PORTION OF A UTILITY EASEMENT ON THE SUBJECT PROPERTY.

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

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

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

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

See Exhibit "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

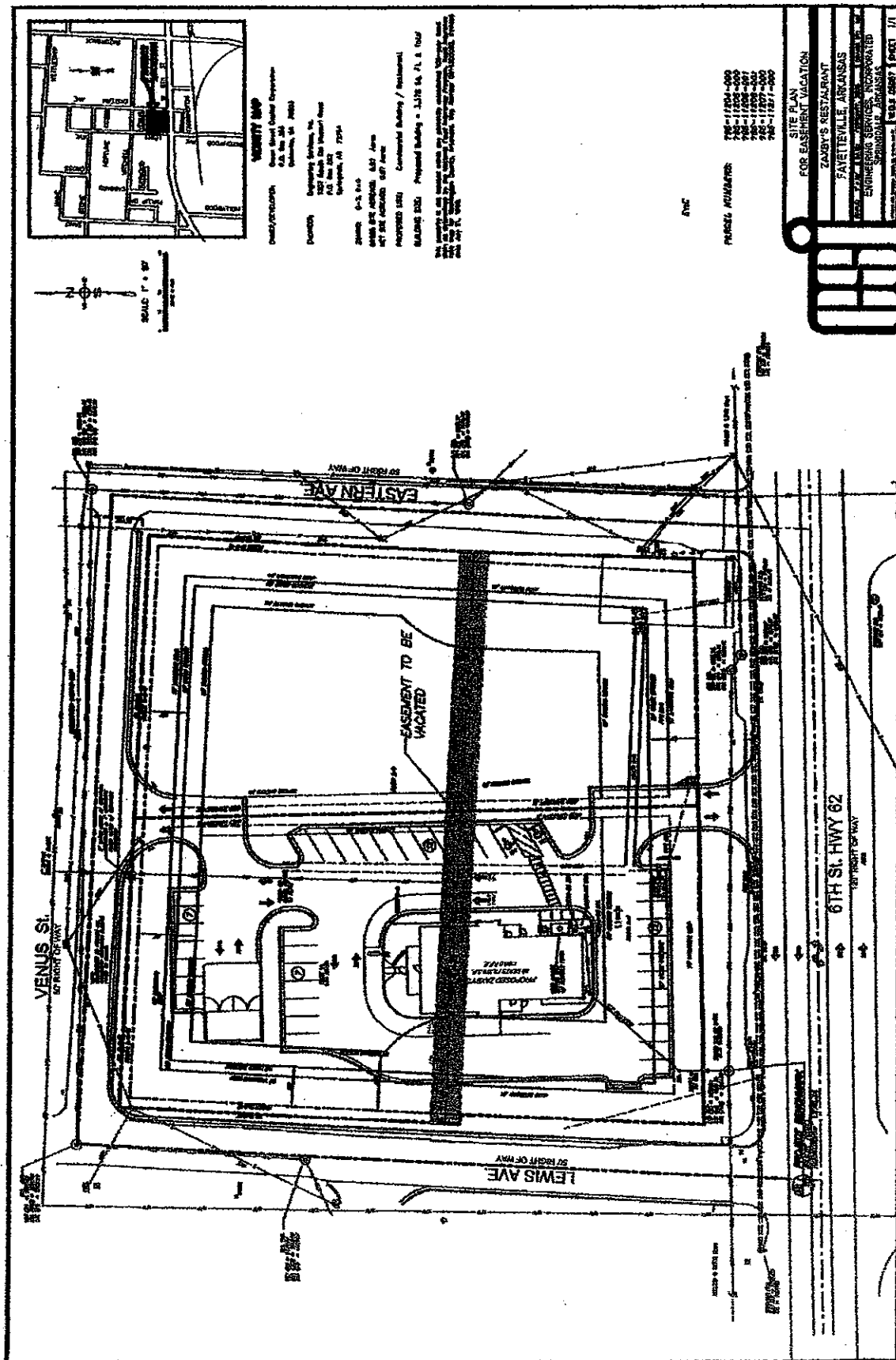


EXHIBIT "B"
VAC 07-2644

A PORTION OF LOTS 1,2,3,4,5,6,7,8,9,10,11, AND 12 OF BLOCK NO. 2 OF SUNSET ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS ACCORDING TO PLAT RECORDED AT PLAT BOOK 5, PAGE 60A, RECORDS OF WASHINGTON COUNTY, ARKANSAS AND IS FURTHER DESCRIBED AS THE VACATED ALLEY ACCORDING TO FAYETTEVILLE CITY ORDINANCE NO. 2641.

ALL BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A FOUND 1/2" REBAR AT THE SOUTHWEST CORNER OF SAID LOT NO. 1; THENCE NORTH 02°55'14"EAST, -7.50 FEET; THENCE SOUTH 87°13'11"EAST, -294.88 FEET; THENCE SOUTH 02°27'40"WEST, -15.00 FEET; THENCE NORTH 87°13'11"WEST, -290.00 FEET; THENCE NORTH 87°13'28"WEST, -5.00 FEET; THENCE NORTH 02°53'40"EAST, -7.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 4420.35 SQUARE FEET OR 0.10 ACRES MORE OR LESS.



PC Meeting of June 25, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~June 19, 2007~~ Updated June 26, 2007

VAC 07-2644: VACATION (ZAXBY'S, 521): Submitted by JIM HARRELSON (ESLINC.) for property located on 6th STREET BETWEEN LEWIS AVENUE AND EASTERN STREET. The property is zoned C-2, THOROUGHFARE COMMERCIAL AND R-O, RESIDENTIAL OFFICE and contains approximately 1.96 acres. The request is to vacate a portion of a utility easement on the subject property.

Property Owner: George Hokayem
Planner: Andrew Garner

Findings: Staff finds that vacating the requested portion of easement would not adversely affect access to the utilities serving the property or any other adjacent property.

Background/Property: The subject property contains 1.96 acres located at the northeast corner of State Highway 62 (6th Street) and Lewis Street, south of Venus Street and west of Eastern Avenue, and is split zoned C-2 and R-O. A large scale development was approved by the Planning Commission in 2006 (LSD 05-1736) for a 3,378 square foot Zaxby's restaurant and associated parking.

As part of the building permit review for this development, it was determined that a 15' alley that was vacated by City Council in 1980 still contains a utility easement. The location of the approved Zaxby's restaurant is bisected by this 15' utility easement. This easement is not needed for this development as a new easement plat is being processed dedicating new easements. Utility representatives have no objections to the requested vacation.

Request: The request is to vacate the 15' utility easement (0.10 acre) bisecting the property.

Public Comment: Staff has received one written comment from an adjacent property owner in opposition to this request citing that he was denied the same request on his property.

Utility Provider Responses: The applicant has submitted the required notification forms to the utility companies and to the City. The results are as follows:

UTILITIES

RESPONSE

Ozarks Electric
Cox Communications
AEP/SWEPCO
SBC Southwestern Bell/AT&T
Arkansas Western Gas

No Objections.
No Objections.
No Objections.
No Objections.
No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer
Transportation
Solid Waste
Engineering

No Objections.
No Objections.
No Objections.
No Objections.

Recommendation: Staff recommends approval of the proposed utility easement vacation 06-2644 with the following condition:

1. Relocation of any existing utilities shall be at the owner/developer's expense.

PLANNING COMMISSION ACTION: yes Required
X Forwarded to City Council recommendation for approval Denied

Motion: Trumbo

Second: Graves

Vote: 8-0-0

Date: June 25, 2007

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 _____

CITY COUNCIL ACTION: yes Required
 Approved Denied

Date: July 17, 2007

ADJACENT PROPERTY OWNER NOTIFICATION FORM
FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

DATE: June 14, 2007

ADDRESS / LOCATION of Vacation: 1600 West 6th Street

ADJACENT PROPERTY address: Lewis Avenue, Fayetteville, Arkansas 72702

Lot: _____ Block: _____

REQUEST VACATION:

I have been notified of the petition to vacate the following (easement) described as follows:

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

ADJACENT PROPERTY OWNERS COMMENTS:

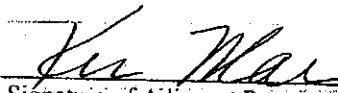
☐ I have been notified of the requested vacation and decline to comment.

☐ I do not object to the vacation described above.

☒ I do object to the requested vacation because:

SEE ATTACHED

Ken E. and Kathie A. Marvin
Name of Adjacent Property Owner (*printed*)


Signature of Adjacent Property Owner

Engineering Service, Inc.
Applicant Name

City Planning:

The rezoning request for VAC 07-2644 (Zaxby's) we have received should have been taken care of prior to start of construction.

When I wanted to drive over an alley on my own property, the mayor (Coody), said there would be no alleyway closures on his watch. So I was unable to build at that location.

I am totally opposed to this because I was denied this same request.

Ken Marvin

Kathie Marvin

Ken Marvin

Kathie Marvin

Engineering Services, Inc.

1207 S. Old Missouri Rd. • P. O. Box 282 • Springdale, Arkansas 72765-0282
Phone: 479-751-8733 • Fax: 479-751-8746

June 14, 2007

Andrew Garner
Planning Division
The City of Fayetteville
113 West Mountain
Fayetteville, AR 72701

RE: Easement Vacation
Zaxby's Restaurant

Dear Sir:

The enclosed material is being submitted to vacate an easement between Lewis Avenue and Eastern Avenue. In 1980 the alley between the two streets was vacated by Fayetteville Ordinance 2641. The easement was not vacated at that time. A Zaxby's Restaurant is planned for this location and the easement is located in the foot print of the building. The owners of the location are asking that the easement be vacated at this time.

Please do not hesitate to contact me with any questions regarding this project or the request for this vacation of an easement.

Sincerely,


Jim Harrelson
Project Engineer



Consulting Engineers and Surveyors

Jerry W. Martin, P.E.
President

E. Walt LeFevre, P.E.
Senior Vice President

Philip C. Humbard, P.E., P.L.S.
Vice President

Brian J. Moore, P.E.
Secretary / Treasurer

Engineering Services, Inc.

1207 S. Old Missouri Rd. • P. O. Box 282 • Springdale, Arkansas 72765-0282
Phone: 479-751-8733 • Fax: 479-751-8746

REASON FOR EASEMENT VACATION

The enclosed material is being submitted to vacate an easement between Lewis Avenue and Eastern Avenue. In 1980 the alley between the two streets was vacated by Fayetteville Ordinance 2641. The easement was not vacated at that time. A Zaxby's Restaurant is planned for this location and the easement is located in the foot print of the building. The owners of the location are asking that the easement be vacated at this time.

Please do not hesitate to contact me with any questions regarding this project or the request for this vacation of an easement.



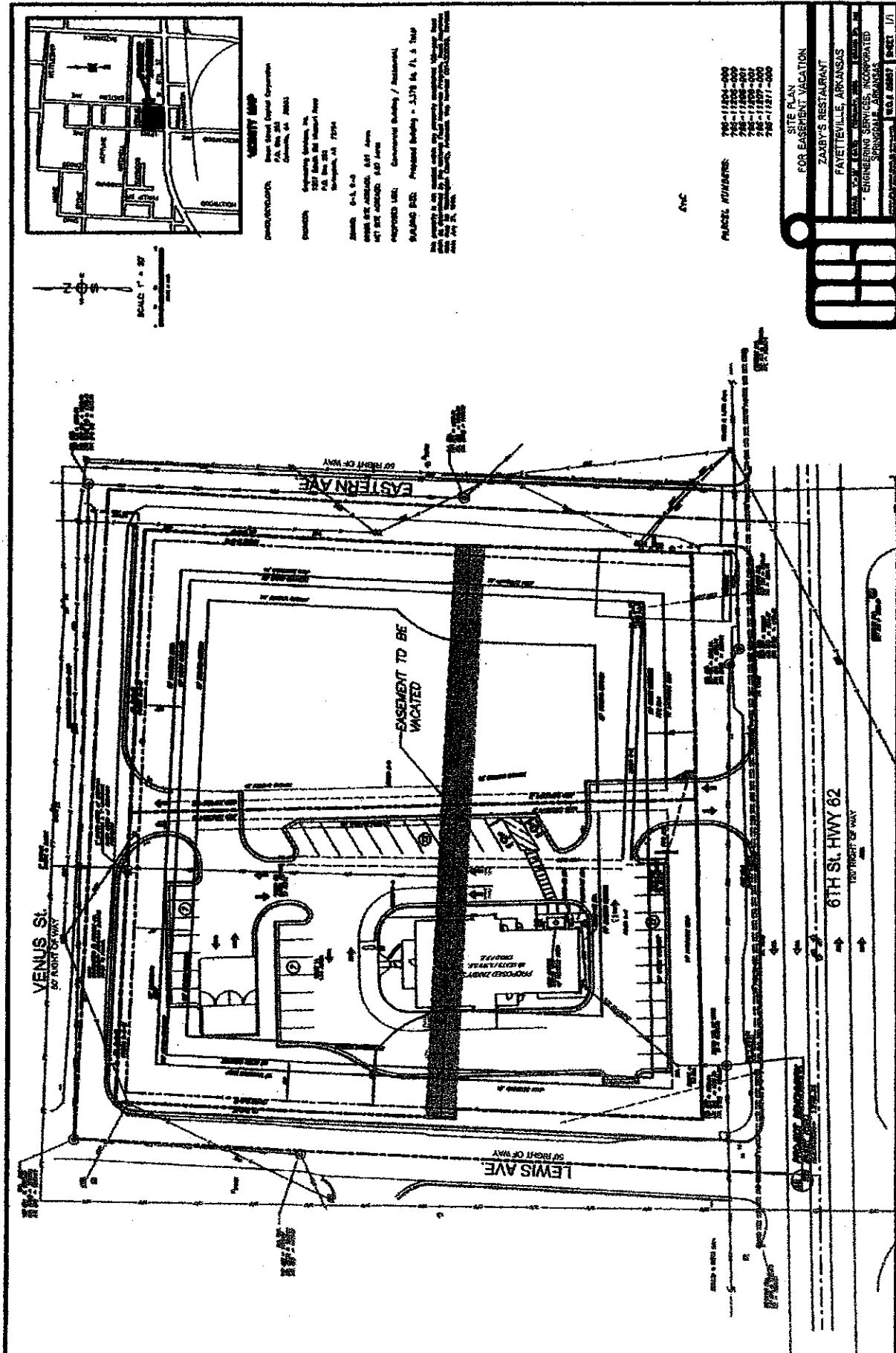
Consulting Engineers and Surveyors

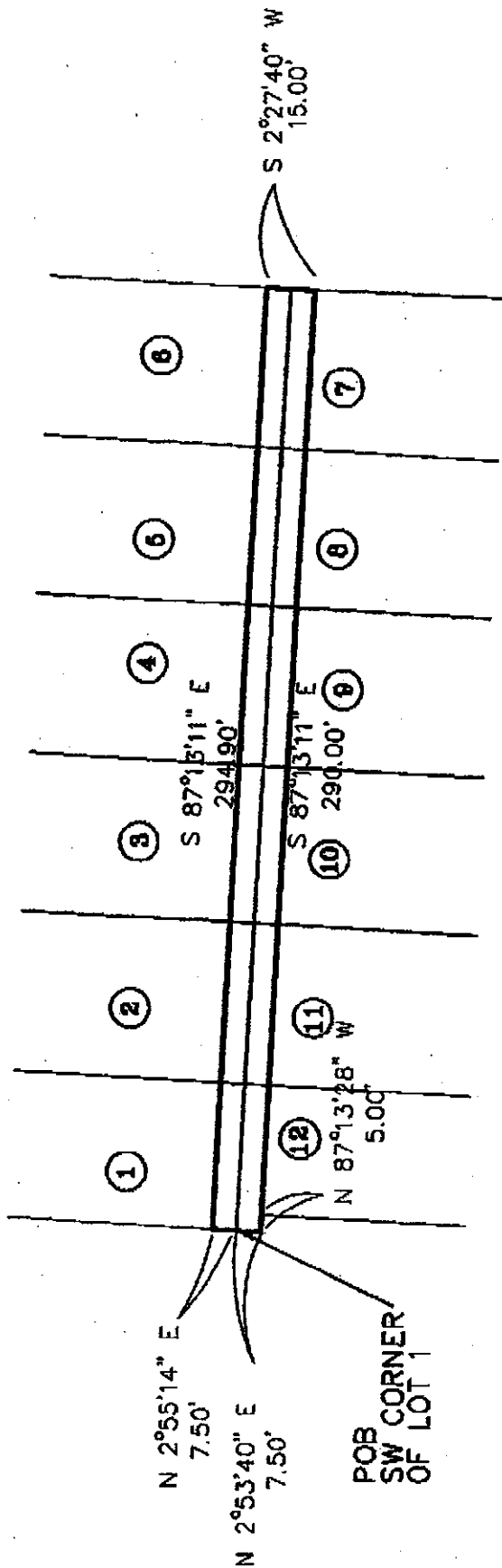
Jerry W. Martin, P.E.
President

E. Walt LeFevre, P.E.
Senior Vice President

Philip C. Humbard, P.E., P.L.S.
Vice President

Brian J. Moore, P.E.
Secretary / Treasurer



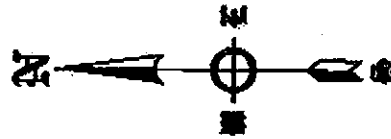


EASEMENT TO BE VACATED - SURVEY DESCRIPTION:

A portion of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, AND 12 of Block No. 2 of Sunset Addition to the City of Fayetteville, Arkansas according to plat recorded at Plat Book 5, Page 60A, records of Washington County, Arkansas, and is further described as the vacated alley according to Fayetteville City Ordinance No. 2841.

All being more fully described by metes and bounds as follows:

Beginning at a found 1/2" rebar at the Southwest corner of said Lot No. 1; Thence North 02°55'14" East, - 7.50 feet; thence South 87°13'11" East, - 294.88 feet; thence South 02°27'40" West, - 15.00 feet; thence North 87°13'11" West, - 280.00 feet; thence North 87°13'28" West, - 5.00 feet; thence North 02°53'40" East, - 7.50 feet to the POINT OF BEGINNING and containing 4420.35 square feet or 0.10 acres more or less.



UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: June 12, 2007UTILITY COMPANY: Ozark Electric CompanyAPPLICANT NAME: Engineering Services, Inc.
REQUEST VACATION (applicant must check all that apply)APPLICANT PHONE: 479-751-8733☒ 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**)

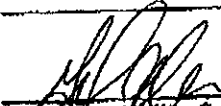
**

(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 purposed below.)

☐ No objections provided the following conditions are met.
Signature of Utility Company RepresentativeLead Staking Tech
TitleFebruary 2006
Page 5

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: June 12, 2007UTILITY COMPANY: Cox CommunicationsAPPLICANT NAME: Engineering Services, Inc.
REQUEST VACATION (applicant must check all that apply)APPLICANT PHONE: 479-151-8733☒ 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 purposed below.)

- ☐ No objections provided the following conditions are met.

Michael Smothers
Signature of Utility Company RepresentativeSurveyor
TitleFebruary 2006
Page 5

UTILITY APPROVAL FORM**FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**DATE: June 13, 2007UTILITY COMPANY: SWEPCOAPPLICANT NAME: Engineering Services, Inc.
REQUEST VACATION (applicant must check all that apply)APPLICANT PHONE: 479-751-8733

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

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

General location / Address (referring to attached document - must be
completed**)** See attached drawing

(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 purposed below.)

- ** No objections provided the following conditions are met.

Signature of Utility Company Representative

John Smith Engineer III 6-13-07
Title

Jim Harrelson

From: "CLOUSER, SUSAN K (ATTSWBT)" <sc9783@att.com>
To: <jlh.esi@cox-internet.com>
Sent: Wednesday, June 13, 2007 1:09 PM
Subject: RE: Easement

Jim

Here is a copy of the E-mail I forwarded to our ROW department in Little Rock. I have no objection to the easement vacation request and have forwarded this information to our ROW department in Little Rock to be signed off. You will be receiving the original documentation from Little Rock. It is required you have the vacation recorded at the court house for the vacation to be legal. If you have any questions or need further assistance please give me a call.

Thanks Sue

From: CLOUSER, SUSAN K (ATTSWBT)
Sent: Wednesday, June 13, 2007 1:03 PM
To: SOMMERFELDT PALMER, LYNDIA E (ATTSWBT)
Subject: FW: Easement

Lynda,

I have researched the attached easement vacation application request for Zaxby's restaurant at 6 and Lewis in Fayetteville, Arkansas. at&t has no existing utilities within the easement. I do not foresee any future need for the easement they are requesting to be vacated. I concur with this easement vacation request.

Please forward originals to:

US mail:

Jim Harrelson

ESI

P.O. BOX 282

Springdale, Arkansas

72765

or other carrier:

Jim Harrelson

ESI

1207 S Old Missouri Rd

Springdale, Arkansas

72764

From: Jim Harrelson [mailto:jlh.esi@cox-internet.com]
Sent: Wednesday, June 13, 2007 11:44 AM
To: CLOUSER, SUSAN K (ATTSWBT)
Subject: Easement

This is the easement to be vacated.

Thank you,

Jim Harrelson

479-751-8733

6/13/2007



Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

C. 5
VAC 07-2644 (Zaxby's)
T: 501.373.5255 Page 18 of 28
F: 501.373.0229
lynda.palmer@att.com

June 15, 2007

Jim Harrelson
ESI
P.O. Box 282
Springdale, AR 72765

Dear Mr. Harrelson:

RE: Easement Closing - Zaxby's Restaurant, Fayetteville

Please find enclosed AT&T's concurrence in your request to the above mentioned vacation.

This concurrence must be recorded at the Washington County Courthouse in the office of the circuit clerk to be complete and legal. I would appreciate you returning a copy of the document to me at the above address for my files.

If you have any questions or comments, please call me at 501-373-5255.

Sincerely,

Lynda Palmer

attachments



CONCURRENCE TO CLOSE A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the vacation of a dedicated utility easement in Fayetteville, Washington County, Arkansas, described as follows:

A portion of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Block 2 of the Sunset Addition to the City of Fayetteville, Arkansas, according to plat of record at Plat Book 5 at Page 60A, records of Washington County, Arkansas, and is further described as the vacated alley according to Fayetteville City Ordinance No. 2641, all being more fully described by metes and bounds as follows: Beginning at a found $\frac{1}{2}$ " rebar at the southwest corner of said Lot 1; thence N 02°55'14" east, - 7.50 feet; thence S 02°27'40" west, - 15.00 feet; thence N 87°13'28" west - 50.00 feet; thence N 02°53'40" east, - 7.50 feet to the POINT OF BEGINNING, and containing 4420.35 square feet or 0.10 acres, more or less.

Signed and executed this 18th day of June, 2007.

By: _____

F. Jean Davis
F. Jean Davis

Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the ____ day of June, 2007, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due authority.

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

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

Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011

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

DATE: 06/15/07

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

UTILITY EASEMENT

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

A portion of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of Block 2 of the Sunset Addition to the City of Fayetteville, Arkansas, according to plat of record at Plat Book 5 at Page 60A, records of Washington County, Arkansas, and is further described as the vacated alley according to Fayetteville City Ordinance No. 2641, all being more fully described by metes and bounds as follows: Beginning at a found ½" rebar at the southwest corner of said Lot 1; thence N 02° 55' 14" east, - 7.50 feet; thence S 02° 27' 40" west, - 15.00 feet; thence N 87° 13' 28" west - 50.00 feet; thence N 02° 53' 40" east, - 7.50 feet to the POINT OF BEGINNING, and containing 4420.35 square feet or 0.10 acres, more or less.

UTILITY COMPANY COMMENTS:

No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

UTILITY APPROVAL FORM**FOR RIGHT -OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**DATE: June 13, 2007UTILITY COMPANY: SWEPSCOAPPLICANT NAME: Engineering Services, Inc.
REQUEST VACATION (applicant must check all that apply)APPLICANT PHONE: 479-751-8733

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

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

General location / Address (referring to attached document - must be
completed**)**** See attached drawing**

(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 purposed below.)**

- ** No objections provided the following conditions are met.**

Signature of Utility Company Representative

John S. H. Engineer III 6-13-07
Title

ADJACENT PROPERTY OWNER NOTIFICATION FORM
FOR RIGHT-OF-WAY, ALLEY, AND EASEMENT VACATION REQUESTS

DATE: June 14, 2007

ADDRESS / LOCATION of Vacation: 1600 West 6th Street

ADJACENT PROPERTY address: 1561 West 6th Street, Fayetteville, Arkansas 72702

Lot: _____ Block: _____

REQUEST VACATION:

I have been notified of the petition to vacate the following (easement) described as follows:

(Included 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:

Linda L. Eaton
Name of Adjacent Property Owner (printed)

Linda L. Eaton
Signature of Adjacent Property Owner

Engineering Service, Inc.
Applicant Name



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

DATE: Wednesday, June 13, 2007

UTILITY COMPANY: Arkansas Western Gas Company

APPLICANT NAME: Engineering Services, Inc. APPLICANT PHONE: (479)751-8733

REQUESTED VACATION:

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

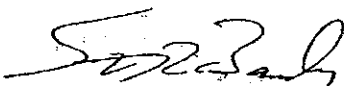
I have been notified of the petition to partially vacate the following Alley
(Please see list above)

Description described as follows:

See Attached

UTILITY COMPANY COMMENTS:

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


Signature of Utility Company Representative

Fayetteville Assistant Operating Manager
Title

UTILITY APPROVAL FORM

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

DATE: June 13, 2007

UTILITY COMPANY: Day. Water and Sewer

APPLICANT NAME: Engineering Services, Inc.

APPLICANT PHONE: 479-751-8733

REQUEST 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 purposed below.)

- ** No objections provided the following conditions are met.

Signature of Utility Company Representative

Water & Sewer ops mgr

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: June 12, 2007UTILITY COMPANY: Transportation-City of FayettevilleAPPLICANT NAME: Engineering Services, Inc.
REQUEST VACATION (applicant must check all that apply)APPLICANT PHONE: 479-751-8733

- 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:

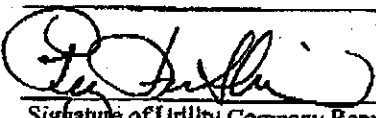
General location / Address (referring to attached document - must be completed)**

**

(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 purposed below.)
-
-
- No objections provided the following conditions are met.
-
-


Signature of Utility Company Representative

Transportation Supt. 6/13/07
Title
Transportation Division
Operations Department
City of Fayetteville

PAGE 02 ENGINEERING SERVICES

February 2006
Page 5

06/12/2007 15:43 4797518745

06/12/2007 11:35

479751

ENGINEERING SER

VAC 07-2644 (Zaxby's)
PAGE 02 Page 26 of 28

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: June 12, 2007UTILITY COMPANY: Solid Waste- City of FayettevilleAPPLICANT NAME: Engineering Services, Inc.APPLICANT PHONE: 479-751-8733REQUEST 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 purposed below.)

- ☐ No objections provided the following conditions are met.

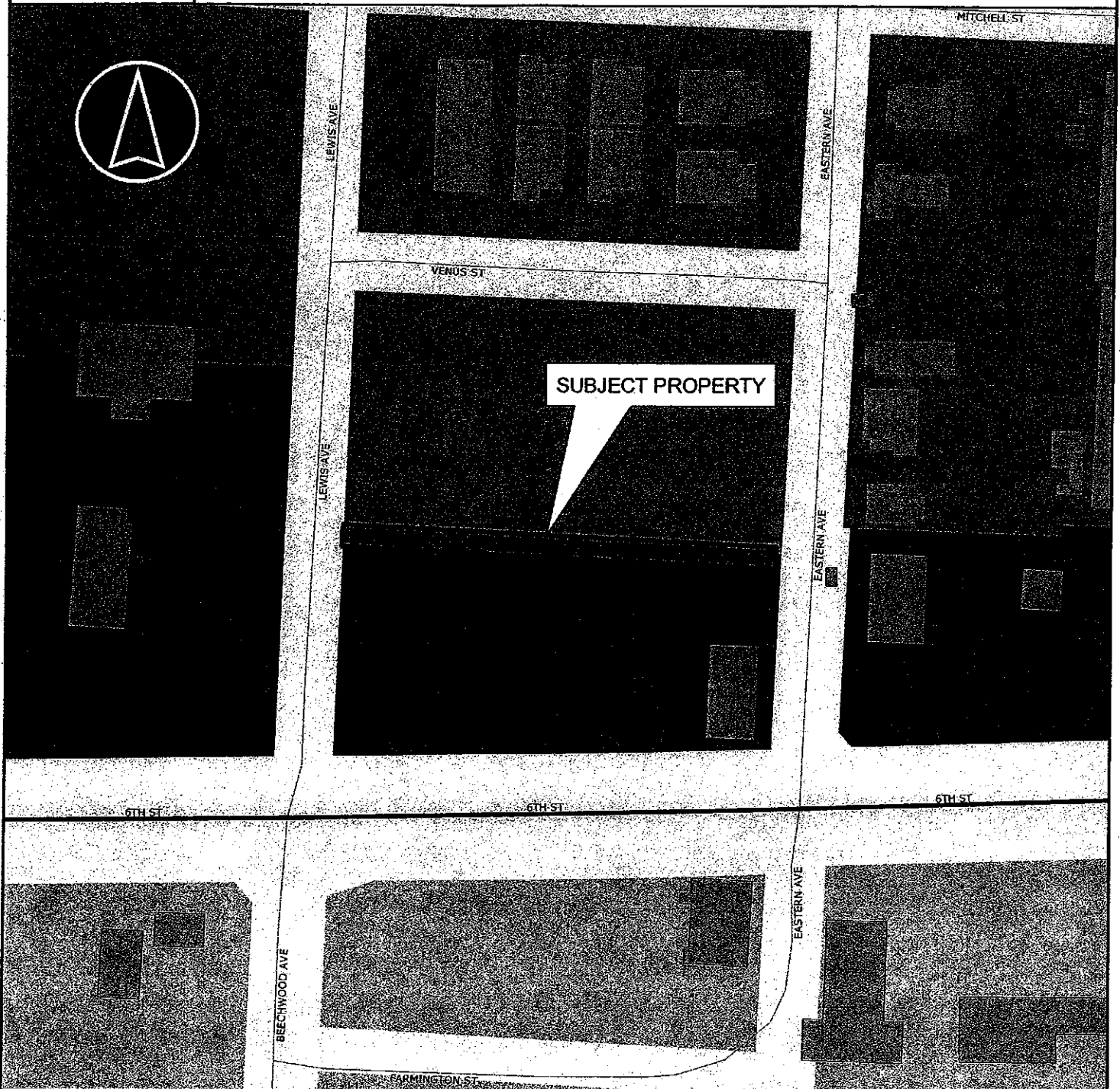
Beir Puf
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

VAC07-2644

Close Up View

ZAXBY'S



Overview



0 37.5 75 150 225 300 Feet

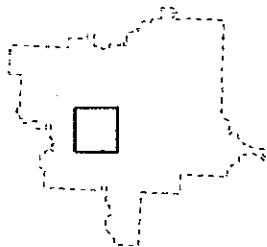
VAC07-2644

One Mile View

ZAXBY'S

SUBJECT PROPERTY

Overview



Legend

Subject Property

VAC07-2644

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

7/17/2007

City Council Meeting Date

Paul A. Becker

Submitted By

Finance Director

Division

Finance

Department

Action Required:

To authorize the Mayor to enter into a lease agreement with Growth Group Building, LLC for space in the EJ Ball Building in the annual amount of \$18,510. The space is needed for Information Technology Division's server room.

Annual (\$18,510) / 2007 (\$7,750)

Cost of this request

\$

12,918.00

Category / Project Budget

Lease Expense

Program Category / Project Name

1010.1710.5309.00

Account Number

\$

-

Funds Used to Date

Information Technology

Program / Project Category Name

\$

12,918.00

Remaining Balance

General

Fund Name

Project Number

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

ENTERED
6.28.07
CBP

Finance Director

Date

Received in Mayor's Office

ENTERED
7/3/07
BEP

Mayor

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Paul A. Becker, Director of Finance

Date: June 14, 2007

Subject: Purchase of a generator and approval of a lease agreement to provide additional space for the Information Technology Division

RECOMMENDATION

Finance Department staff recommends that the City Council approve the purchase of a generator for the Information Technology Division and a budget transfer from General Fund fund balance in the amount of \$65,000. Staff also recommends that the City Council authorize the Mayor to enter into a lease agreement for space in the E. J. Ball Building for the amount of \$18,510.00 annually.

BACKGROUND

The current physical location of computer equipment is creating a problem that has become acute. First, there is not enough physical space. There is no available space for adding equipment or increasing storage capacity. Second, and more important, electrical power needs are close to exceeding capacity. This means we can not increase storage capacity. We also need to install a new AS/400 and transfer data from the current machine and there is not enough power to run two machines during the conversion process. An immediate danger is that the HVAC system may malfunction due to over extension of the available power. If that happens, the computer will be shut down, which will result in the closure of all systems with the exception of the Police Department and Police Dispatch.

A data center must have a special HVAC system operating to provide humidity control, temperature control, air volume, and air filtration and the current system is over extended.

DISCUSSION

This space and power issue has existed for several years. However, the situation has now deteriorated to the point that it can no longer be deferred.

Alternative solutions were examined by staff as follows:

- 1) The current center in the Administration Building could be remodeled, which would require significant electrical upgrades as well as HVAC system upgrades and new equipment. This would cost an estimated \$503,220.

- 2) Necessary lease space is currently available in the E. J. Ball Building for \$18,510 annually. This space is particularly well suited for the City's needs because it was designed for very similar use. In addition to the lease payments, fire suppression equipment, a generator, and minor construction costs would be incurred. The total of this option is \$105,250 in equipment costs and annual lease payments of \$18,510.

A comparison of the two proposals indicates the lease option has a 21.5 year break even point as compared to the remodeling option. Also to be considered is that the interest earned on the difference in cash out lay for equipment would be approximately \$16,000 per year. For these reasons, staff recommends the lease option.

BUDGET IMPACT:

A budget adjustment is being requested for \$65,000 to cover the purchase of the generator and the associated installation/wiring of the server room. The adjustment is broken out as follows:

Generac 150kW Computer System Generator	\$	33,500
Generator Installation/Wiring/Conduit	\$	12,800
Generator Concrete Pad	\$	2,000
Arkansas Western Gas Intermediate Pressure Service Upgrade	\$	12,000
Data Center Wiring/Upgrades/Receptacles/Data Boxes	\$	4,700
Total	\$	<u>65,000</u>

RESOLUTION NO. _____

A RESOLUTION APPROVING A LEASE WITH GROWTH GROUP, LLC TO RENT SPACE IN THE E.J. BALL BUILDING TO HOUSE THE CITY OF FAYETTEVILLE INFORMATION TECHNOLOGY DIVISION'S SERVER ROOM FOR THE ANNUAL AMOUNT OF \$18,510.00.

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 Lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00. A copy of the Lease, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 17th day of July, 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

7/17/2007

City Council Meeting Date

Paul A. Becker

Submitted By

Finance Director

Division

Finance

Department

Action Required:

Approval of a bid waiver with United Engines for the purchase of a 150kW Generac generator for the amount of \$31,489.00 plus applicable taxes and shipping. Approval of a budget adjustment for \$65,000.

\$ 65,000.00

Cost of this request

\$ -

Category / Project Budget

IT Server Room Generator

Program Category / Project Name

1010.6600.5801.00

Account Number

\$ -

Funds Used to Date

Information Technology Impvs

Program / Project Category Name

07031.1

Project Number

\$ -

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

X

Paul A. Becker

Department Director

7-3-07

Date

Previous Ordinance or Resolution #

Original Contract Date:

J. J. Whit

City Attorney

7/3/2007

Date

Original Contract Number:

Marsha Farthing

Finance Director

6/28/07

Date

Received in City Clerk's Office



Alvin Cady

Mayor

7/3/07

Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Paul A. Becker, Director of Finance

Date: June 14, 2007

Subject: Purchase of a generator and approval of a lease agreement to provide additional space for the Information Technology Division

RECOMMENDATION

Finance Department staff recommends that the City Council approve the purchase of a generator for the Information Technology Division and a budget transfer from General Fund fund balance in the amount of \$65,000. Staff also recommends that the City Council authorize the Mayor to enter into a lease agreement for space in the E. J. Ball Building for the amount of \$18,510.00 annually.

BACKGROUND

The current physical location of computer equipment is creating a problem that has become acute. First, there is not enough physical space. There is no available space for adding equipment or increasing storage capacity. Second, and more important, electrical power needs are close to exceeding capacity. This means we can not increase storage capacity. We also need to install a new AS/400 and transfer data from the current machine and there is not enough power to run two machines during the conversion process. An immediate danger is that the HVAC system may malfunction due to over extension of the available power. If that happens, the computer will be shut down, which will result in the closure of all systems with the exception of the Police Department and Police Dispatch.

A data center must have a special HVAC system operating to provide humidity control, temperature control, air volume, and air filtration and the current system is over extended.

DISCUSSION

This space and power issue has existed for several years. However, the situation has now deteriorated to the point that it can no longer be deferred.

Alternative solutions were examined by staff as follows:

- 1) The current center in the Administration Building could be remodeled, which would require significant electrical upgrades as well as HVAC system upgrades and new equipment. This would cost an estimated \$503,220.

- 2) Necessary lease space is currently available in the E. J. Ball Building for \$18,510 annually. This space is particularly well suited for the City's needs because it was designed for very similar use. In addition to the lease payments, fire suppression equipment, a generator, and minor construction costs would be incurred. The total of this option is \$105,250 in equipment costs and annual lease payments of \$18,510.

A comparison of the two proposals indicates the lease option has a 21.5 year break even point as compared to the remodeling option. Also to be considered is that the interest earned on the difference in cash out lay for equipment would be approximately \$16,000 per year. For these reasons, staff recommends the lease option.

BUDGET IMPACT:

A budget adjustment is being requested for \$65,000 to cover the purchase of the generator and the associated installation/wiring of the server room. The adjustment is broken out as follows:

Generac 150kW Computer System Generator	\$	33,500
Generator Installation/Wiring/Conduit	\$	12,800
Generator Concrete Pad	\$	2,000
Arkansas Western Gas Intermediate Pressure Service Upgrade	\$	12,000
Data Center Wiring/Upgrades/Receptacles/Data Boxes	\$	4,700
Total	\$	<u>65,000</u>



City of Fayetteville

113 W. Mountain
Fayetteville, AR 72701
479-575-8214

To: Paul Becker, Finance Director

Thru: Scott Huddleston, IT Manager

Date: June 22, 2007

Subject: Bid waiver for a generator for IT relocation

RECOMMENDATION

The Information Technology department recommends approval of a bid waiver for the purchase of a Generac generator, 150 kW to provide an emergency back up power supply for the City's Data Center.

BACKGROUND

The City has installed the Generac generators in the majority of all remote sites including fire stations. All of the maintenance on these generators is done by the city. The parts are also supplied by the city. By staying with the same line of product, we will be able to maintain standardization of equipment as well as avoid training on the maintenance of two different product lines.

DISCUSSION

As recently as a few months ago, the city received bids for back up generators for another department. Generac did submit a bid, which was the lowest bid, for almost the same product that we are interested in purchasing. Their bid was disqualified because it didn't meet the specifications as outlined in Bid 07-40. It does, however, meet the needs of our department.

BUDGET IMPACT

We are needing a 150kW generator with cost not to exceed \$65,000.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING THE PURCHASE OF A 150kW GENERAC BACK-UP POWER GENERATOR FROM UNITED ENGINES IN THE AMOUNT OF \$31,489.00 PLUS APPLICABLE TAXES AND SHIPPING FOR THE INFORMATION TECHNOLOGY DIVISION; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$65,000.00.

WHEREAS, due to the fact that the Fire Department and the Water & Sewer Division have installed Generac generators at various locations, that City maintenance staff is already trained to service this brand, and that the City already stocks replacement parts for this brand, it is desirable that all of the back-up generators be of the same manufacture.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby finds that such circumstances constitute an exceptional situation where competitive bidding is not feasible or practical, waives the requirements of formal competitive bidding for back-up power generators, and approves the purchase of a 150kW Generac back-up power generator from United Engine in the amount of \$31,489.00 plus applicable taxes and shipping for use by the Information Technology Division.

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$65,000.00.

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

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

C. 7
United Engines
Page 6 of 8

Budget Year 2007	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 6/19/2007	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: \$65,000 is being requested in the IT Server Room Emergency Generator capital project.	Project or Item Deleted/Reduced: None. \$65,000 from the General Fund Use of Fund Balance account.
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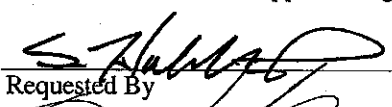
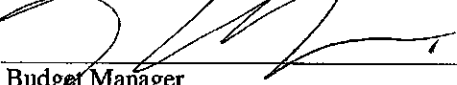
Justification of this Increase: The funding is needed to purchase a power generator and fixtures associated with the relocation of the Information Technology Server Room.	Justification of this Decrease: There is sufficient funding in 2007 to meet program objectives and City Policy.
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Fixed assets	1010	6600	5801	00	65,000	07031	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance	1010	0001	4999	99	65,000		

Approval Signatures		Budget Office Use Only					
Requested By 	6-28-07 Date	Type:	A	B	C	<u>D</u>	E
Budget Manager 	6/28/07 Date	Posted to General Ledger				Initial	Date
Department Director 	6/28/07 Date	Posted to Project Accounting				Initial	Date
Finance Director		Entered in Category Log				Initial	Date
Mayor							

**QUOTATION**To: Chris King
King Electric

Pages: 1

FAX: (479) 443-1719

Phone: (479) 443-0006

DATE: 06/21/07

RE: City of Fayetteville - Computer System Generator

We are pleased to offer the following **GENERAC** Generator for your consideration

GENERAC 150kW NG Rated Standby, with the following features:

GENERAC Standby 60 HZ

UL2200 Listed

480/277V

Natural gas

Brushless excitation

H100 digital controller

Standard weather enclosure w/ muffler inside enclosure

Electronic control panel

Battery w/rack installed

Battery charger

UL mainline circuit breaker

STD 2-year limited warranty

STD Level One guarding

Standard Electronic Governor

Flex fuel line-nat gas

Standard set of 3 manuals

GENERAC 400A Automatic Transfer Switch features:

Inphase adjustable control

NEMA 1 Enclosure

2-wire start circuit

STD 2-year limited warranty

Standard set of manuals

GENERAC 150kW Genset & 400A ATS purchased as a unit.....\$31,489.00 lot.**GAS CONSUMPTION:**

Consumption 2,061,000 BTU/Hr

Volume of gas at 14"WC.... 2061 cubic foot/Hr.

Note:

- Included is generator start up by factory trained technician with Load Bank if required, during the hours of 8:00am to 4:30pm Monday through Friday. Working after normal hours will incur overtime charges
- All pricing is each Delivered to site unless noted otherwise.
- Price does not include taxes, installation, fuel or, offloading at site.
- Delivery: Currently 8-10 weeks from date of confirmed, purchase order.
- All orders are NET 30 with approved credit application.
- Quoted pricing firm for orders received within 30 days.

Thanks for this opportunity to work with you.

Acceptance of quote:**Greg Esau**

GENERAC - Sales Engineer

918 / 230-1295

Company: _____

NAME: _____ DATE: _____

SIGNATURE _____

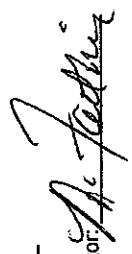
City Of Fayetteville

(Not a Purchase Order)

Vendor #: **5759** Vendor Name: **United Engines** Requisition No.: _____ Date: _____
 Address: _____ Fob Point: _____ P.O. Number: _____ Expedited Delivery Date: _____
 City: _____ State: _____ Zip Code: _____ Ship to code: _____ Mail Yes: _____ No: _____
 Taxable Yes: _____ No: _____ Quotes Attached Yes: _____ No: _____
 Requester: _____ Division Head Approval:  Extension: _____

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Generac 150kW Generator	1	ea	31,489.00	31,489.00	1010-6600-5801.00	07031		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				

Special Instructions: _____
 Subtotal: **\$31,489.00**
 Tax: **\$1,970.59**
 Total: **\$33,459.59**

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

CUP 07-2560- Bohot
Appeal



C. 8
CUP 07-2560 Bohot Appeal
Page 1 of 144

LEGAL DEPARTMENT

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

FROM: **Kit Williams**, City Attorney

DATE: **July 3, 2007**

RE: **Appeal of Bohot Conditional Use Permit
for in-home day care for eight children**

When considering the appeal of the Conditional Use Permit granted Wilma Bohot for home day care of eight children at her home on Country Club Hill, you should consider those factors enacted by the City Council as part of Chapter 163: **Use Conditions** of the Unified Development Code. These factors are spelled out for you within the packet prepared by the City's Planning Department. The Planning Department has made its recommendations for your consideration, but you also can consider much other evidence including: the minutes of the Planning Commission meeting, any petitions, letters, photographs, other documents and live statements from proponents and opponents.

Your authority to grant or deny a Conditional Use Permit is the same as the Planning Commission's once an appeal has been filed:

"(3) Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or

"(4) Deny a conditional use when not in harmony with the purpose and intent of this chapter."

§163.02 (B)(3) & (4) of the U.D.C.

You should consider all the factors specified in the Planning Department's report. I hope you will follow the Planning Commission's

example of touring the site to get a personal feel for traffic, parking, buffering and compatibility issues.

Probably the most difficult issue in this and every Conditional Use request is whether this use would have **"General compatibility with adjacent properties and other property in the district."** §163.02 (C)(3)(c)(ii)h. of the U.D.C. Because "compatibility" is not specifically defined in the U.D.C., the general rule of ordinance interpretation is that it should be understood in its ordinary, customary usage. Merrian-Websters Collegiate Dictionary, Tenth Edition does not separately define "compatibility", but does define "compatible" as:

"1. capable of existing together in harmony"

As "compatibility" here is used in a planning context, planning reference manuals may also provide useful definitions. The Planning Department may provide definitions from any such reference manuals for your assistance.

"Compatibility" is a factor whenever you consider rezoning. It is listed in two factors for the approval or rejection of a PZD. In most residential zones, the U.D.C. lists more "conditional uses" that would require "general compatibility" with nearby property than "uses by right." Thus, the City's decision makers, the Planning Commission and City Council frequently determine if a proposal is compatible with nearby properties.

A couple of other "side issues" came up during the Planning Commissions' consideration of this issue. One was possible restrictive covenants among the property owners in the County Club subdivision. Restrictive covenants in this case (and usually) are **private** contractual agreements between property owners that restrict the legal uses of the property. **The City is not a party to those agreements nor does it have any enforcement powers.** These restrictive covenants can normally be changed by a majority of owners. These agreements are generally enforced by the Property Owners Association (POA) which can sue offending members. The Circuit Court, not the City, is best equipped and the proper entity to interpret and enforce restrictive covenants. Therefore, the City of Fayetteville has consistently refrained from inserting itself into private contractual disputes between property owners.

Another issue is whether granting a conditional use in this case would constitute a precedent for later requests for other conditional uses. While I believe every conditional use request should be considered on its own merits, it would be you as the decision makers who would ultimately decide whether an existing conditional use should be relevant for compatibility reasons during a later request for another conditional use. You could decide it has no bearing, but you could decide it should be considered either for or against the proposed new conditional use.

It could be considered favorably, I suppose, if the existing conditional use had caused no problems. It could be considered negatively if the traffic from two (but not only one) conditional uses would adversely affect the surrounding neighborhood. A future Planning Commission or City Council could choose to consider an existing conditional use or not.

"Home occupations" which include child care for up to six children, instructional services, professional services and repair services are allowed as a conditional use in every residential zone and the downtown zones, but not in any commercial or industrial zone. Please note that the applicant has not been granted a conditional use for "home occupation", but for §163.05 **Child Care; Nursery School** which has different requirements and allows up to ten children.

June 27, 2007

City Clerk Sondra E. Smith
Fayetteville City Hall
113 West Mountain St.
Fayetteville, AR 72701

RE: Appeal of the Planning Commission's approval
of Conditional Use Permit #CUP 07-2560 (Bohot)

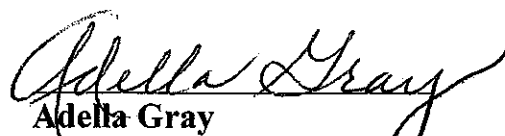
Dear Sondra:

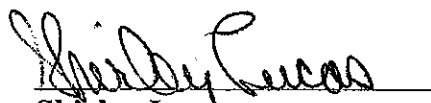
Please accept this letter as our appeal to the full City Council of the Planning Commission's approval of CUP 07-2560 (Bohot) by a 5-3 vote on June 25, 2007. This appeal is authorized by §155.05 (A)(6) of the Unified Development Code. The conditional use request was made pursuant to §163.02 and §163.05 of the UDC. Evidence was presented by neighbors that granting the conditional use would adversely affect the public interest and would not be generally compatible with adjacent properties, especially because of increased traffic concerns. Please place this on the City Council's Agenda for July 28, 2007.

1745 X

Sincerely,


Brenda Thiel
Alderman, Ward One


Adella Gray
Alderman, Ward One


Shirley Lucas
Alderman, Ward Four

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: June 28, 2007

Subject: Conditional Use for Bohot (CUP 07-2560)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted in favor of approving a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

BACKGROUND

The subject property is located at 124 E. 26th Circle in the Country Club Estates Subdivision, west of S. School Ave. The property is zoned RSF-4 and contains one single-family home on 0.38 acres. Access to the lot is by way of Country Club Drive, which serves as the single point of ingress and egress to the subdivision from S. School Avenue. The subject property is located three lots east of the intersection of Country Club Drive and E. 26th Circle, contains a large driveway and fenced-in rear yard.

A request for a conditional use for a home child care facility was brought before the Planning Commission on April 24, 2006 by the current applicant. Staff recommended approval of the request, finding that the conditional use would provide a resource to satisfy child care needs in the surrounding neighborhoods and not adversely affect the public interest. However, based on public comment voiced at the meeting, the Planning Commission voted 9-0-0 to deny the request. This item was not appealed to the City Council.

DISCUSSION

This item was heard at the regular Planning Commission meeting on June 25, 2007. The Planning Commission approved the conditional use request by a vote of 5-3-0. A significant amount of public comment was received with both conditional use requests. Minutes from the June 25th meeting are included in the attached materials, as is all correspondence received to date.

BUDGET IMPACT

None.



PC Meeting of June 25, 2007

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, Staff Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~June 19, 2007~~ Updated June 29, 2007

CUP 07-2560: Conditional Use (BOHOT, 679): Submitted by WILMA BOHOT for property located at 124 E 26TH CIRCLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.38 acres. The request is to approve a child care facility in the RSF-4 zoning district.

Planner: JESSE FULCHER

BACKGROUND:

NOTE: THE ENTIRE PACKET PRESENTED AT THE MAY 29, 2007 PLANNING COMMISSION MEETING HAS NOT BEEN REDISTRIBUTED, AS STAFF REQUESTED THAT YOU RETAIN THIS INFORMATION IN ORDER TO SAVE PAPER.

Property description: The subject property is located at 124 E. 26th Circle in the Country Club Estates Subdivision, west of S. School Ave. The property is zoned RSF-4 and contains one single-family home on 0.38 acres. Access to the lot is by way of Country Club Drive, which serves as the single point of ingress and egress to the subdivision from S. School Avenue. The subject property is located three lots east of the intersection of Country Club Drive and E. 26th Circle, contains a large driveway and fenced-in rear yard. Photos of the property have been provided in the packet.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Residential Single Family	RSF-4, Res. Single-family – 4 units/acre
South	Residential Single Family	RSF-4, Res. Single-family – 4 units/acre
East	Residential Single Family	RSF-4, Res. Single-family – 4 units/acre
West	Residential Single Family	RSF-4, Res. Single-family – 4 units/acre

June 11, 2007 Planning Commission: The subject conditional use request was scheduled to be heard at the June 11, 2007 Planning Commission meeting. However, due to the fact that there were only 6 commissioners present and that a conditional use requires 5 affirmative votes to pass, the applicant was given the option to table the request until the next regularly scheduled Planning Commission meeting. Although the applicant requested that the item be tabled,

Planning Staff provided a short presentation and public comment was taken by anyone who would not be present for the next meeting date. Minutes from the 06-11-07 meeting, with a synopsis of comments received, are included in the staff report.

May 29, 2007 Planning Commission: The subject conditional use request was scheduled to be heard at the May 29, 2007 Planning Commission meeting. However, due to the fact that there were only 6 commissioners present and that a conditional use requires 5 affirmative votes to pass, the applicant was given the option to table the request until the next regularly scheduled Planning Commission meeting. Although the applicant requested that the item be tabled, Planning Staff provided a short presentation and public comment was taken by anyone who would not be present for the next meeting date. Minutes from the 05-29-07 meeting, with a synopsis of comments received, are included in the staff report.

Previous Conditional Use Request (CUP 06-2019): A request for a conditional use for a home child care facility was brought before the Planning Commission on April 24, 2006 by the current applicant. Staff recommended approval of the request, finding that the conditional use would provide a resource to satisfy child care needs in the surrounding neighborhoods and not adversely affect the public interest. However, based on public comment voiced at the meeting, the Planning Commission voted 9-0-0 to deny the request. This item was not appealed to the City Council.

Proposal: The applicant requests a conditional use permit to operate a home child care facility in an RSF-4 zoning district with a maximum of 10 children. The child care facility will be located in an approximately 2,400 sq. ft. home, of which 400 sq. ft. will be devoted for child care use. A section of the backyard will be fenced off for the use of an outdoor play area. The play area will total 1,000 square feet and is proposed to be used by 10 children at one time; the ordinance would allow for a maximum occupancy of 10 children within this area. Proposed hours of operation are from 6:30 am to 5:30 pm. The approximate dimensions of the facilities provided are as follows:

Outdoor Play Area:	1,000 square feet
Lot Size:	16,500 square feet
Play Room:	400 square feet

Public Comment 2006: Staff received considerable public comment in opposition to the proposed home child care facility with the previous submittal. Homeowners within the neighborhood cited concerns with increased traffic, noise, compatibility and safety concerns as well as past problems with an illegal child care facility at another residence in the neighborhood. Additionally, the residents have stated that the covenants for the subdivision prohibits commercial activity being conducted from any lot or structure. The City of Fayetteville does not regulate or enforce private covenants.

Public Comment 2007: Staff has again received public comment in opposition to the proposed home child care facility. Residents of the neighborhood have cited concerns with increased traffic, parking, noise, and loss of property value, disruption of lifestyle and about the number of

times that the Fayetteville Police Department has been called to the subject property. Letters supporting the application have also been received with this application, and all comments received to date have been included in the Planning Commission's packet.

Sidewalks: The Sidewalk Coordinator has reviewed the site for sidewalk construction or money in-lieu requirements. However, there is an existing sidewalk constructed on the south side of 26th Circle, therefore neither sidewalk construction, nor money in-lieu is required.

RECOMMENDED MOTION: Consistent with the recommendation provided by staff in 2006 and based upon the applicant's actions and information provided in an attempt to address several of the concerns voiced by the public and Planning Commissioners, staff recommends approval of the home daycare facility at this address, with a maximum limit of 10 children. Staff finds this use is compatible with residential neighborhoods, and typically provides a service that is non-commercial in nature.

Staff recommends approval of the requested conditional use with the following conditions:

1. Prior to the issuance of a Certificate of Zoning Compliance the applicant shall provide a copy of an approved license from the Department of Health and Human Services for a home child care facility.
2. A Certificate of Zoning Compliance shall not be issued until the necessary fencing has been installed and inspected to provide a minimum of 800 square feet of enclosed, outdoor play space.
3. No more than ~~10~~ 8 CHILDREN (AMENDED BY PLANNING COMMISSION) or the number approved by the state's licensing board, whichever is fewer, shall be permitted at this childcare facility.
4. The daycare operator/homeowner shall advise all clients to park in the subject property's driveway if at all possible when dropping off and picking up children, in order to reduce the impact on the adjacent street. Pursuant to city ordinance, no driveway shall be blocked.
5. No signage or advertising shall be permitted on the subject property.
6. The subject property shall continue utilizing a residential cart for solid waste disposal. A commercial container for solid waste shall not be permitted.
7. (ADDED BY PLANNING COMMISSION) THE HOURS OF OPERATION SHALL BE LIMITED TO MONDAY-FRIDAY 7:00 A.M TO 6:00 P.M.

PLANNING COMMISSION ACTION: Required YES

Planning Commission Action: ☒ Approved ☐ Denied ☐ Tabled

Meeting Date: June 25, 2007

Motion: Ostner

Second: Cabe

Vote: 5-3-0

Comments:

AMENDED CONDITION #3 AND ADDED CONDITION OF APPROVAL #7.

The CONDITIONS OF APPROVAL listed in this report are accepted in total without exception by the entity requesting approval of this conditional use.

Name: _____

Date: _____

FUTURE LAND USE PLAN DESIGNATION: Residential Neighborhood Area. These areas are almost exclusively residential in nature, with conventional setbacks. This zone recognizes conventional subdivision development but encourages traditional neighborhood development that incorporates low-intensity non-residential uses.

163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: **The applicant has submitted a written application requesting a conditional use permit for a child care facility within the RSF-4 zoning district.**

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: **The applicant has paid the required filing fee.**

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: **The Planning Commission is empowered under § 161.07 (see attached) to grant the requested conditional use permit.**

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: **In staff's opinion granting the requested conditional use should not adversely affect the public interest, as the service will provide a resource to satisfy child care needs (3-5 year olds) in the surrounding neighborhoods. The peak of traffic will occur at 6:30 a.m. and 5:30 p.m., during drop-off and pick-up. The average daily vehicle trips generated by a child care service for 10 children at this location should not substantially increase traffic volumes in this area, in addition to the traffic generated by the neighborhood residents and golf course members.**

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: **The applicant has complied with specific rules governing this individual conditional use request.**

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The subject property is located on the first street in the subdivision, three lots east of Country Club Drive. Country Club Drive, which is the only ingress and egress to the area that is currently constructed, serves approximately 150 single-family homes and all members of the Fayetteville Country Club Golf Course. The proposed child care facility would provide services for no more than 10 children, resulting in a negligible increase in vehicle trips per day.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: Parking is required in the amount of one space per employee and one space per 10 children. The required amount of parking required by this request is a total of 3 parking spaces. The residential driveway and garage has a capacity for approximately 10-12 vehicles (based on submitted photographs and site visit). Therefore, there is adequate parking available on-site for the proposed use. No particular economic, noise, glare or odor effects of special exception are anticipated with a home daycare with a maximum of 10 children.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: The applicant shall coordinate with the Solid Waste division for appropriate solid waste disposal. The applicant shall utilize a residential waste disposal container.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: There are existing water and sewer lines serving the subject property.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: N/A

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Signage within the RSF-4 zoning district is prohibited.

(g.) Required yards and other open space; and

Finding: The subject property meets the requirements for a child care facility with maximum of 10 children in regards to lot area. The ordinance requires "a minimum outdoor play space of 80 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time."

	<u>Required</u>	<u>Provided</u>
Minimum lot area	250 SF/child = 0.05 acres	0.38 acres
Minimum Out Door Play Area	80 SF/child = 800 SF*	1,000 SF
* 10 children maximum are proposed to be in the play area at one time.		

(h.) General compatibility with adjacent properties and other property in the district.

Finding: The adjacent properties consist of single-family residential uses with the exception of the golf course and country club which are located a quarter mile to the south. The proposal to utilize this lot for a child care facility could serve the surrounding neighborhoods. Child care facilities are typically low-intensity uses, especially with the restrictions placed upon child care facilities in single family zoning districts, limiting the amount of children to a maximum of 10. The proposed use tends to fit into the CityPlan 2025 Residential Neighborhood Area designation, which encourages low-intensity, non-residential uses where appropriate. The applicant has shown good faith in attempting to address several of the concerns voiced in the previous Conditional Use Permit request, including construction of a fence. Given that the property will not significantly physically change to accommodate the proposed use and it is currently a single family home, which is in character with the surrounding neighborhood; and that the in-home day care facility is historically a low-intensity use, it is staff's finding that the proposal shows general compatibility with adjacent properties and other property in the district.

Chapter 163: Use Conditions

Sec. 163.05 Child Care: Nursery School.

All such establishments shall be located on lots which:

- (A) *Minimum lot area.* Contain a minimum lot area of 250 square feet per child.
- (B) *Minimum outdoor play space.* Provide a minimum outdoor play space of 80 square feet per child, calculated on the basis of the number of children occupying the outdoor play space at one time.
- (C) *Number of children.* In an R-1 zone, a child care facility may be approved as a conditional use of no more than 10 children, or the number of children approved by the state's licensing board, whichever is fewer.

(Code 1965, App. A., Art. 7 (7); Ord. No. 1747, 6-29-70; Ord. No. 2604, 2-19-80; Code 1991, § 160.082; Ord. No. 4100, § 2 (Ex. A), 6-16-98)

161.07 District Rsf-4, Residential Single-Family – Four Units Per Acre

- (A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq. ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
25 ft.	8 ft.	20 ft.

(F) *Height.* None.

- (G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

Unit 4. Cultural and recreational facilities.

(1) *Description.* Unit 4 consists of cultural and recreational uses to serve the residents of the community.

(2) *Included uses.*

Auditorium, stadium	
Art gallery, library, museum	
Cemetery	
Child care center, nursery school *	
Church	
College or university	
DormitoryCommunity center	
Auditorium, stadium	
Crematorium	
Detention home	
Community center	
Detention homeDormitory	
Eldercare	
Golf courses	
Hospital	
Park	
Mausoleum	
Playfield, playground	
Private club or lodge	
Riding stables	
School:	•Elementary •Junior High •Senior High
Swimming pool	
Tennis court	
Theater (legitimate)	
Zoo	

Cross-reference(s)--Parking and Loading, Ch. 172

172: Parking & Loading

172.05 Standards For The Number Of Spaces By Use

TABLE 3
PARKING RATIOS
(Use/Required Spaces)
Public and Institutional Uses
Nonprofit Commercial

Art gallery, library, museum	1 per 1,000 square . feet. of floor areaGFA
Auditorium	1 per 4 seats, provided only auditorium space is counted in determining parking
Child care center, nursery school	1 per employee plus on-site loading and unloading spaces at a rate of 1 per 10 children accommodated
Church/religious institution	1 per 4 seats in the main auditorium or 1 per 40 square. feet. of assembly area, whichever provides more spaces
College auditorium	1 per 4 seats
College dormitory	1 per sleeping room
College or university	1 per 500 square. feet. of classroom area
Community center	1 per 250 square. feet. of GFA
Detention home	1 per 1,500 square. feet. of floor areaGFA
Government facilities	1 per 500 square feet of floor area

APPLICANT'S PROPOSAL

Angel's Blessings
Wilma Bohot
124 East 26th Circle
Fayetteville, Ar 72701
(479) 527-9992

To Whom It May Concern:

I am proposing a license in home day care with a Christian Activity Learning Center.

My home consist of 2500 square feet. The children's learning center will be in the den of my home with a square footage of 400 feet.

The play ground measures to be over 1000 square feet with a secured fence.

The hours of operation for my day care will be 6:30 A.M. until 5:30 P.M. Monday thru Friday. I will be closed on weekends and all major Holidays.

I will be the sole provider for my licensed day care. I will have an occupancy of ten children.

My parking area can park 9 large vehicles at any given time.

I have sufficient out door lighting for the day care.

Enclosed you will find several letters pertaining to my business which include: a letter from the state licensing specialist, letter from the state nutritionist licensing specialist, letter from Dolphin Discover Day Care licensed provider and an inspection from the fire marshal.

I hope you will take into consideration that I have met all of the state and city safety codes.

Sincerely,

Wilma D. Bohot

Wilma Bohot

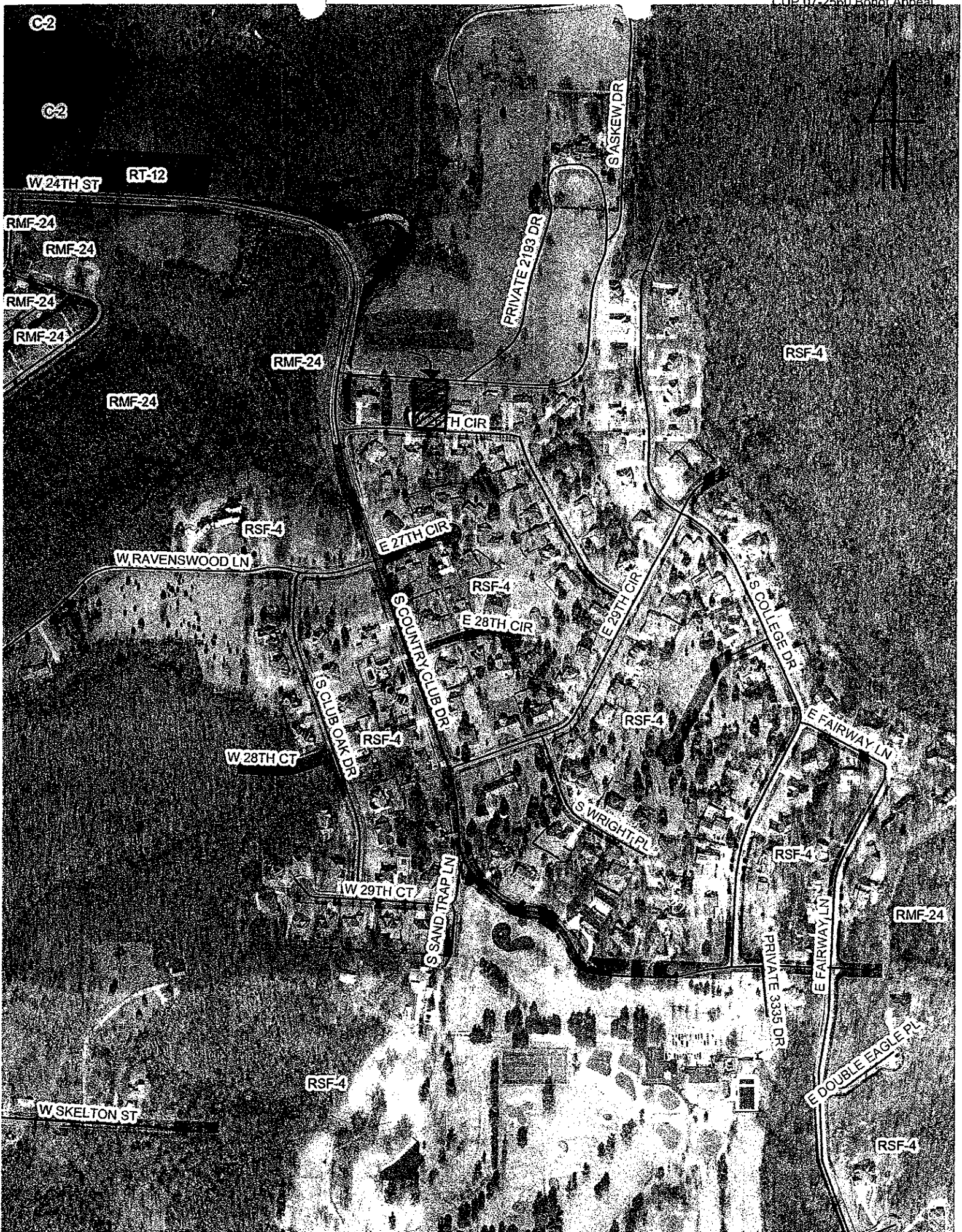


Route	Time	Stop Location	Washington Elementary Stop Description	Grade	AM/PM	School
M	6:15	2325 W. Stone	Bus Yard- Start Route	K-5	AM	Washington Elementary
M	6:20	509 E. 15 th Street		K-5	AM	Washington Elementary
M	6:23	S. Morningside Dr. & E. McClinton St.	Morningside Apartments	K-5	AM	Washington Elementary
M	6:24	S. Morningside Dr. & E. Fairlane St.		K-5	AM	Washington Elementary
M	6:25	741 S. Morningside Dr.		K-5	AM	Washington Elementary
M	6:30	777 S. Erika Ave.		K-5	AM	Washington Elementary
M	6:31	900 S. Erika Ave.		K-5	AM	Washington Elementary
M	6:32	E. Fairlane St. & S. Curtis Ave.	Southmont Apartments	K-5	AM	Washington Elementary
M	6:33	1101 S. Curtis Ave.		K-5	AM	Washington Elementary
M	6:36	E. McClinton St. & S. Janelle Ave.		K-5	AM	Washington Elementary
M	6:38	636 S. Wood Ave.		K-5	AM	Washington Elementary
M	6:40	401 W. 24th St	Grandview Apts. Country Club Dr & Fairway Ln	K-5	AM	Washington Elementary
M	6:43	3375 S. Country Club Dr.		K-5	AM	Washington Elementary
M	6:45	2876 S. Club Oak Dr.		K-5	AM	Washington Elementary
M	6:56	13th St. & S. College Blvd.		K-5	AM	Washington Elementary
M	6:57	12th St. & S. College Blvd.		K-5	AM	Washington Elementary
M	7:00	7th St. & S. College Blvd.		K-5	AM	Washington Elementary
M	7:05	E. South St. & S. College Blvd.		K-5	AM	Washington Elementary
M	7:10	S. Willow Ave. & E. Center St.		K-5	AM	Washington Elementary
M	7:11	S. Willow Ave. & E. Rock St.		K-5	AM	Washington Elementary
M	7:13	N. Fletcher Ave & E. Dickson St.		K-5	AM	Washington Elementary
M	7:15	N. Fletcher Ave. & E. Lafayette St.		K-5	AM	Washington Elementary
M	7:18	N. Mission Blvd. & E. Prospect St.		K-5	AM	Washington Elementary
M	7:19	N. Mission Blvd. & North St.	McNair Middle School	K-5	AM	Washington Elementary
M	7:20	E. Township St. & N. Terry Dr.		K-5	AM	Washington Elementary
M	7:21	E Township & N Winwood Dr		K-5	AM	Washington Elementary
M	7:25	3030 E. Mission Blvd		K-5	AM	Washington Elementary
M	7:35	425 N Highland Ave		K-5	AM	Washington Elementary

<u>Route</u>	<u>Time</u>	<u>Stop Location</u>	<u>Owl Creek Middle School</u> <u>Stop Description</u>	<u>Grade</u>	<u>AM/PM</u>	<u>School</u>
L	6:30	2325 W. Stone St	Start Route- Bus Yard	6-7	AM	Owl Creek Middle School
L	6:35	900 S Erika Ave.		6-7	AM	Owl Creek Middle School
L	6:38	E Fairlane St. & S Curtis Ave.		6-7	AM	Owl Creek Middle School
L	6:40	E Fairlane St. & S Emily Ave.		6-7	AM	Owl Creek Middle School
L		1100 S Happy Hollow Rd.		6-7	AM	Owl Creek Middle School
L		E 15th St. & S Hanna Dr.		6-7	AM	Owl Creek Middle School
L		S Morningside St. & E Pump Station Rd.	Shanondosh Mobile Park	6-7	AM	Owl Creek Middle School
L		3091 S City Lake Rd.		6-7	AM	Owl Creek Middle School
L		S City Lake Rd. & S Wilson Hollow Rd.		6-7	AM	Owl Creek Middle School
L	6:47	W Montgomery St. & S Irene		6-7	AM	Owl Creek Middle School
L	6:51	S School & W Cherry St.		6-7	AM	Owl Creek Middle School
L	6:57	401 W 24th St.		6-7	AM	Owl Creek Middle School
L		S Country Club Dr. & W 26th St.	Grandview Apts.	6-7	AM	Owl Creek Middle School
L	7:05	S Country Club Dr. & W 29th St.		6-7	AM	Owl Creek Middle School
L	7:09	S School & W 20 th St.		6-7	AM	Owl Creek Middle School
L	7:13	55 E 15th St.	Razorback Mobile Park	6-7	AM	Owl Creek Middle School
L	7:15	S College Ave. & E 13th St.		6-7	AM	Owl Creek Middle School

9/18/2006

<u>Route</u>	<u>Time</u>	<u>Stop Location</u>	<u>East Campus</u> <u>Stop Description</u>	<u>Grade</u>	<u>AM/PM</u>	<u>School</u>
L	7:40AM	W Montgomery St & Irene		8-9	AM	East Campus
L		S School St & W Cherry St		8-9	AM	East Campus
L	7:45AM	401 W 24th St		8-9	AM	East Campus
L		S Country Club Dr & W 26th St		8-9	AM	East Campus
L		S Contry Club Dr & W 29th St		8-9	AM	East Campus
L	7:50AM	S School St & W Nonemaker St		8-9	AM	East Campus
L		55 E 15th St		8-9	AM	East Campus
L	8:00AM	S College Ave & E 13th St		8-9	AM	East Campus
L	8:05AM	S College Ave & E 7th St		8-9	AM	East Campus
L	8:08AM	E 7th St & S Wood Ave		8-9	AM	East Campus
L	8:12AM	1001 W Stone St		8-9	AM	East Campus
L	8:15AM	401 S Sang Ave		10-12	AM	East Campus
L	8:20AM		East Campus Ramay Jr High	8-9	AM	Ramay Jr High



C-2

C-2

W 24TH ST

RT-12

RMF-24

RMF-24

RMF-24

RMF-24

RMF-24

RMF-24

RSF-4

RSF-4

W RAVENSWOOD LN

E 27TH CIR

RSF-4

E 28TH CIR

E 29TH CIR

S COLLEGE DR

E FAIRWAY LN

W 28TH CT

RSF-4

S CLUB OAK DR

S COUNTRY CLUB RD

W 29TH CT

S SAND TRAP LN

S WRIGHT PL

RSF-4

PRIVATE 3335 DR

E FAIRWAY LN

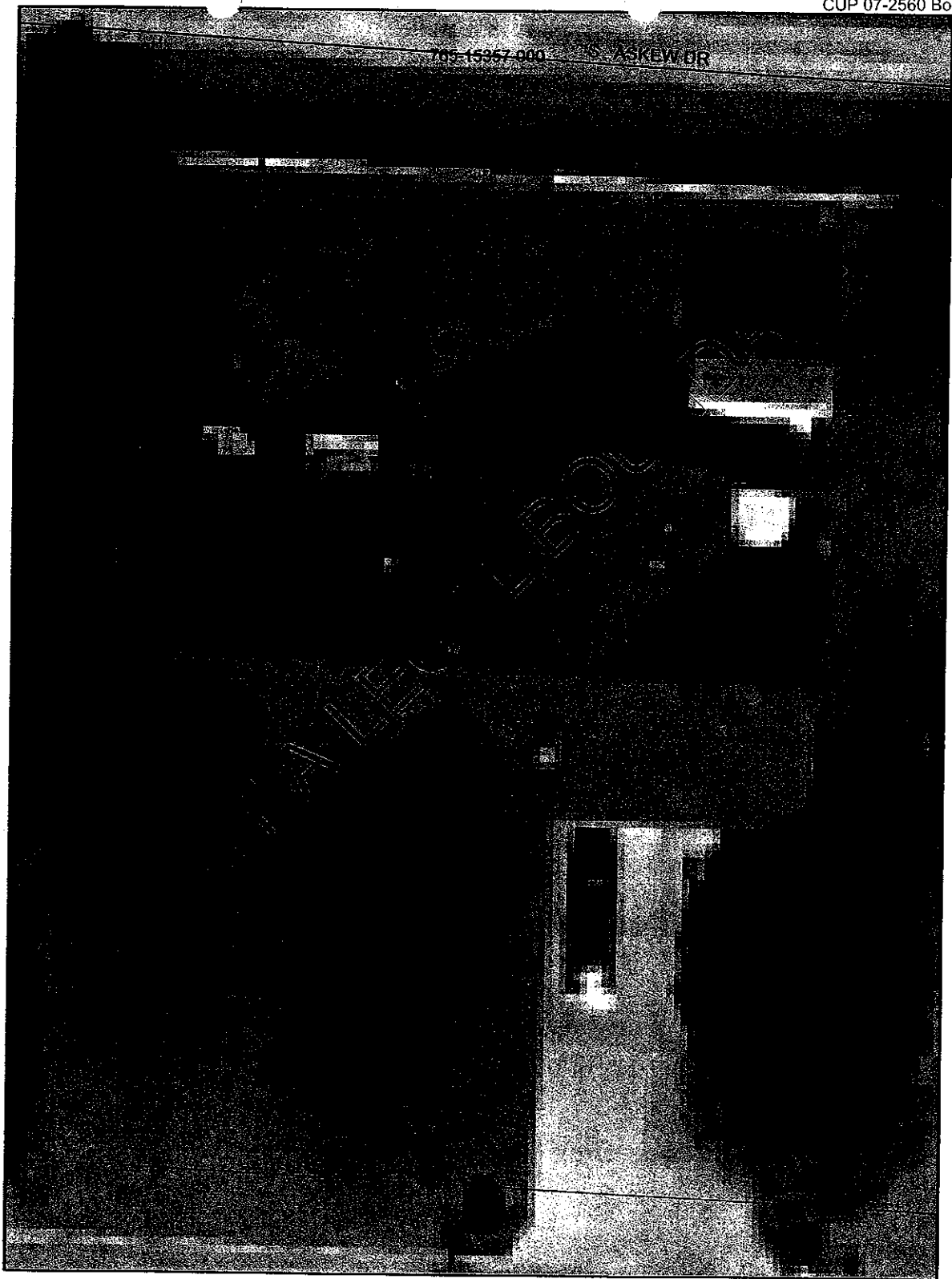
RMF-24

DOUBLE EAGLE PL

RSF-4

W SKELTON ST

RSF-4



County Disclaimer:

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1"-30'

ASKEW DR

RSF-4

124
26TH CIR

26TH CIR

RSF-4

137
26TH CIR

I sincerely ask that you approve me a conditional use permit to allow me the opportunity of following my dream of successfully operating a license in home daycare with a Christian Learning Area providing for up to 10 children. As you know we do have a growing demand for this service in our area.

Here is a summarized group of all the individuals that have observed my area and have written letters stating my qualifications.

- **Sue Butler**- Fire Department Inspection
- **Ann Dalton** – Child Care Licensing specialist
- **Tanya Sandage**- Child Care Nutrition Specialist
- **Casey Howell**- Licensed In-Home Day Care Director and Provider
- **Kit Williams**- City Attorney (No Letter)

I have also collected supporting signatures of over 30 neighbors with no objections to my proposal. (Several of which have young children.) I have left an open door & telephone number to address any concerns and objections have come to either. Enclosed are several pictures to show:

- **adequate parking**
- **Indoor play area**
- **Christian Learning Center**
- **Secured fenced yard for outdoor activities**

Also I have a list of character reference letters:

- **Bob Fant**- First Assembly of God Pastor
- **Bob Johnson**- Principle of Elmdale Elementary
- **Parents**-of several children that I have cared for and several other acquaintance letters.

With all the documented facts that I have brought to the table you should be able to see that I should have no problem at all operating a successful, safe and clean place for our children, while parents are away providing there family needs. I want parents to feel at peace knowing there children are with a licensed provider that has met all state and city requirements. Also, I am certified in CPR and taken required child learning classes. In closing I hope you give me a chance to fulfill my dream, and allow me to provide the safety our children so dearly need.

Sincerely,

Wilma D. Bohot

Wilma D. Bohot

Wilma Bohot
124 E. 26th Circle
Fayetteville, Ar

Angel's Blessings

Dear Neighbors:

I am proposing an in home day care with a Christian Activity Learning Center. I will not cause bother to any of my neighbors.

The children's ages will range from toddler to six years of age. I will be licensed for an occupancy of ten children.

The hours of my day care operation will be 6:30 A.M to 5:30 P.M. Monday thru Friday. I will be closed on the week ends and all major Holidays.

The children's learning center will be in the den of my home..

I will have a secured fenced-in play ground for children during recess and they will be supervised at all times!

If you have any questions please feel free to call me day or night at 479-527-9992.

For you my neighbors, I am going to have an open house for you to come see my set up on April, 28th between the hours of 10:00 A.M. and 12:00 Noon. Hope to see each and everyone of you!

Sincerely,

Wilma D. Bohot

Wilma Bohot

In packet

3-31-07

Casey Howell & F walked & visited these neighbors.

Angels Blessings

(The hours we went to these homes) 9:45 A.M. to 1:45
Open House for In Home Day Care at 24 East 26th Circle

Name	Address	Open House Yes or No
------	---------	-------------------------

John & Marie ^{Rose}	108 E 26th Circle	Refused to sign
Dave & Pat Harrop	145 W. 26th Circle	Refused to sign
Aola	137 26th Circle	Refused to sign
Doris	102 26th Circle	Refused to sign
Sandy & Gary	102 26th Circle	Refused to sign
Larry	116 E 26th Circle	went back would not sign
Stacy Hayes	14 26th Circle	Not home
Letter Vicki Martin	56 Circle	Not at home
Tammy Edrington	55 Circle	Not opposed
Letter Shirley Hardin	29 26th Circle	Not home
	40 26th Circle	Not opposed
	41 26th Circle	Not home
Letter Joselyn	23 Circle	Not home
	26th Circle	Not opposed
Letter	2730 Country Club	Not opposed
Louis Toth	337 26th Circle	No opinion
	49 27th Circle	No
Robert Kempen	48 27th Circle	opinion
Kirk Elsass	32 27th Circle	Not home
Fred Joe Starr	Ravenswood	Not home

Mark

2489

College Dr

Not home
CUP 07/2560 Bohol Appeal
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2555

College Dr.

2556

College Dr.

Patricia Derecsery

2583

College Dr

Not home
Not home

2590

College letter positive

Charlie Brown

2613

College Dr.

not home

Lori Derecsery

2651

College Dr.

no opinion

Judge

2624

college

Not opinion

2697

college

Not home

Tom & Connie Peri

2702

college

Not home

65

27th Circle

Not Home

64

27th Circle

No opinion

Sunday

4-1-07

I visited

John & Holly Watts

123 E 26th Circle

Not sure
2 kids

Mary Darlene Krotzrich

2720

S Country Club

decide

I also left letters to the homes
of whom would expect them to invite
them to my home for an open house
on April 28, 2007 10:00 a.m. to 12:00 Noon

**ARKANSAS DEPT. OF
HEALTH AND HUMAN SERVICES
LETTER**

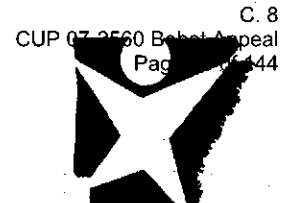


Arkansas Department of Health and Human Services

Division of Child Care and Early Childhood Education

4252 Frontage Road Fayetteville, AR 72703 Phone 479-442-4029 Fax 479-442-8896

P.O. Box 1437, Slot S-140 Little Rock, AR 72203-1437 • 501-682-4891 • Fax: 501-682-2317 • TDD: 501-682-1550



February 27, 2007

To Whom It May Concern:

I visited the home of Wilma Bohot on February 26, 2007 for a consultation to become a licensed child care family home. The home contains adequate space for a license capacity of ten children. The outdoor play area will be in the backyard of the home and there are no homes behind the Bohot residence. The home has a very large driveway with ample space for several cars to park off the street during drop off and pick up times.

Licensed child care continues to be a need in Northwest Arkansas and Ms. Bohot and her home would meet licensing requirements. If there are any questions regarding licensing please feel free to contact me at 479-442-4029.

Sincerely,

Ann Dalton
Child Care Licensing Specialist

Arkansas Department of Human Services
Division of Child Care & Early Childhood Education
Licensing Compliance Record

C. 8
 CUP 07-2560 Bohot Appeal
 Page 31 of 144

Facility Name Wilma Bohot Person in Charge Wilma Bohot
 Address 124 E 26th Ave Fayetteville Phone 527-9992
 Licensing Specialist Ann Walton Phone 442-4029
 Address 4252 Frontage Rd Fayetteville Page 1 of 1 Date of Visit 2-26-07
 Time: From 4:00 To 4:40 Type: CCFH Purpose: Consult

STANDARD REVIEWED	DISCUSSION/OBSERVATION	COMPLIANCE DATE	DATE CORRECTED
	Home meets requirements and provides space indoors and outdoors to be a licensed child care family home with a capacity of 10 children <u>- In packet</u>		

COMMENTS: _____

RIGHT TO APPEAL – for information on how to appeal items cited on this form or other licensing actions, refer to Section 103 in the “Minimum Licensing Requirements”.

Wilma D. Bohot 2-26-07 Ann Walton 2-26-07
 PERSON SIGNING AS RECEIVING DATE CHILD CARE LICENSING SPECIALIST DATE
 DCC 521 R(9/99)

**NEIGHBORHOOD SIGNATURES
NO OBJECTION TO PROPOSED DAY CARE**

Walked Country Club Hill
 Britney & I from 5:45 - 8:30 P.M.
 walked around the hill top.

C. 8

CLIP 07-2560 Bohot Appeal
 Page 30 of 144

Angels Blessings
 Wilma Bohot
 124 E. 26th Circle
 Fayetteville, AR 72701

4-2-07

To Whom it may concern:

I see no reasonable objection to Wilma Bohot having a Christian license in home day care.

Suzanne Clark	438 E. Fairway Lane	(retired) (very young)
DI VBS	2730 Country Club Dr	= 1 school age daughter
Leanne Dunn	45 E 27th Circle	= 2 kids in Fay. schools
EQ Frazier	2839 Country Club Ln	
Lakewood	4 East 28 Circle	Retired
Betty Maupay	14 East 28 Circle	Retired
Kim Claybrook	11 East 28th Circle	- 1 baby 6 months old
Sherry Howard	2891 S. Country Club	6 Kids
Pete Grace	29 E 29 Circle	
Kelly Gatta	20 E. 29 Circle	1 Kid - Age 20
Joy Greedee	2894 S. Wright Pl	
L. J. J.	2879 S Wright Pl	
Valerie Nichols	2911 S Wright Pl	2 children
JAMES HARVE	2916 S. WRIGHT Pl	2 CHILDREN
Wayne Osborn	2918 2918 S Wright	2 retire
She Day	33 E 29th circle	2 - kids
Vickie Martin	56 E. 26th Cir	grandchildren

I left letters with all these neighbors
 and invited them to my open house
 on April 28, 2007 at 10:00 a.m to 12:00 Noon!

Angels Blessings
Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

APRIL 3, 2007

To Whom it may concern:

I have no objection to Wilma Bohot having a license in home daycare
With a Christian learning area.

Name	Address	Kids
JAMES + SHIRLEY HARDIN	51 E 26 th Circle	
Deek & Merry Lee Book	17 E 26 Circle	
Diane Strayhorn	10 E. 26 th Cir.	
Cornie Dorre	2702 S. College Drive	
Darlene Hatfield	30 E 29 th Circle	

(Brittney and I walked around
this evening from 7:00 pm. to 7:30 pm
our neighborhood)

Angels Blessings
Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

APRIL 4, 2007

To Whom it may concern:

I have no objection to Wilma Bohot having a license in home daycare
With a Christian learning area.

Name	Address	Kids
Beth Island	2824 Club Oak dr.	2
Scott Turley	2910 Club Oak Dr.	
Ben B. Foster	2929 S. Club Oak Dr.	
Key Stout	155 W 29th Court	1
John L. Lyster	99 W 29th St.	0

my daughter Brittney and I
walked and talked about my day
care from 5:30 p.m. to 6:30 p.m.

4-9-07

Angels Blessings
 Wilma Bohot
 124 East 26th Circle
 Fayetteville, AR 72701

To Whom it may concern:

I have no objection to Wilma Bohot having a license in home daycare
 With a Christian learning area.

Name	Address	Kids
Kevin Griffin	26 W 26th Circle	—
JOHN SEXTON	2806 S COLLEGE DR	—
W. H. SUMMERS	2970 S COLLEGE DR.	0
Kanda Lamar	2953 S. College Dr.	0
Shanna Baul	2912 S. Wright Place	2
Kay Baul	2912 S Wright Place	↑
John W. Baul	123 E 26th Circle	2
Holly Baul	123 E 26th Circle	2
Daleo Phiggs	2720 CC Drive	—
Mike Phiggs	" "	—

LETTERS OF SUPPORT

Terry Talbott
2419 Turtle Creek Dr.
Rogers, AR 72756

May 9, 2007

To the City of Fayetteville:

I have been a friend of Wilma Bohot's for several months.
She is a wonderful woman and well respected.

I am well aware of Ms. Bohot trying to open an in home
daycare at her residence.

I feel she has all of the right qualifications to run an in
home day care.

She is wonderful with children in our public school system.

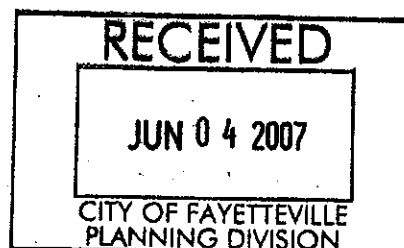
She is an excellent mother of three children.

I hope you highly honor Ms. Bohot to live out her dream.

Sincerely,



Terry Talbott



Pat Talbott
2419 Turtle Creek Dr.
Rogers, AR 72756

To Whom It May Concern:

I am writing the letter in reference to Ms. Wilma Bohot. I have been acquainted with Ms. Bohot for a long time. I know she is a Christian woman and good at heart.

I feel there is no reason why Ms. Bohot should be turned down on opening her own daycare out of her residence.

She is a very intelligent lady with a wonderful background of love for our children.

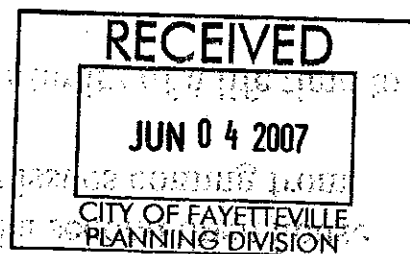
Ms. Bohot has made several changes to her home to get her operation up and going. She is going to hold a second open house to assure her neighbors there will not be any issues coming from her daycare.

I hope and pray you give Ms. Bohot an opportunity of a life time to live out her dream.

Thank you,



Pat Talbott



Rainbow Youth Connection Child Care Food Program

P.O. Box 756
Glenwood AR, 71943

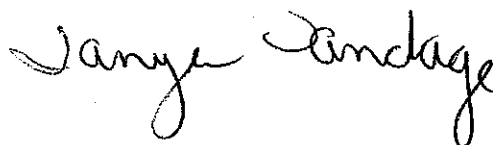
Phone (870) 342-5111 or 1-800-821-5281

Fax (870) 342-5114

To Whom It May Concern:

During a pre-operational visit to the home of Ms. Wilma Bohot, I had a chance to get to know Ms. Bohot and observe her neighborhood as well as her home. She has a large fenced in backyard and a large room that would act as an excellent play room. I also was able to look over her driveway and found no reason that Ms. Bohot would not make a wonderful place for children to spend their day. Ms. Bohot spoke to me about concerns from many of her neighbors about there being a home daycare within the neighborhood. To this I would ask that Ms. Bohot be allowed to at least be given a chance to show the concerned neighbors that her facility in no way be an inconvenience to them. The parents and children of the area would greatly benefit from having a place to leave their kids in a nice and peaceful environment. Please let Ms. Bohot follow her dream and open her very own in home daycare. If you have any questions please contact me at the number listed above.

Sincerely,



Tanya Sandage
Director
Rainbow Youth Connection
Inc.

April 3, 2007

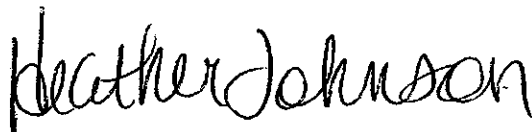
To Whom It May Concern:

My name is Heather Johnson and I reside at 2590 South College Drive. I have lived on the hilltop for several years and welcome the idea of my neighbor, Wilma Bohot, operating an in home daycare facility. I don't feel that it will cause any bother to our hilltop community.

As a parent whose child attends an in home facility across town, I know how important these places can be and what a welcoming relief it is to find someone that you can trust to take care of your children. Believe me when I say that an in home operator screens their parents as much as the parents screen the operator. I believe that Wilma will use her best judgment when inviting new people to our neighborhood. I think we should applaud Ms. Bohot for this undertaking and support her in any way possible.

If you have any questions please feel free to call my home at 443-4243.

Sincerely,

A handwritten signature in cursive script that reads "Heather Johnson". The signature is written in dark ink and is positioned below the word "Sincerely,".

Heather Johnson

Vickie Martin
56 East 26th Circle
Fayetteville, AR 72701

April 4, 2007

To Whom It May Concern:

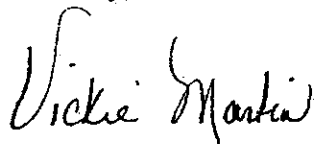
I have lived around the corner from Wilma Bohot for almost 18 years. I understand she has requested approval to set up a licensed home based day care center. I have no objection.

I drive by her house at least 4 times a day during the week. Since she is only the second house after you turn into our neighborhood, I do not feel increased traffic will be a problem.

Wilma is attempting her home based business so she can "make a living" for her family. She will be providing quality day care for the children of our area at affordable prices.

I wish her the best.

Sincerely,

A handwritten signature in cursive script that reads "Vickie Martin". The signature is written in dark ink and is positioned above the printed name.

Vickie Martin

To Whom It Concern:

4/14/07

Wilma bohhot is a loving and caring mother of three children. She is also a substute school teacher for the Springdale Public School System.

Ms. Bohot has a very nice living environment for her children and would love to share it with the dreams she has had for an in home day care.

She loves to work with children and their needs. She has plenty of back ground experience on child behavior and children's needs.

I hope and pray you give Ms. Bohot the opportunity to open an in home day care.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Self", written over the printed name.

(Licensed day care provider)

Greetings;

I wish to submit my vote of support in the issue of Wilma Bohot in her desire to start an in home day care.

I believe she has shown the desire and capability to run a day care at her home without impacting the suburban environment of her neighborhood.

Thanks for allowing my input.

Robert Whitemyer

A handwritten signature in black ink, appearing to read "Robert Whitemyer", followed by a long horizontal flourish.

Dolphin Discovery Daycare
1800 West Olive
Rogers, AR 72756
(479) 621-8758

To Whom It May Concern:

I am a licensed day care provider in Rogers. I have been in operation for five years.

As a day care provider I know the rules and regulations from the State and City.

Ms. Bohot has ran my day care for me on a numerous amount of occasions. She is a perfectionist when it comes to children.

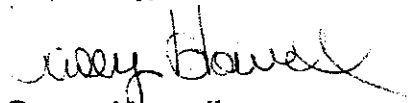
I have visited Ms. Bohot's residence several times. I feel she has a magnificent home for an in home daycare.

As for the parking that has been questionable from her neighbors, I feel she has more than adequate parking.

Ms. Bohot would like to open her doors for our children. I feel she has met all the requirements and regulations.

We need more in home day care like Ms. Bohot. I pray that you give her the chance.

Sincerely,



Casey Howell
Owner/Director

City Of Fayetteville,

I have known Wilma Bohot for years. I am very familiar with her residence. She has a very nice home with a safe environment for children.

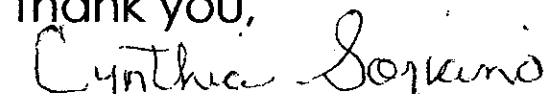
My mother owns Dolphin Discovery Daycare (a licensed day care in Rogers). Ms. Bohot has run the business for my mother on several occasions.

She is about the only person mother will allow to operate the daycare whiles she steps away. Ms. Bohot is wonderful with the children as we all know.

Ms. Bohot has an outstanding environment at her residence to operate an in home day care facility and I wish her well.

I hope you allow her to operate an in home day care. This is a woman with profession, strength and passion.

Thank you,


Cynthia Soriano

Elmdale Elementary School

420 North West End Street
Springdale, Arkansas 72764

Phone: (479) 750-8859

Fax: (479) 750-8861

Don Johnson, Principal
djohnson@sdale.org

Michele Hutton, Assistant Principal
mhutton@sdale.org

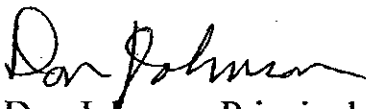
April 5, 2007

To Whom It May Concern:

Wilma Bohot has substituted at Elmdale Elementary as needed for the last couple of years. She has always come to a substitute assignment ready for work and on time, working in a professional and responsible manner. She has done a good job of following teacher lesson plans and the schedule left for her.

If you have any questions, please feel free to contact me or the sub coordinator, Mrs. Vicky Lachance, here at Elmdale.

Sincerely,



Don Johnson, Principal
Elmdale Elementary

DJ:kl



First Assembly Of God

1605 West Robinson Ave.

P.O. Box 7330

Springdale, Arkansas 72766-7330

Phone (479) 751-4459 • FAX (479) 751-4451

www.firstagspringdale.org

C. 8
CUP 07-2560 Bohot Appeal
Page 49 of 144

BOB J. FANT
Pastor

STEVE BORLAND
Youth Pastor

KEYLON COOK
Minister of Music

MARK HELLWIG
Children's Pastor

DON NYE
Senior Adult Pastor

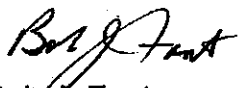
April 30, 2007

To Whom It May Concern:

Wilma Bohot faithfully attends First Assembly of God in Springdale, AR. and has for over three years. I recommend her to you.

It is my understanding that Wilma is endeavoring to start a daycare center and to run it built around Christian principles. Such a center would certainly be to the benefit of Christian parents and I believe Wilma will be able to operate such a center effectively.

Sincerely,


Bob J. Fant

5-1-07

To whom it may concern:

I am a teachers aide at Elmdale Elementary in Springdale. I have worked with Wilma Bohot in the class room with the students. I know she is great with the children and hope you will give her a chance to open her own business of an in-home licence day care.

Sincerely

Mrs Laney

5-9-07

I see no reason why Wilma Bohot would
not be a fine in home day care specialist.
She is a repeat sub teacher at Bayyori.

Mark Hery
Fayetteville Resident

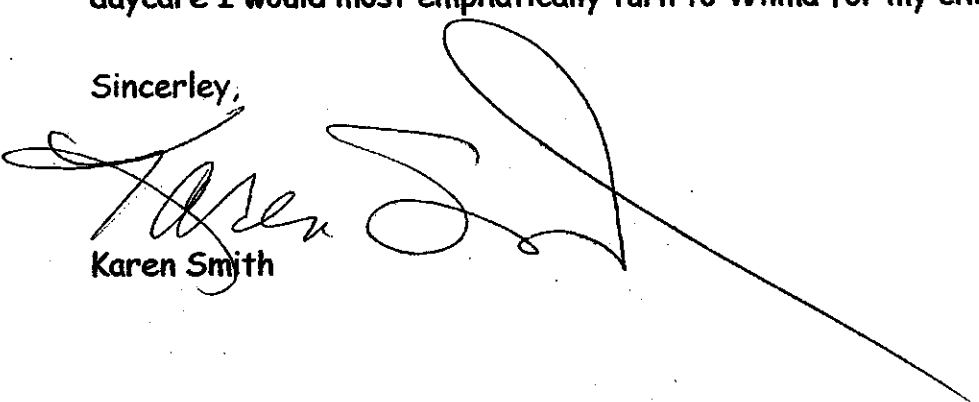
RECEIVED
MAY 09 2007
PLANNING DIV.

Karen Smith
2600 Bent Trail
Springdale, AR 72762
(479)751-8061

To Whom It May Concern

I would like to take this opportunity to say what I know about Wilma Bohot. She and her children faithfully attend the same church as I do, Springdale First Assembly of God in Springdale, AR. She rarely misses a service and has her children in all activities for children and youth. I have observed her motherly skills and feel she is an exceptional mother. I also know Wilma as a fellow substitute teacher for the Springdale School System. From my observation she is very loving, caring and concerned teacher. If I had young children that needed daycare I would most emphatically turn to Wilma for my children's care.

Sincerley,



Karen Smith

To Whom It Concerns:

I am fully aware of Wilma Bohot wanting to open an in home licensed day care.

I feel that she has all of the qualifications and requirements needed.

I think it should be considered for Ms. Bohot to be able to operate her own day care in her home.

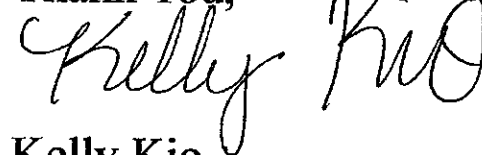
Ms. Bohot is very reliable and dependable. She is a loving and caring person.

I feel that she has the perfect set up in her home to provide the care that our children need.

Safety is a big factor to Ms. Bohot, however she has met all of the safety requirements as needed.

Please allow Ms. Bohot to open her day care soon.

Thank You,


Kelly Kio

Dear Wilma,

I am writing this letter for you wishing you the best for your in home day care.

Ms. Bohot has watched my children on several occasions. I find that she is very confident and very structured.

I think Ms. Bohot deserves a chance to have her own licensed daycare and to care for our children.

Please consider Ms. Bohot to establish her in home licensed facility.

Thank You,

Mike Ziem

A handwritten signature in black ink, appearing to read "Mike Ziem", with a stylized flourish at the end.

To Whom It May Concern:

I am writing on behalf of Wilma Bohot. I have known Wilma for several months and have been to her residence on several occasions.

I feel that Ms. Bohot has the appropriate home for an in home child care. I feel that children would succeed quite well in her environment as an in home learning facility.

Ms. Bohot is a substitute school teacher for the Springdale public school system wanting to venture out on her own.

I hope that you will give her this opportunity to allow Ms. Bohot her dreams.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matt Bevis".

Matt Bevis

To The City Of Fayetteville,

4/17/07

For Whom It May Concern: I have known Ms. Wilma Bohot for quite some time. She is a very good person and loves children. Ms. Bohot has watched my son on numerous occasions while at a licensed day care facility while the director stepped away to run errors.

Ms. Bohot is very enthusiastic with children and teaches them well. If I had to choose a daycare in the Fayetteville area I would for sure choose Ms. Wilma Bohot..

I know she will make an excellent day care provider for our children.

Thank You,

Valerie Booher
Valirie Booher

4/04/07

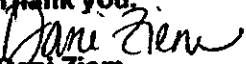
To Whom It May Concern:

I am writing on behalf of Wilma Bohot. Wilma has watched my 2 children on several occasions at Dolphin Discovery Daycare while the owner/director had stepped away or had to run an errand.

I have known Wilma for over 5 years. She is wonderful with children and would make any parent comforted to know that their children are under her care. She has had several years of experience with kids of various ages through substitute teaching, which that in itself takes a very special person.

I would definitely refer others in need of childcare to her establishment.

Thank you,


Dani Ziem

To Whom It Concern:

My name is Rene Rose and I am a resident of Benton County.

I take my son to a licensed daycare facility.

Wilma Bohot has stepped in and taken charge of the daycare while the owner was away.

I was very well satisfied with how well she took care of my son.

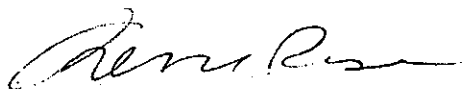
We need more caring and affectionate daycare providers in the area like Ms. Bohot.

I hope you allow her to operate an in home daycare out of her residence.

I know our parents will have a peace of mind at ease knowing our children are being taken well care of while in her presence.

Please allow Ms. Bohot this opportunity!!!

Rene Rose

A handwritten signature in cursive script, appearing to read "Rene Rose", written in dark ink.

To Whom It May Concern :

My Wife and I support Mrs. Bohot's
effort to establish a Christian
activity Learning Center.

With only 10 children and a fenced
play area, the safety of the children
is insured.

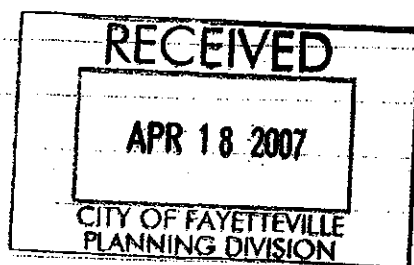
We look forward to hear the sound
of children in this area.

Jim & Shirley Hardin
51 E. 26th Circle
Fayetteville, Ar. 72701

TO Whom it may concern:

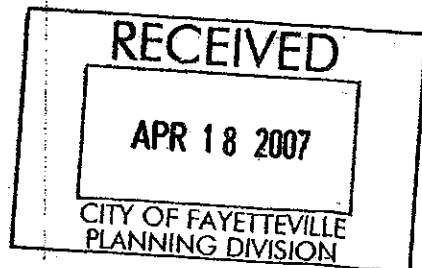
I have known Wilma Bohot for 20 years. She is very capable of running a respectable daycare. She has many years of experience raising and working with children in the school systems. She is a great parent and a very hard worker. I know she will do her best to provide ~~the~~ an excellent daycare for children.

Sincerely,
John Falen



To Whom it may concern:

my name is Brenda Fellen. I am a teacher and I work for Ozark Guidance. I have known Wilma Bohot for 23 years. She is one of the most caring and kindest people I know. Our children have played together and my daughter has stayed at Wilma's house. Wilma has been employed by the Springdale School District as a substitute teacher for three years. She works almost every day, that should say something good about her character. I believe Wilma will make an excellent day care provider. She will provide excellent care and fun activities for the children she will keep. The children will benefit greatly from a day care provider like Wilma Bohot.



Sincerely -
Brenda Fellen

5-1-87

To whom it may concern:

I am a teachers aide at Elmdale
Elementary in Springdale. I
I have worked with Wilma Bohot.
in the class room with the
students. I know she is
great with the children and
hope you will give her a
chance to open her own
business of an in-home licence
day care.

Sincerely

Mrs Laney

To whom it may concern:

I have know Wilma Bohot for all of her life. Therefor I feel I know her exceptionally well. So I very well know she would be able to work with children very well. Also her house is set up excelent for an in home day care plus it has it fence, whitch would cut down on noise greatly. Although I dont think noise would be a problem anyway because the children will be under supervision all the time.

Sincerely
Norma Wright
7/24/15, 2007

To planning commission
I strongly support Wilma
Bohot in having a in home
daycare by knowing her wonderful
mother 'ability I have witness

Sincerely, Eddie J. Scott

May 15, 2007
Sally
1158 Farmer Av.
Fayetteville
C. 8
07-2560 Bohot Appeal
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To the city of Fayetteville

I am writing on behalf
of Wilma Bohot in opening
an in home licensed day care

I have always known her
of having a unique quality
with children. She is an
exceptional single mother. She
makes sure her children are
always at church and at their
school functions. I am
praying you let her abilities
minister to the children she
would be guiding in her care.

Sincerely,
Sally Job

5-15-07

To whom it may concern
I have no objections to Wilma
Bohot having a inhome daycare because
she is very good with children
and sibs every day in Springdale
schools.

It will not cause an increase in
traffic because she is the second house
to the left of the neighborhood.

She has a fenced in yard which
would hold the children, noice not to
mention toys.

Wilma Bohot is a very loyal
person who deserves to have this
daycare

Sincerely, Eva Potts

Mayor, Dan Coody,
Alderman, Brenda Thiel
Alderman, Adella Gray

Planning Administrators
Jeremy Pate
Jesse Fulcher

Fayetteville Planning Commission:

Jill Anthes
Lois Bryant
Matthew Cabe
James Graves
Hilary Harris

Audy Lack
Christine Myres
Alan M Ostner
Sean Trumbo

RE: Wilma Bohot, In-home daycare at 124 E 26th Circle, Fayetteville

We wholeheartedly support Wilma Bohot and her desire to run a small daycare in her home. We live DIRECTLY across the street at 123 E 26th Circle. There would be less disturbance with a daycare run Monday-Friday 7:00am-5:30pm than when my family hosts a BBQ on the weekend, or an occasional meal on a weekday evening. And similar events by me, or other neighbors, would not be disturbed by the daycare only operating Monday-Friday.

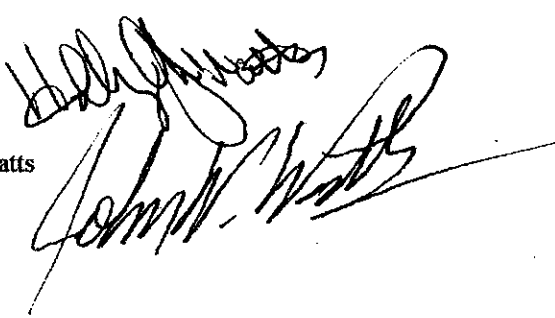
Many of the residents that complained last year when Ms Bohot requested this zoning change forget they have their grandchildren to visit their house sometimes, which is great, but those children are not always in the living room or the back yard as Ms Bohot's proposal would have. In fact, we should always be careful, especially in the summer when more grandchildren visit homes not prepared for children...because the kids are in the front yard. This is fine, we need to drive carefully in our neighborhood anyway, but to say Ms Bohot's daycare is going to hamper our desire to go somewhere quickly is narrow-sited and selfish. If Ms Bohot can provide a service "up on the hill" then it could reduce the amount of traffic as hill-tip residents take their kids here if they work at home, or not increase, as parents would have to leave their homes to take their children down the hill anyway.

Maybe one way Ms Bohot might help a potential traffic issue is to always have those dropping off or picking up children, pull into her driveway and not park on the street. She has a large driveway, that should be easy enough.

I realize those upset about the change in zoning will be the ones most vocal. We wish we were in town for the Planning Commission to voice our support in person and I hope this letter assures you of our support. We think there are some things worth fighting, this is not one of them. I wish those upset with Ms Bohot would have been at the zoning meeting establishing the property on the south side of 24th Street as available for 600 units. Now that, will decrease property value, not a residential daycare for 10 kids!

Sincerely,

John and Holly Watts

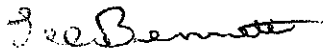


To Whom It May Concern:

5/22/2007

I and my family are members of First Assembly of God Church. We attend with Wilma Bohot and her children. I understand she is applying to start a day care facility. I sit beside her family and have observed her and her family and feel she would do well in this capacity.

Thank you,

A handwritten signature in cursive script, appearing to read "Lee Bennett".

Lee Bennett

LETTERS OF OPPOSITION

BILLIE & JOE FRED STARR

210 RAVENWOODS LANE • FAYETTEVILLE AR 72701

May 14, 2007

Mr. Jeremy Pate
c/o City Administration Building
113 Mountain Street
Fayetteville AR 72701

Dear Mr. Pate:

We have lived in the Country Club area for 25 years, a time when there were few houses and limited traffic. All that has changed in the past 10 years with new additions opening up and the traffic tripling.

We strongly object to a proposed day care center for this area and think it is inappropriate and unwise for a number of reasons, mainly the traffic issue as 24th Street/Country Club Road goes only as far as the country club and no further. Therefore, increased traffic poses a major problem, added to the fact that the majority of the residents are retirees who live quiet lifestyles and feel that the character of the neighborhood does not favor a busy day care facility.

We hope you will take these thoughts into account as you deliberate this request.



Billie & Joe Fred Starr

From: Lindsey Miller <vmclm@sbcglobal.net>
To: <jfulcher@ci.fayetteville.ar.us>
Date: 5/16/07 8:53PM
Subject: Conditional Use Permit

May 15, 2007

Dear Mr. Fulcher,

Please accept this letter as a formal request that you deny the request for a Conditional Use Permit for Home Child Care by Wilma Bohot at 124 26th Circle, Fayetteville.

This residential neighborhood is not appropriate for commercial ventures such as this. The property owners in this neighborhood have purchased their homes knowing this restriction and expecting this restriction to be maintained. Commercial ventures requiring parking and outdoors activities such as a playground would significantly and adversely affect property owners in this quiet neighborhood. The additional traffic, parking and noise are not desirable and can reduce the value of our property.

We would ask that you consider the negative impact this would have on all of the other owners in our neighborhood. It is our understanding that the very reason for needing to apply for such a conditional permit in a residential neighborhood is to protect the rights of the other property owners who bought their homes in a residential rather than commercial area. All of the owners in the area should be expected to maintain this restriction.

Lindsey & Virginia Miller
2780 S College Drive
Fayetteville, AR

From: "caddington" <coveta@fayfdc.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 5/7/07 7:55AM
Subject: City_Planning_request_for_denial_042607[1].doc

Mark and Coveta Lungaro
2489 South College Drive
Fayetteville, AR 72701
479.841.1145

April 26, 2007

FORWARDED VIA EMAIL

Mayor Dan Coody Alermen Brenda Theil and Adella Gray

Planning Commissioners:

Lois Bryant	Christine Myres	James Graves
Jill Anthes	Sean Trumbo	Alan Ostner
Audy Lack	Hilary Harris	Matthew Cabe

City Planning Department:

Jeremy Pate Jesse Fulcher

Ladies and Gentlemen:

RE: Request for Conditional Use Permit for Home Child Care
124 26th Circle, Fayetteville AR (Wilma Bohot)

Please consider this our request for denial for the subject Conditional Use Permit.

I have lived in this neighborhood for the past 15 years and consider such use would undermine the integrity of the neighborhood. Additionally, it would create a safety issue due to increased traffic. There was an unlicensed day care center operating within blocks of the subject home a few years ago and the amount of traffic and noise the operation created was less than ideal for the type of neighborhood with the average age estimated to be over 55.

Thank you for your consideration.

Sincerely,

Mark and Coveta Lungaro

Request to Deny

Dear Mr. Pate,

My name is Ada Hutchins.

I live at 137 E. 26 circle, F.Ville.

I am writing regarding a request from Mrs. Bohot to operate a Day Care Center out of her home on 124 E. 26 circle.

I live directly across from the Bohot residence and we are Strongly opposed to this

There is no commercial activity on our Hill. Our Hill has one way in and one way out, so traffic will turn and park in front of our home.

We chosen to build our "Retirement home" in this nice quiet residential area. As a retired teacher I know what it means to have a Day Care Cntr. in front of our home.

We strongly urge you to Deny this request for a Daycare Cntr.

Please, save our residential status and its Tranquility.

Thank you,

Respect-fully,

A. Hutchins

From: "Tara Van Nostrand" <etoile13@hotmail.com>
Date: 5/15/07 4:47PM
Subject: Request to Deny the Conditional Use Permit for Home Child Care to Wilma Bohot

Clear Day! am sending this email for my mother Linda Diane Phelan, who lives at 6 East 29th Circle. I would like to discuss the issue that Wilma Bohot, who lives at 124 26th Circle, be denied a permit to open a home child care center at her home. First of all we moved to this area to be close to the country club and be a little more secluded and away from traffic. If she is aloud to put a child center in her home there will be a lot of traffic and brings strangers in our area. I love to walk around my neighborhood because it is quite and has very little traffic. If there is a day care in the area that will go away. Second of all if she is allowed to put in this day care facility what will stop someone else from opening up a business. This area is for people who want to relax and get away from the noises of the city. Please consider the people who have lived up here and would like it to stay a nice, peaceful community and not a busy place for people who are in a hurry to take their children to day care.

Tara Van Nostrand

Ethan Van Nostrand
Born 4-11-07

Yahoo IM: etoile_jay
MSN IM: etoile13
AOL IM: etoile0613

From: Gwyn Wood <gwyn.wood@sbcglobal.net>
To: <balliehi@sbcglobal.net>, <cmypes@sbcglobal.net>, <jgraves@bassettlawfirm.com>, <janthes@uark.edu>, <jpate@ci.fayetteville.ar.us>, <jfulcher@ci.fayetteville.ar.us>, <strumbo@nicklehill.com>, <alan.ostner@sbcglobal.net>, <aostner@rauschcoleman.com>, <audy@mbi-arch.com>, <hharris@lindsey.com>, <matthew@allarch.com>, <mayor@ci.fayetteville.ar.us>, <ward2_pos2_@ci.fayetteville.ar.us>, <ward1_pos1_@ci.fayetteville.ar.us>
Date: 5/9/07 3:27PM
Subject: Request to deny conditional use permit - 124 26th Circle

Dear all,

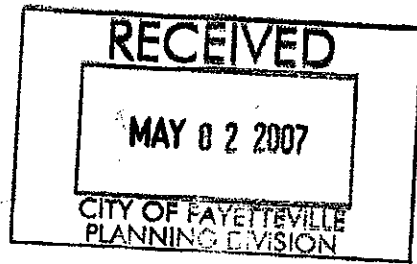
We wish to express our opposition to the request by Wilma Bohot, 124 26th Circle, Fayetteville, for a conditional use permit for a home child care center. This is the second time Ms Bohot has made this request. As fellow residents of the Fayetteville Country Club hill neighborhood, we feel that having a day care center in our midst will increase traffic and set a precedence for allowing businesses to operate on the hill.

We are concerned that the police have been called to the Bohot residence many times on complaints about the behavior of Ms Bohot's older son. We do not know if that son is living in the residence at present.

Please deny Ms Bohot's request for a conditional use permit for a child care center.

Thank you for your service to our city.

Jim & Gwyn Wood
2766 S. College Dr.
Fayetteville, AR 72701
443-4033



April 28, 2007
CUP 07-2560 Bohot Appeal
To: Planning Com.
Regarding a
Request to Deny

Dr. Sir:

My denial request is in regards to the opening of a Child daycare in this residential area by Wilma Bohot at 124 E. 26th Circle. I live next door and I'm an elderly widow that has lived here over 25 yrs. This block is home to 6 other dr. citizens and we all know how this would decrease our property value. Once one is allowed, it opens the door to other opening in this all residential area.

This is a very busy street that is the 1st. street that leads into the area. There are over 125 homes (and a Golf course that has 425 members coming & going) that adds to our traffic. There's only one entrance off of 71st. that is also the only exit for the whole area.

There is also another street behind her house that leads to other homes - and no fence anywhere. Two of us have had BB's shot into our homes by her own kids. You are welcome to come to my home & observe the whole area of my bedroom window that still has a hole in it. I certainly don't feel we need more problems and that we don't deserve it.

Thanking you,
Laney Higgins

April 28, 2007

To: Planning Commission
RE: CUP 07-2560 (Bohot, 679)

There is only one street leading up to this hilltop neighborhood. It is steep and winding and certainly not conducive to a service business. This neighborhood is largely composed of retirees. There are not many young families with young children living there. Furthermore, there are several buildings available for lease on Hwy 71 within a half-mile of the applicant's residence that would not need a CUP for the applicants proposed business.

Several years ago when Dawn Warrick was the Planning Administrator she had to deal with many complaints about a very similar situation. At that time, there was a daycare center, located on S. College in this neighborhood, which was operating illegally. The operators made it impossible to prove so it continued for some time. During that time, the police had to deal with traffic complaints from the neighbors and patrol the area regularly.

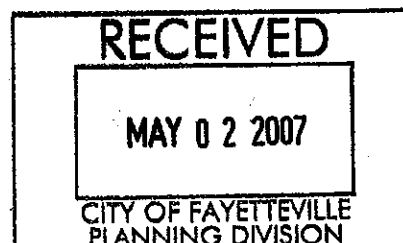
Needless to say, I do not believe that the police need to deal with the increased traffic that this business might generate during early morning and late evening hours. This neighborhood has formed a very active Neighborhood Crime Watch and they work very diligently to keep their neighborhood safe. The police have been called to this residence on numerous occasions in the past and this pattern has continued into 2007.

Again, please consider the incompatibility of this business in this quiet neighborhood and do not support this CUP. Thank you for your consideration.

Sincerely,

Chelsea D. Rodman

Chelsea D. Rodman
115 E. 26th Circle



April 28, 2007

To: Planning Commission
RE: CUP 07-2560 (Bohot, 679)

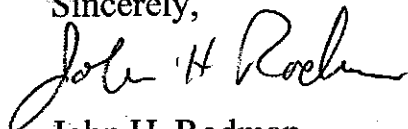
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Again, please consider the incompatibility of this business in this quiet neighborhood and do not support this CUP. Thank you for your consideration.

Sincerely,



John H. Rodman
115 E. 26th Circle

April 28, 2007

To: Planning Commission
RE: CUP 07-2560 (Bohot, 679)

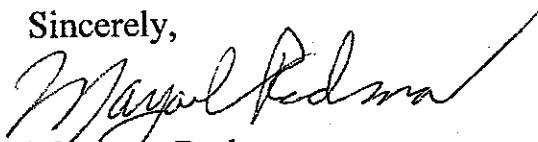
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Again, please consider the incompatibility of this business in this quiet neighborhood and do not support this CUP. Thank you for your consideration.

Sincerely,


Margaret Rodman
2835 Club Oak Drive

RECEIVED
MAY 02 2007
PLANNING DIV.

April 28, 2007

To: Planning Commission
RE: CUP 07-2560 (Bohot, 679)

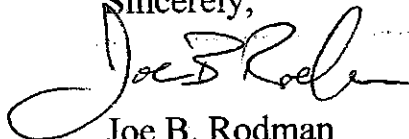
There is only one street leading up to this hilltop neighborhood. It is steep and winding and certainly not conducive to a service business. This neighborhood is largely composed of retirees. There are not many young families with young children living there. Furthermore, there are several buildings available for lease on Hwy 71 within a half-mile of the applicant's residence that would not need a CUP for the applicants proposed business.

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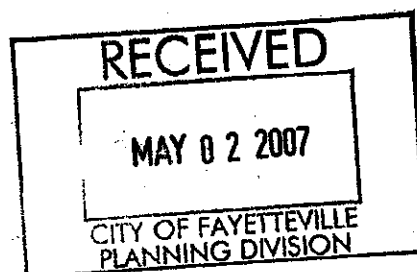
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Again, please consider the incompatibility of this business in this quiet neighborhood and do not support this CUP. Thank you for your consideration.

Sincerely,



Joe B. Rodman
2835 Club Oak Drive



harv & patt

From: "harv & patt" <harvpatt@cox.net>
To: <jgraves@bassettlawfirm.com>; <janther@uark.edu>; <jfulcher@ci.fayetteville.ar.us>;
<strumbo@nicklehill.com>; <alan.oster@sbcglobal.com>; <audy@mlb-arch.com>;
<hharris@lindsey.com>; <matthew@allarch.com>; <mayor@ci.fayetteville.ar.us>; <ward2 pos2
@ci.fayetteville.ar.us>; <ward2 pos1 @ci.fayetteville.ar.us>; <balliehi@sbcglobal.net>;
<cmmyres@sbcglobal.net>
Sent: Sunday, April 29, 2007 8:11 PM
Subject: conditional use permit 07-2560 (Bohot, 679)

Planning Commission
Fayetteville, AR

Subject: Conditional use permit 07-2560 (Bohot,679)

We are submitting a "request to deny" based on the following reasons:

1. The hilltop has always been "residential only" as stated in the covenants.
2. We have great concern that issuing a zoning change could open the area to other business and in addition, lower the property values.
3. We live almost directly across from the property in question and certainly do not need the additional traffic and noise. This area is primarily populated by retired persons and one of the primary reasons for living in this area is the peace and quiet.
4. The daycare would be used by few if any of our residents.
5. Based on the amount of police activity at this location in the past makes us wonder whether this person is capable or qualified to run any activity involving children.

We went through this just last year at which time the planning commission correctly denied the application. We would submit that nothing has changed that would reverse last years decision of denial.

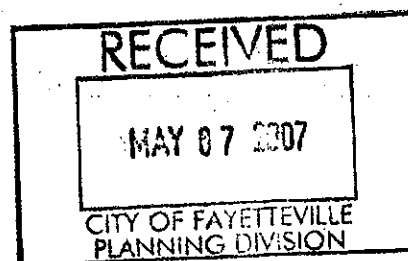
Respectively,



R. David Harvie

Patricia Harvie

145 E. 26th Circle
Fayetteville, AR 72701
479-443-6757



4/29/2007

May 2, 2007

Fayetteville City Planning and Zoning Commission
113 West Mountain Street
Fayetteville, AR 72701

Dear Sirs,

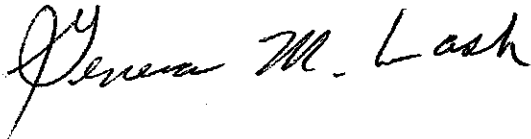
I would like to register my opposition to the request by Ms. Bohot for a conditional use permit to establish a day care center in her home at 124 26th Circle, Fayetteville. Given that this is a totally residential neighborhood, the presence of a day care center would pose a safety problem as well as a nuisance for us all.

Ms. Bohot has already been denied a conditional use permit last year and I feel that nothing has changed which would cause the Commission to reverse its earlier decision.

Please deny Ms. Bohot's petition.

Sincerely,

Geneva Lash
345 East Fairway Lane
Fayetteville, AR 72701



PLANNING DIV.
MAY 9 6 2007
RECEIVED

M M M
MITCHELL
37 East 29th Circle
Fayetteville AR 72701
(479) 582-0007

April 15, 2007

City of Fayetteville Administrators (see reverse)
City of Fayetteville Council Members (see reverse)
City of Fayetteville Planning Commissioners (see reverse)
113 West Mountain
Fayetteville, AR 72701

Re: Conditional Use Permit for Home Child Care
(Bohot – 124 26th Circle – Fayetteville AR 72701)

Honorable City Representatives:

De-Ja Vu!!! This communication is written to reiterate our formal opposition to any *additional* business enterprise on our residential hilltop.

For a second time and hopefully the last, REASONS TO DENY Request for Conditional Use Permit:

- We are Arkansas' largest cul-de-sac;
- Traffic-flow is max'd due to 140+ residents and 400 Members of the Fayetteville Country Club;
- Most residents are without children, retired and/or over the age of 60.
- The few residential children go to school. Therefore, NO DIRECT NEED for such commerce;
- Utilization of day care would oblige unwanted additional traffic at time our residents are rising, leaving and returning.
- We have many walkers (morning, afternoon, evening).

Please be assured, as parents and grandparents, our opposition IS NOT prejudice against children and/or toward Ms. Bohot. Succinctly put:

- As homeowners since 1990, we intentionally made a well-researched and informed decision to invest our assets, as well as our future, around the ambience of the solitude of this little hilltop community.
- We deliberately chose not to live near schools and/or businesses of any sort.

At this time we would like to express our appreciation for a fair and impartial consideration of the aforementioned matter and our request to deny the above-referenced Conditional Use Permit.

Sincerely,


Marvin Mitchell



Marie Mitchell

From: Bob and Pat Cooper <pnbcooper@yahoo.com>
To: <balliehi@sbcglobal.net>, <cmyres@sbcglobal.net>, <jgraves@bassettlawfirm.com>, <janthes@uark.edu>, <strumbo@nicklehill.com>, <alan.ostner@sbcglobal.com>, <audy@mbi-arch.com>, <hharris@lindsey.com>, <matthew@allarch.com>, <jpate@ci.fayetteville.ar.us>, <jfulcher@ci.fayetteville.ar.us>
Date: 4/24/07 10:10PM
Subject: Request to Deny Petition

Petition: Request for Conditional Use Permit for Home Child Care
Submitted by: Wilma Bohot, 124 26th Circle, Fayetteville
To be Considered: May 14, 2007 by Planning Commission

Mrs. Bohot's petition was previously denied by the planning commission as being unsuited for the neighborhood. Our neighborhood consists primarily of retirees who have no need for child care. There is only one two-lane street into and out of our neighborhood and a day care center would therefore not be on the route to and from work for potential clients and would increase our traffic flow. Our neighborhood is exclusively single family residences and having a commercial business will degrade the integrity of our area. Conditions in our neighborhood are unchanged from when the planning commission denied Mrs. Bohot's petition a year ago. Having an in-home daycare was unsuitable then and is unsuitable now.

I request that Mrs. Bohot's petition be denied.

Thank You,
Bob and Pat Cooper
2957 So College Drive
Fayetteville, AR 72701

Mrs. Helen Kirby
2747 South College Avenue
Fayetteville AR 72701
(479) 442-5063

April 25, 2007

City of Fayetteville Administrators (see reverse)
City of Fayetteville Council Members (see reverse)
City of Fayetteville Planning Commissioners (see reverse)

Re: Conditional Use Permit for Home Child Care
(Bohot: 124 26th Circle – Fayetteville, AR 72701)

Honorable City Representatives:

As a resident of South Mountain (Fayetteville Country Club) for 16½ years, I hereby formally **request denial** of the above-referenced Conditional Use Permit. I am listing just a few reasons for **request to deny**:

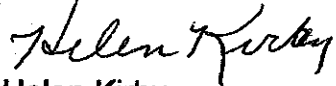
- (1) The majority of residents are [*far*] beyond child-bearing years;
- (2) Many are widowed;
- (3) Few "families w/children" actually reside upon our hilltop. Those that do, however, are transported to other school districts. Therefore, *requiring no daycare services*.
- (4) Residential traffic (140+), combined with Country Club members (400), is volume enough for a hilly/curving/1-way in/out road;
- (5) Although several sub-divisions exist upon our hilltop, most have *covenants that prohibit commercial businesses*, which begs the question, "why would city government supersede the will of the majority?"

Opposition is to *commercializing* a residential community. If approved, you set a precedent for other types of conditional uses. Where will it end? How can it be stopped? Simply put: *deny* said request.

Please take into consideration as well – homes were built and investments made. We simply do not wish to commingle residential and commercial zonings.

Thank you for your judicious consideration in this matter.

Respectfully,


Helen Kirby

From: Jim Hashbarger <jlhashbarger@hotmail.com>
To: <balliehi@sbcglobal.net>, <cmyres@sbcglobal.net>, <jgraves@bassetlawfirm.com>, <janthes@uark.edu>, <ipate@ci.fayetteville.ar.us>, <jfulcher@ci.fayetteville.ar.us>, <strumbo@nicklehill.com>, <alan.oster@sbcglobal.com>, <audy@mbi-arch.com>, <hharris@lindsey.com>, <matthew@allarch.com>, <mayor@ci.fayetteville.ar.us>, <ward2_pos2@ci.fayetteville.ar.us>, <ward1_pos1@ci.fayetteville.ar.us>, <mitchellm@cox.net>
Date: 5/1/07 1:03PM

Dear Commissioners and Administrators,

I reside at 2519 South College Drive in the Fayetteville Country Club neighborhood. I am writing to express my opposition to the request for a Conditional Use permit for home child care by Wilma Bohot at 124 26th Circle.

First, I do not understand why this is being considered again after being denied less than a year ago. Is there not a limit to the number of times a person can bring forth the same request? If circumstances have changed, please let me know what those changes are.

The reasons for my opposition are:

This neighborhood consists of mainly older people without children. Therefore, there is no real need for this facility.

This is a rather secluded neighborhood in which the residents enjoy being away from traffic and noise. A child care facility will bring both to the area.

The owners purchased their property with the knowledge that it was a residential neighborhood and have the right to see that it remains just that. Why this business should be allowed to impact the desirability of our investments for the benefit of one person, is not clear to me. The vast majority of people living in this area do not want this exception granted. What other business might apply for an exception?

This request should be denied AGAIN, and permanently this time.

Jim Hashbarger
2519 South College Drive
575-9301

Connect to the next generation of MSN Messenger
<http://imagine-msn.com/messenger/launch80/default.aspx?locale=en-us&source=wlmaitagline>

From: "GP125" <gp125@sbcglobal.net>
To: "Lois Bryant Ward 1 Planning Commission" <balliehi@sbcglobal.net>, "Christine Myres Ward 4 Planning Commission" <cmmyres@sbcglobal.net>, "James Graves Planning Commission Ward 1" <jgraves@bassettlawfirm.com>, "Jill Anthes Ward 2 Planning Commission" <janthes@uark.edu>, "Sean Trumbo Ward 4 Planning Commission" <strumbo@nicklehill.com>, "Alan Ostner Ward 2 Planning Commission" <aostner@rauschcoleman.com>, "Audy Lack Ward 3 Planning Commission" <audy@mbi-arch.com>, "Hilary Harris Ward 1 Planning Commission" <hharris@lindsey.com>, "Matthew Cabe Ward 1 Planning Commission" <matthew@allarch.com>
Date: 4/22/07 4:35PM
Subject: Pls Deny W. Bohot Request for Neighborhood Day Care Center

Members of the Planning Commission,

Subject: W. Bohot Request for Neighborhood Day Care Center at 124 26th Circle

It is again being requested that a "conditional use permit for home child care" be approved for our neighborhood. Roughly a year ago this same request was made and the Planning Commission denied the request. Here we are again, same person making the same request when nothing in our neighborhood has changed.

We are the same neighbors who opposed this petition last year and are doing so again. The same issues that led you to deny this petition last year exist today. These include traffic, parking, congestion, noise, disruption of lifestyle, loss of property value, etc.

Ours is a quiet neighborhood of primarily retirees and we spend our days at home. Living next door and having to deal with a day care center is not acceptable and is a violation of existing covenants. We do not want our quiet, safe neighborhood subjected to this type of business.

We have already experienced the impact of a day care center (although unauthorized) in our area at a house on South College. Years of complaints to the city brought no results. We do not want to experience the problems that develop at this type of business again.

Regardless of what the applicant (Wilma Bohot) may express, time and the desire for profitability invariably degenerates the care and control of such a business. We have all seen it first hand.

Our neighborhood is not zoned for commercial business. Those who live here do so by choice and would not have purchased a home near a day care center. It is truly unfair and unjust to now change our agreed conditions to suit the needs of one individual. If Ms. Bohot truly is interested in opening a such a business the Planning Commission should deny this request and strongly recommend she move into a existing building on South College that better suits her needs and is properly zoned.

We do not want our neighborhood to have a daycare center or any other commercial enterprise. We again urge you to deny this request by Wilma Bohot of 124 26th Circle.

Geary and Gwyn Pope
125 West 29th Court
Fayetteville, AR 72701

CC: "Brenda Thiel-Alderman" <ward1pos2@ci.fayetteville.ar.us>, "Adella Gray-Alderman" <ward1pos1@ci.fayetteville.ar.us>, "Jesse Fulcher" <jfulcher@ci.fayetteville.ar.us>, "Jeremy Pate" <jpate@ci.fayetteville.ar.us>

From: Ted and Sandi Villinski <tedandsandi@villinski.com>
To: Dan Coody <mayor@ci.fayetteville.ar.us>, Brenda Thiel <bthiel@cox.net>, Adella Gray <War_1pos1_@ci.fayetteville.ar.us>, Lois Bryant <Balliehi@sbcglobal.net>, Christine Myres <cmyres@sbcglobal.net>, James Graves <jgraves@bassettlawfirm.com>, Sean Trumbo <strumbo@nicklehill.com>, Alan Ostner <alan.ostner@sbcglobal.net>, Audy Lack <audy@mbi-arch.com>, Hilary Harris <hharris@lindsey.com>, Matthew Cabe <matthew@allarch.com>, Jill Anthes <janthes@uark.com>, Jeremy Pate <jpate@ci.fayetteville.ar.us>, Jesse Fulcher <jfulcher@ci.fayetteville.ar.us>
Date: 4/24/07 11:59AM
Subject: Bohot Variance Request

Dear Sirs;

This is to state our opposition to the request for a variance by Ms. Bohot to be permitted to establish an in-home neighborhood day care center at 124 26th Circle.

Our objections to this request are the same as they were last year when a similar request was ultimately denied by the Commission. As a residential neighborhood with limited access, we are concerned that the additional traffic generated by such an establishment would create increased traffic hazards for the residents as well as the toddlers who would be in attendance.

We are also concerned for the safety of the children based upon the number times police assistance has be required at the 26th Circle residence in the past.

Based upon the existing zoning regulations and neighborhood covenants, we respectfully request that the Commission deny this request.

Ted and Sandi Villinski
3419 South Country Club Drive

From: "GP125" <gp125@sbcglobal.net>
To: "Alan Ostner Ward 2 Planning Commission" <alan.ostner@sbcglobal.net>, "Matthew Cabe Ward 1 Planning Commission" <matthew@allarch.com>, "Hilary Harris Ward 1 Planning Commission" <hharris@lindsey.com>, "Audy Lack Ward 3 Planning Commission" <audy@mbi-arch.com>, "Sean Trumbo Ward 4 Planning Commission" <strumbo@nicklehill.com>, "Jill Anthes Ward 2 Planning Commission" <janthes@uark.edu>, "James Graves Planning Commission Ward 1" <jgraves@bassettlawfirm.com>, "Christine Myres Ward 4 Planning Commission" <cmyres@sbcglobal.net>, "Lois Bryant Ward 1 Planning Commission" <balliehi@sbcglobal.net>
Date: 6/4/07 5:36PM
Subject: Pls Deny W. Bohot Request for Neighborhood Day Care Center

Members of the Planning Commission,

Subject: W. Bohot Request for Neighborhood Day Care Center at 124 26th Circle

It is again being requested that a "conditional use permit for home child care" be approved for our neighborhood. Roughly a year ago this same request was made and the Planning Commission denied the request. Here we are again, same person making the same request when nothing in our neighborhood has changed.

We are the same neighbors who opposed this petition last year and are doing so again. The same issues that led you to deny this petition last year exist today. These include traffic, parking, congestion, noise, disruption of lifestyle, loss of property value, etc.

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We do not want our neighborhood to have a daycare center or any other commercial enterprise. We again urge you to deny this request by Wilma Bohot of 124 26th Circle.

Geary and Gwyn Pope
125 West 29th Court
Fayetteville, AR 72701

CC: "Brenda Thiel-Alderman" <ward1pos2@ci.fayetteville.ar.us>, "Jesse Fulcher" <jfulcher@ci.fayetteville.ar.us>, "Jeremy Pate" <jpate@ci.fayetteville.ar.us>

May 9, 2007

To the Fayetteville Planning Commission:

Dear Commissioners:

Fred Hanna. I built our home at 41 E. 29th Circle, Fayetteville, in 1989 and the area was zoned residential. Our covenant stated that there was to be no business or commercial activity and no fences in the front yard.

Ms. Bohot is requesting a conditional use for a Day Care center and I respectfully request that it be denied because: the streets are too narrow to accommodate heavy traffic during the arrival and departure of small children: most of the residents are elderly (many are included) and this is zoned residential, and this is an unsuitable place for such a vulnerable business: children are curious and they need an appropriate facility for DAY care - access into & out of.

I have re-married and my husband, Mike Newell, is in agreement with me in this request of denial.

Thank you
Anne Hanna Newell

John Hogle

From: "John Hogle" <jhsays@earthlink.net>
To: <mayor@ci.fayetteville.ar.us>
Sent: Monday, May 28, 2007 8:44 PM
Subject: CUP 07-2560: (BOHOT,679): in- home occupation, daycare , in the RSF-4 Zoning District

Dear Mayor Coody:

My wife and I retired in West Lafayette, Indiana and moved to Fayetteville in 1987. We chose to live in Fayetteville for many reasons. but primarily because of the many nice residential areas in the city.

We purchased a lot at 108 East 26th. street and again, chose the area primarily because of the many nice houses in the residential neighborhood. It was obvious that the Owners took pride in the neighborhood and would be good neighbors. We then had our house built on our lot and have been very happy to live there for the past 20 years.

The neighborhood is presently zoned RSF-4 SINGLE FAMILY - 4. Mrs. Wilma Bohot is now requesting that she be given a conditional use permit for her to operate an in-home occupation, child daycare business in her home. The Bohot residence is located two houses west of our lot and on the same side of the street.

We believe a child daycare center in our neighborhood may become a nuisance to its neighbors, increase traffic congestion, and will lower our property values, and open the area for other commercial enterprises.

We respectfully request that you deny the request for a conditional use permit.

Sincerely,

John and Rose Marie Hogle

5/28/2007

From: Jay Rodman <jrodman@sbcglobal.net>
To: <jpate@ci.fayetteville.ar.us>
Date: 5/29/07 10:23AM
Subject: Bohot CUP

Jeremy,

Please forward the below to all of the planning commissioners.

The Fayetteville Country Club was established in 1927 and since that time decision makers and planning commissions have recognized that the most important aspect of a residential neighborhood is its character and therefore subsequent neighborhood applications for CUP and/or commercial rezoning have been justifiably denied. Your predecessors also recognized that a homeowner in a residential neighborhood that lies off the beaten path should have a reasonable expectation that businesses would not be allowed to move in or operate out of a residential neighborhood home. These are the same justifications for continued denials of Wilson Park CUP or rezoning applications and they also apply to my neighborhood.

It is also of concern that the planning commission is allowed to factor into their decision the glowing references from out of neighborhood and out of city supporters of Ms. Bohot and yet the commission is not permitted to factor in the negative public record of police responses to the property. Since last December, the police have responded 4 times to deal with disturbances at the subject residence which is a pattern consistent with what I have personally observed in my 8 years of living across the street from the Bohot residence. It is well and good that the problem child no longer lives at the residence and has a restraining order against him; however, a restraining order is merely a piece of paper and only effective so long as the person being restrained chooses to abide by the order. The fact that the mother had to take out a restraining order against her son speaks volumes in and of itself as to the wisdom of the proposed neighborhood business. Furthermore, Ms.

Bohot obtained signatures from 24 total neighborhood households (+ the residents of 3 rental properties) and several of the signatories have since recanted not realizing what they were actually signing.

In conclusion, as I drive on S. College in my daily work commute, I notice numerous vacant buildings along S. College that are for lease or for sale, properly zoned for the conduct of business, and are literally right down the street from the Bohot residence. The ample business space immediately available within a mile or less of the Bohot residence provides further justification to deny the CUP request.

Regards,

Jay Rodman
115 E. 26th Circle

CC: Marie Mitchell <mmitchellm@cox.net>

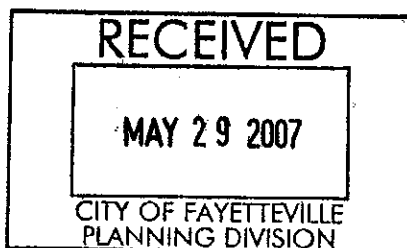
From: <friedma2@cox.net>
To: <webmaster@ci.fayetteville.ar.us>
Date: 5/29/2007 9:32 AM
Subject: [Form mail from AccessFayetteville] - Item 1 New Business - Meeting 5/29/07

CC: <planning@ci.fayetteville.ar.us>

From: Robert & Sharon Friedman
Email: friedma2@cox.net
To: planning@ci.fayetteville.ar.us
Subject: Item 1 New Business - Meeting 5/29/07

Message:

We want to voice our disapproval of the day care center in our neighborhood. We chose this neighborhood to live in because of its character - single family homes only. There is enough traffic with the residents and visitors to the country club. The area is already zoned for residential - no businesses. thank you for your attention to this email.
Sharon & Robert Friedman 25 E 29th Circle



From: "Connie Dorre" <cjdorre@sbcglobal.net>
To: <balliehi@sbcglobal.net>, <cmyres@sbcglobal.net>, <jgraves@bassetlawfirm.com>, <janthes@uark.edu>, <jfulcher@ci.fayetteville.ar.us>, <strumbo@nicklehill.com>, <alan.ostner@sbcglobal.com>, <aostner@rauschcoleman.com>, <andy@mbi-arch.com>, <hharris@lindsey.com>, <matthew@allarch.com>, <mayor@ci.fayetteville.ar.us>
Date: 5/28/07 10:05PM
Subject: Request to Deny Home Child Care at 124 E. 26th Circle - CUP 07-2560: (BOHOT,679)

I am writing to request denial for the Request for a Conditional Use Permit for Home Child Care petitioned by Wilma Bohot at 124 E. 26th Circle. My husband and I live at 2702 South College Drive and have enjoyed living here for many reasons; one of them being that this is a very quiet neighborhood. We believe that this could open many opportunities for others to open a Day Care or other type of business in this neighborhood.

Although I did sign the petition saying I did not object to the Child Care Center when Ms. Bohot came to our door, I am now requesting that my name be removed from that petition. After I had time to think this through, I realized that I should not have signed this because I wouldn't like it if someone on our street decided to do the same thing. I apologize for any inconvenience this may have caused.

We love children but do not believe a Home Child Care or other type of business would be a good thing for this neighborhood.

Thank you for your consideration.

Respectfully,

Tom and Connie Dorre
2702 South College Drive
Fayetteville, AR 72701
479-521-3990

From: Craig Thompson <thomp830@sbcglobal.net>
To: Lois Bryant <balliehi@sbcglobal.net>, Christine Myres <cmyres@sbcglobal.net>
Date: 5/28/2007 7:44 PM
Subject: Conditional Use Permit for Home Child Care

Craig and I would like to let you know we oppose the Conditional Use Permit for a child care center by Willma Bohot at her address at 124 26th Circle in Fayetteville. We would request that you consider denying this request. We do not want to see home businesses such as this in our neighborhood. Thank you for your consideration.

Craig and Jan Thompson
227 W 29th Ct
Fayetteville

Bob and Rita Hempen

48 East 27th Circle
Fayetteville, AR 72701

Tel: 479-575-0904
FAX: 479-443-7660
e-mail: RGH1798@yahooo.com

May 29, 2007

Jeremy Pate
Director of Current Planning
Fayetteville Planning Commission
City of Fayetteville
125 West Mountain
Fayetteville, AR 72701

Re: CUP 07-2560 / Request of Wilma Bohot for in-home daycare
occupation in RSF-4 Zoning District.

Dear Mr. Pate:

As you may recall, we spoke by phone earlier this month regarding Wilma Bohot's application and her plans for an in-home daycare business, "Angel's Blessings." Our home is within 500 feet of Ms. Bohot's home and thus it is considered adjacent property. I had hoped to be able to attend tonight's meeting but will not be able to do so. We again ask that this application be denied.

Ms. Bohot is well aware of the long-standing opposition of her immediate neighbors to her plans for this business. I have heard rumors that she has obtained some signatures from neighborhood residents on a petition supporting her application but have never seen this petition and do not believe it was circulated in this part of the neighborhood. The only individual I am aware of supporting Ms. Bohot in her effort is Robert Foster who lives at 2927 Club Oaks; this is a significant distance (about 4 blocks) from Ms. Bohot's and not in a location which would bear any of the traffic.

Although I understand that you do not consider the existence of private covenants in making your decisions in these matters, we continue to believe that it is not appropriate for the City to grant an exception to the zoning standards for a resident to do something which violates those covenants as it then puts the

other residents in the position of having to incur the expense of legal fees.

We particularly feel for Ms. Bohot's close neighbors on 26th Circle; many of these closest neighbors are elderly and all of them relied on the residential zoning and restrictive covenants to protect the peace of their neighborhoods and value of their properties. As it is they who will bear the brunt of this activity, clearly their views should carry the most weight.

In order to operate this business, we are advised that "Angel's Blessings" will be open from 6:30 a.m. until 5:30 p.m. during which time customers may come and go and the property must be open for inspection by the department that issues the license. Clearly this business is commercial activity at a level inappropriate for the neighborhood. This is the second time this application has come before the Commission and we again ask that it be denied. Thank you for considering our position.

Sincerely,


Rita Hempen

From: "Connie Dorre" <cjdorre@sbcglobal.net>
To: <jgambill@ci.fayetteville.ar.us>
Date: 6/6/2007 8:27 am
Subject: FW: Request to Deny Home Child Care at 124 E. 26th Circle - CUP 07-2560: (BOHOT,679)

Jan,

Below is the email I tried to send on Monday, May 28, 2007 regarding the Request to Deny Home Child Care at 124 E 26th Circle.

Thank you,

Connie Dorre

From: Connie Dorre [mailto:cjdorre@sbcglobal.net]
Sent: Monday, May 28, 2007 10:05 PM
To: 'balliehi@sbcglobal.net'; 'cmyres@sbcglobal.net';
'jgraves@bassettlawfirm.com'; 'janthes@uark.edu';
'jfulcher@ci.fayetteville.ar.us'; 'strumbo@nicklehill.com';
'alan.ostner@sbcglobal.com'; 'aostner@rauschcoleman.com';
'andy@mbi-arch.com'; 'hharris@lindsey.com'; 'matthew@allarch.com';
'mayor@ci.fayetteville.ar.us'
Subject: Request to Deny Home Child Care at 124 E. 26th Circle - CUP 07-2560: (BOHOT,679)

I am writing to request denial for the Request for a Conditional Use Permit for Home Child Care petitioned by Wilma Bohot at 124 E. 26th Circle. My husband and I live at 2702 South College Drive and have enjoyed living here for many reasons; one of them being that this is a very quiet neighborhood. We believe that this could open many opportunities for others to open a Day Care or other type of business in this neighborhood.

Although I did sign the petition saying I did not object to the Child Care Center when Ms. Bohot came to our door, I am now requesting that my name be removed from that petition. After I had time to think this through, I realized that I should not have signed this because I wouldn't like it if someone on our street decided to do the same thing. I apologize for any inconvenience this may have caused.

We love children but do not believe a Home Child Care or other type of business would be a good thing for this neighborhood.

Thank you for your consideration.

Respectfully,

Tom and Connie Dorre

2702 South College Drive

Fayetteville, AR 72701

479-521-3990

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We particularly feel for Ms. Bohot's close neighbors on 26th Circle; many of these closest neighbors are elderly and all of them relied on the residential zoning and restrictive covenants to protect the peace of their neighborhoods and value of their properties. As it is they who will bear the brunt of this activity, clearly their views should carry the most weight.

In order to operate this business, we are advised that "Angel's Blessings" will be open from 6:30 a.m. until 5:30 p.m. during which time customers may come and go and the property must be open for inspection by the department that issues the license. Clearly this business is commercial activity at a level inappropriate for the neighborhood. This is the second time this application has come before the Commission and we again ask that it be denied. Thank you for considering our position.

Sincerely,



Rita Hempen

From: brenda stovall <bebebrenda@sbcglobal.net>
To: <jgambill@ci.fayetteville.ar.us>
Date: 5/29/2007 2:01 pm
Subject: Wilma Bohot Petition

Please remove the names of Brenda Stovall and Doug Stovall from the petition submitted by Wilma Bohot. We do not agree with this petition.

Thanks.
Brenda Stovall

From: <Dnjlyall@aol.com>
To: <jgambill@CI.Fayetteville.AR.US>
Date: 5/29/2007 1:52 pm
Subject: Hilltop Childcare

Hope this goes thru. Please remove my name from the petition for daycare in the home of Wilma Bohor at 124 26th circle. Thank you. JoAnn Lyall
9929th Ct, Fayetteville, Ar 72701

***** See what's free at <http://www.aol.com>.

M M M
MITCHELL
37 E. 29th Circle
Fayetteville AR 72701

June 13, 2007

City of Fayetteville Representatives:
Mayor – Alderwomen – Planning Department – Planning Commissioners
Fayetteville Administration Building
Fayetteville AR 72701

Re: BOHOT – Conditional Use Permit for Day Care

Honorable Representatives:

On behalf of all residents in opposition to the above-referenced Conditional Use Permit for Day Care, we respectfully submit, for consideration to deny, a composite mind-set of the majority of our neighborhood.

In the short time we had to compile this information, we did our best to obtain as much information as possible: some neighbors we never found at home. However, the "X" next to name/address indicates signature on petition(s) opposed to any commercialism in our residential community.

We do hereby entreat you to consider last year's unanimous denial, and once again render a just decree in behalf of the majority.

Respectfully submitted,


Marvin Mitchell


Marie Mitchell

PETITION STATS

26th Circle				
SEXTON & Assoc.	9	E. 26th Circle		
	9	E. 26th Circle		
STRAYHORN	X	10	E. 26th Circle	No Children Living in Home
BOOTH	X	17	E. 26th Circle	No Children Living in Home - MOVING
MURRAY	X	23	E. 26th Circle	
SEXTON & Assoc.		26	E. 26th Circle	
GRIFFITH		26	E. 26th Circle	Single Doctor - Renting from Sexton & Associates
GRAVES	X	40	E. 26th Circle	No Children Living in Home
		41	E. 26th Circle	
HARDIN		51	E. 26th Circle	No Children Living in Home
EDRINGTON	X	55	E. 26th Circle	No Children Living in Home
MARTIN		56	E. 26th Circle	No Children Living in Home
SEXTON & Assoc.		73	E. 26th Circle	
		73	E. 26th Circle	
HAYES	X	74	E. 26th Circle	
BRINSON	X	88	E. 26th Circle	Elderly/Retired
BRINSON	X	88	E. 26th Circle	No Children Living in Home
HURLEY	X	102	E. 26th Circle	Elderly/Retired
WILCOX	X	105	E. 26th Circle	No Young Children
HOGLE	X	108	E. 26th Circle	Elderly/Retired
RODMAN	X	115	E. 26th Circle	No Children Living in Home
HIGGINS	X	116	E. 26th Circle	Elderly/Widow
WATTS		123	E. 26th Circle	
BOHOT		124	E. 26th Circle	
HUTCHINS	X	137	E. 26th Circle	Elderly/Widow
HARVIE	X	145	E. 26th Circle	No Children Living in Home
SMITH	X	160	E. 26th Circle	Elderly/Widow

27th Circle					
MATHIS		25	E. 27th Circle		
AVINA	X	32	E. 27th Circle		No Children Living in Home
TOTH		33	E. 27th Circle		
HEMPEN	X	48	E. 27th Circle		No Children Living in iHome
SMITH	X	49	E. 27th Circle		No Children Living in iHome
BERRY		64	E. 27th Circle		
DUNN	X	65	E. 27th Circle		
28th Circle					
MASON		2	E. 28th Circle		
KIRKWOOD		4	E. 28th Circle		No Children Living in Home
ALFORD		5	E. 28th Circle		
CLAYBROOK		11	E. 28th Circle		
HAWKINS	X	12	E. 28th Circle		No Children Living in Home
MAXEY	X	14	E. 28th Circle		Elderly/Widow
COGET		15	E. 28th Circle		Moved - House for Sale
29th Circle					
PHELAN		6	E. 29th Circle		Widow - No Children Living in Home
ROBERTS		16	E. 29th Circle		Elderly/Widow
BROWN		20	E. 29th Circle		College Student - Age 20 (Roommates Below)
LATTA		20	E. 29th Circle		College Student - Age 20
VANN		20	E. 29th Circle		College Student - Age 20
SEXTON & Assoc.		21	E. 29th Circle		
BRADLEY		21	E. 29th Circle		No Children Living in Home
EVANS		21	E. 29th Circle		No Children Living in Home
FRIEDMAN	X	25	E. 29th Circle		Retired - No Children Living in Home
SEXTON & Assoc.		26	E. 29th Circle		
		26	E. 29th Circle		

29th Circle (continued)			
GRACE	X	29 E. 29th Circle	No Children Living in Home
HATFIELD	X	30 E. 29th Circle	No Children Living in Home
DENZER		33 E. 29th Circle	Elkins School Principal: 2-Teen Boys/1-Leaving for College
MITCHELL	X	37 E. 29th Circle	Retired - No Children Living in Home
NEWELL	X	41 E. 29th Circle	Retired - No Children Living in Home
29th Court			
JETTON	X	47 W. 29th Court	No Children Living in Home
LYALL	X	99 W. 29th Court	No Children Living in Home
POPE	X	125 W. 29th Court	No Children Living in Home
STOUT	X	159 W. 29th Court	No Children Living in Home
GARDNER		193 W. 29th Court	No Children Living in Home
STOREY		194 W. 29th Court	No Children Living in Home
THOMPSON	X	227 W. 29th Court	No Children Living in Home
ROSE	X	230 W. 29th Court	No Children Living in Home
Amen Corner			
IGLINSKY	X	515 E. Amen Corner	Retired - No Children Living in Home
THORN		531 E. Amen Corner	Retired - No Children Living in Home
Askew Drive			
ASKEW	X	2333 Askew Drive	Elderly/Widow
GRAY	X	2333 Askew Drive	No Children Living in Home
Club Oak Drive			
HORNE	X	2803 S. Club Oak Drive	No Children Living in Home
STOVALL	X	2806 S. Club Oak Drive	No Children Living in Home
WATKINS	X	2817 S. Club Oak Drive	Retired - No Children Living in Home
GARLAND	X	2824 S. Club Oak Drive	

Club Oak Drive (continued)			
RODMAN	X 2835	S. Club Oak Drive	No Children Living in Home
WILSON	X 2840	S. Club Oak Drive	
CALAWAY	X 2848	S. Club Oak Drive	No Children Living in Home
	X 2851	S. Club Oak Drive	
	X 2876	S. Club Oak Drive	
SALMONSON	X 2892	S. Club Oak Drive	
SKOCH	X 2903	S. Club Oak Drive	No Children Living in Home
TURLEY	X 2910	S. Club Oak Drive	No Children Living in Home
FOSTER	2927	S. Club Oak Drive	No Children Living in Home
PEARCE	X 2928	S. Club Oak Drive	
College Drive			
LUNGARO	X 2489	S. College Drive	No Children Living in Home
HASHBARGER	2519	S. College Drive	
TUNNELL	X 2522	S. College Drive	
DEVECSERY	X 2555	S. College Drive	
KALI	2556	S. College Drive	
DEVECSERY	X 2583	S. College Drive	
JOHNSON	2590	S. College Drive	House for Sale
BROWN	X 2613	S. College Drive	
FUSSELL	2624	S. College Drive	
DEVECSERY	X 2651	S. College Drive	
CLINTON	X 2697	S. College Drive	No Children Living in Home
DORRE	X 2702	S. College Drive	No Children Living in Home
BURNETT	2735	S. College Drive	No Children Living in Home
KIRBY	X 2747	S. College Drive	Elderly/Widow
SHIRLEY	X 2748	S. College Drive	Elderly/Widow
WOOD	X 2766	S. College Drive	No Children Living in Home
MILLER	X 2780	S. College Drive	No Children Living in Home

College Drive (continued)			
SEXTON	☒ 2803	S. College Drive	
NOLAN	☒ 2817	S. College Drive	Single - No Children Living in Home
HEIDEBRECHT	☒ 2818	S. College Drive	Retired - No Children Living in Home
YEARGAN	☒ 2831	S. College Drive	No Children Living in Home
JONES	☒ 2834	S. College Drive	No Children Living in Home
WHEATON	☒ 2855	S. College Drive	
SEXTON & Assoc.	2914	S. College Drive	
	2914	S. College Drive	
SEXTON & Assoc.	2930	S. College Drive	
TENANTS	☒ 2930	S. College Drive	
NELMS	2933	S. College Drive	No Children Living in Home
ANDERSON	☒ 2941	S. College Drive	
LAMAR	2952	S. College Drive	No Children Living in Home
COOPER	☒ 2957	S. College Drive	Retired - No Children Living in Home
SUMMERS	2970	S. College Drive	Single - No Children Living in Home
ARNOLD	☒ 2979	S. College Drive	Retired - No Children Living in Home
WILSON	☒ 2991	S. College Drive	Retired - No Children Living in Home
PHIPPS	2720	S. Country Club Drive	No Children Living in Home
BIXBY	2730	S. Country Club Drive	
DRAMIS	2851	S. Country Club Drive	
FRENTRESS	2859	S. Country Club Drive	No Children Living in Home
HALL	☒ 2864	S. Country Club Drive	No Children Living in Home
HOLLIS	☒ 2875	S. Country Club Drive	
LOOPER	2882	S. Country Club Drive	
WATSON	2883	S. Country Club Drive	
LINDSEY - 4 - SALE	2891	S. Country Club Drive	Tenant MOVED
SCHNEIDER	☒ 2932	S. Country Club Drive	Retired - No Children Living in Home
PHILLIPS	☒ 2943	S. Country Club Drive	
SHUMP	☒ 2943	S. Country Club Drive	

SEXTON & Assoc.	2956	S. Country Club Drive	
	2956	S. Country Club Drive	
KARCHER	2958	S. Country Club Drive	
WALKER	2962	S. Country Club Drive	No Children Living in Home
PARKER	X 2966	S. Country Club Drive	No Children Living in Home
KRIM	X 2970	S. Country Club Drive	No Children Living in Home
MILLS	2974	S. Country Club Drive	No Young Children
VILLINSKI	X 3419	S. Country Club Drive	No Children Living in Home
FYV Country Club	3555	S. Country Club Drive	PRIVATE CLUB & GOLF COURSE (400 Members)
Double Eagle			
GOFORTH	X 506	Double Eagle	
Fairway Lane			
CALE	X 300	E. Fairway Lane	No Children Living in Home
ROGERS	X 301	E. Fairway Lane	No Children Living in Home
WYNN	310	E. Fairway Lane	Widow - No Children Living in Home
SCHUCHARDT	314	E. Fairway Lane	
STANTON	315	E. Fairway Lane	Elderly Widow - No Children Living in Home
McNAIR	X 320	E. Fairway Lane	Elderly Widow - No Children Living in Home
ROBINSON	326	E. Fairway Lane	Retired - No Children Living in Home
GROH	X 330	E. Fairway Lane	No Children Living in Home
LASH	X 345	E. Fairway Lane	Elderly Widow - No Children Living in Home
LEWIS	X 349	E. Fairway Lane	No Children Living in Home
ZIMMER	350	E. Fairway Lane	
GAZZOLA	356	E. Fairway Lane	
GRAMMER	X 359	E. Fairway Lane	No Children Living in Home
BONINE	X 422	E. Fairway Lane	
CLARK	X 438	E. Fairway Lane	Retired - No Children Living in Home
COATS	X 444	E. Fairway Lane	
JARRETT	X 491	E. Fairway Lane	

X 492 E. Fairway

Ravenswood					
STARR	X	210	Ravenswood Lane		No Children Living in Home
SCOTT	X	380	Ravenswood Lane		No Children Living in Home
SCOTT		460	Ravenswood Lane		No Children Living in Home
Sand Trap					
JEWELL	X	2953	Sand Trap Lane		Elderly Widow - No Children Living in Home
Wright Place					
GREENLEE	X	2894	S. Wright Place		No Children Living in Home
SEXTON & Assoc.		2899	S. Wright Place		
LOVELESS		2899	S. Wright Place		TENANTS - No Children Living in Home
SEXTON & Assoc.		2911	S. Wright Place		
		2911	S. Wright Place		
BENHAM		2912	S. Wright Place		
JACOBS	X	2915	S. Wright Place		Retired - No Children Living in Home
OSBORN		2918	S. Wright Place		Single-No Children-Has Roommates: House-4-Sale, MOVING
HARVEY	X	2919	S. Wright Place		REQUESTED NAME TO BE REMOVED FROM PETITION
CLARK	X	2922	S. Wright Place		
Renters	X	2231	Clark		

PETITION

To the Fayetteville Planning Commission:

Wilma Bohot of 124 East 26th Circle, Fayetteville, AR has applied to the City for a conditional use permit. According to the information supplied by Ms. Bohott, it is her intention, if the permit is granted, to operate from her home the business to be known as *Angel's Blessings* which will be licensed to provide day-care services for 10 children—from toddlers to age six year olds—and be open for business from 6:30 a.m. to 5:30 p.m., Mondays through Fridays.

The undersigned residents of the residential neighborhood where Ms. Bohott lives believe that this business would be commercial activity at a level inappropriate for our residential neighborhood and that the traffic and noise generated would be a burden to her immediate neighbors. We request that you again deny this application.

NAME	ADDRESS	DATE
Maria D. Hurley	102 E. 26th Circle	6-3-07
Joseph B. Hurley	102 E 26th Circle	6-3-07
Stacy Hays	74 E 26th Circle	6-3-07
Mary Lee Booth	17 W 26th Circle	6-3-07
Jammi Edington	55 W 26th Circle	6-3-07
Chelsea Rodman	115 E 26th Circle	6-3-07
DAVE HARRIS	145 E 26th Circle	6-3-07
Pat Hays	145 E 26th Cir	6-3-07
Joe L. Smith	160 E 26th Cir	6-3-07
Laney R. Higgins	116 E. 26th Cir	6-3-07
John T. Hogle	108 E. 26th Circle	6-3-07
Rose Marie Hogle	108 E. 26th Circle	6-3-07
Laney R. Higgins	105 E 26th Circle	6-3-07
Mike R. Hays	74 26th Circle	6-3-07
Freddie Brunson	88 E 26th	6/3/07
Pat Brunson	" "	
Will Graves	40 26th Circle	6/3/07
Dick Booth	17 E 26 Circle	6/3/07
Mini F. May	23 W. 26th Circle	6-3-07

OVER →

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NAME	ADDRESS	DATE
Sandra Brinson	88 E 26 th Circle	6/4/07
Dary Brinson	88 E 26 th Circle	6/4/07
Henry W. Mark	2231 S. Askew Dr.	6-4-07
G. R. Brinson	137 E. 26 th Circle	6-4-07
M. Heybohm	137 E. 26 Circle	6-4-07
Jay Belman	115 E. 26 Circle	6-4-07

[illegible]

[illegible]

PETITION

To the Fayetteville Planning Commission:

Wilma Bohot of 124 East 26th Circle, Fayetteville, AR has applied to the City for a conditional use permit. According to the information supplied by Ms. Bohott, it is her intention, if the permit is granted, to operate from her home the business to be known as *Angel's Blessings* which will be licensed to provide day-care services for 10 children—from toddlers to age six year olds—and be open for business from 6:30 a.m. to 5:30 p.m., Mondays through Fridays.

The undersigned residents of the residential neighborhood where Ms. Bohott lives believe that this business would be commercial activity at a level inappropriate for our residential neighborhood and that the traffic and noise generated would be a burden to her immediate neighbors. We request that you again deny this application.

NAME	ADDRESS	DATE
Barbara Pearce	2928 S Club Oak Dr.	06/04/07
J. Pearce	" "	" "

PETITION

To the Fayetteville Planning Commission:

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The undersigned residents of the residential neighborhood where Ms. Bohott lives believe that this business would be commercial activity at a level inappropriate for our residential neighborhood and that the traffic and noise generated would be a burden to her immediate neighbors. We request that you again deny this application.

NAME	ADDRESS	DATE
Betty Mayes	14 E 28 th Circle	6-4-07
Carol Hawkins	12 E. 28 th Circle	6-5-07
Jim Hawkins	12 E. 28 th Circle	6/5/07

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NAME	ADDRESS	DATE
Shirley + Leary Pope	125 W. 29 th Ct., Fayetteville	6-3-07
C L + Linda J. Jeter	47 W 29 th Ct. Fayetteville	6-3-07
Craig + Jan Thayer	227 W 29 th Ct Fayetteville	AR 6-3-07
Marion + Bob Friedman	25 E 29 th St Fayetteville	AR 6-3-07
Cheryl B. Vulliamy	41 East 29 th Circle - Fayetteville	6-3-07
Gene + Hanna Haworth	41 E 29 th Circle	6-3-07
Barlene Haworth	30 E 29 th Circle	6-3-07
Tom Haworth	30 E 29 th Circle	6-3-07
Greg Stout	159 W 29 th Court	6-3-07
Ann Rose	230 W. 29 th Ct.	6-4-07
Shirley J. Jeter	2953 Sand Trap Ln	6-4-07
Johnny Ligon	99 W 29 th Ct.	6-4-07
Debbie Fitchell	37 E 29 th Circle	6-5-07
DAVID PAUL	29 E 29 th Circle	6-5-07
Mamie Mitchell	37 E. 29 th Circle	6-5-07

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[illegible]

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NAME	ADDRESS	DATE
Joe B. Rodman	2835 Club Oak Dr	6-4-07
Ray W. Watkins	2813 Club Oak Dr	6-4-07
Bob Watkins	2817 Club Oak Dr	06-04-07
Charles J. Full	2806 Club Oak Dr	6-4-07
Brenda Stovall	2806 Club Oak Dr	6/4/07
Maya Rodman	2835 Club Oak Dr	6/4/07
Ed Cel	2824 Club Oak	6-4-07
Pat Zander	2824 Club Oak	6-4-07
Paty Home	2803 Club Oak Dr	6-4-07
D. Home	" "	6-4-7
Janet L. W. Jr	2840 Club Oak Dr	6-4-7
Ray W. Jr	" "	6-4-7
Ron Calaway	2848 Club Oak Dr	6-5-7
Sue Calaway	2848 Club Oak Dr	6-5-07
Tom Peterson	2876 Club Oak Dr	6-5-07
Yvonne Rogers	2851 S. Club Oak Dr	6-5-07

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NAME	ADDRESS	DATE
Larry M. Lee	2480 S. College Drive	6/4/07
Virginia Miller	2780 S. College Dr. Fayetteville	6/4/07
Theresa Henderson	2818 S. College Dr. Fayetteville	6/4/07
Ray Henderson	2816 S. College Dr. Fayetteville	6/4/07
Raymond H. Jones	2834 S. College Dr. Fayetteville	6-4-07
Justin Nolan	2817 S. College Fayetteville, AR	6-4-07
Frances Shirley	2748 S. College Drive	6-4-07
Foribat M. M. M. M.	320 Fairway 272701	6-4-07
Helen Kirby	2747 S. College Dr	6-4-07
Jim Word	2766 S. College DR	6/4/07
Ernest B. Word	2766 S. College Dr	6-4-07
Ruth Grace	29 East 29 Circle	6-5-07
Margaret Kester	2803 South College Dr	6-4-07
JOHN SEXTON	2803 S. COLLEGE DR	6-4-07
Jane Yezzer	2831 S. College Dr.	6-4-07
Jerry Yezzer	2831 S. College Dr.	6-4-07

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NAME	ADDRESS	DATE
Bob & PAT COOPER	2857 So. College Dr.	6-4-2007
DICK & BETTE ARMSTRONG	2979 S. College Dr.	6-4-2007
Rob & SHARON WILSON	2991 S. College Dr.	6-4-2007
Greg & Laura Anderson	2941 S. College Dr.	6-4-2007
Mark C. Harris	2930 S. College Dr.	6-4-2007
Doug & Diana White	2855 S. College Dr.	6-4-2007

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NAME	ADDRESS	DATE
Karen Braun	2613 S. College Dr.	6-4-07
Charlie Braun	2613 S. College Dr.	6-4-07
Patricia Sanders	2583 S. College Dr.	6-4-07
Carl Sanders	2555 S. College Dr.	6-4-07
Sharon Dunn	2555 S. College Dr.	6-4-07
Quetta Aldridge	2489 S. College Dr.	6-4-07
Andy Tunell	2488 S. College Dr.	6-4-07
Mark Sengaro	2489 S. College Dr.	6-4-7
Dorbie Tunnell	2488 S. College Dr.	6-4-7
Brian Drews	2651 S. College Dr.	6/4/07
Joni Drews	2651 S. College Dr.	6/4/07
Ray Clark	2697 S. College Dr.	6/5/07
Dottie M. Clinton	2697 S. College Dr.	6/5/07
Sam Hume	2702 S. College Dr.	6/5/07
Carrie J. Hume	2702 S. College Dr.	6/5/07

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NAME	ADDRESS	DATE
Ted Voth	3419 S. Country Club Dr	June 3, 2007
Linda Voth	3419 S. Country Club Dr	June 3, 2007
John G. Krinn	2970 Country Club Dr	JUN 4, 2007
Mary A. Krinn	2970 Country Club Dr	JUN 4, 2007
Udell Ray Parker	2966 Country Club Dr	6/4/2007
Frank Phillips	2943 S Country Club Dr	6/4/2007
Joann Hunsap	2943 S Country Club Dr	6/4/2007
Mary Jo Schreiner	2932 Country Club Dr	6/4/2007
William M. Schreiner	2932 Country Club Dr	6/4/2007
Donna Hallis	2875 Country Club Dr	6/4/2007
Joe Hallis	2875 Country Club Dr	6/4/2007
Diana Hura	3053 Sand Trap Ln.	6/5/2007

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NAME	ADDRESS	DATE
<i>David D. Dugan</i>	339 Fairway	6-5-07
<i>Mark D. Dugan</i>	359 FAIRWAY	6/5/07
<i>John D. Dugan</i>	330 E. Fairway	6/5/07
<i>McRogers</i>	301 E. Fairway	6/5/07
<i>John D. Dugan</i>	301 E. Fairway	6/5/07
<i>Vanessa M. Dugan</i>	345 Fairway Lane	6/5/07
<i>Steph & Holly Lewis</i>	349 Fairway Lane	6/5/07
<i>Shelby Gale</i>	300 Fairway Lane	6/6/07
<i>Chris Haden</i>	300 Fairway Lane	6/6/07

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NAME	ADDRESS	DATE
Colore Jarrett	491 E. Fairway Lane	6/4/07
Kyle Meyer	492 E. Fairway Ln	6/4/07
John Meyer	" "	
Paul Cate	444 Fairway Lane	6/4/07
Jana Cate	444 Fairway Lane	6/4/07
Rissa Bonino	422 E. Fairway	6/4/07
Calvin G. Fort	506 Double Eagle Pl	6/4/07
Suzanne Clark	438 E. Fairway Ln.	6/4/07
Wendy Hickey	515 Amen Corner	6/5/07
Cheryl Smith	515 Amen Corner	6/5/07

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NAME	ADDRESS	DATE
James B. Hawley	2919 S. WRIGHT PLACE	6/3/07
Mary J. D. Hawley	2919 S. Wright Pl. Fayetteville	6/3/07
Mary Clark	2922 S. Wright Pl	6/5/07
Jay Greenlee	2894 S. WRIGHT PL	6/5/07
Curtis Greenlee	2894 S. WRIGHT PL	6/5/07
Jay Jacobs	2915 S. Wright Pl	6/5/07
Kee Jacobs	2915 S. Wright Pl.	6/5/07

**PLANNING COMMISSION MINUTES
APRIL 24, 2006**

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April 24, 2006
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CUP 06-2019: Conditional Use Permit (BOHOT, 679): Submitted by WILMA BOHOT for property located at 124 E 26TH CIRCLE. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 0.38 acres. The request is for a daycare in the RSF-4 Zoning District.

Anthes: Could we have the staff report, please?

Fulcher: The subject property is located at 124 E 26th Circle, in Country Club Estates subdivision which is located just west of School Avenue. The property is zoned RSF-4 and contains an existing single family home within the subdivision. The best view we have of this site is on page 12 of 36. It should have the subject property marked out. The applicant is proposing a conditional use permit for a home child care facility in the RSF-4 zoning district which is limited to a maximum of ten children. There will be two employees servicing this home child care facility. It will be located in approximately 2400 square foot single family home which 400 square feet will be required and devoted for child care use. A section in the back will be fenced off for the use as an outdoor play area which is required by ordinance in the amount of 800 square feet which permits 10 children at one time. The proposed hours of operation are from 7am-5:30pm. Staff has received considerable public comment on this item regarding traffic, noise, compatibility, safety concerns with the children, and past problems with an illegal child care facility that was operating in another structure in this subdivision. They have stated concerns that the covenants of the subdivision restrict commercial activities within the units, although the City of Fayetteville does not regulate or enforce these private covenants. Staff has reviewed home child-care facilities in the past within residential neighborhoods and have always found that these provide a good service for neighbors and others in the area that require day care for their children. We've also found that based on the location the subdivision is serviced by one ingress and egress which services the entirety of the subdivision and the golf course located at the country club estates. The increase in traffic from a maximum of 10 children would not compound or create a dangerous traffic situation and would be of minimal impact to existing traffic on that street. With that and the other findings that we've made in the staff report, we are recommending approval of this site with five conditions of approval. Condition number one and number two refer to issues of certificates of zoning compliance, meaning that prior to them being built all child-care facilities receive their zoning compliance and they shall provide staff with a license from the Department of Health and Human Services stating that they have been approved through their program and that the fence which I believe has not been constructed at this time will be constructed to provide an outdoor place for the ten children. Also, condition number four refers to having no signage or advertising

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material on the subject property. If you have any further questions, please ask.

Anthes: Mr. Fulcher, before you sit down, in anticipation of what we've received in letter and public comment, has staff been able to verify the claim of the police activity that has been on this site in the past week?

Fulcher: Yes, I did speak with a corporal in the Police Department and previous items the commission has requested information from the police department. I simply requested the same information which is a police log. It's just calls that they have received for a given address. We did confirm that there had been calls to that address in the past. I also called back when I heard about some more recent activity there. They said there had been a call in the last week or two and those were just stating that there had been calls there but nothing substantial or further than that.

Anthes: Thank you, Mr. Fulcher. Would any member of the public like to address this conditional use permit 06-2019 for Bohot. Please come forward, state your name, and if you could sign if there's still paper there. We'll get you a new one.

Mitchell: Marie Mitchell. My husband and I reside at 37 East 29th Circle. We are co-chairs of our neighborhood watch number 25. Many of our residents have already left due to age or health. Some couldn't come due to health because we have a lot of retired people a lot of middle-aged and of course we do have many elderly. Some of these elderly they are here the immediate neighbors. If I may, I'd like to give this information to Jeremy which will expand on your question that you just asked. All of the neighbors that contacted me via email or telephone were in opposition to this. It's definitely not anything personal. There's nothing personal about this. Just as Fayetteville is great at recycling, we recycle very well on the hilltop. We recycle grandchildren, they come and they go. So it's not a matter of disliking children. It's not a matter of disliking this woman. All it is, is we simply do not want any commercial activity in our residences. We are residential. We all purchased or built our homes for the sole purpose that there were not that many children in the neighborhood and it was a quiet place for middle-aged, you could grow old, you could enjoy the country club. Many of us are members up there. It's just as simple as we do not want commercial activity in our residential area. As I said, there are neighbors here that are immediately effected that did indeed receive the certified letters.

Anthes: Thank you, Mrs. Mitchell.

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Cooper: I'm Robert Cooper. My wife and I live at 2957 South College Drive. I'm here with the somewhat unique perspective that until six months ago my wife and I lived next door to a day-care very similar to this for almost ten years. I'm here to tell you, I've read Mr. Fulcher's report, and I'm here to tell you that the decision about whether a day-care should be up on the hill or not is not a matter of whether there are three parking spaces or four parking spaces or whether the sewer is properly hooked up or whether she uses the right sized trash cans. That's the kind of bureaucratic listing that Mr. Fulcher had to go by. I can tell you that the traffic situation is not so much at an appreciable volume. The problem is that there is a rush in the morning and there is a rush in the afternoon when people are bringing their children and are picking up their children. Mr. Fulcher says that this is compatible with our neighborhood. As Marie has said, we are primarily a retiree area. We also only have one way in and one way out. There is only one street into our area. The traffic must come in and out that street. We're not convenient to anybody. We're not on the way from point A to point B for anybody to drop their kids off. If they're going to come to drop their kids off, they have to make a special trip to our neighborhood. Mr. Fulcher also says that a day-care would serve the needs of the neighborhood. I can tell you after living next to a day-care in that neighborhood for ten years, not a single customer of that day-care was from our neighborhood. They were from all over Fayetteville, but they were not from our neighborhood. The idea of this day-care serving our neighborhood is not correct. I would ask that you not approve this request. Thank you.

Anthes: Thank you, Mr. Cooper.

Harvey: Hi, my name is Steve Harvey, and I happen to be in the unfortunate position in living at the first house going into the subdivision. I see every car that comes in here, whether they're going to the residences, or to the country club. I also happen to be one house down from the proposed day-care would be. I really am afraid of the noise, the traffic. It's difficult to get in and out of our driveway because of landscaping. Secondly, let me reiterate what was said. When we bought that house up there twelve years ago, we were handed a set of covenants, plans that dictated no commercial use in that neighborhood ever. Thank you.

Anthes: Thank you, Mr. Harvey.

Pope: Good evening. Jerry Pope. I also live on the hilltop. Let me take a second here. I certainly agree with my predecessors. There are a couple of things that I would like to add. One is that Mr. Fulcher's recommendation stated that this use would be compatible with the neighborhood. I certainly can't agree. It also states that the hours of operation are between 7am and

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5:30pm. It doesn't say that it's five days a week. That's seven days a week. Imagine yourself in your neighborhood, I buy the house next door to you, I open a child-care center, and on Sunday afternoon you intend to have a family barbeque. Mr. Cooper can tell you that when he does that the kids are out there throwing stuff over the fence and yelling and screaming. Who wants to live next door to that? We all bought houses in single family residential neighborhoods because they are zoned single family residential neighborhoods. If we wanted to live in a commercial district we would live someplace else. I think you are in that exact situation and I don't think any of you would want it next to you and we don't want it next door to us. Please consider what we're saying. Please let's not commercialize a very quiet and very good neighborhood that is very well kept. Thank you.

Anthes: Thank you, Mr. Pope.

Hutchings: My name is Ada Hutchings. My property is directly across from the proposed day-care. I oppose this because at another time about eight kids I go from teaching, I love kids, I have all my life. I bought this property and built a home on it, my retirement because it was a nice quiet neighborhood with mostly retired people. I just don't think that it's a place for a day-care. That's all. Thank you.

Anthes: Thank you.

Smith: My name is Joyce Smith and I live at 160 East 24th Street and my property adjoins this other property. I bought an old house up there, the first on the top of the hill, about four years and I totally redid it. So, I've got my life's savings tied into it. I feel that if we give in to this we will be setting a precedent to give in to some things later on. I would appreciate it, and I think you all received a letter from me today, I haven't changed my position one bit, but I would appreciate it if you would deny it. I haven't changed my position one bit. I would appreciate it if you would deny it. Thanks.

Anthes: Thank you, Ms Smith. Could we just see a show of hands about how many people are here to oppose this item? Thank you. We understand. It's been a long night for all of us. Would any other member of the public like to address this conditional use? Seeing none, I will close the floor to public comment. Does the applicant have a presentation? Would you please come forward?

Bohot: I am Wilma Bohot and I live at 124 East 26th Circle in Fayetteville, Arkansas. I am not here to bring down the value of any of my neighbors property. I, too, own property there. I plan to have a day-care with ten

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children, three to five years old, which I plan to keep the children Monday through Friday 7-5:30, depending on people's hours. I don't plan to stay open later than 5:30. I do not plan on opening on the weekends at all. I do not plan to have my kids outside in the front yard which would face most of my neighbors. I plan to have them on the backyard supervised. I work with kids every day. I work with 20-25 kids every day. I'm a substitute teacher. I know how to structure kids. I have no problem controlling my 20-25 kids in a classroom. I don't think 3-5 year-olds are going to be very hard to control in my living room. As far as traffic goes, ten cars coming in and out from 7:00-5:30, like someone mentioned we have the Fayetteville country club up there where people fly by. I have three kids, my oldest is eighteen, my other two are thirteen and eleven. I supervise them and warn them always to be very careful of that road. It's very busy. If I felt a concern that too much traffic or there might be a child hurt, I would definitely not even consider a day-care. I close, and I hope that you will award me my thing. On another thing, I am not retired. I have to try to make a living to provide for my family. I understand where they're coming from. I hope that we are not just because we're a certain age we think that we can't have children any more. I felt that way for a while. I love kids more than anything. They are your future, and they spark up my life every time I look at one. Thank you.

Anthes: Thank you, Ms Bohot. Pardon me, we have closed the floor to public comment. Thank you. Commissioners?

Pate: Madame Chair.

Anthes: Mr. Pate.

Pate: For the record, I was asked by Alderman Robert Reynolds and Brenda Thiel that for the record they are not supportive of this conditional use request. That's the ward that they represent.

Anthes: I believe that they sent an email to all of us.

Clark: Madame Chair.

Anthes: Commissioner Clark.

Clark: I have a question for staff or whoever wants to answer it. On page two of my packet, it says that adequate area requires 250 square feet per child. Does that mean that they have to have 2500 square feet in the living room?

Fulcher: That's referring to lot area.

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Clark: Just overall lot, okay. In terms of the backyard play area, how much of the backyard space is actually playground? I drove up there this weekend and just drove by. There are a couple of buildings in the backyard and it would seem to diminish the amount of playroom the kids would have. Did you calculate the square footage?

Fulcher: They are required to have 800?

Clark: Can they get that with the deck and the buildings and all that stuff?

Fulcher: I would assume 800 square feet in the backyard, it's fairly large looking at the property. Of course that is one of our requirements for conditions of approval to have a fence constructed around there, an 800 square foot area for a play space prior to a certificate of zoning compliance.

Pate: Let me just add that the state also has a requirement and we'll inspect that as well before issuance of their permit.

Clark: Okay, so far no permit has been issued?

Pate: An applicant cannot apply for a child-care permit unless the city in which they are located has already approved.

Clark: They have to do this first?

Pate: Right. Exactly.

Clark: Okay.

Ostner: Madame Chair.

Anthes: Commissioner Ostner.

Ostner: Madame Chair, a follow-up for staff. The way that it sounds to me is that regardless of whether they have 800 square feet free and clear if we pass this and they don't then they are not in compliance. So we really don't have to find that out tonight, okay, thank you.

Anthes: Commissioners.

Clark: Madame Chair.

Anthes: Commissioner Clark.

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Clark: Like I said, I drove by and I don't think this an ample place for day-care. I'm sorry. I think that day-care is needed. There's a lot of commercial space in commercial areas that are properly zoned. I think there's a lot of places where this can happen. I'm concerned about one of the issues I've heard neighbors refer to. Traffic, getting out of that corner is just not healthy. You're right. People drive really quick by the country club and that's a whole other issue. There was just a child that was backed over in a driveway in I think it was Farmington a couple of weeks ago at a day-care in a similar situation. That concerns me. There are places I think this is needed, and I truly applaud the applicant's wanting to work with children. It's certainly a skill I don't possess for three to five-year-olds. More power to you. It's needed. I have employees who need child day-care. I just don't think that this is an adequate space so I will be voting against this conditional use.

Anthes: I have a question of the city attorney. Would you or Mr. Pate please state, there was an issue about the covenants, and I would just like you to state for the record and for the people who are in attendance tonight about this board's ability to look at protective covenants.

Whitaker: I'm certain it's of concern to the folks who have moved in there and have created a certain expectation on their behalf but the city does not enforce the restricted covenants. Those are private agreements between property owners. The property association or the home owners association are the proper way to exercise one's rights under a restrictive covenants is to go to court in a private action against her.

Anthes: Thank you, Mr. Whitaker, and while you are at the microphone, I don't know that in three years on this commission I've seen a police report maybe once or twice before and I don't know what our charge is when we are handed a sheet like this, how if at all we can consider it or how that plays into what we're looking at. I'm specifically saying it since this is a conditional use.

Whitaker: I think it's not improper to consider such, but I think it goes more to the weight that you should apply to this document. I looked at a copy and it appears to be a printout of a log and doesn't really go into a whole lot. It just registers calls which could have been made by anyone about anything and certainly doesn't indicate that there was any action taken or charges filed or any arrests made. I think the...

Audience speaking

Anthes: Please, please, please...

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Whitaker: I think the weight of the evidence is something you should consider if you want to consider that document. From my viewing of it, it simply is inconclusive. It shows that there were calls made. It's a printout of a log sheet, no more, no less.

Anthes: Thank you, Mr. Whitaker. I have one more question of Mr. Pate or Mr. Fulcher. This subdivision obviously was planned a long time ago, before we had the policies we have now with connectivity and so forth, and there has been a lot of discussion about the traffic condition and the fact that there is one way in and one way out of this neighborhood and I'm pretty sure it's on pretty steep terrain. Do you know how many houses are built there and how many undeveloped parcels there are so that we understand the magnitude of the traffic and how this might affect it?

Fulcher: I counted approximately 150 residences. There are some unbuilt lots. There is one right next door that has not been built to the west of this property. I've seen a few more, so approximately 150.

Pate: After that, there are also subdivisions approved in the recent past, in the last five years, that actually add on to this particular development. You're right it was developed before the policies of connectivity. The challenge with this, however, is much like Lover's Lane on Mt. Sequoyah. It's hard to find another way down. The street has been improved by the city. It's a relatively wide street, thirty-one feet I believe, up to the intersection of this particular street, which I believe is twenty-six. After that it decreases. A typical 28 foot wide street will handle between 3,000-5,000 cars per day. One hundred and fifty homes generates about 1500 trips per day. Keep in mind there is also a country club which generates traffic. People come to that country club and golf course from other portions of the city, as well. As Jesse mentioned, there are undeveloped parts in this area, as well.

Audience member says "If I may..."

Anthes: I'm sorry the public comment section is closed. Thank you. Are there further comments or discussion?

Harris: Madame Chair.

Anthes: Commissioner Harris.

Harris: I'm not thrilled about the apparent lack of specificity on the document we were handed, but I'm also willing to take Mr. Whitaker's advice and let it weight to some degree. I also would like to echo what has been said by Commissioner Clark about I too have visited the site this weekend and I

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would have a hard time approving this based on the site alone without having to weigh this vague document.

Anthes: Thank you.

Graves: Madame Chair.

Anthes: Commissioner Graves.

Graves: I would have to agree with the comments by Commissioner Clark and Commissioner Harris that the particular site involved causes some concern to me as far as traffic and safety, as far as pulling in there and dropping off children and then pulling in to pick up children and the number of additional vehicle trips is not probably percentage wise a big concern and I understand that is what staff looks at. As far as the location and children being dropped off there, is of concern. I also have concerns about compatibility given the makeup of the neighborhood. There's no question that these cars coming in and out dropping off children could cause safety issues. That many children will create some additional noise for those particular residents in that area. As far as the police calls, I would have a concern whether or not they were resolved or whatever of the calls are, the fact that the police are being called to that residence for whatever reason and the fact that there would be children involved to that alone would be of concern to me as well. I, just in light of all that, I wouldn't be in support of the conditional use here.

Clark: Madame Chair.

Anthes: Commissioner Clark.

Clark: It sounds like if your neighborhood watch had reported people driving in your neighborhood this weekend, it was us. We all went at a different time. I'm glad that other commissioners went and saw what I did and they concur. I move that we deny conditional use 06-2019.

Trumbo: Second.

Anthes: A motion by Commissioner Clark and a second by Commissioner Trumbo. Is there further discussion? Suzanne, will you call the roll?

Roll Call: The motion to deny CUP 06-2019 carries with a vote of 9-0-0.

PLANNING COMMISSION MINUTES
JUNE 25, 2007

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June 25, 2007
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Old Business:

CUP 07-2560: Conditional Use Permit (BOHOT, 679): Submitted by WILMA BOHOT for property located at 124 E. 26TH CIRCLE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.38 acres. The request is for an in-home occupation, daycare, in the RSF-4 Zoning District.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher gave a brief history of the proposed request, discussing the property, conditions of approval and public comments. Finding the proposed in-home daycare fits into the community, is a compatible and complementary use, and will not change the appearance of the single family home, staff recommended approval, with conditions as listed.

Commissioner Anthes asked Kit Williams, City Attorney, about the role of the City and restrictive covenants within neighborhoods.

Williams stated that the City is not a party to and does not enforce restrictive covenants. They are between property owners.

Bob Cooper (citizen), 2957 S. College Drive, spoke in opposition to the proposal. He stated he had for 10 years lived next to an unlicensed day care in the neighborhood. Cooper described a typical day, which consisted of a flurry of activity in the morning and evening from parents dropping off children. No one regulates or enforces these facilities, who is to say there won't be 12, 15, 20 children? What happens when someone wants to do a car repair or car sales from their home? This is opening a door we don't want to open.

Marvin Mitchell (citizen) E. 29th Street, stated he bought the lot in the neighborhood, built the house, and can't believe the covenants can't be enforced.

Kris Jacobs (citizen), state that he has a neighbor who brings in trucks, trailers, and other equipment.

Gary Pope (citizen) spoke in opposition to the proposal and stated he would like to open a beauty shop in the neighborhood, if this goes through. Homes are not suited to have 10 children, and it will deteriorate over time. This will degrade the neighborhood and property values. Properties on School Drive are zoned and suited for businesses, go down there.

Commissioner Anthes requested staff to describe the conditional use process and what is allowed.

Jeremy Pate, Director of Current Planning, described the conditional use permit process, what is allowed and not allowed in RSF-4 zoning districts, and that not all commercial uses are permitted by conditional use in residential districts.

Clyde Villinski (citizen) spoke in opposition to the project, stating last year the same group opposed the proposal, their position hasn't changed and he hopes the Commissioners' positions haven't changed.

John Hogel (citizen) spoke in opposition to the request, and lives two houses to the west. He retired from Indiana 20 years ago here. It is unfair to take advantage of the neighborhood for a business.

Ada Hutchins (citizen) spoke in opposition to the request, and lives directly across the street from the Bohot residence. They retired here because of the surroundings – one way in, one way out, and no commercial activity. This proposal will increase parking and turning around in front of her house. She also stated she did not want to hear the children playing in front of the house.

Lois Smith (citizen) stated she lived next door to the applicant. She has spent time and energy to improve her house. She is very opposed to the request, and stated there would be more traffic on the street. The area is quiet, only residential and a daycare will destroy what she has built up.

Dick Arnold (citizen) stated this would be a great place for a part-time veterinary clinic. If the daycare is approved, he will be applying for one.

Commissioner Anthes described again what is permissible by conditional use and what is not, and asked the audience to please refrain from those types of comments.

Laney Higgins (citizen) stated she lives next door and is an elderly widow. 400 members of the golf club currently access this hill, and traffic is a steady stream. People are bringing their children to play golf and go swimming, which creates havoc.

Helen Kirby (citizen) spoke in opposition to the project, stating there were 150 homes in the neighborhood, and that 12 or fewer have pre-school age children. The proposed facility would not serve the area.

Dave Harvie (citizen 125 E. 26th Circle, stated he was one of the three property owners that would be most impacted by traffic, and spoke in opposition to the proposal.

Casey Haudl (citizen) stated she owned and operated a daycare facility in Rogers. In-home daycare is not considered a commercial use. The State allows one person for 10 children with no help. It also requires a secure area for children, and this has been fenced by Ms. Bohot. Haudl stated she has been to the Bohot residence, and the accommodations are quite adequate. She stated that she is usually busy, and may have three cars at one time at her facility, which has 10 children. Others in the area have family events, yard sales and other events, and it is not fair for someone not to be able to provide this service. She asked the Commission to take into consideration what the applicant has done.

Commissioner Anthes reminded the audience that their comments were respected and they need to respect others.

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Norma Wright (citizen) 1158 Farmer's Street, spoke in favor of the project, and stated she lives close to the area and sees no reason for children not to be kept here. Further, a licensed day care does require checkups.

Michael Hensen (citizen) spoke in favor of the request, and stated he owns an Air Conditioning business in the area, and what he does is commercial work. A daycare is not commercial. As long as the zoning is in place and the applicant follows all city ordinances, it should be okay. Hensen stated he respected the objections that had been raised, and hopes the Planning Commission does. Traffic congestion should not be an issue, because there are other ways to get to the property through other streets in the neighborhood and the request should not be denied.

Commissioner Anthes reminded the audience to remain quiet.

Jerry Clone (citizen) spoke in favor of the request, and stated she was a mother of six kids. Ms. Bohot has a three car garage and plenty of room for parking.

Marie Mitchell (citizen) clarified that 27th and 28th are cul-de-sac drives and one can not go through on these streets.

Commissioner Anthes closed public comment and asked for the applicant presentation.

Wilma Bohot (applicant) discussed the access to her property. She feels the use should be allowed. She has received letters from the State that she meets State requirements, and meets City requirements. Her house is 2400 square feet, with plenty of room for the children. Inspectors do check in with the facility for children. Children are pleasant, and she hoped she would not get to a point that she would not want to hear children playing. Bohot stated they can not think of any legitimate reasons to deny the request. The covenants that were discussed previously expired 20 years after 1969, when they were established. She described the layout of her house and yard, and that the children would be in the den, in the back of the home, and in the back yard, as required by State laws. She stated she wants to offer a quality in-home daycare facility.

Commissioner Anthes requested staff to review enforcement of a Conditional Use Permit.

Pate described the conditional use permit process, how complaints are received, and how it can be revisited or revoked by the Planning Commission upon review of conditions not being met.

Commissioner Graves stated the request was unanimously denied last year by the Planning Commission. He stated the concern was not traffic, for there is a country club that exists in the neighborhood, which is a commercial venture. No evidence has been submitted to support the anecdotal evidence about declining property values from an in-home daycare. Concerns one year ago had to do with public safety, based on some information presented from Police Dept. records that indicated substantial activity at the house. Daycare centers, in his opinion, should be located in neighborhoods, and not in commercial areas.

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Bohot stated that much of the concern previously was because of calls she had made to have the Police Dept. there. Her eldest son lived at the house at the time, and when she requested his friends leave and they would not, she called the Police regarding trespassing. Nothing is on her record, however, she stated; she has worked for public schools for three years, which checks her background and if there was something on her record, she would not be employed there. Her eldest son has moved away, and for the record, does not have anything on his record either.

Pate described the police reports received the year previous, which were essentially call logs. He stated that the same logs were received this year, with the same information and anything updated. To his memory, only one call had been added to the log this year.

Commissioner Graves stated that perhaps this concern, then, has been addressed, with the eldest son moving away. He stated to the applicant that if approved, people would undoubtedly be watching closely to see if the conditions were followed.

Commissioner Trumbo asked if any children in the neighborhood were planning to use the facility.

Bohot stated that the neighbor directly across the street had stated they would perhaps use the facility. No others had committed.

Commissioner Graves asked if there was anything magic about the ten children maximum.

Pate stated that was simply what was requested, and what is allowed by Code.

Bohot stated the ten maximum is also permitted by the State.

Commissioner Trumbo stated he was struggling with only one issue, the general compatibility; what the neighbor's comments are and how they apply, how they feel this is compatible.

Bohot stated she will not be influencing most of the people that spoke objecting, because she is the third house in the neighborhood.

Commissioner Ostner stated that he feels the Commission must look at compatibility and fairness. He lived in a neighborhood that had an in-home daycare, and didn't see a great impact. Perhaps it will be a lot less than what people think. He feels his job is to balance the compatibility issue. At this time, Ostner stated he is leaning for voting for the issue.

Commissioner Lack stated that he has also struggled with this, in that daycares in homes in neighborhoods are appropriate. There is a reason, however, that it requires a conditional use permit, and that comes down to compatibility with the neighborhood. Most in-home daycares can, in general, be characterized similarly, without much variance. The variable is the neighborhood. Each neighborhood is different. More or less compatibility is based on the neighborhood, or his perception of that neighborhood. Lack stated he sees this as more of a retirement neighborhood, and the facility

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would not be serving a community function as much as in other neighborhoods.

Commissioner Bryant stated she had some questions for the applicant. Could you (applicant) speak to the noise level of the facility, and any guidelines for indoor versus outdoor behavior?

Bohot stated ten children do not produce a noise level that is that great. The fence, house, sheds and vacant field behind the house all decrease the impact of any noise. Additionally, the school bus runs three times in the morning and afternoon up to the hill.

Commissioner Anthes reminded the applicant to please just answer the posed questions.

Bohot stated thirty minutes to one hour out of doors is required, depending upon the weather.

Commissioner Bryant questioned if the cats that were in the shed would be a factor.

Bohot explained that the cats stayed in the shed for shelter.

Commissioner Ostner asked the applicant if she would consider eight children maximum.

Bohot answered she would rather have ten, but would try eight to give it a chance.

Commissioner Ostner stated this would be a 20% reduction in children, cars, noise.

Motion to Amend:

Commissioner Ostner made a motion to amend condition of approval # 3 to limit the maximum number of children to eight, instead of ten. **Commissioner Graves** seconded the motion. **Upon roll call, the motion passed 6-2-0, with Trumbo and Anthes voting no.**

Commissioner Anthes asked about the hours of operation.

Pate stated that conditional use requests for home occupations specifically refer to hours of operation, but this one does not.

Williams stated that home occupations would typically require hours of operation from 7:30am to 5:30pm.

Pate confirmed this was a conditional use permit for a Home Childcare facility (Use Unit #4), but that staff would not at all be adverse to adding conditions of approval for hours of operation.

Commissioner Graves stated that it seems 7:30 am would be very tough for parents to get there to drop off children and still make it to work, and 7:00 am would be more appropriate.

Motion to Amend:

*Planning Commission
June 25, 2007
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Commissioner Graves made a motion to add a condition of approval stating: The hours of operation shall be limited from 7:00 AM to 5:30 PM, Monday through Friday. **Commissioner Ostner** seconded the motion.

Commissioner Cabe asked if the motion could be amended to allow for a 6:00 PM close, for the same reasons.

Both the motioner and seconder to the motion agreed to the friendly amendment to allow hours of operation from 7:00 AM to 6:00 PM, Monday through Friday.

Upon roll call, the motion passed 8-0-0.

Commissioner Trumbo stated that the house is set up properly, everything seems to be in order, except compatibility, in his opinion. Trumbo stated that with so many residents opposed, it is hard to find in favor of compatibility. It sounds like most kids will be coming from other parts of the City to this neighborhood, and it doesn't seem compatible.

Commissioner Ostner stated he could say almost the same things, and he is hoping that the neighborhood doesn't feel like he is ignoring them in his comments.

Neighbors protesting from audience interrupted Ostner.

Commissioner Anthes asked the audience to again please refrain from remarks and respect other's comments, or please leave the chambers.

Motion to deny:

Commissioner Trumbo made a motion to deny the request. The motion failed for lack of a second.

Motion to approve as amended:

Commissioner Ostner made a motion to approve the request, as amended, with all conditions of approval. **Commissioner Cabe** seconded the motion.

Commissioner Anthes asked staff if any comments were received from the Aldermen this year.

Fulcher replied none had been received.

Upon roll call, the motion passed 5-3-0, with Commissioners Bryant, Graves and Trumbo voting no.

Dear, City Council Members

I Whole heartily Ask you deny this appeal. As we know there is a growing demand for this service in our area.

Here is a summarized group of professionals who have observed my area with several written letters stating the safety of my home and verifying that I met all city (that are higher then the state's) requirements.

Sue Butler - Fire Department Inspection

Tanya Sandage - Child Care Licensing Specialist

Ann Dalton - Child Care Licensing Specialist

Casey Howell - Licensed In -Home Day Care Director and Provider

Kit Williams - City Attorney

Most of the Planning Board Commissars

Enclosed are several pictures to show adequate parking, indoor play area, Christian learning center, secured fenced yard for outdoor activities.

I have a list of character reference letter:

Bob Fant - First Assembly of God Pastor

Bob Johnson - Principle of Elmdale Elementary

Parents - of several children that I have cared for and several other acquaintance letters.

In Closing I would like to invite and encourage each and every one to observe my area to show why I would be able to operate such a safe and pleasant christion atmosphere for the needs of our children.

Sincerely



Wilma Bohot

Mayor, Dan Coody,
Alderman, Brenda Thiel
Alderman, Adella Gray

Planning Administrators
Jeremy Pate
Jesse Fulcher

Fayetteville Planning Commission:

Jill Anthes
Lois Bryant
Matthew Cabe
James Graves
Hilary Harris

Audy Lack
Christine Myres
Alan M Ostner
Sean Trumbo

RE: Wilma Bohot, In-home daycare at 124 E 26th Circle, Fayetteville

We wholeheartedly support Wilma Bohot and her desire to run a small daycare in her home. We live DIRECTLY across the street at 123 E 26th Circle. There would be less disturbance with a daycare run Monday-Friday 7:00am-5:30pm than when my family hosts a BBQ on the weekend, or an occasional meal on a weekday evening. And similar events by me, or other neighbors, would not be disturbed by the daycare only operating Monday-Friday.

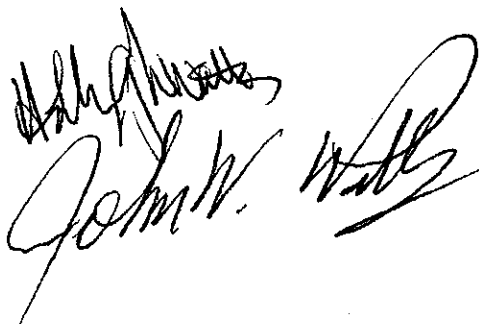
Many of the residents that complained last year when Ms Bohot requested this zoning change forget they have their grandchildren to visit their house sometimes, which is great, but those children are not always in the living room or the back yard as Ms Bohot's proposal would have. In fact, we should always be careful, especially in the summer when more grandchildren visit homes not prepared for children...because the kids are in the front yard. This is fine, we need to drive carefully in our neighborhood anyway, but to say Ms Bohot's daycare is going to hamper our desire to go somewhere quickly is narrow-sited and selfish. If Ms Bohot can provide a service "up on the hill" then it could reduce the amount of traffic as hill-tip residents take their kids here if they work at home, or not increase, as parents would have to leave their homes to take their children down the hill anyway.

Maybe one way Ms Bohot might help a potential traffic issue is to always have those dropping off or picking up children, pull into her driveway and not park on the street. She has a large driveway, that should be easy enough.

I realize those upset about the change in zoning will be the ones most vocal. We wish we were in town for the Planning Commission to voice our support in person and I hope this letter assures you of our support. We think there are some things worth fighting, this is not one of them. I wish those upset with Ms Bohot would have been at the zoning meeting establishing the property on the south side of 24th Street as available for 600 units. Now that, will decrease property value, not a residential daycare for 10 kids!

Sincerely,

John and Holly Watts

The block contains two handwritten signatures in black ink. The signature on the left is 'John W. Watts' and the signature on the right is 'Holly Watts'. Both are written in a cursive, flowing style.

ALDERMAN AGENDA REQUEST FORM

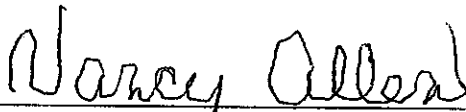
FOR: COUNCIL MEETING OF JULY ¹⁷~~8~~, 2007

FROM:

**ALDERMAN NANCY ALLEN, ALDERMAN KYLE COOK,
ALDERMAN LIONELD JORDAN, ALDERMAN BRENDA THIEL**

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution In Support Of The Fayetteville School Board's Careful Study And Consideration
Of Options For The Fayetteville High School

APPROVED FOR AGENDA:

Nancy Allen
Alderman

6-18-07

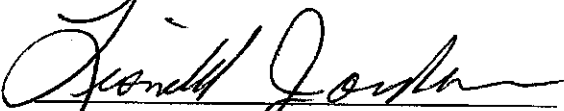
Date



Kyle Cook
Alderman

6-18-07

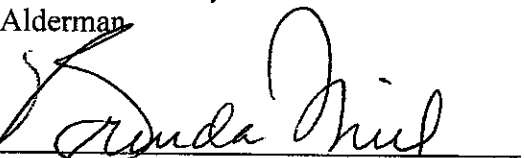
Date



Lioneld Jordan
Alderman

6/18/07

Date



Brenda Thiel
Alderman

6/18/07

Date



Kit Williams
City Attorney (as to form)

June 18, 2007

Date

RESOLUTION NO. _____

**A RESOLUTION IN SUPPORT OF THE FAYETTEVILLE SCHOOL
BOARD'S CAREFUL STUDY AND CONSIDERATION OF OPTIONS
FOR THE FAYETTEVILLE HIGH SCHOOL**

WHEREAS, the City Council of the City of Fayetteville, Arkansas appreciates the hard work and careful study by the Fayetteville School Board of Directors of the options for the Fayetteville High School; and

WHEREAS, the Fayetteville City Council has long endeavored to assist the Fayetteville School District by building or enlarging city streets like Ruppel Road (north and south), Mount Comfort, etc. in efforts to access new schools and alleviate school traffic congestion; and

WHEREAS, The City Council's adopted long range planning document, the 2025 Plan, urges increased density in the central area of Fayetteville and discourages sprawl and moving large traffic generating facilities toward the outskirts of Fayetteville; and

WHEREAS, the citizens of Fayetteville have approved a sales tax and street bond program to help alleviate present traffic congestion, but this program does not have funds available to build or enlarge city streets to properly and safely access a distant site of the proposed new or replacement Fayetteville Senior High; and

WHEREAS, maintaining FHS's current central location would be advantageous to the City of Fayetteville and more compatible with the 2025 Plan and its goal of discouraging sprawl.

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 commends the Fayetteville School Board of Directors for their hard work and careful study of the options concerning the Fayetteville Senior High. Further, the City Council of the City of Fayetteville recognizes that any new school building and especially a senior high school would be a major traffic generator and therefore should be located not only where infrastructure already exists to handle the traffic load, but where Fayetteville citizens can more easily and quickly access the school, its stadium, fields and arena.

PASSED and APPROVED this 3rd day of July, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Agenda Session
7/10/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 17, 2007**

A meeting of the Fayetteville City Council will be held on July 17, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

Fayetteville Attainable Housing, Leif Olson - Agenda Session Only

A. CONSENT:

- ✓ 1. **Approval of the June 19, 2007 City Council meeting minutes and the July 3, 2007 City Council meeting minutes.**
- ✓ 2. **Golden Circle Ford, Bid # 07-51:** A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.
- ✓ 3. **Landers-McClarty Ford, Bid # 07-52:** A resolution awarding Bid # 07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.
- ✓ 4. **Landers-McClarty Ford, Bid # 07-53:** A resolution awarding Bid # 07-53 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

- ✓ 5. **Landers-McClarty Ford, Bid # 07-54:** A resolution awarding Bid # 07-54 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.
- ✓ 6. **Landers-McClarty Ford, Bid # 07-55:** A resolution awarding Bid # 07-55 to Landers-McClarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.
- ✓ 7. **Urban Table, LLC:** A resolution approving a lease with The Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area.
- ✓ 8. **Arkansas Urban and Community Forestry Assistance Grant:** A resolution authorizing the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project; and approving a budget adjustment recognizing the grant revenue.
- ✓ 9. **Garver Engineers, LLC Amendment No. 1:** A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road.
- ✓ 10. **Stephens Insurance, LLC:** A resolution to approve a contract with Stephens Insurance, LLC to provide annual insurance benefits, consulting and brokerage services for the amount of \$50,000.00, plus additional service fees not to exceed \$37,630.00 and to approve a budget adjustment of \$51,380.00.
- ✓ 11. **Scull Creek Trail Lighting Phase II, Bid # 07-01:** A resolution approving the purchase of additional light fixtures and poles under Bid # 07-01 from Illuminetics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00 for Phase II of the Scull Creek Trail.
- ✓ 12. **Scull Creek Trail Lighting Phase II, Bid # 07-59:** A resolution awarding Bid # 07-59 and approving a contract with XXXXXX in the amount of \$XXXXXX for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a %XX project contingency in the amount of \$XXXXXX.

Need
New
Resolution

B. UNFINISHED BUSINESS:

✓ 1. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Ordinance of the Code of Fayetteville to amend Chapter 161: Zoning Regulations in order to clarify language regulating the height setback of buildings located in the Main Street Center Zoning District. *This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 3, 2007 City Council meeting and Tabled to the July 17, 2007 City Council meeting.*

✓ 2. **Amend Chapter 161: Zoning Districts:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. *This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting.*

C. NEW BUSINESS:

Consent ✓ 1. **Kenneth E. Schoby Offer and Acceptance Contract:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

✓ 2. **ANX 07-2620 (Keenan):** An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.

✓ 3. **RZN 07-2621 (Keenan):** An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

✓ 4. **RZN 07-2592 (Bellwood S/D Ph II):** An ordinance rezoning that property described in rezoning petition RZN 07-2592, for approximately 8.41 acres, located west of Rupple Road, south of Bellwood Subdivision Phase I from RMF-12, Residential Multi-Family, 12 units per acre, to RMF-18, Residential Multi-Family, 18 units per acre.

✓ 5. **VAC 07-2644 (Zaxby's):** An ordinance approving VAC 07-2644 submitted by Jim Harrelson with Engineering Services Incorporated for property located on 6th Street between Lewis Avenue and Eastern Street to vacate a portion of a utility easement on the subject property.

✓ **6. Growth Group, LLC:** A resolution approving a lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00.

✓ **7. United Engines:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a 150kW generac back-up power generator from United Engines in the amount of \$31,489.00 plus applicable taxes and shipping for the Information Technology Division; and approving a budget adjustment in the amount of \$65,000.00.

✓ **8. CUP 07-2560 Bohot Appeal:** An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

move to
NB #1
9. **Fayetteville School Board Support:** A resolution in support of the Fayetteville School Board's careful study and consideration of options for the Fayetteville High School.

D. INFORMATIONAL:

City Council Tour: ~~July 16, 2007~~

NONE

Add: Enact City Council Street
Committee.

Pre Agenda Session Meeting 7/3/07

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
July 17, 2007**

A meeting of the Fayetteville City Council will be held on July 17, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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

✓ Fayetteville Attainable Housing, Leif Olson - Agenda Session Only

A. CONSENT:

✓ 1. **Approval of the June 19, 2007 City Council meeting minutes and the July 3, 2007 City Council meeting minutes.**

NR #1 ✓ 2. **Kenneth E. Schoby Offer and Acceptance Contract:** A resolution approving an Offer and Acceptance contract between the City of Fayetteville and Kenneth E. Schoby for the sale of Lot 31E in the Fayetteville Industrial Park for \$60,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

✓ 3. **Golden Circle Ford, Bid # 07-51:** A resolution awarding Bid # 07-51 to Golden Circle Ford of Jackson, Tennessee for the purchase of one (1) mid-size regular cab dump truck in the amount of \$40,898.14 for use by the Transportation Division.

✓ 4. **Landers-McClarty Ford, Bid # 07-52:** A resolution awarding Bid # 07-52 to Landers-McClarty Ford for the purchase of one (1) crew cab utility body truck with crane in the amount of \$50,285.14 for use by the Transportation Division.

✓ 5. **Landers-McClarty Ford, Bid # 07-53:** A resolution awarding Bid # 07-53 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck with crane in the amount of \$50,703.14 for use by the Fleet Division.

✓ 6. **Landers-McClarty Ford, Bid # 07-54:** A resolution awarding Bid # 07-54 to Landers-McClarty Ford for the purchase of one (1) regular cab 4x4 utility body truck in the amount of \$36,481.00 for use by the Water & Sewer Division.

✓ 7. **Landers-McClarty Ford, Bid # 07-55:** A resolution awarding Bid # 07-55 to Landers-McClarty Ford for the purchase of two (2) regular cab 4x4 utility body trucks in the amount of \$89,336.28 for use by the Water & Sewer Division.

8. **Scull Creek Trail Lighting, Bid # 07-59:** A resolution awarding Bid # 07-01 and approving the purchase of light fixtures and poles from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in the amount of \$72,590.00; awarding Bid # 07-59 and approving a contract with XXXXXXXXXXXX in the amount of \$XXXXXXXXXX for the installation of the lighting for Phase II of the Scull Creek Trail; and approving a %XX project contingency in the amount of \$XXXXXXX.

✓ 9. **Urban Table, LLC:** A resolution approving a lease with The Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area.

✓ 10. **Arkansas Urban and Community Forestry Assistance Grant:** A resolution authorizing the Parks and Recreation Division to accept a 50/50 matching Arkansas Urban and Community Forestry Assistance Grant from the Arkansas Forestry Commission in the amount of \$10,000.00 to fund the Red Oak Park Stream Stabilization Project; and approving a budget adjustment recognizing the grant revenue.

✓ 11. **Garver Engineers, LLC Amendment No. 1:** A resolution approving contract Amendment No. 1 to the contract with Garver Engineering, LLC in an amount not to exceed \$716,850.00 for preliminary and final design and related services for improvements to Mount Comfort Road from I-540 to Ruppel Road.

12. *Stephens Insurance, LLC,*

B. UNFINISHED BUSINESS:

1. R

C. NEW BUSINESS:

✓ 1. **ANX 07-2620 (Keenan):** An ordinance annexing that property described in annexation petition ANX 07-2620 (CC2007-03), for property located at 3845 Skillern Road, containing approximately 3.00 acres.

✓ 2. **RZN 07-2621 (Keenan):** An ordinance rezoning that property described in rezoning petition RZN 07-2621, for approximately 3.00 acres, located at 3845 Skillern Road for R-A, Residential-Agricultural, to RSF-2, Residential Single Family, 2 units per acre.

✓ 3. **RZN 07-2592 (Bellwood S/D Ph II):** An ordinance rezoning that property described in rezoning petition RZN 07-2592, for approximately 8.41 acres, located west of Ruppel Road, south of Bellwood Subdivision Phase I from RMF-12, Residential Multi-Family, 12 units per acre, to RMF-18, Residential Multi-Family, 18 units per acre.

- ✓ 4. **VAC 07-2644 (Zaxby's):** An ordinance approving VAC 07-2644 submitted by Jim Harrelson with ESI, Inc. for property located on 6th Street between Lewis Avenue and Eastern Street to vacate a portion of a utility easement on the subject property.

- ✓ 5. **Growth Group, LLC:** A resolution approving a lease with Growth Group, LLC to rent space in the E.J. Ball Building to house the City of Fayetteville Information Technology Division's Server Room for the annual amount of \$18,510.00.

- ✓ 6. **United Engines:** An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a 150kW generac back-up power generator from United Engines in the amount of \$31,489.00 plus applicable taxes and shipping for the Information Technology Division; and approving a budget adjustment in the amount of \$65,000.00.

- ✓ 7. **Fayetteville School Board Support**
CUP 07-2560 Bohot Appeal: An appeal of the Planning Commission's approval of a conditional use permit for a home child care facility located at 124 E. 26th Circle in the Country Club Estates Subdivision.

D. INFORMATIONAL:

City Council Tour: July 16, 2007

✓ Last Nancy Allen asked that this be added to this agenda 7/3/07
ses

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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: **July 18, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of July 17, 2007**

1. **Golden Circle Ford, Bid #07-51:** Resolution awarding Bid #07-51 to Golden Circle Ford of Jackson, TN, for purchase of one mid-side, regular cab dump truck in amount of \$40,898.14 for use by Transportation Division;
2. **Landers-McLarty Ford, Bid #07-52:** Resolution awarding Bid #07-52 to Landers-McLarty Ford for purchase of one crew cab utility body truck with crane in amount of \$50,285.14 for use by Transportation Division;
3. **Landers-McLarty Ford, Bid #07-53:** Resolution awarding Bid #07-53 to Landers-McLarty Ford for purchase of one regular cab 4x4 utility body truck with crane in amount of \$50,703.14 for use by Fleet Division;
4. **Landers-McLarty Ford, Bid #07-54:** Resolution awarding Bid #07-54 to Landers-McLarty Ford for purchase of one regular cab 4x4 utility body truck in amount of \$36,481.00 for use by Water & Sewer Division;
5. **Landers-McLarty Ford, Bid #07-55:** Resolution awarding Bid #07-55 to Landers-McLarty Ford for purchase of two regular cab 4x4 utility body trucks in amount of \$89,336.28 for use by Water & Sewer Division;
6. **Urban Table, LLC:** Resolution approving lease with Urban Table, LLC for the patio within the Square Gardens for use as an outdoor dining area;
7. **AR Urban & Community Forestry Assistance Grant:** Resolution authorizing Parks & Recreation Division to accept a 50/50 matching grant from AR Forestry Commission in amount of \$10,000.00 to fund Red Oak Park Stream Stabilization project, and approve budget adjustment recognizing grant revenue;

8. **Garver Engineers, LLC Amendment No. 1:** Resolution approving contract Amendment #1 to contract with Garver Engineering, LLC in amount not to exceed \$716,850.00 for preliminary and final design to related services for improvements to Mount Comfort Road from I-540 to Ruppel Road;
9. **Stephens Insurance, LLC:** Resolution approving contract with Stephens Insurance, LLC to provide annual insurance benefits, consulting and brokerage services for amount of \$50,000.00 plus additional service fees not to exceed \$33,130.00 and approve a budget adjustment of \$46,880.00;
10. **Scull Creek Trail Lighting Phase II Bid #07-01:** Resolution approving purchase of additional light fixtures and poles under Bid #07-01 from Illuminetrics, authorized agents for Dynamic Lighting, Inc. and Composite Materials Technologies South Carolina, LLC in amount of \$72,590.00 for Phase II of Scull Creek Trail;
11. **Scull Creek Trail Lighting Phase II Bid #07-59:** Resolution awarding Bid #07-59 and approving contract with King Electrical Contractors, Inc. in amount of \$36,141.00 for installation of lighting for Phase II of Scull Creek Trail and approving 10% project contingency in amount of \$3,614.00;
12. **Schoby Offer & Acceptance Contract:** Resolution approving Offer & Acceptance contract between City of Fayetteville and Kenneth E. Schoby for sale of Lot 31E in Fayetteville Industrial Park for \$60,000.00; approving budget adjustment and authorizing Mayor and City Clerk to execute said agreement;
13. **Fayetteville School Board Support:** Resolution in support of Fayetteville School Board's careful study and consideration of options for the Fayetteville High School;
14. **Growth Group, LLC:** Resolution approving lease with Growth Group, LLC to rent space in E.J. Ball Building to house the City of Fayetteville Information Technology Division's server room for the annual amount of \$18,510.00;
15. **United Engines:** Ordinance waiving requirements of formal competitive bidding and approving purchase of 150kW Generac back-up power generator from United Engines in amount of \$31,489.00 plus applicable taxes and shipping for Information Technology Division and approving budget adjustment in amount of \$65,000.00;
16. **Enact City Council Street Committee:** Ordinance enacting Article 16 (Street Committee) of Chapter 33 of the Fayetteville Code.

Mayor Coody requested the following to be added to the July 17, 2007 City Council meeting. The presentation will be at the City Council meeting.

Arts & Economic Prosperity Study – Terri Trotter

Donda Smith

6/12/07

Terri Trotter moved this
to August 21, 2007

See attached email.

Mayor Coody was out
of town so I could
not discuss moving
the meeting with him.

Donda

6/21/07

From: "Terri Trotter" <TTrotter@waltonartscenter.org>
To: "Sondra Smith" <:ssmith@ci.fayetteville.ar.us>
Date: 6/22/2007 12:16 PM
Subject: RE: City Council Report

Let's say August 21. Thank you!

Terri Trotter

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

From: Sondra Smith [mailto:ssmith@ci.fayetteville.ar.us]
Sent: Thursday, June 21, 2007 10:44 AM
To: Terri Trotter
Subject: RE: City Council Report

Our City Council meetings are the first and third Tuesdays of each month unless a holiday falls on a Tuesday. The meetings in August will be on August 7 and August 21, 2007. Attached you will find the 2007 City Council meeting schedule for you to review.

Sondra E. Smith, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> "Terri Trotter" <TTrotter@waltonartscenter.org> 6/20/2007 9:00 PM
>>> >>>
Hi Sondra,

No, the Mayor asked that I present at a Council meeting. I thought the 31st was the next one. What is the next Council meeting after July 17? Could I be on the agenda for that one?

Terri Trotter

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

From: Sondra Smith [mailto:ssmith@ci.fayetteville.ar.us]
Sent: Wednesday, June 20, 2007 5:18 PM
To: Terri Trotter
Subject: Re: City Council Report

We do not have a City Council meeting on July 31, 2007. We have Agenda Session on that date. Are you wanting to give your presentation at Agenda Session rather than at the City Council meeting?

Sondra E. Smith, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323

ssmith@ci.fayetteville.ar.us

>>> "Terri Trotter" <TTrotter@waltonartscenter.org> 6/20/2007 2:20 PM
>>> >>>

Hi Sandra,

I am scheduled to present the Arts & Economic Prosperity Study to the Council on July 17, but I have a conflict. Would it be possible to move that presentation to July 31?

Please let me know, and thank you!

Terri M. Trotter
Vice President, External Affairs
Walton Arts Center
PO Box 3547
Fayetteville, AR 72703
479-443-9216 x239
ttrotter@waltonartscenter.org
www.waltonartscenter.org

Walton Arts Center...Life is sweet!

From: Leif Olson
To: Branson, Lisa; Smith, Sondra
CC: Conklin, Tim
Date: 7/2/2007 3:03 PM
Subject: Attainable Housing for the 7-10-07 CC Agenda

Sondra or Lisa, could you put the ongoing Attainable Housing discussion on the Agenda for the July 10, 2007 CC agenda session. Thank You. Leif

July 9, 2007

RECEIVED

JUL 09 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

To the Fayetteville City Council,

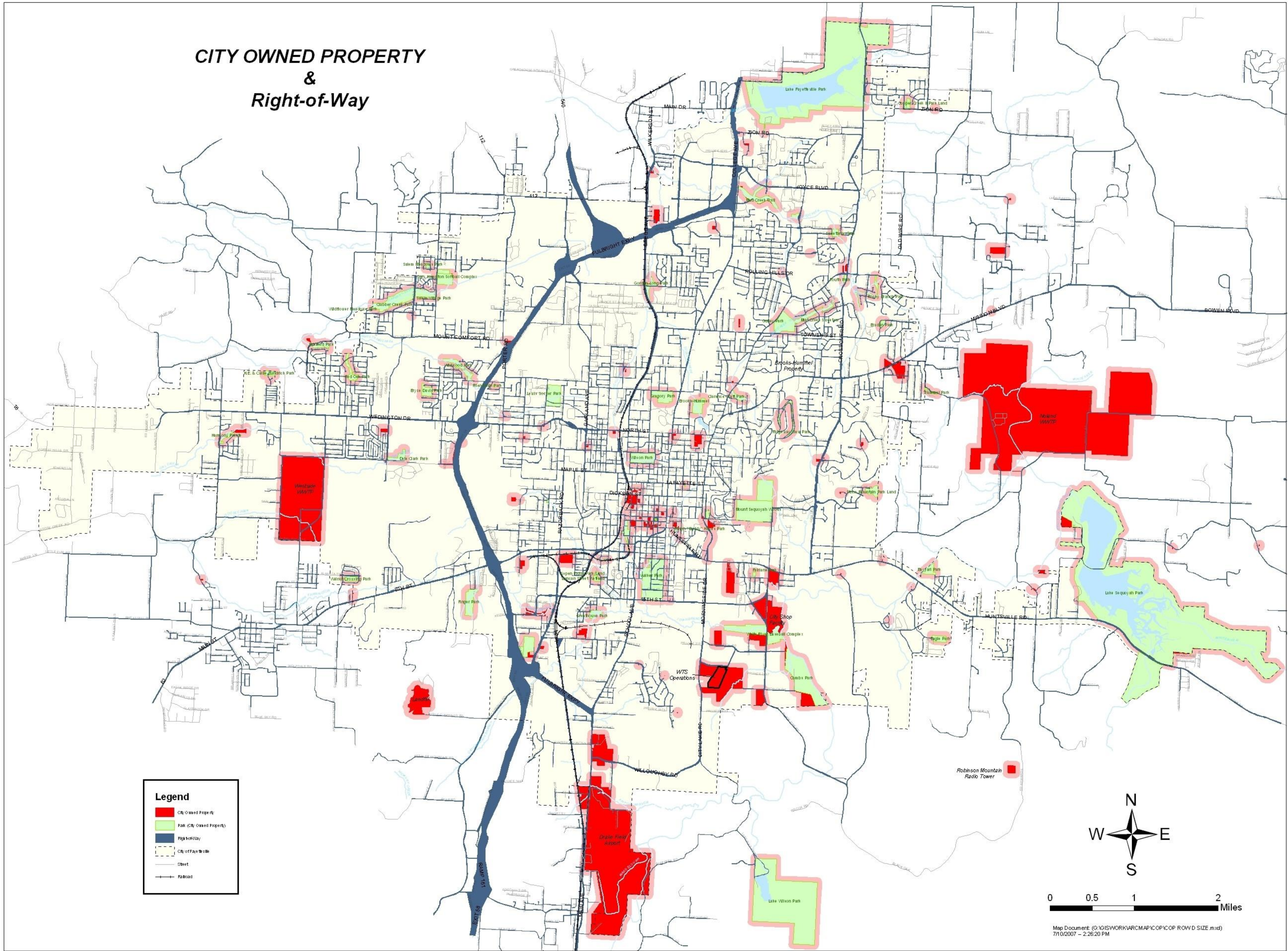
Please note that I need to post pone my July 17th meeting until August 7th. If you should have any questions please call me at 479-527-9992 or 479-601-5788.

Sincerely,

Wilma Bohot

Wilma Bohot
mysterious
- blessings
@ yahoo.com
527-9992
601-5788

**CITY OWNED PROPERTY
&
Right-of-Way**



Legend

- City Owned Property
- Park (City Owned Property)
- Right-of-Way
- City of Fayetteville
- Street
- Railroad

North arrow pointing North (N), South (S), East (E), and West (W).

Scale bar: 0, 0.5, 1, 2 Miles