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
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Presentation: First School of First Presbyterian Church K-1 Class - Carolyn Swaney, Teacher and David Channell on guitar.

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 137-07.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 138-07.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 139-07.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 140-07.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 141-07.

7. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

   THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION.

8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 142-07.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 143-07.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 144-07.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 145-07.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 146-07

13. **McClelland Consulting Engineers, Inc:** A resolution approving task order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an obstruction survey of the Drake Field Runway Approaches; accepting a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00; and approving a budget adjustment in the amount of $45,000.00.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 147-07.

1. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 148-07.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 149-07.

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5042.

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

   THIS ITEM WAS TABLED TO AUGUST 21, 2007 CITY COUNCIL MEETING.

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

   THIS ITEM WAS LEFT ON THE THIRD READING OF THE ORDINANCE AND TABLED INDEFINITELY.

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5043.

2. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

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

3. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5044.

4. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5045.

5. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

   THIS ITEM FAILED ON THE VOTE TO PASS THE ORDINANCE.

6. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

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

7. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5046.

8. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5047.

9. **Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637:** An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5048.

10. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5049.

11. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5050.

12. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5051.

13. **Liberty Bank Appeal:** A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 150-07.

14. **Abshier Heights – Waive Chapter 166.20 of the UDO:** An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5052.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 10:25 p.m.

City Council Meeting August 07, 200

Adjourn 10:25 PM.

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads arrived at 6:45PM	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Alderman Thiel Left at 9:45 PM	**Cook**	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody	absent			
		8-0			

Subject:	Consent				
Motion To:		Approve	Item #	7 GeoSyntec Consultants	
Motion By:		Lucas		moved to	before New
Seconded:		Cook		Business	
Item # 7 Removed to discuss.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
passed	**Cook**	✓			
Res. 137-07 to 147-07	**Allen**	✓			
	Rhoads	absent during the vote.			
Minutes Approved	**Ferrell**	✓			
	Mayor Coody				
		9-0			

City Council Meeting August 07, 200

Subject:	GeoSyntec Consultants, Inc.				
Motion To:		Approve			
Motion By:		Allen			
Seconded:		Lucas			
Moved from Consent to discuss.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Passed	**Allen**	✓			
	Rhoads	absent during the vote			
	Ferrell	✓			
148-07	**Mayor Coody**				

7-0

Subject:	CUP 07-2560 Bohot Appeal				
Motion To:		Approve	Grant Appeal		
Motion By:		Thiel			
Seconded:		Gray			
B.1. Unfinished Business	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Resolution Passed	**Allen**	N			
	Rhoads	✓			
	Ferrell	✓			
149-07	**Mayor Coody**				

7-1

City Council Meeting August 07, 2007

Subject:	Amend Chapter 161: Zoning Regulations				
Motion To:		Pass			
Motion By:					
Seconded:					
Unfinished Business B.2.	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
passed	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
5042	Mayor Coody				
		8-0			

Subject:	Amend Chapter 161: Zoning Districts				
Motion To:		Table to August 21, 2007			
Motion By:		Allen			
Seconded:		Cook			
Unfinished Business B.3.	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Tabled to August 21, 2007	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

City Council Meeting August 07, 2007

Subject:	RZN 07-2592 (Bellwood SID Phase II)				
Motion To:		3rd read	Table Indefinitely		
Motion By:		Lucas	Lucas		
Seconded:		Ferrell	Thiel		
B.4. Unfinished Business	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
Left on the Third Reading and Tabled Indefinitely	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Mayor Coody				
		8-0	8-0		

Subject:	R-PZD 07-2578 Bailey Meadows				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Ferrell	Ferrell		
C.1. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
passed	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
5043	Ferrell	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

City Council Meeting August 07, 2007

Subject:	Amend Ordinance 4971 CR-PZD 041307 Aspen Ridge				
Motion To:					
Motion By:					
Seconded:					
C.2. New Business	**Lucas**				
	Jordan				
	Gray				
	Thiel				
Left on the First Reading	**Cook**				
	Allen				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject:	Amend Chapters 171 & 172				
Motion To:		Amend to say infrequent	2nd read	3rd read	Pass
Motion By:		Lucas	Gray	Lucas	
Seconded:		Ferrell	Lucas	Ferrell	
C.3. New Business	**Lucas**	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
Passed	**Thiel**	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
5044	**Rhoads**	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

City Council Meeting August 07, 2007

Subject:	Amend Ordinance 5002				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Gray	Lucas		
C.4.	**Lucas**	✓	✓	✓	
New	**Jordan**	✓	✓	✓	
Business	**Gray**	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
passed	**Rhoads**	✓	✓	✓	
	Ferrell	✓	✓	✓	
5045	**Mayor Coody**				
		8-0	8-0	8-0	

Subject:	Amend Chapter 96 Noise Ordinance				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Gray	Lucas		
Seconded:		Lucas	Cook		
C.5.	**Lucas**	✓	✓	✓	
New	**Jordan**	✓	✓	N	
Business	**Gray**	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Allen	✓	✓	N	
failed	**Rhoads**	✓	✓	✓	
	Ferrell	✓	✓	N	
	Mayor Coody				
		8-0	8-0	4-4	

City Council Meeting August 07, 200[illegible]

Subject:	Boardwalk Property Owners Association				
Motion To:					
Motion By:					
Seconded:					
C.6. New Business	Lucas				
	Jordan				
	Gray				
	Thiel				
Left on the First Reading	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject:	Sale of 4.0. Acres to Ozarks Electric				
Motion To:		2nd reading	3rd reading	Pass	
Motion By:		Gray	Cook		
Seconded:		Ferrell	Ferrell		
C.7. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
Passed	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5046	Mayor Coody				
		8-0	8-0	8-0	

City Council Meeting August 07, 2007

Subject:		Repeal Youth Activities Committee			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Cook		
Seconded:		Lucas	Ferrell		
C.8. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5047	Mayor Coody				
		8-0	8-0	8-0	

Subject:		Pops Old Time Bar-B-Que Appeal			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Cook		Aubrey
Seconded:		Ferrell	Ferrell		Shepard
C.9. New Business	Lucas	✓	✓	N	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5048	Mayor Coody				
		8-0	8-0	7-1	

City Council Meeting August 07, 2007

Subject:	R-PZD 07-2613 Holcomb Heights Phase II				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Lucas		
Seconded:		Lucas	Ferrell		
C.10. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	absent during the vote.	absent during the vote	absent during the vote.	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
Passed	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5049	Mayor Coody				
		7-0	7-0	7-0	

Subject:	VAC 07-2638 Estes				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Lucas	Lucas		
C.11. New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	absent during the vote	absent during the vote.	absent during the vote	
	Cook	✓	✓	✓	
Passed	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5050	Mayor Coody				
		7-0	7-0	7-0	

City Council Meeting August 07, 200

Subject:		UAC 07-2639 Four Seasons Sunroom / Boss			
Motion To:		Remove Condition of Approval #2	2nd read	3rd read	Pass
Motion By:		Cook	Cook	Cook	
Seconded:		Ferrell	Lucas	Lucas	
C.12. New Business	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	absent during the votes			—
	Cook	✓	✓	✓	✓
Passed	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
5051	Mayor Coody				
		7-0	7-0	7-0	7-0

Subject:		Liberty Bank Appeal			
Motion To:		Approve resolution			
Motion By:		Ferrell			
Seconded:		Lucas			
C.13. New Business	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	Absent during the vote.			
	Cook	✓			
Passed	Allen	✓			
	Rhoads	✓			
150-07	Ferrell	✓			
	Mayor Coody				
		6-1			

City Council Meeting August 07, 2007

Subject:	Abshier Heights - Waive Chapter 166.20 of the UDO				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Lucas	Gray		
C.14, New Business	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the votes.			
	Cook	✓	✓	✓	
Passed	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5052	Mayor Coody				
		7-0	7-0	7-0	

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

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City Council Meeting
August 07, 2007

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8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

13. **McClelland Consulting Engineers, Inc:** A resolution approving task order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an obstruction survey of the Drake Field Runway Approaches; accepting a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00; and approving a budget adjustment in the amount of $45,000.00.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

3. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

4. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

5. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

6. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

7. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

8. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

9. **Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637:** An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

10. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

11. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

12. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

13. **Liberty Bank Appeal:** A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

14. **Abshier Heights – Waive Chapter 166.20 of the UDO:** An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

D. INFORMATIONAL:

City Council Tour: None

Added at Agenda Session 7/31/07 for the 8/7/07 Agenda

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

8/7/2007
City Council Meeting Date

Ray M. Boudreaux	Aviation & Economic Development	General Government
Submitted By	Division	Department

Action Required:

Action Required: Approve Task Order #1 with McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of $45,000 to conduct an Obstruction Survey of the Drake Field Runway approaches. Approve the acceptance of a grant from the Arkansas Dept of Aeronautics for $2,250 / $42,750 (FAA pass-through funding). Approve a Budget Adjustment.

$ 45,000.00	$ -	Obstruction Survey
Cost of this request	Budget	Program Category / Project Name
5550.3960.5314.00	$ -	Avi/ED Imp
Account Number	Funds Used to Date	Program / Project Category Name
07024 1	$ -	Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [X]

Department Director — Date 7/18/07

City Attorney — Date 7/23/2017

Finance and Internal Service Director — Date 7-24-07

Mayor — Date 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/19/07 MK

Received in Mayor's Office ENTERED 7/23/07 BRP

Comments: The project is 100% funded by grants.

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: July 18, 2007

SUBJECT: **Approval of Task Order #1 July 18, 2007 with McClelland Consulting Engineers for Runway Obstruction Surveys and a Budget Adjustment recognizing $45,000.00 in Grant revenues.**

RECOMMENDATION: Approve Task Order #1 July 18, 2007 with McClelland Consulting Engineers for runway obstruction surveys of both approaches to the runway at Drake Field and a Budget adjustment recognizing the grant revenue of 45,000.00 through the State of Arkansas Department of Aeronautics FAA System Planning Grant #3-05-0000-006-2007 and a 5% match from the State Aeronautics Commission.

BACKGROUND: The first step in implementing the Fayetteville Municipal Airport five year improvement plan to improve the Runway Safety Area on the north end of the airport is to conduct a Runway Obstruction Survey. This project will provide updated survey information for both ends of the runway and will be conducted IAW guidance provided by the FAA. The survey is necessary to insure that the project we have proposed will adequately remove the obstructions currently affecting approaches from the north. Members of the Airport Board and staff presented the project to improve the Runway 16 RSA and received assurance of funding over the next few years. This project is the first of several and is the necessary first step.

DISCUSSION: Airport staff presented application for this project to the State Aeronautics Commission July 11, 2007 in Searcy, Arkansas. The project was approved and a grant letter is part of this package. The State grant is for the 5% match to the Federal AIP funding which is being provided by the FAA to the State as part of the FAA System Planning Grant #3-05-0000-006-2007 "to develop Obstruction Surveys for proposed instrument approaches at multiple General Aviation Airports as specified by the State of Arkansas Department of Aeronautics." Fayetteville Municipal Airport, Drake Field is one of the airports included in the FAA grant.

BUDGET IMPACT: This project is 100% funded by the FAA State System Planning Grant to the State of Arkansas ($42,750) and the State of Arkansas Aeronautics Commission ($2,250).

Attachments:
- Task Order #1
- Grant Letter from Department of Aeronautics
- Staff Review Form
- Budget Adjustment

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 TASK ORDER #1 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $45,000.00 TO CONDUCT AN OBSTRUCTION SURVEY OF THE DRAKE FIELD RUNWAY APPROACHES; ACCEPTING A GRANT FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS IN THE AMOUNT OF $2,250.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $45,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Task Order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an Obstruction Survey of the Drake Field runway approaches.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby accepts a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of $45,000.00.

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

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested	Adjustment Number
2007		8/7/2007	

Project or Item Added/Increased:
$45,000 in the Professional Services account

Project or Item Deleted/Reduced:
$ 2,250 in the State Grants on Federal Projects account
$42,750 in the Federal Cost Share account

Justification of this Increase:
Will provide for a Runway Approach Obstruction Location Survey.

Justification of this Decrease:
The funding will offset 100% of the expenses for the project.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5550	3960	5314	00	45,000	07024	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants on Fed proj	5550	0955	6803	00	2,250	07024	1
Federal Cost Share	5550	0955	4309	00	42,750	07024	1

Approval Signatures

Requested By — Date 7/18/07

Budget Manager — Date 7-26-07

Department Director — Date 7/18/07

Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

STATE OF ARKANSAS
DEPARTMENT OF AERONAUTICS

Little Rock National Airport • One Airport Drive • 3rd Floor
Little Rock, Arkansas 72202-4402
Telephone: (501) 376-6781 • Fax: (501) 378-0820

July 11, 2007

MIKE BEEBE
GOVERNOR

JOHN K. KNIGHT
DIRECTOR

Commissioners

Marion Burton
Little Rock

Dr. Gene Jines
Little Rock

Charles Simmons
Rogers

Don Ruggles
Texarkana

Lindley Smith
Jonesboro

Ken Johnson
Pine Bluff

Dr. William Morgan
Paragould

Mr. Ray M. Boudreaux, Director
Aviation & Economic Development
Fayetteville Municipal Airport
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701

RECEIVED
JUL 13 2007
AIRPORT

Ch to file
Ch to City Council
Ch to return

Dear Mr. Boudreaux:

The Arkansas Aeronautics Commission in their meeting of July 11, 2007 approved a State Airport Aid Grant in the amount of $2,250.00 for obstruction survey at the Fayetteville Municipal Airport. (AIP-5%)

Your grant has been assigned a number for identification purposes. Please use 2481-07 as your grant number when corresponding with our office concerning your project. You should advise the Director of this office if you find you will not be able to complete the project for the amount approved. An amendment request for the project may then be acted on at the next Commission meeting. The Commission will not be responsible for any additional project costs unless the sponsor has received notification in advance.

The Commission has asked that we call your attention to Page Three (3) of your application for State Airport Aid. You agreed, when the application was submitted to start the project within three months after approval or the grant would be null and void. The next to the last paragraph requires that the project be completed within one year unless it is partially funded by the Federal Aviation Administration (FAA). Please advise if circumstances beyond your control prevent the completion within the allotted time, otherwise, the grant may be canceled.

Payment of this grant may be made on completion of the project. Please request payment of this grant in writing and include your documentation for the project at that time.

Sincerely,

John Knight

John K. Knight
Director

JK/cb

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

July 18, 2007

RECEIVED
JUL 18 2007
AIRPORT

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Task Order No 1
Approach Surveys
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No 1 for the obstruction surveys for runways 16 & 34.

Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 1 (3 copies)

W:\DRAKE FIELD\CONTRACTS\2006-2008\BOUDREAUX-0718-TO 1.DOC:

TASK ORDER NO. 1

APPROACH OBSTRUCTION SURVEYS
RUNWAYS 16 & 34

FAYETTEVILLE MUNICIPAL AIRPORT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on June 6, 2006, as amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the necessary surveys to identify any obstructions within the approaches to Runways 16 & 34 at the Fayetteville Municipal Airport. The surveys will be conducted for a Class "D" ¾ mile Non-Precision Instrument Runway Approach for a distance of 10,000 feet from each runway end, in accordance with FAA Publication No. 405 and NGS requirements.

SECTION I - PROJECT DESCRIPTION

The project is to consist of: assistance in applying for state and federal funding for the project; establishment of Primary and Secondary Airport Control Stations (Pacs & Sacs); field surveys to determine the geodetic location of each Pacs and Sacs; field

surveys to establish control points for the aerial photo obstruction data; field surveys to determine the location and height of any object on the airport not identified by the aerial survey; project administration; submission of the data to NGS and the FAA; meetings with the City's Airport Department and Airport Board to review various aspects of the project; and any engineering services associated with this obstruction survey project.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), MCE will endeavor to execute the project as expeditiously as possible within an estimated approximate three (3) months period.

SECTION III - SCOPE OF SERVICES

MCE shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, this project is likely to include:

A. Establish Pacs & Sacs with control.

B. Field Control Surveys.

C. Aerial Obstruction Mapping.

D. Project Administration

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to MCE as compensation for his services:

A.	Establish Pacs & Sacs:	estimated to be	$ 15,500.
B.	Control Surveys:	estimated to be	$ 5,000.
C.	Aerial Obstruction Mapping:	estimated to be	$ 22,000.
D.	Project Administration:	estimated to be	$ 2,500.

The engineering cost for this project will not-exceed a total fee of $ 45,000.00. Appendices A, & B presents hourly rates for personnel anticipated to be assigned to this project and the unit prices as well as the basis of payments to be made to the MCE.

SECTON V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE:

By: _____

Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C. Quinn

President

Attest: R W Aydelmer

Vice President

APPENDIX B

Hourly Rates for Personnel
Drake Field, Fayetteville Municipal Airport

CATEGORY	BILLABLE HOURLY RATE RANGE
Principal Engineer	$ 147.00
Sr. Project Manager	$ 137.00
Project Manager	$ 126.00
Project Engineer II	$ 105.00
Project Engineer I Design Engineer	$ 84.00
Landscape Architect	$ 86.00
Engineering Technician III	$ 79.00
Engineering Technician II	$ 63.00
Engineering Technician I	$ 48.00
Construction Observer III	$ 79.00
Construction Observer II	$ 58.00
Construction Observer I	$ 42.00
Chief Draftsman	$ 68.00
Draftsman II	$ 53.00
Draftsman I	$ 48.00
Computer Technician	$ 74.00
Survey Technician	$ 74.00
Registered Land Surveyor	$ 90.00
2-Man or Robotic Survey	$ 137.00
Party Chief	$ 63.00
Soils Lab Supervisor	$ 55.00
Soils Lab Technician II	$ 42.00
Soils Lab Technician I	$ 37.00
Clerk/Typist	$ 48.00
Mileage	$ 0.42

* Subject to Annual Adjustment Mid-Year.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 1
80' BY 120' CORPORATE HANGAR
FAYETTEVILLE MUNICIPAL AIRPORT

	CLASSIFICATION > / HOURLY RATE >	PROJECT DIRECTOR $147.00	PROJECT MGR./ENGR. $125.00	ENGINEERING TECHNICIAN $78.00	CADD OPER. 2 $63.00	LICENSED SURVEYOR $90.00	SURVEY CREW $135.00	CLERK TYPIST $48.00	MILEAGE $0.42	SUB.-CONS. FEE	DIRECT EXPENSE	EXTENDED TOTAL
LINE	TASK DESCRIPTION											
A	ESTABLISH PACS & SACS WITH CONTROL	6		32		35	66		80		$28	$15,500
B	CONTROL SURVEYS	1		5		4	30		126			$5,000
C	AERIAL OBSTRUCTION MAPPING									$22,000		$22,000
D	PROJECT ADMINISTRATION	16						3	10			$2,500
	GRAND TOTAL, ENGINEERING SERVICES	23	0	37	0	39	96	3	216	$22,000	$28	$45,000

W:\DRAKE FIELD\CONTRACTS\2006-2008\fee sheets\TO 1 Fee.wb3

STATE OF ARKANSAS
DEPARTMENT OF AERONAUTICS

Little Rock National Airport • One Airport Drive • 3rd Floor
Little Rock, Arkansas 72202-4402
Telephone: (501) 376-6781 • Fax: (501) 378-0820

July 11, 2007

MIKE BEEBE
GOVERNOR

JOHN K. KNIGHT
DIRECTOR

Commissioners

Marion Burton
Little Rock

Dr. Gene Jines
Little Rock

Charles Simmons
Rogers

Don Ruggles
Texarkana

Lindley Smith
Jonesboro

Ken Johnson
Pine Bluff

Dr. William Morgan
Paragould

Mr. Ray M. Boudreaux, Director
Aviation & Economic Development
Fayetteville Municipal Airport
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701

RECEIVED
JUL 13 2007
AIRPORT

Ok to file
Ok to City Council
for action

Dear Mr. Boudreaux:

The Arkansas Aeronautics Commission in their meeting of July 11, 2007 approved a State Airport Aid Grant in the amount of $2,250.00 for obstruction survey at the Fayetteville Municipal Airport. (AIP-5%)

Your grant has been assigned a number for identification purposes. Please use 2481-07 as your grant number when corresponding with our office concerning your project. You should advise the Director of this office if you find you will not be able to complete the project for the amount approved. An amendment request for the project may then be acted on at the next Commission meeting. The Commission will not be responsible for any additional project costs unless the sponsor has received notification in advance.

The Commission has asked that we call your attention to Page Three (3) of your application for State Airport Aid. You agreed, when the application was submitted to start the project within three months after approval or the grant would be null and void. The next to the last paragraph requires that the project be completed within one year unless it is partially funded by the Federal Aviation Administration (FAA). Please advise if circumstances beyond your control prevent the completion within the allotted time, otherwise, the grant may be canceled.

Payment of this grant may be made on completion of the project. Please request payment of this grant in writing and include your documentation for the project at that time.

Sincerely,

John Knight

John K. Knight
Director

JK/cb

From: Ray Boudreaux
To: Becker, Paul
Date: 7/25/2007 3:43 PM
Subject: Fwd: Notice to Proceed/Aeronautics/FAA

Hi Paul,

Here is the information you requested.

Cheers, Ray

Ray M. Boudreaux, Col. USAF (ret)
Director, Aviation & Economic Development
4500 S. School Ave., Suite F
Fayetteville, AR 72701
ph. 479.718.7642
fax. 479.718.7646
email: rboudreaux@ci.fayetteville.ar.us

>>> <FearlessM1@aol.com> 7/25/2007 3:10 PM >>>
Mr. Boudreaux:

Please be advised that a "Notice to Proceed" is approved for the obstruction survey project at the Fayetteville Municipal Airport. FAA Airport Improvement Program Grant #3-05-0000-006-2007 in the amount of $42,750.00 will provide 95% funding for the study. A 5% state airport aid grant in the amount of $2,250.00 was approved by the Arkansas Aeronautics Commission on July 11,2007. Total project cost not to exceed $45,000.00.

Please call our office at (501) 376-6781 if you have questions concerning this matter.

Sincerely,

John K. Knight
Director

JK/cb

****
Get a sneak peek of the all-new AOL at
http://discover.aol.com/memed/aolcom30tour

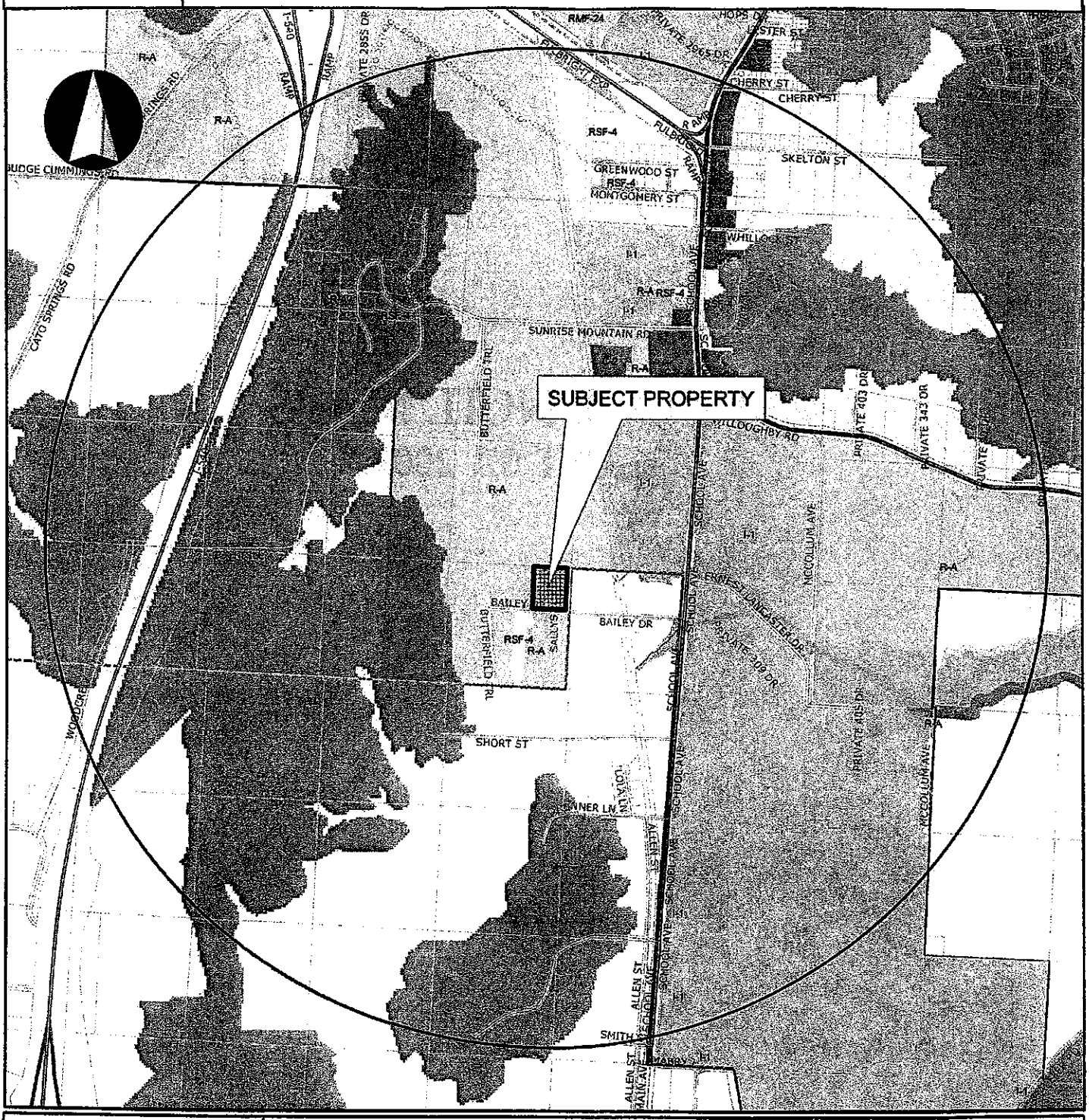
R-PZD-07-2578
Bailey Meadows
Handed out at
Agenda Session
7/31/07

CITY COUNCIL MAPS
AUGUST 07, 2007

RPZD07-2578

One Mile View

BAILEY MEADOWS



Overview

Legend

Subject Property

RPZD07-2578

Boundary

Planning Area

Overlay District

Outside City

Legend

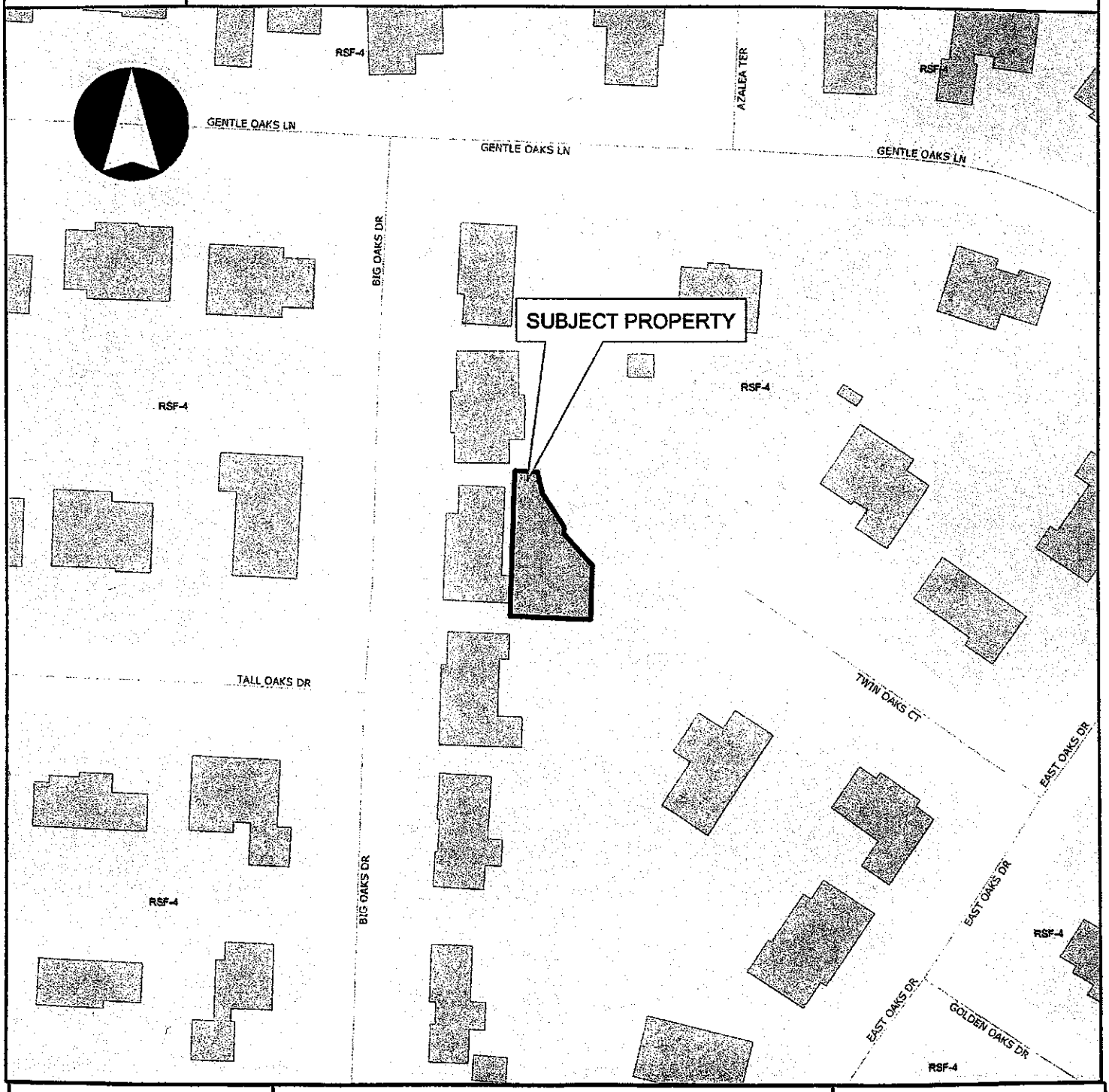
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

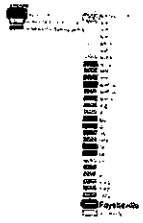
VAC07-2638

Close Up View

ESTES



Overview

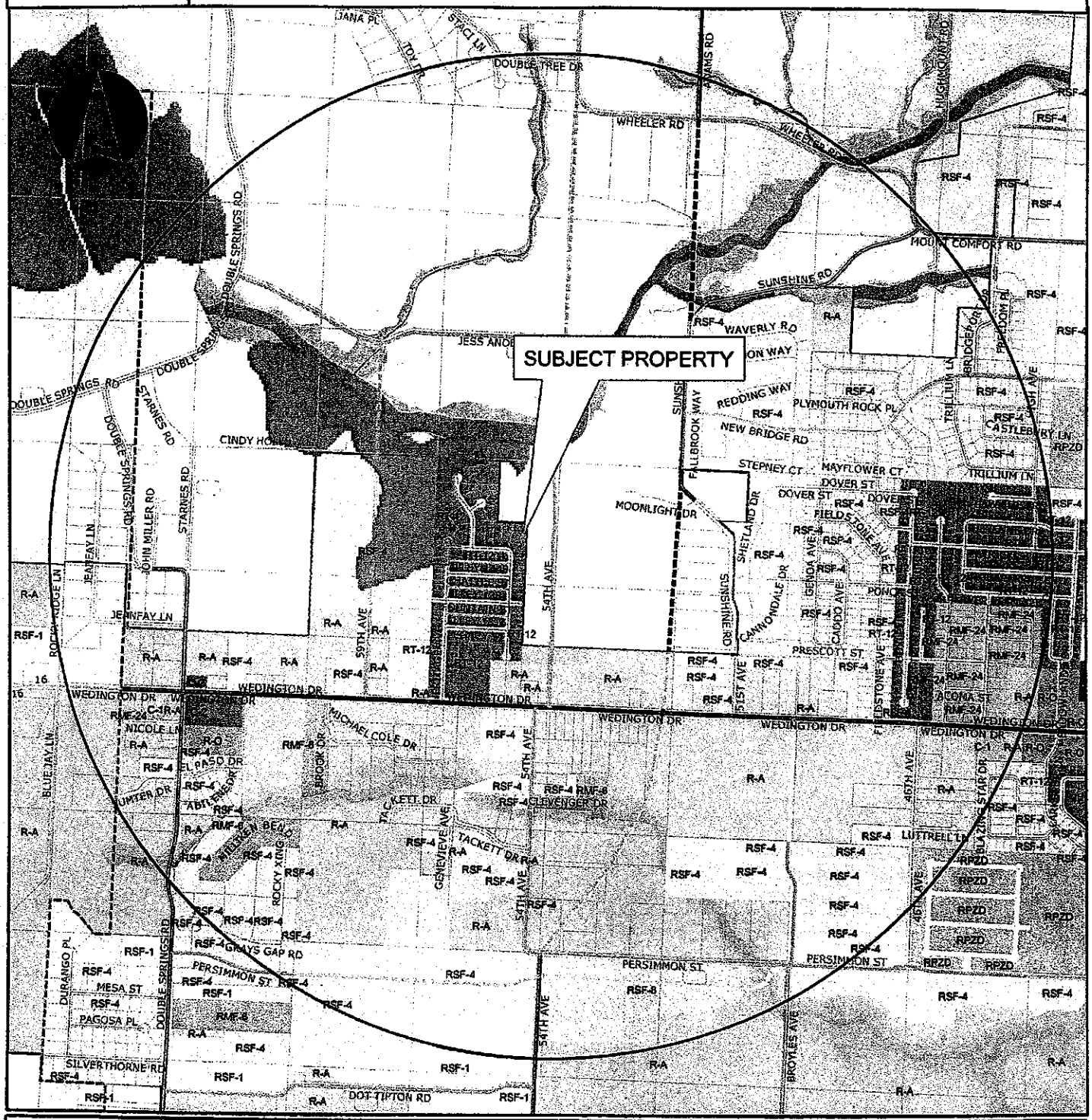


0 37.5 75 150 225 300 Feet

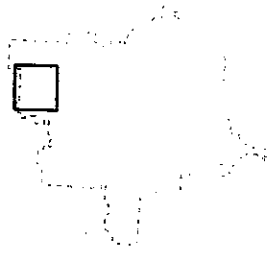
VAC07-2639

One Mile View

FOUR SEASONS SUNROOM/BOSS



Overview



Legend

Subject Property

VAC07-2639

Boundary

Planning Area

Overlay District

Outside City

Legend

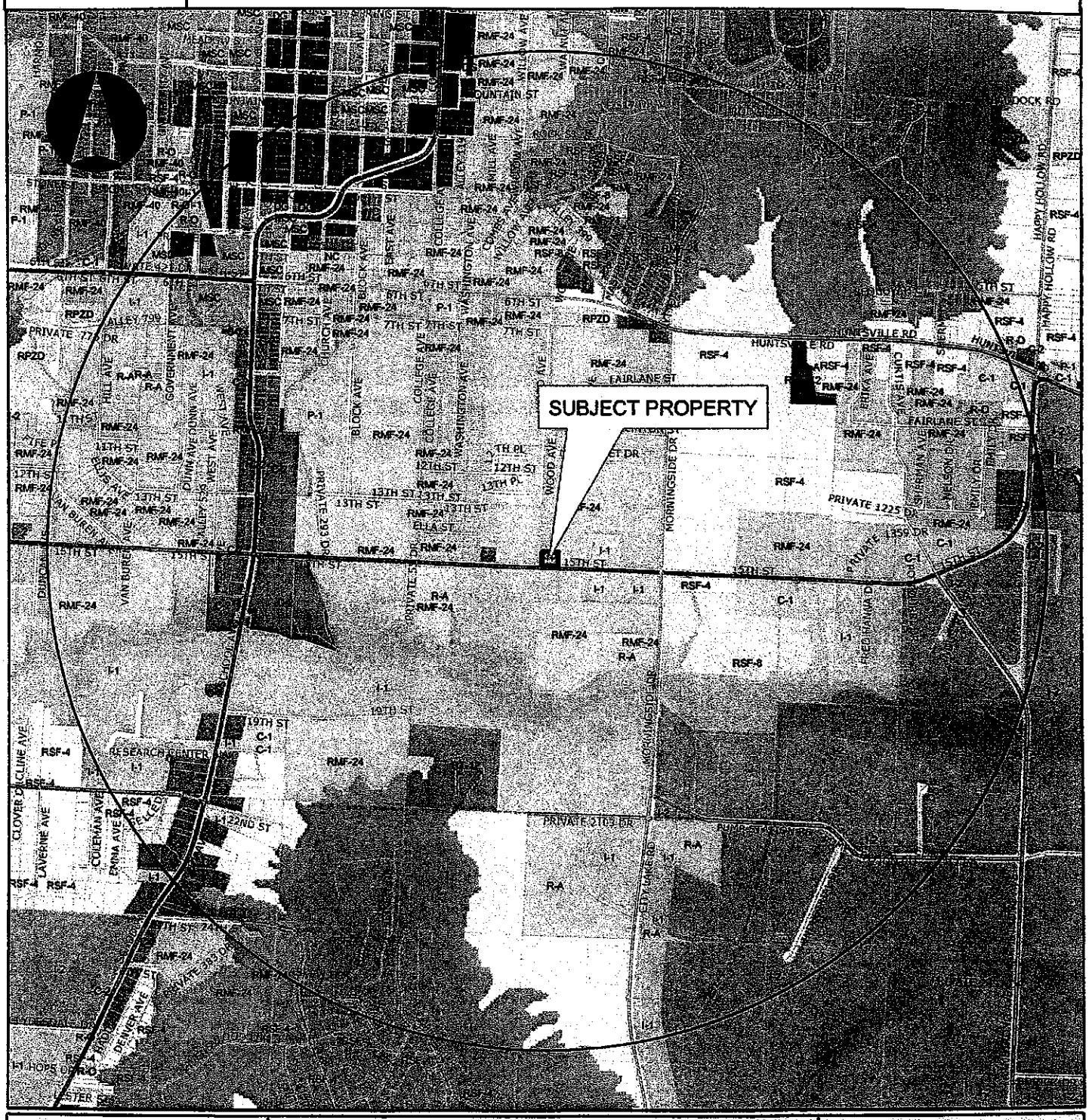
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

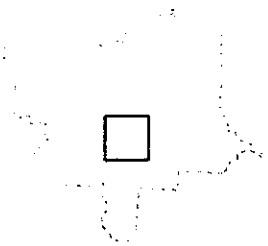
RZN07-2637

One Mile View

STARKS



Overview



Legend

Subject Property

RZN07-2637

Boundary

Planning Area

Overlay District

Outside City

Legend

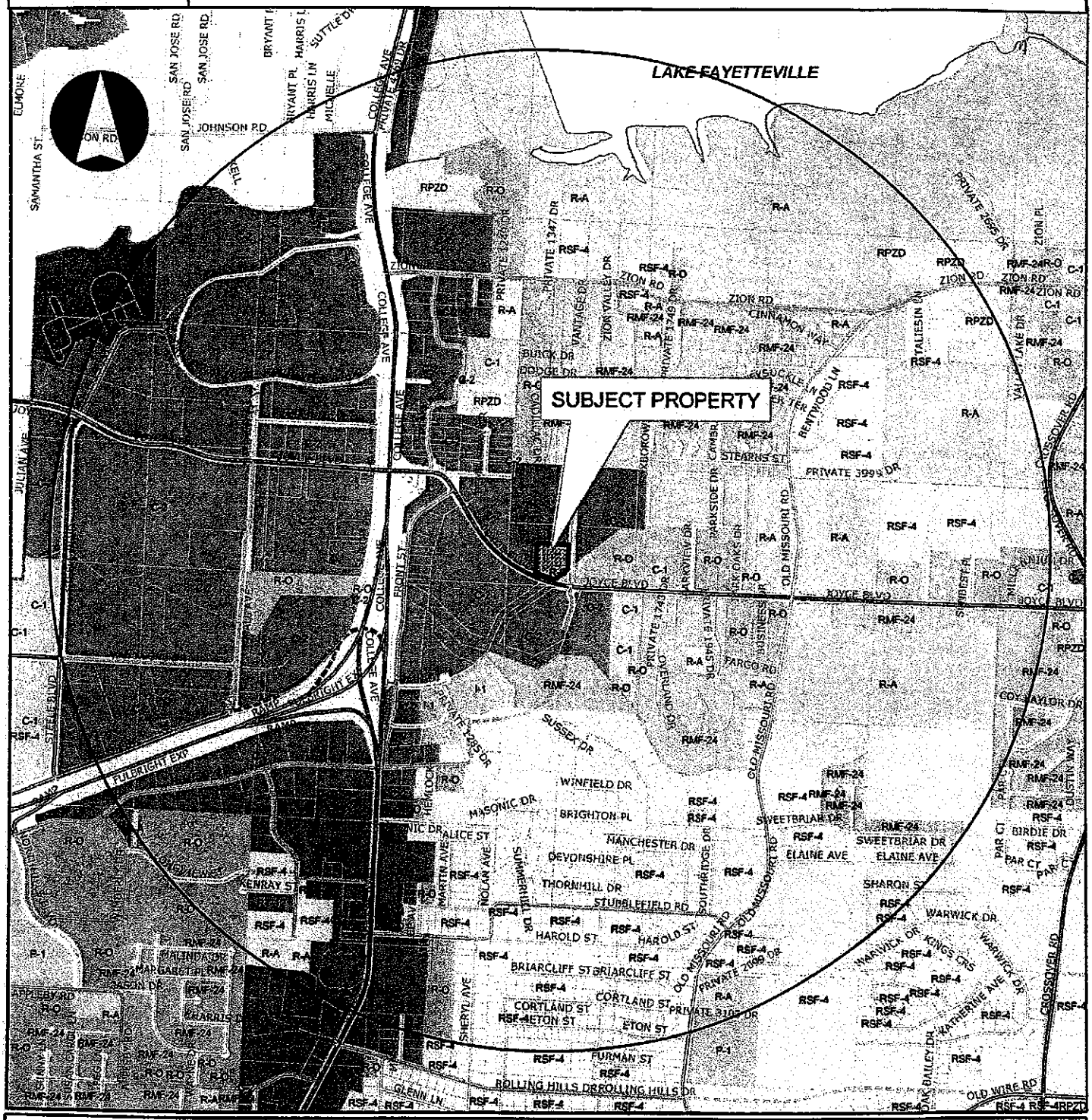
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

LSD07-2574

One Mile View

LIBERTY BANK OF ARKANSAS



Overview

Legend

Subject Property

LSD07-2574

Boundary

Planning Area

Overlay District

Outside City

Legend

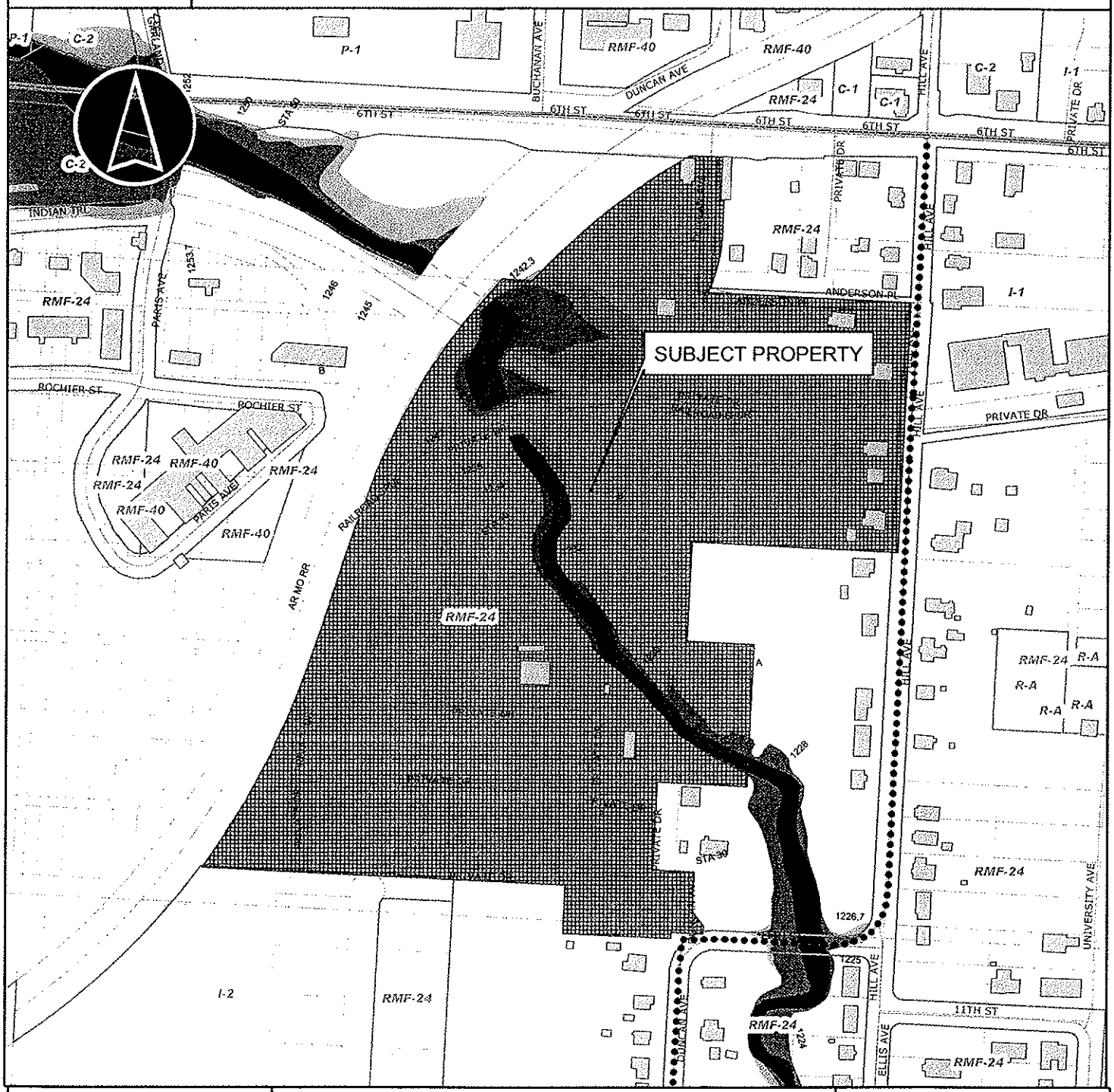
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

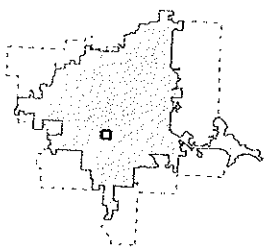
RPZD04-1307

Close Up View

ASPEN RIDGE



Overview



Legend

RPZD04-1307

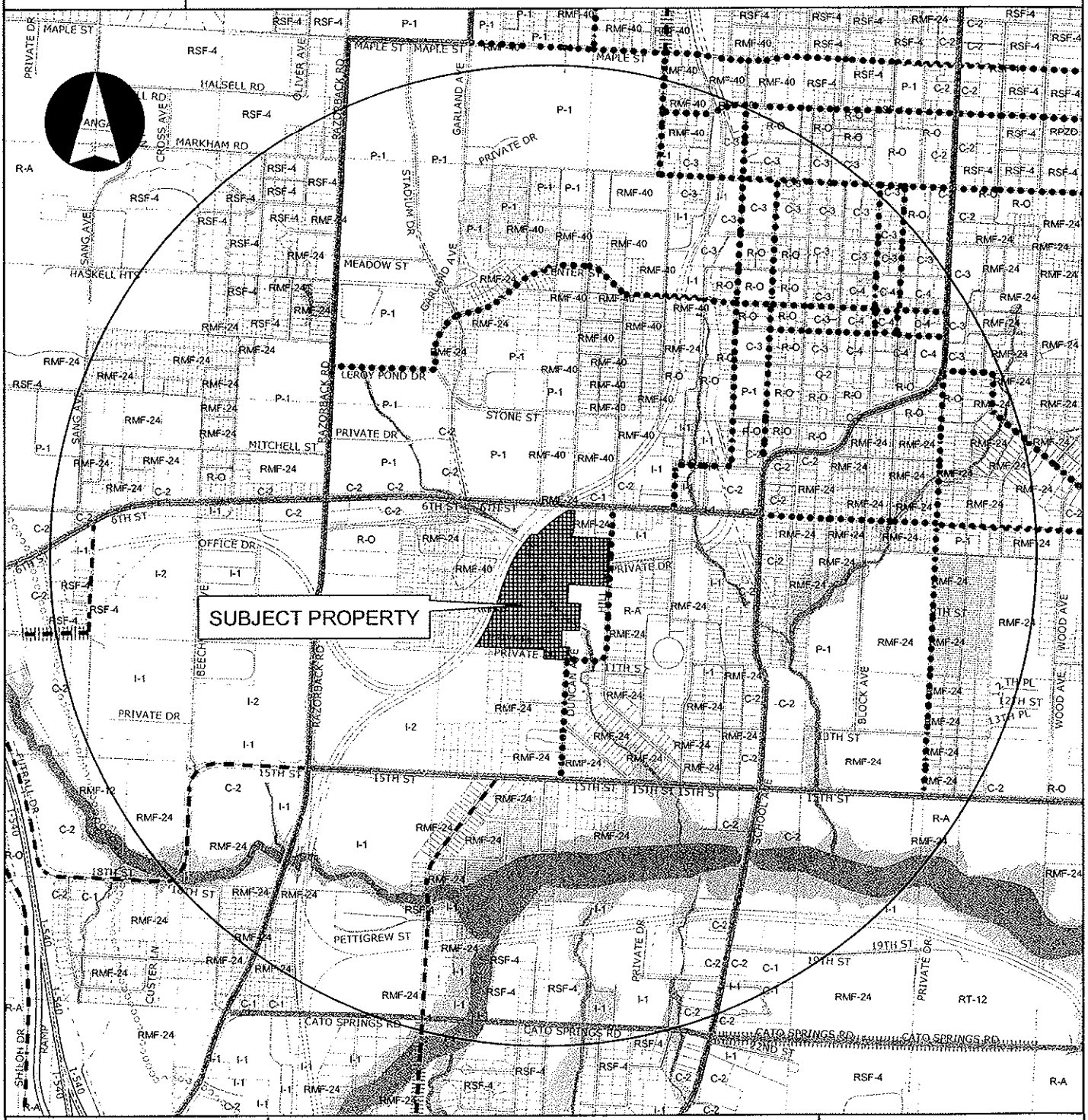
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City

0 75 150 300 450 600 Feet

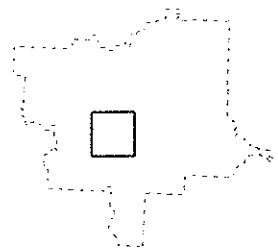
R-PZD04-1307

One Mile View

ASPEN RIDGE



Overview



Legend

Subject Property

R-PZD04-1307

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.05 0.1 0.2 0.3 0.4 Miles

ORDINANCE NO.____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE BOARDWALK PROPERTY OWNERS ASSOCIATION (POA) IN AN AMOUNT NOT TO EXCEED $69,674.00 TO DREDGE THE BOARDWALK POA POND.

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 this constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sewer Plant Const Rev Division: Program:	Date Requested	Adjustment Number
2007		8-7-07	

Project or Item Added/Increased:

Increase WSIP project by $140,000.

Project or Item Deleted/Reduced:

No items reduced. This budget adjustment is necessary to recognize revenue in the amount of $140,000 from Ozarks Electric property purchase of four (4) acres of West Plant property.

Justification of this Increase:

The increase represents the proceeds from the City's land sale to Ozarks Electric Cooperative Corp. Ozarks Electric Cooperative is purchasing a four (4) acre section of the West Plant's property; specifically, a part of the Northeast Quarter of Section 14, Township 16 North, Range 31 West.

Justification of this Decrease:

No items reduced. This budget adjustment is necessary to recognize revenue in the amount of $140,000 from Ozarks Electric property purchase of four (4) acres of West Plant property.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Transfer to WWT Imp Cap	5400	5700	7602	48	140,000	06032	1
Contract services	4480	9480	5315	00	140,000	02133	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Gain/loss sale of assets	5400	0940	6881	02	140,000	06032	1
Trans from Water & Sewer	4480	0948	6602	40	140,000	02133	1

Approval Signatures

Requested By	Date
Budget Manager	8-1-07 Date
Department Director	1 Aug 07 Date
Finance & Internal Services Director	8/1/07 Date
Mayor	8/1/07 Date

Budget Office Use Only

Type: A B C D E

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

Pop's Old Time
Bar-B-Que Appeal

Additional Information
Added at Agenda Session
7/31/07 for the 8/7/07
Agenda

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2637, FOR APPROXIMATELY 0.64 ACRES, LOCATED AT 504 EAST 15TH STREET FROM R-O, RESIDENTIAL OFFICE TO C-1, NEIGHBORHOOD COMMERCIAL.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-O, Residential Office to C-1, Neighborhood Commercial, as shown on Exhibits "A" and "B" 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 "C" 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:

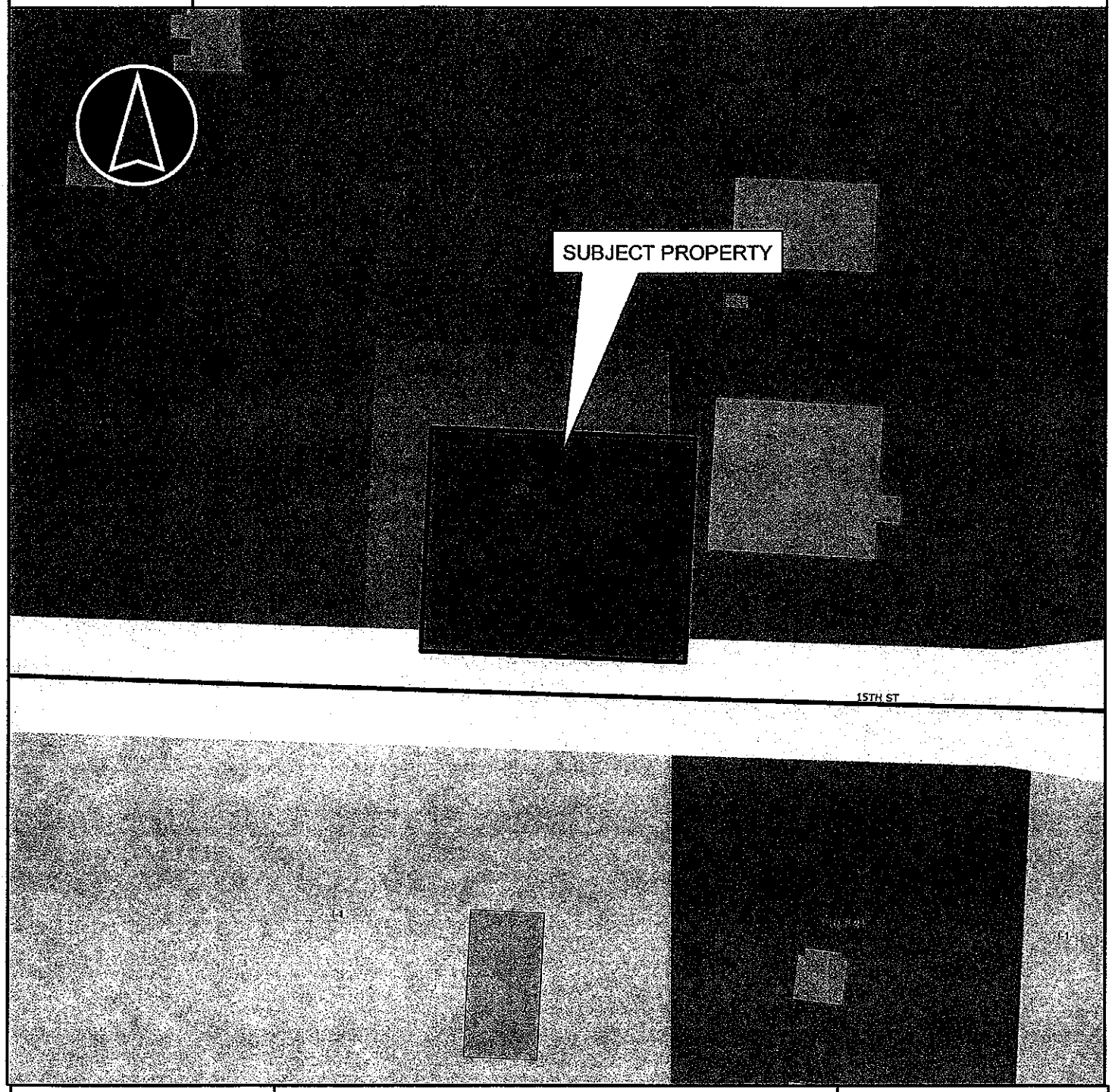
By: _____ By: _____
DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

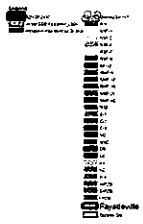
RZN07-2637

Close Up View

STARKS



Overview



0 37.5 75 150 225 300 Feet

EXHIBIT "B"
RZN 07-2637

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION TWENTY-TWO (22) IN TOWNSHIP SIXTEEN (16) NORTH, RANGE (30) WEST, DESCRIBED AS BEGINNING AT A POINT EAST 20.0 FEET AND NORTH 00 DEGREES 10 MINUTES 20 SECONDS EAST 40.0 FEET OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT; THENCE NORTH 00 DEGREES 10 MINUTES 20 SECONDS EAST 154.00 FEET, THENCE EAST 180.00 FEET, THENCE SOUTH 00 DEGREES 10 MINUTES 20 SECONDS WEST 154.00 FEET, THENCE WEST 180.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.636 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

Added at Agenda Session 7/31/07 for the 8/7/07 Agenda

901 North 47th Street, Suite 200
Rogers, Arkansas 72756

Crafton Tull Sparks
architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

July 24, 2007

City Clerk
City of Fayetteville
City Administration Building
113 West Mountain Street
Room 308
Fayetteville, Arkansas 72701

RE: Liberty Bank of Fayetteville
CTS Job No. 071019-00

Dear Sir or Madam:

I am writing this letter on behalf of my client Liberty Bank to appeal the decision by the Planning Commission on July 23, 2007 for project LSD 07-2574 condition of approval number 3. The Planning Commission did not approve item 3 (which was to allow a curb cut onto Joyce Boulevard) on a 4 to 4 split vote. The decision to deny this access was based on the opinion that adequate access was being provided for and per city code item 166.05, 7, d, iv which states a development can be denied based on "The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern. We demonstrated with empirical sight specific data that this was not the case and that in fact the turning movements for this drive off of Joyce would be as safe as the proposed signalized intersection at Joyce and Vantage. It should be noted that neither the staff nor the planning commissioners had any data to contradict our findings.

Secondly it was the commission's position that adequate access was being provided by a dedicated drive off of Vantage Drive and a private drive directly north of our site. In actuality, this is incorrect. After analyzing these drives it was determined that during the peak pm hour, when most of the customers will be visiting the bank, Vantage Drive southbound traffic will back up so far that both drives will be blocked by waiting traffic and it will be nearly impossible to enter the bank site except at the mercy of the opposing traffic. It should also be noted that our curb cut request onto Joyce Boulevard does not require any waivers or variances and fully complies with the City of Fayetteville codes and ordinances.

I have attached a drawing showing the curb cut that we are asking for as well as the numerical data showing the operation of the curb cut on Joyce Street. We also showed in our opinion what will happen to the drive off Vantage Drive during the pm peak hour. In addition I will show two videos to model at the council meeting the traffic patterns with and without the curb cut onto Joyce Boulevard.

If you should have any questions concerning this request please feel free to contact me at 479-636-4838.

Respectfully,
Crafton, Tull, Sparks & Associates, Inc.

Daniel P. Ellis

Daniel P. Ellis, P.E., CPESC
Vice President

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

Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour

PROJECTED TRAFFIC CONDITIONS / INTERSECTION / PEAK HR		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
			PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C	D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A						B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A		A		n/a

Projected Level-of-Service with Drive B at Vantage as Sole Access Point

PROJECTED TRAFFIC CONDITIONS / INTERSECTION / PEAK HR		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
			PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	E	B		B	C		C	C	D	D		C
PM	Vantage Drive and Drive B	SIGN	F		C				A	A		A		n/a

RESOLUTION NO. _____

A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF LARGE SCALE DEVELOPMENT 07-2574 FOR LIBERTY BANK BY MODIFYING CONDITION #3 AND ALLOWING THE BANK'S REQUESTED CURB CUT ON JOYCE BLVD.

WHEREAS, on July 23rd, 2007, the Fayetteville Planning Commission approved LSD 07-2574 (Liberty Bank) after denying the bank's request for a curb cut on Joyce Blvd.; and

WHEREAS, on July 24, 2007, the property owner/developer properly appealed this decision to the Fayetteville City Council.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the Liberty Bank's appeal of the Planning Commission's denial of the bank's request (by a 4 to 4 vote) for a curb cut on Joyce Blvd. should be granted such that LSD 07-2574 (Liberty Bank) is amended by modifying Condition of Approval #3 to allow a two way in and right turn only exit curb cut on Joyce Blvd. as shown on Exhibit A attached hereto. LSD 07-2574 remains fully approved with this one modification.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

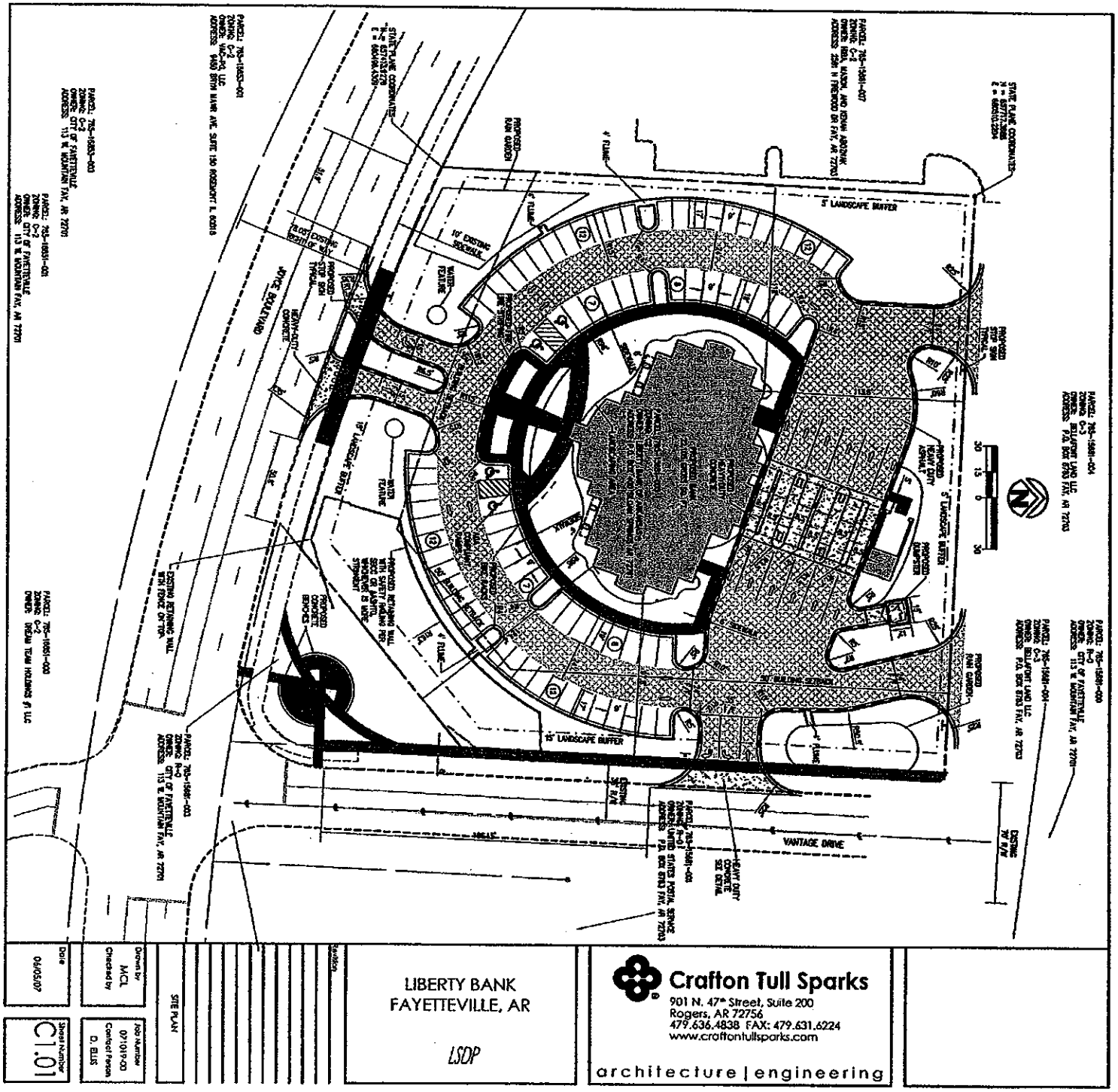

LIBERTY BANK
FAYETTEVILLE, AR
LSDP
Crafton Tull Sparks
901 N. 47th Street, Suite 200
Rogers, AR 72756
479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com
architecture | engineering
SITE PLAN
Date
06/05/07
Drawn by
MCL
Checked by
Job Number
07101900
Contact Person
D. ELLIS
Sheet Number
C1.01
VANTAGE DRIVE
JOYCE BOULEVARD
15' LANDSCAPE BUFFER
5' LANDSCAPE BUFFER
PROPOSED BUILDING
PROPOSED HEAVY DUTY ASPHALT
PROPOSED DUMPSTER
PROPOSED RAIN GARDEN
PROPOSED CONCRETE BLOCKS
PROPOSED RETAINING WALL WITH SAFETY HANDRAIL PER SECT. OF AASHTO WHERever is more STRINGENT
EXISTING RETAINING WALL WITH FENCE ON TOP
EXISTING 10' EASEMENT
EXISTING 70' R/W
HEAVY DUTY CONCRETE SEE DETAIL
PARCEL: 765-15551-004
ZONING: P-O
OWNER: BELLAPORT LAND LLC
ADDRESS: P.O. BOX 8763 FAY, AR 72703
PARCEL: 765-15551-000
ZONING: P-O
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-001
ZONING: C-2
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-003
ZONING: P-O
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-007
ZONING: C-2
OWNER: DALE WASSON AND VERNA ARDOINAK
ADDRESS: 2284 N FREDRICK DR FAY, AR 72703
PARCEL: 765-15551-001
ZONING: P-O
OWNER: UNITED STATES POSTAL SERVICE
ADDRESS: P.O. BOX 8763 FAY, AR 72703
PARCEL: 765-15553-003
ZONING: C-2
OWNER: MACO, LLC
ADDRESS: 14400 60TH MAIN AVE. SUITE 150 ROSEMONT IL 60018
PARCEL: 765-15553-001
ZONING: C-2
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-002
ZONING: C-2
OWNER: DREAM TEAM HOLDINGS #1 LLC
STATE PLANE COORDINATES
N = 637135.5878
E = 1664114.5301
N = 637175.5888
E = 1664110.2204
N = 637124.5279
E = 1664114.5301

EXHIBIT
A

Added at Agenda Session 7/31/07 for the 8/7/07 agenda.
Liberty Bank
LSD 07-2574

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF August 07, 2007

FROM: Bobby Ferrell

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
LSD 07-2574 Liberty Bank Large Scale Development – Appeal for a curb cut

An appeal filed by the property owner's representative to contest the decision by the Planning Commission on July 23, 2007 to affirm a condition of approval of the subject large scale development requiring the removal of a curb cut from Joyce Blvd.

APPROVED FOR AGENDA:

Bobby Ferrell — 7/31/07
Alderman **Bobby Ferrell** — Date

Jeremy L. Pate — 07.31.07
Jeremy Pate — Date
Director of Current Planning

City Council Meeting of August 07, 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: July 30, 2007

Subject: Large Scale Development for Liberty Bank (LSD 07-2574)

RECOMMENDATION

Staff recommends denial of the applicant's appeal of the condition of approval #3 for LSD 07-2574 Liberty Bank, approved by the Planning Commission on July 23, 2007, and recommends the large scale develoment approval be affirmed as approved, with all conditions.

BACKGROUND

The subject property contains approximately 2.68 acres and is located at the northwest corner of Joyce Boulevard and Vantage Drive, just east and south of the Bellafont development. The applicant proposes to construct a two-story bank building containing a total 21,613 square feet with 76 parking spaces. The Planning Commission approved the large scale development subject to conditions of approval. The applicant is appealing condition of approval #3, which reads as follows:

> #3: Planning Commission determination of curb-cuts and appropriate locations. *Staff is not supportive of the proposed curb-cut onto Joyce Boulevard, finding that the additional turning movements created by the requested curb-cut will increase the potential for traffic conflicts on a highly traveled and high speed principal arterial street. As noted in Figure No. 8 in the submitted traffic study, a high number of vehicle turning movements will be created by the proposed curb-cut that will likely conflict with through traffic on Joyce and east bound traffic attempting to utilize the turning lane to access Vantage Drive. Sufficient access to serve the proposed development was planned and is available to the property via Vantage Drive (a Collector Street), which is signalized, and a private drive that connects from Vantage Drive to another signalized intersection at the entrance to Bellafont at Joyce Blvd. Please reference additional information submitted by the Engineering Division (memo dated July 19, 2007), along with the articles of reference.*

The Planning Commission determined in favor of staff's recommendation.

Staff recommended approval of the subject development proposal, however recommended denial of a direct curb-cut onto Joyce Boulevard. Staff finds that safe and adequate access is being provided to the property at three other points, and that the proposed 2-lane access to Joyce Blvd. would create a dangerous traffic condition in proximity to two planned and funded traffic signals, one of which is now operational.

The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to the Bellafont drive/Joyce signal achieves a high level of access to the subject property, and recommends removal of the access point to Joyce Blvd. The property has direct access to Vantage Drive to the east and to a private drive to the north, which was planned for shared access to this bank when the Bellafont development was approved. It is staff's opinion that an additional curb-cut in this location will contribute to a decrease in traffic safety for motorists and pedestrians in the area and will contribute to the degradation of the function of the principal arterial. It has been substantiated that poor access management results in a greater increase in traffic congestion and traffic accidents, as has recently been discussed pertaining to College Avenue. Please reference the attached supplemental materials within the staff report for more information.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this project, with all conditions as recommended by staff, including the removal of the curb-cut to Joyce Blvd. Commissioners cited traffic safety as the primary reason for denying the curb cut. A previous vote to retain the curb-cut failed with a 4-4-0 vote.

BUDGET IMPACT

None.

901 North 47th Street, Suite 200
Rogers, Arkansas 72756

479.636.4838 t 479.631.6224 f
www.craftontullsparks.com

Crafton Tull Sparks
architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

July 24, 2007

City Clerk
City of Fayetteville
City Administration Building
113 West Mountain Street
Room 308
Fayetteville, Arkansas 72701

RE: Liberty Bank of Fayetteville
CTS Job No. 071019-00

Dear Sir or Madam:

I am writing this letter on behalf of my client Liberty Bank to appeal the decision by the Planning Commission on July 23, 2007 for project LSD 07-2574 condition of approval number 3. The Planning Commission did not approve item 3 (which was to allow a curb cut onto Joyce Boulevard) on a 4 to 4 split vote. The decision to deny this access was based on the opinion that adequate access was being provided for and per city code item 166.05, 7, d, iv which states a development can be denied based on "The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern. We demonstrated with empirical sight specific data that this was not the case and that in fact the turning movements for this drive off of Joyce would be as safe as the proposed signalized intersection at Joyce and Vantage. It should be noted that neither the staff nor the planning commissioners had any data to contradict our findings.

Secondly it was the commission's position that adequate access was being provided by a dedicated drive off of Vantage Drive and a private drive directly north of our site. In actuality, this is incorrect. After analyzing these drives it was determined that during the peak pm hour, when most of the customers will be visiting the bank, Vantage Drive southbound traffic will back up so far that both drives will be blocked by waiting traffic and it will be nearly impossible to enter the bank site except at the mercy of the opposing traffic. It should also be noted that our curb cut request onto Joyce Boulevard does not require any waivers or variances and fully complies with the City of Fayetteville codes and ordinances.

I have attached a drawing showing the curb cut that we are asking for as well as the numerical data showing the operation of the curb cut on Joyce Street. We also showed in our opinion what will happen to the drive off Vantage Drive during the pm peak hour. In addition I will show two videos to model at the council meeting the traffic patterns with and without the curb cut onto Joyce Boulevard.

If you should have any questions concerning this request please feel free to contact me at 479-636-4838.

Respectfully,
Crafton, Tull, Sparks & Associates, Inc.

Daniel P. Ellis

Daniel P. Ellis, P.E., CPESC
Vice President

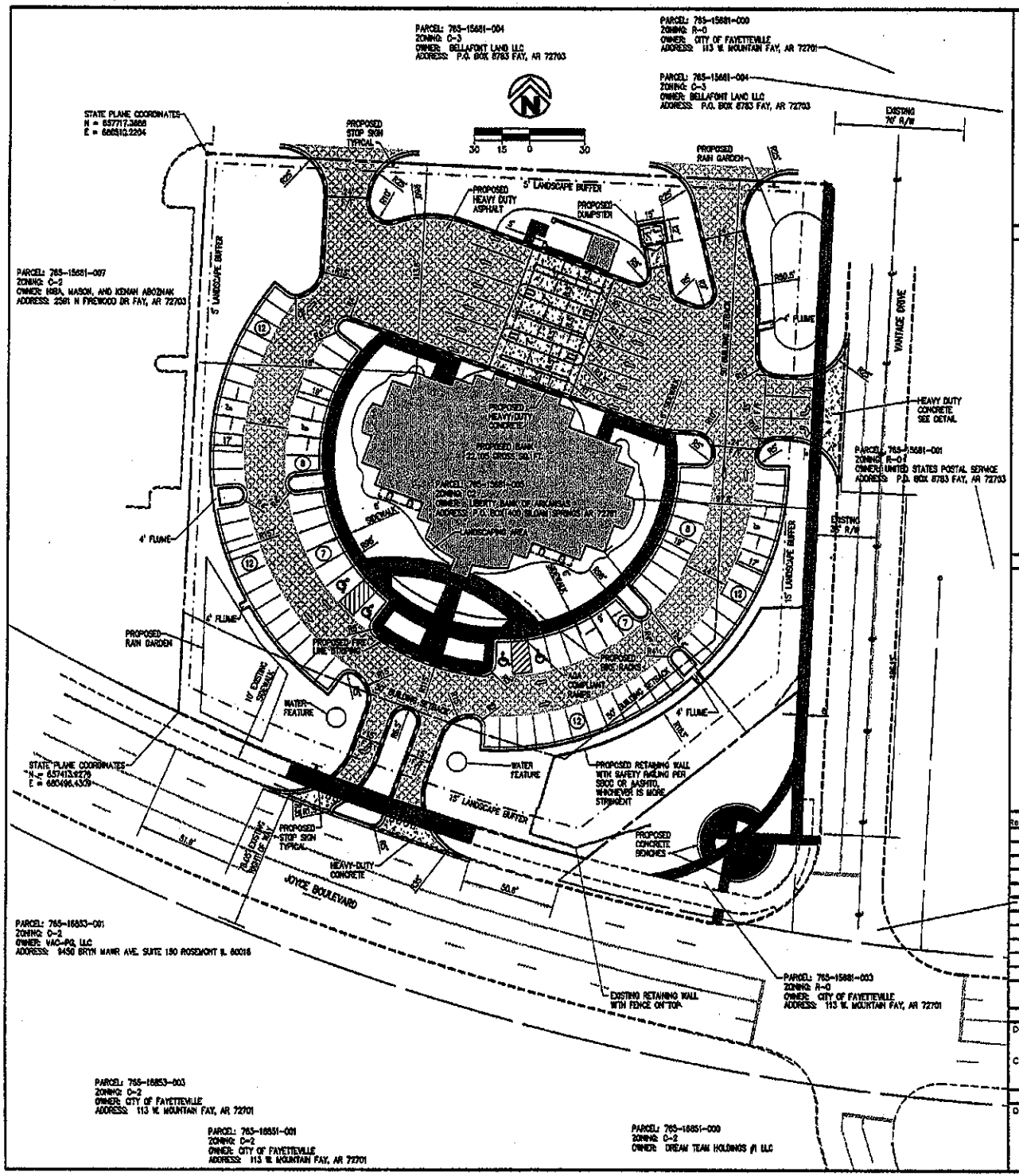
RECEIVED
JUL 26 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
PEAK HR	INTERSECTION		PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C	D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A						B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A		A		n/a

Projected Level-of-Service with Drive B at Vantage as Sole Access Point

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
PEAK HR	INTERSECTION		PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	E	B		B	C		C	C	D	D		C
PM	Vantage Drive and Drive B	SIGN	F		C				A	A		A		n/a



Crafton Tull Sparks
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479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com
architecture | engineering

LIBERTY BANK
FAYETTEVILLE, AR
LSDP

Revision

SITE PLAN

Drawn by	Job Number
MCL	071019-00
Checked by	Contact Person
	D. ELLIS
Date	Sheet Number
06/05/07	C1.01

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Glenn E. Newman, Jr., P.E., Staff Engineer
DATE:	July 19, 2007
SUBJECT:	Liberty Bank Access Management

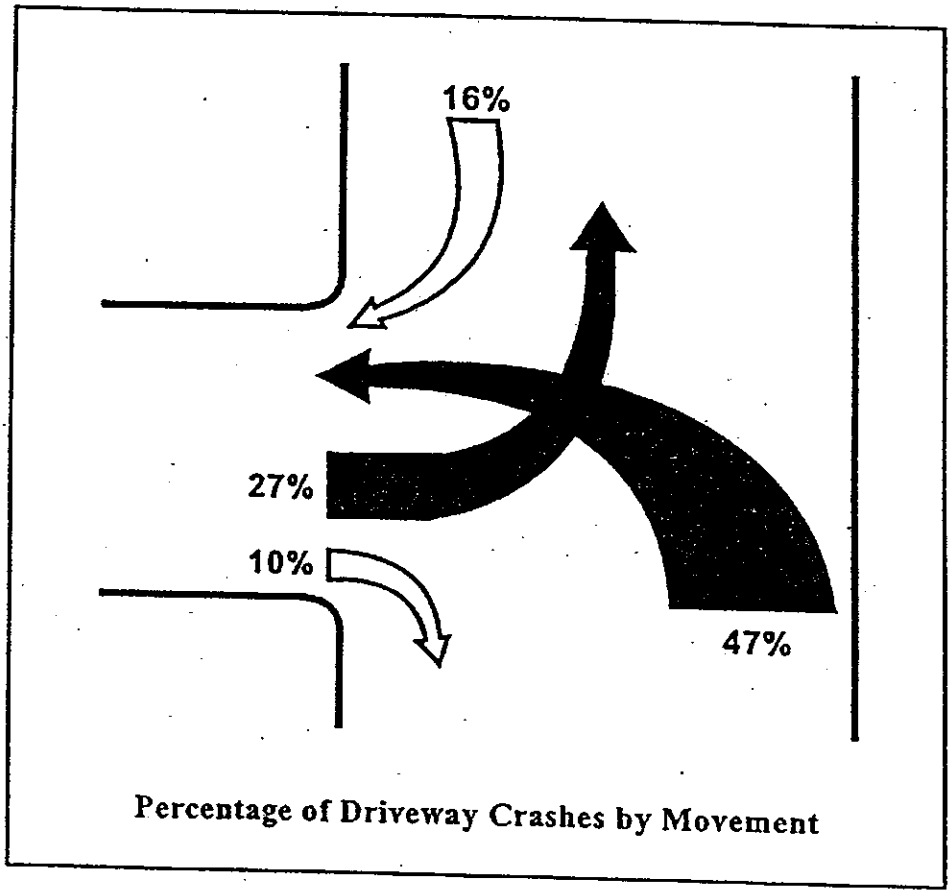
At the June 25th Planning Commission Meeting, engineering staff was asked to evaluate the "safety" of allowing a direct driveway access to Joyce Street for the Liberty Bank Project.

Addresses Left Turn Movements:
Based on research, left-turns are involved in a high proportion of crashes for access drives (47% ingress & 27% egress) as shown on the attached exhibit. The left turn maneuvers involve a heavier driver work load which increases the decision making process and possible driver error. Therefore, minimizing left-turn movements or reducing the driver work load can be effective in improving safety. This can be accomplished at a signalized intersection with a protected left turn arrow which is available at the corner of the property at Vantage and Joyce Street and/or at the intersection of Bellafont and Joyce Street (which provides internal connectivity to this site.) With the two signalized intersections within immediate proximity of this development, we recommend that the access point be denied for reasons stated above.

Addresses Access onto Arterial Roadways:
Access Management is the second reason for recommendation for denial of the driveway request. According to research, the cumulative affect of commercial driveways on to a roadway decreases the volume capacity and increases accidents on the thoroughfare. The lack of adequate access management and the proliferation of driveways is the greatest single factor behind the functional deterioration of arterial roadways. Joyce Street is classified as a principle arterial which primary purpose is to facilitate the movement of traffic, not access. With the anticipation of future development in the area and increase traffic volume on Joyce Street, we recommend that the three other points of access be used to service the site rather than contributing to decreasing the capacity of the principle arterial with another driveway when adequate safe access is readily available.

Addresses the Traffic Study Provided:
We have reviewed the latest Addendum to the traffic study prepared by Peters and Associates and acknowledge they have increased the traffic volumes to reflect the 2006 Bellefont Traffic Study prepared by Carter and Burgess. The report only includes trip generation numbers and level of service for the proposed access points. The report does NOT address the specific question asked by the planning commissioners regarding safety. Therefore for reasons stated above, the Engineering Division does not support the proposed direct access to Joyce Boulevard.

As a side note. The Bellafont Site Access Study recommends improving traffic flow along Joyce by relieving existing congestion and delays: One recommendation is to Realign/Combine/Eliminate drives and streets near the intersection of the frontage road to help eliminate conflicts.



Source: Reference (9)

Figure 2

ACCESS MANAGEMENT MATERIALS SUPPLEMENT

4. PRESERVING THE FUNCTIONAL INTEGRITY OF THE CIRCULATION SYSTEM

The link between an efficient transportation system and economic activity and land use is greatly recognized even though the linkage may not be well understood. The roadway system must provide both access to property and movement of goods and people. Traffic engineers have long recognized that the elimination of unexpected events, simplification of conflict areas and the separation of decision points simplifies the driving task. Since access management reduces the complexity of traffic conflicts as well as increases the spacing of events to which the driver must respond, it will result in improved traffic operations and reduced accident experience. Various research efforts have explored the general relationships between accidents and medial and marginal access control.

4.1 The Failure to Manage Access Results in High Crash Rates and Highway Obsolescence

The Failure to Manage Access is the Major Cause of Highway Obsolescence

With a notable exception of freeways, urban arterials and highways in the developing urban fringe commonly experience a deterioration in their ability to accommodate traffic in a safe and efficient manner as travel demand increases. This problem results from the requirement that the facility must serve the conflicting functions of providing for land access and vehicular movements. Solomon (2) reflected the observations of many engineers and planners when he stated:

> "When conventional highways are constructed on new rights-of-way, initially there are few commercial driveways and the safety record is good. As the highways get older, the traffic volume builds up, roadside businesses develop, more and more commercial driveways are cut, and the accident rate gradually increases."

Solomon concludes:

> "This demonstrates the importance of maintaining control of access when either two-lane or multi-lane highways are built on new locations. Increased numbers of either intersections or driveways alone will also increase the accident rate. Intersections should be restricted to those

essential for the highway, and the right (direct) access from abutting businesses should be severely limited."

McGuirk (3) further established the fact that accidents at access drives increase as both through-lane traffic volumes and driveway volumes increase. The problem has also been recognized in the following quote from the State Highway Access Code of Colorado (4):

> "The lack of adequate access management on the highway system and the proliferation of driveways and other access approaches is a major contributor to highway accidents and the greatest single factor behind the functional deterioration of highways in the state. As new access approaches are constructed and traffic signals erected, the speeds and capacity of the highway decrease, and congestion hazards to the traveling motorist increase."

Effective Access Management
• Reduces crashes by as much as 50% • Increases capacity 23-45% • Extends life of the highway • Consistent treatment of applicants for access permits • Protects investment in abutting property • Reduces travel time and delay by 40-60% • Decreases fuel consumption by 35% • Reduces vehicular emissions • Reduces transportation costs

Effective management of access location, control and design can result in :

- Improvement of the safety, public health and welfare – 50% or more of the traffic crashes on urban arterials are access related.

- Increase of capacity and reduction in congestion by controlling left and right turns, lateral friction, and speed of access and egress. Capacity can be increased by 25 - 45% with access control.

- Extension of the functional life of existing highways, by preserving or increasing their capacity, reducing the need for new capital construction to meet increasing system demands.

- Assurance of consistent and equitable treatment for all applicants for access permits.

- Protection of the economic viability of abutting properties and private investments in arterial corridors – congestion, delays and unsafe conditions will drive prospective clients and shoppers to other less congested locations.

- Reduction of travel time and delay, by 40-60% as a result of fewer stops, and smoother traffic flow.

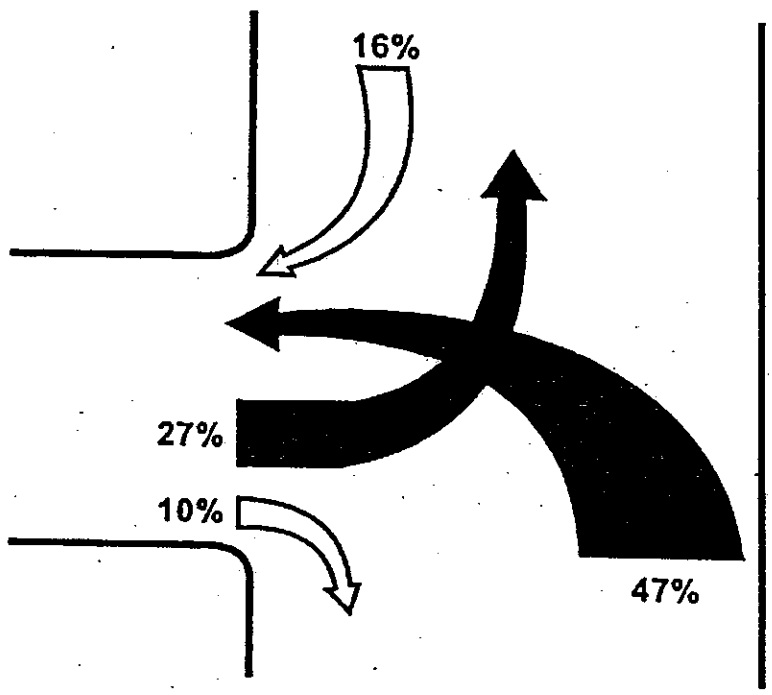
- Decrease in the amount of energy consumption by 35-50%, due to reduced stops and fewer deceleration and acceleration cycles.

- Reduction of the amount of vehicle emissions by reducing stops, deceleration and acceleration.

- Reduced costs of travelers, commercial shipments and services.

4.2 Left-Turns are Involved in a High Proportion of Crashes

Nearly three-fourths of the crashes which are access drive related involve left-turns. As illustrated in Figure 2, nearly one-half (47%) involve left-turn ingress maneuvers. Another 27% involve the left-turn egress maneuver. The left-turn maneuvers, especially left-turn ingress, involve a heavy driver work load which increases the difficulty of a driver seeing a pedestrian or bicyclist about to cross the access drive. Consequently, those access management techniques which minimize left-turns or reduce the driver work load can be expected to be especially effective in improving safety.



Percentage of Driveway Crashes by Movement

Source: Reference (9)

Figure 2

5. WHO BENEFITS FROM ACCESS MANAGEMENT?

Who Benefits from Access Management?

- Motorists
- Pedestrians and Bicyclists
- Bus Riders
- Property Owners
- General Public

Motorists

- Fewer crashes
- Reduce travel time
- Reduce travel delay
- Lower fuel consumption

Pedestrians and Bicyclists

- Fewer driveways mean fewer conflicts with vehicles
- Pedestrian refuge in median
- Fewer pedestrian and cyclist deaths and injuries

Bus Riders

- Reduce travel time
- Improved schedule reliability

Property Owners

- Preserves private investment
- Limits through traffic in residential areas

General Public

- Helps stabilize land use patterns
- Encourages coordination of land use and transportation decisions
- Preserves the public investment in major thoroughfares
- Fewer deaths and injuries resulting from vehicular crashes and vehicular – pedestrian/cyclist crashes
- Reduced loss in property damage
- Reduce vehicular emissions
- Supports and helps maintain livable communities

Exhibit 74
JOINT AND CROSS ACCESS PROVIDES DRIVERS WITH BETTER LEFT TURN ABILITY

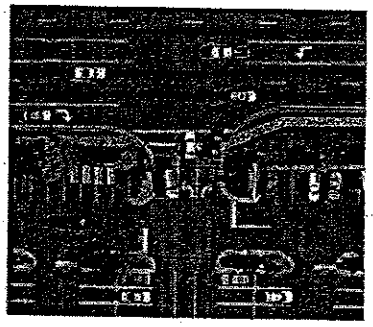
Getting people to signals for left turns across high volume roads is critical!

Interconnected developments give customers and deliveries more options, especially for safe left turns.

It is easier to provide cross and joint access if it is planned at the beginning of a development process. At that time you will have the ability to layout access systems and allow good separation between these accesses. Many local governments have already addressed these issues in their land development regulations by providing requirements for joint and cross access with large neighboring developments and small corner out parcels.

There are some challenges associated with joint and cross access in retrofit situations. In these situations you are usually dealing with a group of small shallow land parcels where joint access has never been considered in the past. One of the major problems associated with producing new joint and cross access is that the cross access points are often close to the driveway entrances. This proximity may prevent having adequate driveway depth (*See* **Chapter 6 Driveway length**). In retrofit situations you should consider the volume of traffic using these driveway entrances and exits and the volume of traffic crossing close by to determine whether these situations with a relatively shallow driveway depth will cause an internal traffic circulation difficulty. Signing and landscaping may also help in these tighter situations on cross access in retrofit situations.

Exhibit 75
DRIVEWAY LENGTH



Fayetteville
ARKANSAS

PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Glenn Newman, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 18, 2007~~ *Updated July 25, 2007*

LSD 07-2574: Large Scale Development (LIBERTY BANK, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for 21,613 s.f. bank with associated parking.

Planner: Jesse Fulcher

Findings:

Background: The subject development proposal was heard by the Subdivision Committee on May 31, 2007. The request was tabled by the Subdivision Committee to allow the applicant additional time to work with City staff regarding a landscape waiver along the east property line and a proposed 4-lane access onto Joyce Boulevard. Since the previous review, the applicant has revised the site plan to provide all required landscaping and has modified the curb-cut onto Joyce Blvd. to restrict left turns out of the development.

The Subdivision Committee reviewed the project again on June 11, 2007. The discussion centered on the appropriateness of the curb-cut onto Joyce Boulevard and was forwarded to the full Planning Commission by a vote of 3-0-0. Staff has included minutes from both Subdivision Committee meetings.

The Planning Commission reviewed the project on June 25, 2007 and the appropriateness of the curb-cut onto Joyce Boulevard was discussed at length. Additionally, the Planning Commission requested an updated landscape plan that considered the large drainage feature on the southeast corner of the property. Ultimately, the proposal was tabled to allow the applicant time to update the traffic study based on comments voiced by the Planning Commissioners, and to specifically address safety issues with the proposed access to Joyce Blvd. An updated landscape plan and traffic study has been submitted for review. Staff has included minutes from the Planning Commission meeting along with a memo from the Engineering Division describing staff's rationale for its recommendation to remove the curb-cut from Joyce Blvd.

Property: The subject property contains approximately 2.68 acres and is located at the northwest corner of Joyce Boulevard and Vantage Drive, just east of the Bellafont development.

Proposal: The applicant proposes to construct a two-story bank building containing a total 21,613 square feet with 76 parking spaces, which meets city codes for parking ratios.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Bellafont	C-3
South	Bank	C-2
East	Post Office	R-O
West	Bellafont	C-2

Right-of-way Dedication: Right-of-way shall be dedicated 55' from centerline for Joyce Boulevard (Principal Arterial) and 35' from centerline for Vantage Drive (Collector Street).
Street Improvements: A 6' sidewalk is to be constructed along Vantage Drive and a 10' sidewalk/trail is to be constructed along Joyce Boulevard.

Water/Sewer: The site is currently served by water and sewer.

Tree Preservation: Existing Canopy: 0.0%
Preserved Canopy: 0.0%
Required Canopy: 0.0%
Mitigation: Not required

Access/Connectivity: The subject property has a high level of access and street connectivity (reference Bellafont Master Plan). Access is currently proposed as follows: 1) One access from Vantage Drive, a Collector Street to the east; 2) Two access drives from the private street constructed as part of Bellafont to the north; and 3) a 1-lane ingress and 1-lane egress from Joyce Boulevard. Staff is supportive of all access points as proposed, with the exception of the access to Joyce Blvd. In 2004, when the subject tract was split out from a larger property, staff expressed concerns with the access to the property, and stated that with development, access to both Vantage and Joyce would need to be evaluated to ensure safe access and traffic movements north and west of the future signalized intersection of Vantage and Joyce. Additionally, during the master plan development of Bellafont, a large mixed-use development to the west, north and east of this property, access to the Liberty Bank site was planned by way of the private drive to the north, in an effort to reduce or eliminate additional curb-cuts to Joyce Blvd., a Principal Arterial. At this time, staff finds that the proposed 2-lane access to Joyce Blvd. would create a dangerous traffic condition in proximity to two planned and funded traffic signals, on of which is now operational. The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to Bellafont drive/Joyce signal achieves a high level of access to the subject property, and recommends removal of the access point to Joyce Blvd. It is staff's opinion that an additional curb-cut in this location will decrease traffic safety for motorists and pedestrians in the area.

Traffic Study: The traffic study performed for the subject development was undertaken to evaluate existing vehicular traffic flow and traffic volume, and to determine the impact of the traffic generated by the development on current conditions with respect to ingress and egress. These quantitative measurements were then used to calculate the level of service for pre- and post-development. However, the level of service is not an assessment of traffic safety. Staff finds that the level of service is adequate with the removal of the left-hand turn out of the development; however, staff's concerns are with traffic safety in terms of traffic volume, traffic speeds, visibility of vehicles entering and existing Joyce Blvd., the potential for vehicular conflicts within the center turn lane in close proximity to a signalized intersection, and the potential for vehicular/pedestrian conflicts along the 10' wide multi-use trail.

The original traffic study did not take into consideration additional traffic created by approved developments in the vicinity of the subject property. Accordingly, the applicant has resubmitted the traffic study with traffic generation data that was provided by a previous traffic study conducted as part of the Bellafont development. When comparing the original and the updated projected traffic conditions, it is apparent that the level of service has decreased. This is not solely due to the vehicle trips expected from the proposed development, but rather the overall increase in vehicle trips produced by multiple developments in the area. As the areas along Joyce Boulevard continue to develop and the City's population continues to grow, the level of service along Joyce Boulevard will continue to decrease. In staff's opinion, effective access management practices will increase capacity and ultimately prolong the life of our road systems. As noted with the previous traffic study conducted for this area, one recommendation made by that traffic engineer to improve traffic flow along Joyce Blvd. is to realign/combine/eliminate drives and streets near the frontage road intersection to help eliminate conflicts.

Recommendation: Staff recommends approval of **LSD 07-2574** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of compliance with Commercial Design Standards. *Staff recommends approval of the proposed elevations, finding that the elevations submitted meet the criteria set forth for commercial design standards.*

   6/25/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED BUILDING ELEVATIONS.

   7/23/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED BUILDING ELEVATIONS.

2. Planning Commission determination of street improvements. *Staff recommends that a 10' sidewalk be constructed at the Master Street Plan right-of-way along Joyce Boulevard and a 6' sidewalk along Vantage Drive. The sidewalk along Vantage Drive shall be located within a pedestrian access easement as it is located outside of the right-of-way to match the sidewalk constructed as part of the Bellafont development.*

   6/25/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

   7/23/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

3. Planning Commission determination of curb-cuts and appropriate locations. *Staff is not supportive of the proposed curb-cut onto Joyce Boulevard, finding that the additional turning movements created by the requested curb-cut will increase the potential for traffic conflicts on a highly traveled and high speed principal arterial street. As noted in Figure No. 8 in the submitted traffic study, a high number of vehicle turning movements will be created by the proposed curb-cut that will likely conflict with through traffic on Joyce and east bound traffic attempting to utilize the turning lane to access Vantage Drive. Sufficient access to serve the proposed development was planned and is available to the property via Vantage Drive (a Collector Street), which will soon be signalized, and a private drive that connects from Vantage Drive to another signalized intersection at the entrance to Bellafont at Joyce Blvd. Please reference additional information submitted by the Engineering Division (memo dated*

July 19, 2007), along with the articles of reference.

6/25/07: ITEM TABLED. NO DETERMINATION BY THE PLANNING COMMISSION.

7/23/07: THE MOTION TO APPROVE THE CURB-CUT ONTO JOYCE BLVD. FAILED BY A VOTE OF 4-4-0.

4. The project is located within Mud Creek bridge assessment area. Based on the rational nexus calculation, the developer shall be responsible for paying $50,232.00 to the City of Fayetteville for delayed off-site improvements for the construction of a bridge over Mud Creek prior to building permit approval. See attached memo from Engineering Department.

5. The applicant shall obtain written permission from the adjacent property owner (City of Fayetteville) to construct off-site improvements.

6. The signs for the Liberty Bank and Bellafont developments shall be removed from the property owned by the City of Fayetteville and shall be relocated to each of the respective properties, as off-site signs are prohibited in the City of Fayetteville. Real estate signs are limited to 8 sq. ft. for residential office zoning districts and 32 sq. ft. for commercial zoning districts, and shall be located at least 10' from the street.

7. Street lights are required at every intersection and with maximum separation of one per 300' on all surrounding streets and shall be installed prior to issuance of a Certificate of Occupancy.

8. Right-of-way dedication in the amount of 55' from centerline for Joyce Blvd. and 35' from centerline for Vantage Dr. shall be dedicated by easement plat.

9. Large scale development approval does not assure sign permit approval. All proposed signs shall be permitted separately from the large scale development proposal by a Sign Permit application and Certificate of Zoning Compliance. Additionally, all flags shall be reviewed for compliance with Chapter 174 Signs prior to installation.

10. All water/landscape features shall be reviewed for compliance with building setbacks if applicable and location in relation to utility lines and easements.

11. The following revision shall be made to the site plan prior to building permit:

    a. Update the parking table to reflect a total of 78 parking stalls.
    b. Update the parking table to reflect a parking ratio of 1 space/200 sq. ft. of bank area and 1 space/300 sq. ft. of office area, as referenced in the traffic study.
    c. Shift the tree islands on the east and west sides of the property, so that there are no more than 12 consecutive spaces.

12. Show all utilities and easements on the landscape plan and take into consideration the location of the street/parking lot lights.

13. At the time of construction drawings the landscape plan must be stamped by a licensed landscape architect.

14. The applicant shall comply with and/or address all comments listed in the attached memos from the Engineering Division, prior to revisions submittal for Planning Commission.

15. The applicant shall comply with and/or address all comments listed in the attached memos from the Urban Forester, prior to revision submittal for Planning Commission

Standard conditions of approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

18. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.

19. Trash enclosures shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit.** Any additional dumpsters located on site shall be screened from the right-of-way

20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**

21. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation.

22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

23. Large scale development shall be valid for one calendar year.

24. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

25. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    c. Separate easement plat for this project that shall include the tree preservation area and

all utility easements.

d. Project Disk with all final revisions
e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions: _____

Planning Commission Action: √ Approved ☐ Denied ☐ Tabled

Meeting Date: **July 23, 2007**

Motion: Graves
Second: Myers
Vote: 8-0-0 (Motion to approve as recommended by staff)

Comments: _____

The **"Conditions of Approval"** listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

_____ _____
Signature Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701
ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Jesse Fulcher, Planner Date: June 12, 2007

From: Glenn E. Newman, Jr., P.E., Staff Engineer

Re: Plat Review Comments (June 14, 2007 Subdivision Committee Meeting)

Development: **Liberty Bank of Arkansas – LSD – 07-2574**

Engineer: **Crafton, Tull, Sparks, & Associates**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. A floodplain development permit is required for any work done within the 100-yr floodplain.
3. Elevation certificates will be required prior to building permit for each of the structures.
4. Prior to building permit, bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
5. This project is located in the assessment area for the future bridge over Mud Creek.
6. Provide a pedestrian access easement for the sidewalk located along Vantage Drive
7. Remove driveway access from Joyce Street.
8. If the driveway access from Joyce is not eliminated, the runoff must be captured before entering the right of way or the capacity and spread of the downstream inlets must be analyzed. Downstream improvements may be required.
9. Remove the proposed water feature from the proposed 20 ft UE along Joyce.
10. Remove truncated domes and ramps from driveway approaches.
11. Construct all driveways to City of Fayetteville's Commercial Driveway Standards. The sidewalk shall be continuous through driveways with a maximum of 2% cross slope and elevated 2% above top of theoretical curb. Remove lines representing curbs through the sidewalk section (in the driveway) from the drawing. Driveway approaches shall be constructed of Portland Cement Concrete with a broom finish.
12. Provide a drainage easement for the existing drainage ditch on the southeast corner of the property.
13. Provide written permission from the property owner to the west to grade within 5 ft of the property line.

14. Any retaining wall more than four feet in height shall be designed by a registered professional engineer and shall be field inspected by the design engineer.
15. Provide a minimum 20 ft Utility Easement for the proposed water main along Vantage, at least 10 ft from the water line.
16. Sanitary sewer service for commercial buildings and/or 4 plex or greater shall connect to the sanitary sewer main with a manhole.
17. Do not cross the existing drainage channel at the south east corner of the property to make the sanitary sewer service. Connect to the new sanitary sewer system north of the west driveway in the Bellafont Development (Manhole 1B elev 1205.16) as shown on the attached drawing.
18. Add an inlet in place of the 4 ft flume and pipe through rather than over the retaining wall.
19. Inlet and pipe sizing will be reviewed at the time construction drawings are submitted.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Glenn E. Newman, Jr., P.E., Staff Engineer
DATE:	May 30, 2007
SUBJECT:	Liberty Bank Bridge Assessment

The following is the Engineering Division's cost estimate for the **Mud Creek** Bridge assessment:

BRIDGE OVER MUD CREEK:

The following is a rational nexus calculation for this offsite improvement:

Approximate **Vantage** Road Bridge dimensions:
Length – 150 L.F.; Width – 56'; Surface Area of Decking – 8,400 s.f.

Projected Traffic from development – 2,467 (From Traffic Study)
Assume 33% of vehicle trips will use the intersection of Vantage/Joyce – 822 vpd
Assume 33% of vehicles using this intersection will use the bridge – 274 vpd
Collector Street traffic capacity = 6,000 vpd
% Traffic from development =4.6%

Mud Creek Bridge Costs:
8,400 s.f.($130.00/s.f.) = $1,092,000

Liberty Bank Percentage of Costs:
0.046($1,092,000.00) =$50,232.00

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew
Date: 6/13/07 4:01PM
Subject: Subdivision Committee 6-14-07

LSD 07-2574 (Liberty Bank of Arkansas) - Dumpster enclosure location okay, but cannot determine size of enclosure. Please make enclosure 15' wide and 12' deep and note on plans.

~~LSD 07-2552 (The Mill @ West End) - 30' x 12' enclosure on northwest corner still not rotated to avoid curb in front of enclosure. Please rotate enclosure so curb is not a factor in collection by Solid Waste Vehicles.~~

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

Fayetteville
ARKANSAS

PC Meeting of July 23, 2007

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

LANDSCAPE REVIEW FORM

To: **Crafton, Tull, Sparks & Associates**

From: **Sarah K. Patterson, Urban Forester**

Date: **July 19, 2007**

ITEM #: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

Applicable Requirements:

Y	**Site Development & Parking Lot Standards**
NA	**I-540 Design Overlay**
Y	**Street Tree Planting Standards**
NA	**Stormwater Facilities**

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
N	*Y*	**Irrigation** *notes either automatic or hose bib*
Y	*Y*	**Species of plant material identified**
Y	*Y*	**Size of plant material at time of installation indicated**
N	*Y*	**Soil amendments** *notes include that soil is amended and sod removed*
N	*Y*	**Mulch** *notes indicate organic mulching around trees and within landscape beds*
Y	*Y*	**Plans stamped by a licensed Landscape Architect**
N	*Y*	**Planting details according to Fayetteville's Landscape Manual**
		Site Development & Parking Lot Standards
Y	Y	**Wheel stops/ curbs**
Y	Y	**Interior landscaping** *Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces)* *Tree island (8' min. width/1 tree per 12 spaces)*

Preliminary Submittal	Final Submittal	
N	*Y*	**Perimeter landscaping** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		Overlay District Requirements
NA		**Greenspace adjacent to street R.O.W. (25' wide)**
NA		**Large street trees planted every 30' L.F. along R.O.W.**
NA		**25% of total site area left in greenspace (80% landscape)**
NA		**Parking lots and outdoor storage screened with landscaping**
		Street Tree Planting Standards *(time of F.P. or permit)*
NA		**Residential Subdivisions- 1 large species shade tree/ lot** *tree planted within R.O.W. if possible*
N	*Y*	**Nonresidential Subdivision- 1 large species shade tree/30 L.F.** *tree planted within 15-25' greenspace*
NA		**Urban Tree Wells-***urban streetscape only-10foot sidewalk*
NA		**Structural Soil-***if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan*
NA		**Timing of planting indicated on plans (subdivisions only)**
NA		**Written description of the method for tracking plantings**
		Stormwater Facilities *(time of F.P. or permit)*
NA		**1 deciduous or evergreen tree/ 3000 square feet**
NA		**4 large shrubs (3 gal) or small trees / 3000 square feet**
NA		**6 shrubs or grasses (1 gal) / 3000 square feet**
NA		**Ground cover unless seed or sod is specified**
NA		**50% of facility planted with grass or grass like plants**

Conditions of Approval:

1. **Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.**
2. **Under the new Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.**

PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Crafton, Tull, Sparks & Associates

From: Sarah K. Patterson, Urban Forester

Date: July 19, 2007

Subject: Technical Plat Review Comments

ITEM #: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

TREE PRESERVATION PLAN

1. A Tree Preservation Waiver has been submitted for this project as there are no trees on the site.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267
Fax(479)575-8202

PLANNING DIVISION

TREE PRESERVATION PLAN WAIVER FORM

Date: May 9, 2007

Project Name: Liberty Bank of Arkansas Fayetteville

Project Contact: James Parks

Location: Northwest corner of Joyce Blvd & Vantage Rd.

Reason for waiver:
There are no existing trees on the site.

JSP

Verification Submitted:

Signed by the Landscape Administrator:

Date:

Tree Mitigation Base Density/Off Site Alternatives

Crafton, Tull, Sparks & Associates, Inc.
architects, engineers, landscape architects, interior designers & surveyors

government
public works
parks & recreation
residential
commercial
transportation
industrial
sports
spiritual
education
health

April 18, 2007

Planning Commission:
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

Dear Planning Commission:

This letter is to accompany the Large Scale Development application for the proposed Liberty Bank of Arkansas, located at the North West corner of Joyce Blvd. and Vantage Dr. in Fayetteville. This large scale development shall include the construction of a 21,613 S.F. bank and associated drives and parking area as well as a drive thru teller area. The area of the site is approximately 2.68 acres, all of which shall be disturbed during construction. For further details on the proposed development please refer to the Large Scale Development Plans and Drainage Report.

Sincerely,

James S. Parks, Jr., E.I.
Civil Engineer
Crafton, Tull, Sparks & Associates, Inc.

901 North 47th Street, Suite 200 • Rogers, Arkansas 72756 • phone: 479.636.4838 • fax: 479.631.6224
Birmingham | Little Rock | Oklahoma City | Rogers | Russellville | Tulsa | Wichita
www.craftontullsparks.com

Crafton, Tull, Sparks & Associates, Inc.
architects, engineers, landscape architects, interior designers & surveyors

government
public works
parks & recreation
residential
commercial
transportation
industrial
sports
spiritual
education
health

June 6, 2007

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

The above referenced project has been modified since the previous submittal to the City of Fayetteville. As a result of modifications made, a waiver for the landscape buffer is no longer necessary. Efforts were made to reduce the size of the parking lot so as to not encroach on the required landscape buffer. Presently all Landscape Buffers are present as required.

Recent modification to the Liberty Bank also included redesigning of the entrance drive onto Joyce Blvd. Upon reviewing the results of the Traffic Study performed by Peter & Associates, it was determined that a left out turn onto Joyce Blvd. might have a negative effect on the flowing of traffic on Joyce. Therefore, modifications were made to the entrance to remove the left-out turn. All other entrances and exits were shown to have a high level of service to deal efficiently with traffic volumes on Joyce Blvd.

Sincerely,

Matthew Castor

Matthew J. Castor
Civil Engineer, E.I., CPESC

901 North 47th Street, Suite 200 • Rogers, Arkansas 72756 • phone: 479.636.4838 • fax: 479.631.6224
Birmingham | Little Rock | Oklahoma City | Rogers | Russellville | Tulsa | Wichita
www.craftontullsparks.com

SUBDIVISION COMMITTEE MINUTES
MAY 31, 2007

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the request for the bank facility, and noted that there were two primary issues on the project to be discussed and decided. First, a greenspace waiver along Vantage Drive is being requested for a portion of the site. Staff is not recommending in favor of the waiver request, finding there are several options that should be pursued by the applicant to reduce or eliminate the need for the waiver request. These options were described. Secondly, staff is not supportive of the access to Joyce Blvd. as proposed. Reasons for this recommendation are outlined in the staff report; adequate access is provided to this site through three other points, and the increased turning movements onto and from Joyce in close proximity to Vantage is not advisable. Staff recommended forwarding the project to the full Planning Commission with these comments and recommendations.

No public comment was presented.

Matt Castor (applicant) presented the project for the applicant. Castor noted the access is central to the design of the site, and sets it apart from other banks. Castor described the traffic study that was conducted, which found levels of service A and B for most turning movements from the driveway, with the exception of the left-out, which was an F. Castor cited a traffic concern if the driveway was removed, because of excessive stacking from the drive-through. Castor offered to remove the left-out, and proposed to reduce the two-lane entrance to a one-lane entrance. The entry is the main focal point, and it is crucial to have access onto Joyce for the project. With regard to the landscape waiver, Castor discussed the circular design of the project reduces the ability to reduce parking stall width or length. Currently the project is at 39% greenspace, and enhancements to the area with benches, walkways, and a bio-retention facility is planned. He also questioned if the money-in-lieu assessment for Mud Creek Bridge was a negotiable fee.

Howard Hamilton (applicant), president of Liberty Bank, stated the entrance is critical to the bank to set it apart, and is important for aesthetic reasons.

Sarah Patterson, Urban Forester, stated she would like the opportunity to work with the applicant to see a reduced waiver or no waiver at all.

Matt Casey, Asst. City Engineer, explained the assessment for the Mud Creek Bridge, and that there was a memo explaining the methodology in the Committee's packet. The same methodology was used for other projects in the immediate area for Mud Creek Bridge.

Commissioner Trumbo asked if the assessment was negotiable.

Casey replied that the assessment is a recommendation to the Planning Commission for this project's

share of the Mud Creek Bridge, and the actual determination is entirely up to the Commission.

Commissioner Trumbo stated that in his years of service on the Planning Commission, he had not seen an assessment such as this negotiated.

Hamilton asked if the amount was set by ordinance, or if it is a recommendation by staff.

Jeremy Pate, Director of Current Planning, reiterated that the amount is a recommendation by staff to the Planning Commission, based on the established methodology. Pate further discussed the adjacent Bellafont development, which was required to pay for traffic signals, and improve all streets adjacent to Liberty Bank, including Vantage and Joyce, for which this project would normally be responsible.

Commissioner Graves stated he was more inclined to table the project. The offer by the developer to reduce the entry onto Joyce could result in a different recommendation by staff, who would need sufficient time to review it. Additional time would also allow the developer and staff to get together regarding the landscape issues and options there.

Pate stated that staff had actually sat down with the developer to discuss various options, and in consultation with the City Engineer and other staff, did not think staff could support Joyce Boulevard access for this project with the turning movements at the close traffic signal, more than sufficient access to other streets with less chance of conflict, and other issues concerning traffic safety.

Commissioner Ostner stated he agreed with staff on the curb cut issue, and discussed his concerns.

Commissioner Graves stated he appreciated staff's "on the fly" recommendation and comments, and is not prepared to recommend against staff's recommendation based on the information presented. He stated he is not prepared to make a finding against staff's recommendation if the project goes forward to the full Planning Commission.

Castor discussed peak hour traffic and how stacking in the turn lane would function properly with the proposed access to Joyce Boulevard.

Commissioner Trumbo discussed his experiences in West Fayetteville, near Steamboat Drive and Colorado Drive, and how there were no additional curb cuts onto Wedington in that vicinity. In his opinion, the traffic backs up because there is not enough access, and he disagrees with how it works, because traffic will cut across parking lots to get to other places. Trumbo stated he is not as concerned with access as others, and is not opposed to the curb cut.

Motion:
Commissioner Ostner made a motion to table the project. **Commissioner Graves** seconded the motion, and **Commissioner Trumbo** concurred. **The motion to table passed 3-0.**

All business being concluded, the meeting adjourned at 10.30 AM.

SUBDIVISION COMMITTEE MINUTES
JUNE 14, 2007

Old Business:

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the request for the bank facility, and noted that changes had been made from the previous meeting at which this item was discussed. The landscape waiver was not longer requested, for modifications had been made to the site plan to meet regulations. Secondly, the access drive onto Joyce Blvd. had been modified to remove the left egress potential, and now has a separated entrance drive for left-in, right-in, and right-out turning movements. Staff is not supportive of the access to Joyce Blvd. as proposed. Reasons for this recommendation are outlined in the staff report; adequate access is provided to this site through three other points, and the increased turning movements onto and from Joyce in close proximity to Vantage is not advisable. Staff recommended forwarding the project to the full Planning Commission with these comments and recommendations.

No public comment was presented.

James Parks (applicant) stated that he understood there was not a lot of support for the entry from Joyce Blvd., but asked to move forward to the full Planning Commission for a determination.

Howard Hamilton (applicant), president of Liberty Bank, stated the entrance is critical to the bank for aesthetics and appearance of the bank for the customers. He does not want customers to approach the bank from the back. Additionally, stacking onto Vantage Drive from cars in the drive-thru lanes was seen as a potential problem. He stated the development is doing a lot of things that aren't required, such as rain gardens and landscaping the city property at the corner of Vantage and Joyce.

Commissioner Graves stated he was on the previous Subdivision Committee that reviewed this project, and the amendments the applicants said they would make have been made. The project was tabled due to the curb cut on Joyce Blvd. and the landscape waiver. The applicant has removed the left-out lane, and decreased the number of lanes going in. His stated concern was that the Committee has a traffic study stating the curb cut will work and a staff recommendation to the contrary. There is no objective traffic information presented by staff. Additionally, if the only way in is from Vantage or the rear, this seems to conflict with the drive-thru as designed. Graves' inclination is to support the applicant, based on the traffic study. The only thing that was an issue at the last meeting was this item. Graves stated he was in favor of staff's calculations on the bridge assessment.

Commissioner Bryant asked about the culvert she saw on-site, if it is to be removed or landscaped with the project. She also commented that it is now down to the curb cut, and she is in favor of forwarding the project to the full Planning Commission for a review.

Commissioner Lack asked if the full turn lane on Joyce existed in front of the bank, and how far the curb cut is from Vantage.

Parks answered 220 feet, with stacking of 209 feet.

Commissioner Lack asked the applicant if he looked at removing the left turn in, for a right-in, right-out only movement, to keep people from crossing traffic. The issue is stacking for the turn onto Vantage conflicting with stacking for the turn into the bank site.

Parks stated that 209 feet of stacking is plenty of room.

Hamilton stated the traffic study said it would not be an issue.

Commissioner Lack asked Engineering staff to comment on the stacking, whether it was adequate or not.

Matt Casey, Asst. City Engineer, stated that the standard stacking distance is 100 feet, and that distance increases with volume of traffic. The 209 feet should be sufficient.

Commissioner Lack stated that answer made him more comfortable. He is not completely sold on the idea, but more comfortable with it.

Motion:
Commissioner Graves made a motion to forward the request with the conditions of approval as recommended by staff, but finding in favor of the proposed curb cut onto Joyce. **Commissioner Bryant seconded the motion. Commissioner Lack concurred, the motion passed with a vote of 3-0-0.**

PLANNING COMMISSION MINUTES
JUNE 25, 2007

New Business:

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the issues with access that has been the subject of much discussion with this project. Safety concerns were not addressed with the traffic study, only levels of service. Staff is concerned with the addition of this curb cut to a heavily traveled street, when direct access to two signalized intersections is available to this site. Staff recommended approval of the project as presented, with the exception of the Joyce Blvd. curb cut. Staff is in favor of Commercial Design Standards, and described the street improvements, bridge assessment and all other conditions as described in the staff report.

Glenn Newman, Staff Engineer, advised no there were no disagreements with the traffic study and concurred with traffic safety concerns with the proposed curb cut.

No public comment was received.

James Parks (applicant) with CTSA advised there was proven to be plenty of stacking distance, an additional 10-15' for left turn movements into Liberty. Additionally, the project would be beautifying the corner.

Howard Hamilton (applicant) with Liberty Bank stated that Subdivision comments were significant. The traffic study indicated no problem with turning movements. He stated an example of how side streets can create even more issues. Additionally, drive-thru lanes are located on the back side of the building. The nice entry sets apart this bank from others; accessibility and visibility to front sets them apart.

Commissioner Graves stated he saw this twice at Subdivision Committee. At the first meeting, the development allowed a left turn onto Joyce, and other waivers were discussed. At the second meeting, the applicant had removed the left turn onto Joyce. In the interim, the applicants had gotten a traffic study. Stacking was the primary concern at the second meeting by staff. Engineering said stacking distance should be enough for the turn lane. Based on comments from Engineering and traffic study, and if the only way to get on-site was at the rear, it could create problems. Despite staff comments, the Subdivision Committee had recommended unanimously for the curb cut.

Commissioner Trumbo concurred with Commissioner Graves.

Commissioner Lack advised that he chaired the other Subdivision Committee meeting and still had reservations about the curb cut. He would like to hear what staff has to say, and is more concerned with the information presented now about the traffic study not addressing traffic safety.

Jeremy Pate, Director of Current Planning, discussed safety, level of service, and traffic studies in general. Pate read from the traffic study, which defines what level of service is. He also advised that when the 2004 lot split occurred that created this property, access was an issue. In 2006, when Bellafont was approved, access was required to be built for this site.

Commissioner Trumbo stated that he thought all traffic studies addressed safety.

Parks stated it wouldn't be ethical for an engineer to give a high level of service without taking into account safety.

Hamilton stated an A through F system would seem to account for safety.

Commissioner Ostner stated that he was not convinced it will be safe with a curve, a lot of traffic, and speed in the area.

Commissioner Anthes spoke about the visibility issue with the curve and hill east to west. A drainage structure with a railing was also impeding vision. Staff anticipated this would be the case and required a service drive. She stated she was for approving the project, and finding in favor of staff's recommendations.

Commissioner Graves advised that Subdivision Committee didn't have a tour, and that this was forwarded to the Planning Commission for a final determination.

Parks asked if the visibility issue was eastbound on Joyce.

Commissioner Anthes stated it was also westbound on Joyce, and anticipating the curb cut coming up.

Parks advised that the entry will be highly visible, and the traffic signal should slow traffic.

Commissioner Anthes stated if adequate access wasn't provided to this site, perhaps she would be willing to take a chance, but would err on side of safety because there is access to the site.

Commissioner Trumbo stated he didn't see safety concerns as others did.

Kit Williams, City Attorney, asked if a sight distance survey had been conducted for staff to make recommendations?

Newman stated that he had visited the site to look into these issues. A Principal Arterial limits access, places cars onto side streets; a Principal Arterial is designed to move traffic. Based on topography, he felt it was a concern.

Williams stated that if the concerns were that this is a safety issue the Planning Commissioners need further information that we don't have in front of us.

Pate stated the burden would be on applicant to provide more information; staff is evaluating what they have submitted.

Commissioner Anthes stated they don't always have hard and fast data. The experience on-site and long range plans for a Principal Arterial are both important to evaluate.

Commissioner Ostner stated the City Attorney's comments seem different than the way they were previously advised. Ostner stated they should rely on the City engineer's degree, experience, etc.

Williams stated if you were going to vote on safety issue, you should demand a traffic study. He stated he believes the City has the capability to conduct a traffic safety by Engineering. However, don't ask for a safety traffic study if it is going to be turned down based on other issues.

Commissioner Graves stated he could not remember another example of a large scale development where access was turned down if not for safety. The Planning Commission is still talking about some issue of safety. He stated if it is not safe, he won't support it, but he doesn't have information to make that decision. Graves stated he would like, before voting against the curb cut, more information. No evidence has been presented other than opinion. He would rather see real information other than anecdotal evidence.

Commissioner Lack advised he would echo Graves' comments. The only thing is safety. At this point he would have to depend on staff's recommendation.

Commissioner Winston asked if a lot of work was occurring on the corner. Is the guard rail being taken out?

Hamilton stated the rail is not going to be there, there will be a lot of landscaping.

Commissioner Winston stated he sees fountains, landscaping, entry, etc. on the plans. The entrance should be clearly delineated with building and landscaping. Winston stated if he were using the bank, he would probably use the rear entries.

Newman advised the handrail will remain for safety.

Commissioner Ostner questioned the riprap, landscaping plan inconsistencies. The landscaping is not flushed out yet.

The applicant and Commissioner discussed the plans' inconsistencies.

Commissioner Ostner stated on the issue of safety versus wanting a boulevard, safety is the issue. Has the applicant considered a traffic study with safety being the focus?

Parks stated he was not a traffic engineer.

Commissioner Ostner stated if a different package of a traffic study was presented, with safety being the focus, perhaps that could aid.

Williams asked the applicant that assuming safety is the issue, would you rather conduct another study, or see what the Planning Commission determines?

Hamilton stated a concept that is safe.

Commissioner Ostner stated he would make a motion to approve, but with staff's recommendation. Which would you prefer?

Hamilton asked to get clear definitions of what they would need to provide.

Commissioner Lack stated that he respected the applicant's desire to know what to provide, as well.

Pate indicated the information that would need to be provided would be that which has been discussed: sight distance lines, turning movements, traffic from future development, how the traffic signals affect the traffic, etc. Staff and the Planning Commission have looked at other situations in the recent past – large scale developments – such as Nelson's Crossing and Malco, and determined whether the curb cuts presented were safe or not, with or without a traffic study. In the case of Malco, it was also on Joyce Boulevard, near a signalized intersection, and it was denied. In the case of Nelson's Crossing, a right-in and right-out was permitted, but it has been proven to fail and is not safe.

Commissioner Lack stated that he would be looking for a scientific determination that this situation is safe.

Commissioner Anthes stated right-in and right-out don't function well in other situations.

Commissioner Lack asked if the traffic study showed that.

Commissioner Trumbo stated Nelson's Crossing and Malco, he could see curb cuts not in these locations. However he does not think disallowing curb cuts is necessarily the best case.

Commissioner Ostner stated he would like to see the study address actual vehicle speeds.

Parks stated it is not an engineer's responsibility to enforce the law.

Commissioner Ostner stated he understood that, but would like to see it as an option in the study. He asked staff how are traffic lights designed on arterials? Do they stop a lot of arterial traffic or side street traffic?

Newman stated that arterials should be for moving more traffic, typically that traffic already on the arterial.

Motion:

Commissioner Lack made a motion to table the item to July 09. **Commissioner Graves** seconded the motion.

Commissioner Trumbo asked if approved, can it be appealed?

Williams stated yes.

Commissioner Anthes asked if all other issues had been addressed, for the applicant's benefit, so that something else doesn't come up? Conditions?

Commissioner Winston stated he would like to see clarification on landscaping and handrails.

Commissioner Anthes stated that for the next meeting, a traffic study and an updated submittal on landscaping was needed. She stated she just wanted the applicant to understand this is moving forward.

Commissioner Ostner advised he is not partially approving.

Parks asked if they provide a strong argument, would they be approved?

Commissioner Anthes advised they can't answer that until they vote. Curb cuts are the issue.

Parks asked could we appeal to City Council?

Anthes answered yes.

Upon roll call, the motion to table passed 8-0-0.

PLANNING COMMISSION MINUTES
JULY 23, 2007

Old Business:

LSD 07-2574: (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report, describing the background of the request, which included previous discussions regarding the proposed curb-cut onto Joyce Blvd. The request had been tabled by the Planning Commission on June 25, 2007 to allow the applicant additional time to evaluate the safety of the proposed curb-cut and to include projected traffic counts from adjacent developments that had been approved for development. Staff does not find in favor of the proposed curb-cut, finding that it may create a dangerous traffic condition in proximity to two planned and funded traffic signals. The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to Bellafont drive/Joyce signal on the two roads adjacent to this property achieves a high level of access to the subject property that is safer for future users and the general public, and recommends removal of the access point to Joyce Blvd. It is staff's opinion that an additional curb-cut in this location will decrease traffic safety for motorists and pedestrians in the area, and will contribute to the degradation of the Principal Arterial, as identified in the memo and supplemental information provided by the Engineering Division.

Glen Newman, Staff Engineer, read a memo from the Engineering Department regarding the higher percentage of crashes associated with left turn movements, the use of a protected turn signals and the function of an arterial road to move traffic. He referenced the traffic safety data provided to the Commissioners as statistical evidence that additional curb cuts onto arterials degrade the function of the arterial, which leads to increased traffic congestion and danger.

No public comment received.

Greg Simmons, Peters and Associates, was asked by the applicant to review the access point onto Joyce Blvd. The study reflected all turning movements from the site except the left turn out onto Joyce Blvd., which has been removed from the proposal. The result was that the levels of service were sufficient. The previous traffic study conducted for the development had been amended to include the projected traffic conditions and although the level of service declined with the additional traffic numbers they were still acceptable. He will not dispute the high percentage of vehicle conflicts due to left turns, but the traffic signal at Vantage will create gaps in the traffic flow. Additionally, the drive onto Joyce Blvd. will alleviate some of the traffic at the signalized intersection (a computer simulation of the project traffic conditions was shown). The proposed curb-cut onto Joyce Blvd. will operate as safe as the signalized intersection because of gaps in traffic created by the signal. The driveway is crucial to the operation of a bank with drive-by traffic.

Howard Hamilton, Liberty Bank, reiterated the comments made by Mr. Simmons regarding the safety of the intersection, and stated that staff's position the last time was that the traffic was too fast, now the traffic is too slow, which is it?

Commissioner Anthes asked if the City has an access management policy.

Jeremy Pate, Director of Current Planning, stated that the City does have access management policies. He referenced the city-wide BWR study that identifies these policies and ordinances, some of which are included in Chapter 166, Development, of the Unified Development Code.

Newman read two sections from Chapter 166.08 referring to access management, which states that "Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes" and "there should be a minimum number of intersections."

Pate stated that the City continues to work on additional access management policies.

Simmons stated that by allowing the curb cut, this will improve the intersection by reducing the cars going through the intersection.

Commissioner Anthes asked if the driveway onto Joyce was the principal entrance to the project. There do no appear to be as many cars entering the site through this access point as others.

Commissioner Winston stated that a Principal Arterial section requires a median. If there were a median present, in front of the curb cut, there would be no question of left-turns. Has a median been considered?

Simmons replied no, a median has not been considered.

Pate stated that is correct, a median would alleviate the concerns of left-turns by providing the needed barrier. However, in this location, the curb cut is likely too close to the intersection and a median could potentially conflict with the stacking distance of the cars turning left off of Joyce onto Vantage.

Commissioner Myers stated that the right-in and right-out designs have not worked on other projects, and reflected on the Nelson's Crossing development, in which cars are using the right-in/right-out incorrectly, increasing traffic danger in the area. She stated she was reluctant to approve a curb cut that she feels is not in the best interest of traffic safety, in close proximity to the intersection. What is the primary access to the project?

Simmons stated more vehicles are projected on Joyce than on Vantage.

Hamilton stated that the Joyce Blvd. entrance was the designed as the primary entrance.

Commissioner Myres stated she was nervous about the access and traffic on Joyce, and can not

support the way it is currently designed.

Commissioner Graves asked if there was any type of waiver required for the proposed curb-cut.

Pate stated no, a waiver was not requested for the curb cut separation. The reason this is being called to question is that the that the safety of any curb-cut is a determination for the Planning Commission to make when they review a large scale development.

Commissioner Graves stated that staff's information regarding the safety of the curb-cut was general whereas the applicant has provided specific information regarding the safety of the curb-cut and that it meets all ordinance requirements. Traffic safety is a consideration for denial of the project, but at this time there has not been enough objective information provided by staff to deny the curb-cut, in his opinion.

Motion:

Commissioner Graves made a motion to approve the large scale development with all conditions of approval, which includes the allowance for the curb-cut onto Joyce Blvd. **Commissioner Winston** seconded the motion.

Commissioner Myers stated that she could not support the curb-cut, referenced in condition #3.

Commissioner Winston asked if the proposal included a left-turn out. Figure 8 in the traffic study still shows the left turn, but the site plans presented only show a right-in/right-out.

Simmons stated that a left turn out would be prohibited. Winston and Simmons discussed the different figures and plans submitted.

Discussion ensued regarding the motion and the outcome of the project if the motion to approve failed due to the inclusion of the curb-cut in the motion.

Commissioner Graves withdrew his motion for approval.

Motion:

Commissioner Graves made a motion to find in favor of condition #1, stating he would go through each of the required determinations one by one. **After discussion, the motion failed for lack of a second.**

Commissioner Anthes stated that she was in support of staff's recommendation finding that sufficient access was being provided to the site and that the driveway was not safe. The City has an established access management policy and ordinances, and the safety and efficiency of surrounding routes must be considered.

Motion:

Commissioner Antes made a motion to remove the Joyce Blvd. curb-cut, finding in favor of staff's recommendation on condition #3. **The motion failed for the lack of a second.**

Kit Williams, City Attorney, stated that the driveway should only be denied if the Planning Commission finds that it will create or compound a dangerous traffic condition, based on the Unified Development Code criteria for large scale developments.

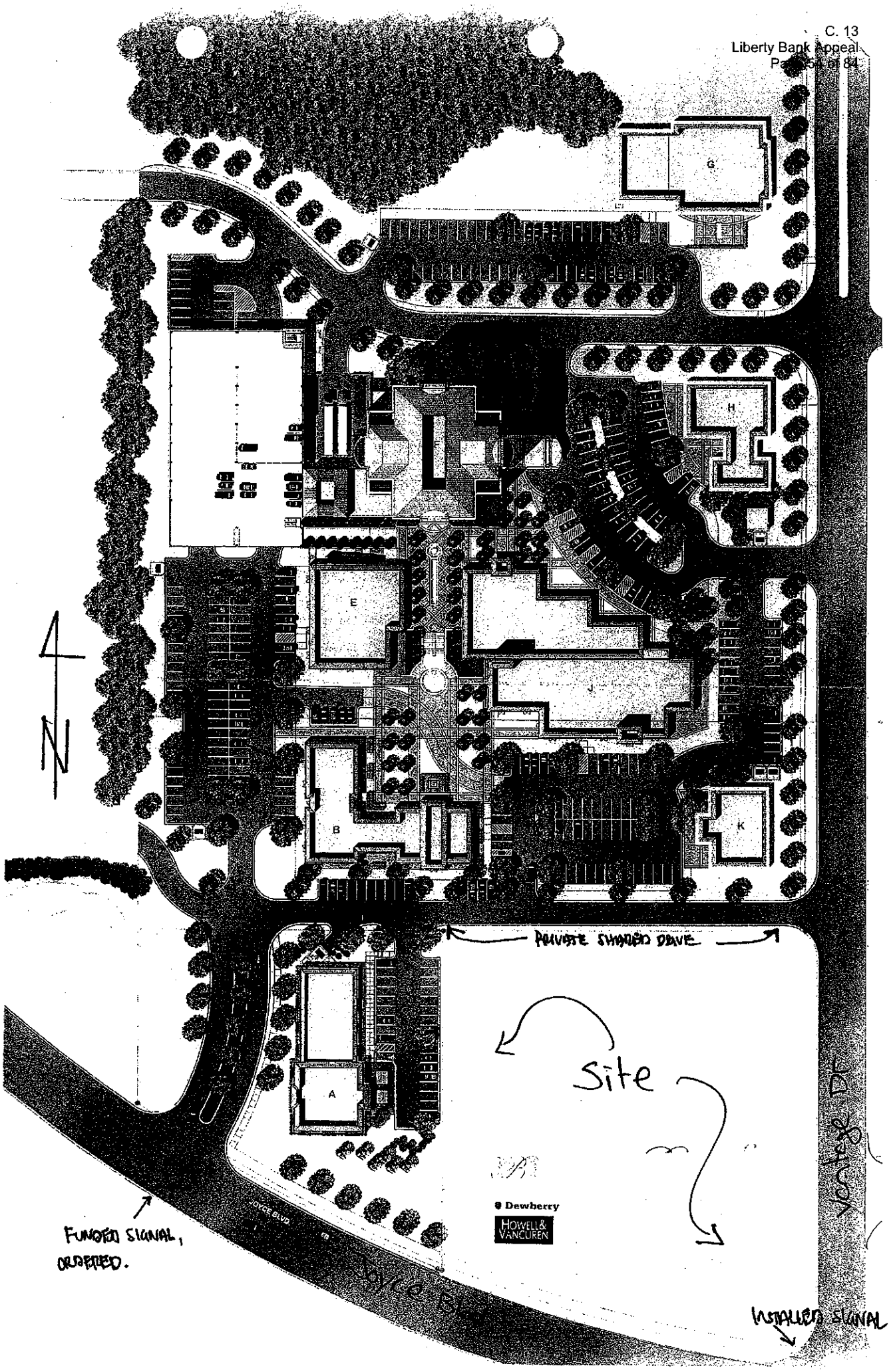
Commissioner Anthes stated that based on the expertise of staff and the information provided that left turns have a higher percentage of crash rates that this finding had been made, and the proposed curb cut would create a dangerous traffic condition.

Motion:

Commissioner Graves made a motion to approve condition of approval #3 as proposed by the applicant, which would allow the curb cut as indicated on the site plans. **Commissioner Winston** seconded the motion. **Upon roll call the motion failed 4-4-0, with Commissioners Bryant, Myres, Cabe and Anthes voting no.**

Motion:

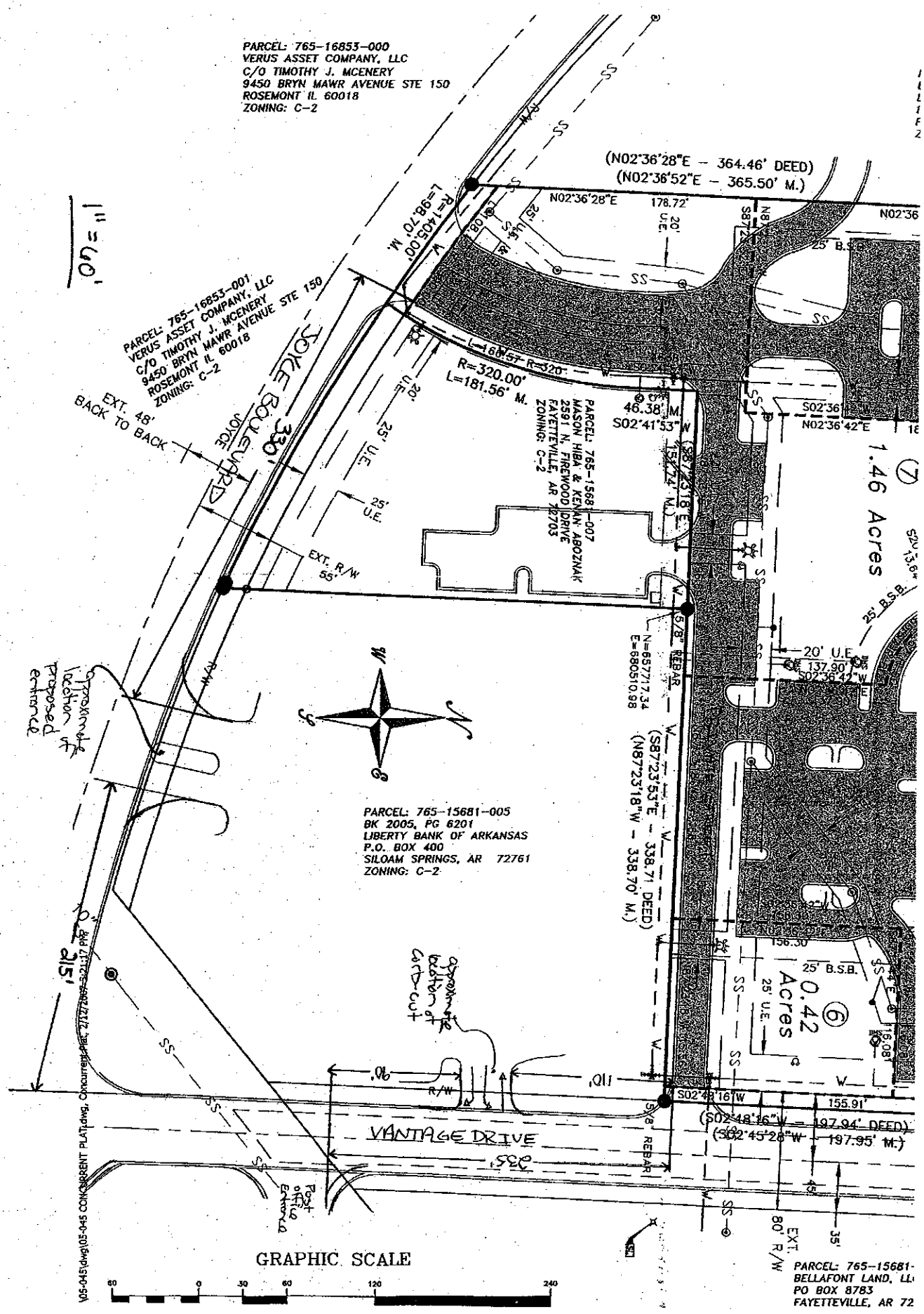
Commissioner Graves made a motion to approve the project, finding in favor of all conditions of approval as recommended by staff. **Commission Myers** seconded the motion. **Upon roll call the motion passed 8-0-0.**


G
H
E
J
B
K
A
N
PRIVATE SHARED DRIVE
Site
Dewberry
HOWELL & VANCUREN
FUNDED SIGNAL, ORDERED.
INSTALLED SIGNAL
Vector Pt

= SHARED

STREET TABLE

NAME	RIGHT-OF-WAY	STREET WIDTH	SIDEWALK	GREENSPACE
JOYCE	1[illegible] FT	60 FT	10	9 FT
STEARNS	[illegible]	28 FT	6	5 FT
VANTAGE	[illegible] FT	70 FT	6	14 FT



Traffic Study

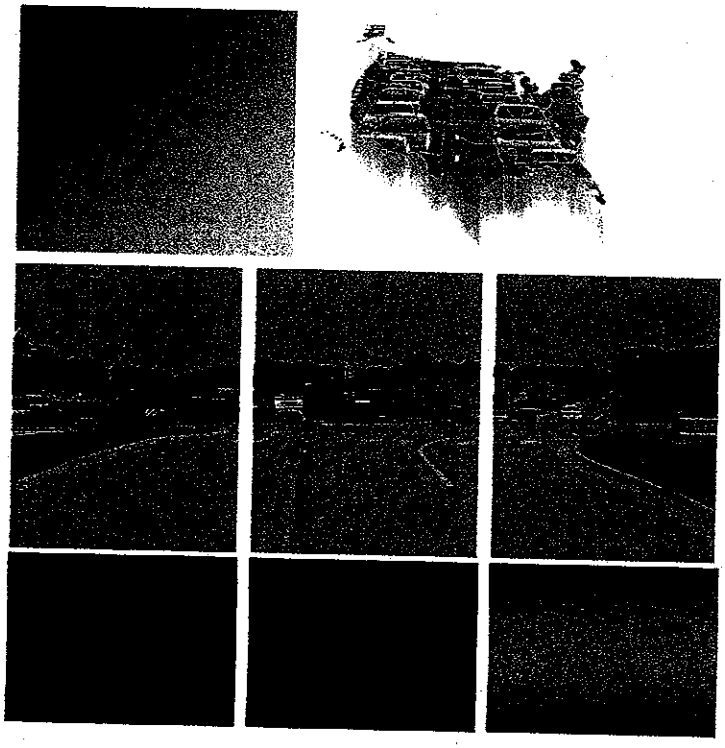
LIBERTY BANK

prepared for:

Crafton, Tull, Sparks & Associates, Inc.

Joyce Boulevard
and
Vantage Drive

Fayetteville, Arkansas



STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
ERNEST J. PETERS
No. 4682

PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING •
5507 Ranch Drive - Suite 205 (501) 868-3999
Little Rock, Arkansas 72223 Fax (501) 868-9710

Project No.: P-1291

May 23, 2007

THE SITE

The location of the development is within the City of Fayetteville in Washington County, Arkansas. The site is located on the north side of Joyce Boulevard and on the west side of Vantage Drive. The proposed development site location and vicinity are shown on Figures 1 and 2, which follow.

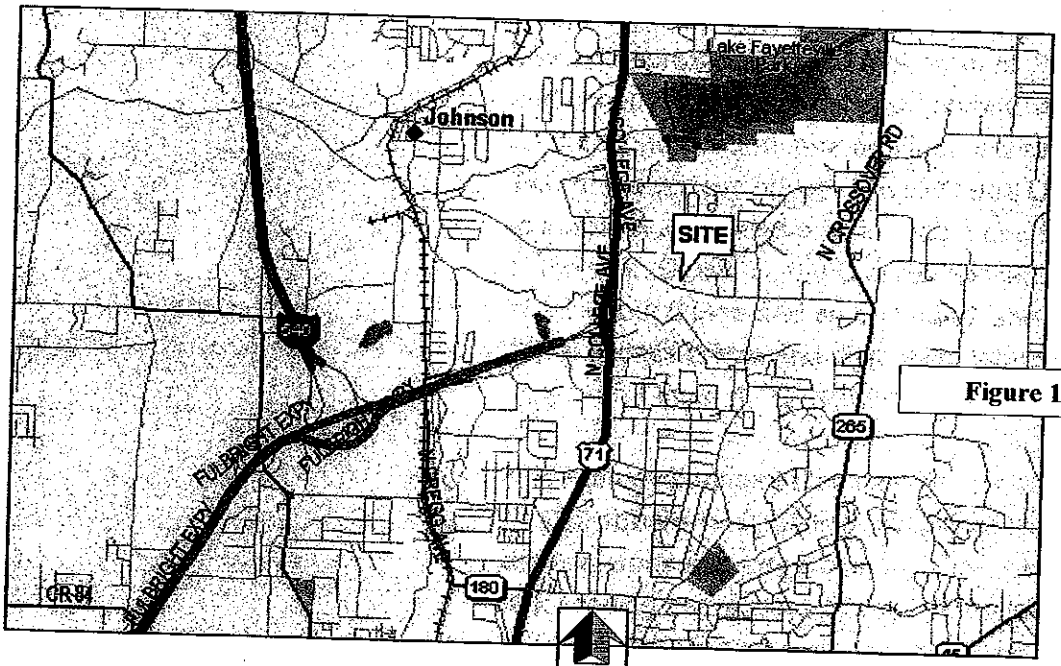


Figure 1 – Vicinity Map

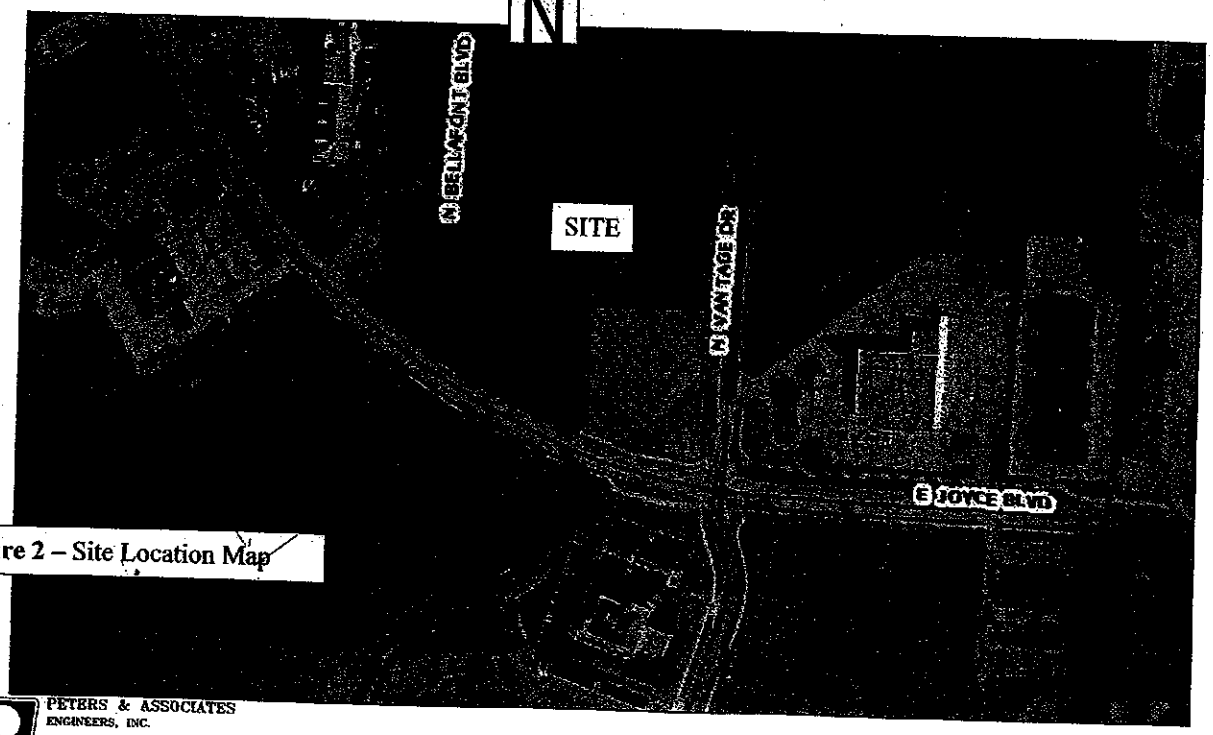


Figure 2 – Site Location Map

PETERS & ASSOCIATES
ENGINEERS, INC.

Access to the site, as shown on the site plan, is proposed from four access drives. One of the access drive (Drive A) is proposed to intersect Joyce Boulevard along the south edge of the site. Drive A is proposed to be located approximately 270 feet west of Vantage Drive and consist of an outbound right-turn lane, an outbound left-turn lane and two inbound receiving lanes. One of the access drives (Drives B) is proposed to intersect Vantage Drive along the east edge of the site. Drive B is proposed to be located approximately 320 feet north of Joyce Boulevard and constructed to consist of an outbound right-turn lane, an outbound left-turn lane and inbound receiving lane. Two of the access drives (Drives C and D) are proposed to intersect a planned private road along the north edge of the site. Drives C and D are proposed to each consist of an inbound lane and an outbound lane. The locations of the access drives and distances between them are shown on Figure 4, "Directional Distribution - Site Traffic."

The site development plan calls for the construction of a 21,613 square-foot building consisting of a bank with six drive-in lanes and office use, plus associated parking, landscaping and access drives. The site plan shows the proposed building location and the approximate locations of the drives proposed to serve the site.

STREET SYSTEM

Joyce Boulevard, in the vicinity of Vantage Drive, is a five-lane roadway consisting of two eastbound lanes, two westbound lanes and left-turn lanes. Joyce Boulevard is constructed with curbs and gutters. There are sidewalks along both sides of Joyce Boulevard at Vantage Drive and the speed limit is 35 miles per hour in the vicinity of the site. Joyce Boulevard is classified as a Principal Arterial on the City of Fayetteville Master Street Plan (MSP).

Vantage Drive, north of Joyce Boulevard, is 33-feet wide with no pavement markings currently. Vantage Drive is asphalt and constructed with curbs and gutters and there are no sidewalks in the immediate vicinity of the site. The speed limit on Vantage Drive is 25 miles per hour. Vantage Drive is classified as a Collector on the City MSP.

A traffic signal at the intersection of Joyce Boulevard and Vantage Drive is currently under construction by the City of Fayetteville. This traffic signal should be operational within the next two months. This will be a 5-phase signal operation with signal indications mounted on mast arms. It will not be interconnected with any other traffic signals.

The site is currently undeveloped. The following photos show the general layout of Joyce Boulevard, Vantage Drive and surrounding land uses in the vicinity of the site. These were taken at locations as indicated on the photo captions.

Traffic Study

The Site

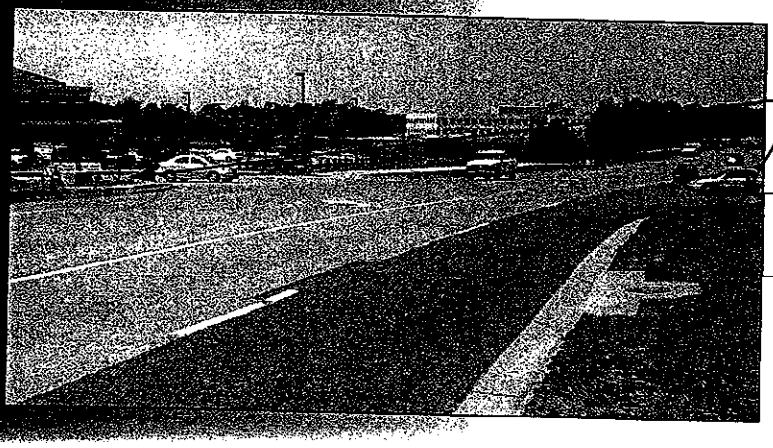
Looking north on Vantage Drive toward Joyce Boulevard.

Vantage Drive

Looking east on Joyce Boulevard toward Vantage Drive.

The Site

Looking south on Vantage Drive toward Joyce Boulevard.



Vantage Drive

Looking west on Joyce Boulevard toward Vantage Drive.

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the site at full development are approximately 2,632 vehicle trips (combined in and out) per average weekday.

- The AM and PM peak hours of the adjacent street have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 139 additional vehicle trips will seek ingress and egress at the site during this adjacent street AM peak hour and approximately 329 additional vehicle trips will seek ingress and egress at the site during this adjacent street PM peak hour.

- Capacity and LOS analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) were conducted for the intersection of Joyce Boulevard and Vantage Drive. all existing vehicle movements for existing traffic conditions at the intersection of Joyce Boulevard and Vantage Drive presently operate at what calculates as an acceptable LOS "B" or better for the AM and PM peak hours except for the northbound and southbound left-turn vehicle movements on Vantage Drive at Joyce Boulevard during both the AM and PM peak hours with the existing "Stop" sign control. These movements experience delay under "Stop" sign control, resulting in less than acceptable LOS. Traffic signal control is currently being installed at this intersection. Once the traffic signal is installed, the LOS are projected to be "C" or better for existing traffic volumes.

- Capacity and LOS analysis was performed for AM and PM peak hours for the full build-out of this development projected traffic conditions. All of the vehicle movements for projected traffic conditions are expected to operate at what calculates as an acceptable LOS "B" or better for the worst-case AM and PM peak hours except for the southbound left-turn vehicle

movement from Drive A onto Joyce Boulevard with "Stop" sign control during the AM and PM peak hours (LOS "F"). These volumes are low (2 vehicles during the AM peak hour and 7 vehicles during the PM peak hour) and the delay should only occur for short times during these peak hours with all other hours operating at better LOS. Additionally, these vehicles turning left out of the form Drive A onto Joyce Boulevard have the option to exit out of Drive B onto Vantage Boulevard and turn left at the signalized intersection of Joyce Boulevard and Vantage Drive.

- As a part of this study, for projected traffic conditions, queue length analysis was conducted for the study intersections. Analysis shows vehicle queue lengths will be minimal and will not exceed proposed storage lengths. The 95th percentile queue for eastbound thru movements on Joyce Boulevard at Vantage Drive are projected to be 110 feet during the AM peak hour and 209 feet during the PM peak hour. These 95th percentile queue lengths do not exceed the available storage distance between Vantage Road and the proposed location of Drive A (approximately 220 feet from the eastbound stop bar at Vantage Drive to the easternmost curb line at Drive A). The queue length analysis is included in the Capacity and Level of Service section in the Appendix for reference.

Recommendations of this study are summarized as follows:

- It is recommended that the roadway lane geometry at the site access drives be constructed as shown on the attached site plan.

- Curb cuts along Joyce Boulevard and Vantage Drive should be constructed in accordance with intersection design standards of the City of Fayetteville and will require approval by the City.

TRAFFIC STUDY FOR LIBERTY BANK
SECOND SUBMITTAL

PETERS & ASSOCIATES
ENGINEERS, INC.

July 13, 2007

Mr. James Parks
Crafton Tull Sparks & Associates, Inc.
901 N. 47th St.
Suite 200
Rogers, AR 72756-9634

Re: P1291
Addendum No. 2 to Traffic Study
Liberty Bank; Joyce Boulevard at Vantage Drive
Fayetteville, Arkansas

Dear Mr. Parks:

As requested, Peters & Associates Engineers, Inc. conducted additional analysis for the referenced project as a result of the meeting held with the City planning and engineering staff on July 12, 2007 at 2:00 pm. As suggested by the City staff, we have used the projected PM peak hour traffic volumes for the intersection of Joyce Boulevard and Vantage Drive as stated in a study published by Carter-Burgess, Inc. in January, 2006. The traffic volumes at the adjacent intersections have been adjusted to balance with the intersection of Joyce Boulevard and Vantage Drive. These volumes are depicted on Figure 8 (revised and attached), "Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour."

This analysis includes the following:

- Analyze the intersection of Joyce Boulevard at Drive A to allow all turning movements EXCEPT the southbound to eastbound left-turn exiting the site.

- The geometry of the intersection of Joyce Boulevard at Drive A includes an eastbound left-turn only lane with taper, two eastbound-thru lanes, a westbound-thru lane, a westbound-thru-right-turn lane, a southbound right-turn only lane exiting the site and two northbound receiving lanes entering the site.

- Projected traffic volumes for the PM peak hour reflect the geometry described above.

Findings

The level of service (LOS) for all turning movements at the study intersections is projected to be an acceptable LOS "D" or better for PM peak hour except the eastbound left-turn at Vantage Drive and Drove B. This movement is projected to operated a LOS "E" for the PM peak hour. The results are depicted in the table below:

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT							Overall Intersection
PEAK HR	INTERSECTION	PEAK HOUR - LEVEL OF SERVICE													
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C		D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A							B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A			A		n/a

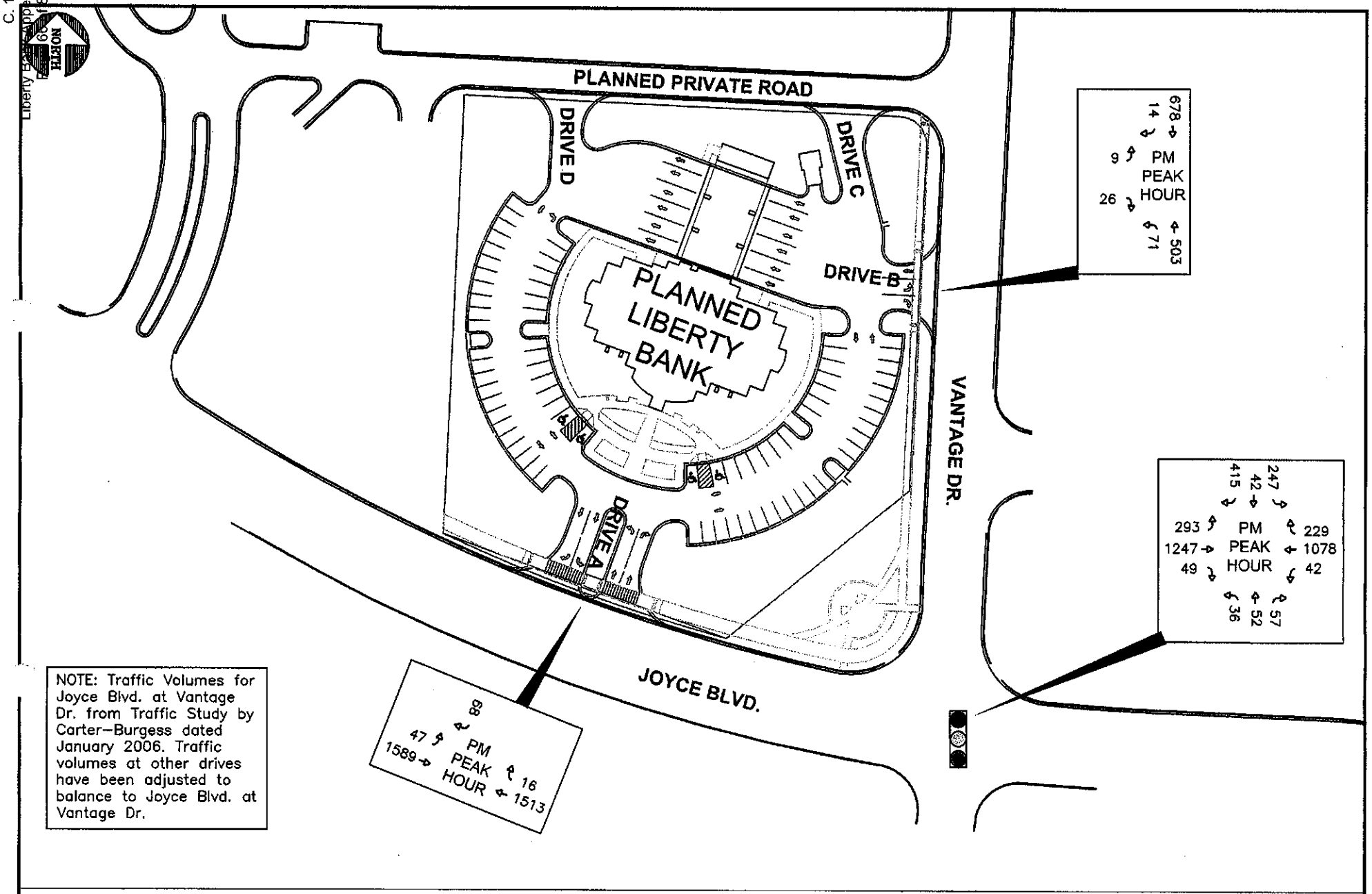
Level of Service Summary – Projected Traffic Conditions

Furthermore, analysis shows that queue lengths for Joyce Boulevard and Drive A will be minimal and not exceed the available storage lengths. The capacity and queue length analysis is attached for reference. Additionally, the traffic signal at Joyce Boulevard and Vantage Drive has provisions to allow interconnection and coordination with adjacent traffic signals. A video clip of the traffic operation of the intersections of Joyce Boulevard at Vantage Drive, Vantage Drive at Bank Access B and Joyce Boulevard at Bank Access Drive A is available in a format viewable on a PC that graphically depicts the traffic operation in PM peak hour.

If you have any questions or need additional information, please contact us.

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

Ernest J. Peters, P.E.
President



NOTE: Traffic Volumes for Joyce Blvd. at Vantage Dr. from Traffic Study by Carter–Burgess dated January 2006. Traffic volumes at other drives have been adjusted to balance to Joyce Blvd. at Vantage Dr.

PROJECT No. P-1291
DATE: 7-13-07

PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING •

LIBERTY BANK
TRAFFIC STUDY
FAYETTEVILLE, ARKANSAS

SITE-GENERATED TRAFFIC
PLUS EXISTING TRAFFIC VOLUMES
PM PEAK HOURS

FIGURE No.
8 (REVISED)

HCM Unsignalized Intersection Capacity Analysis
3: Joyce Blvd. & Drive A

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations						
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Volume (veh/h)	47	1589	1513	16	0	68
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	51	1727	1645	17	0	74
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type					None	
Median storage veh)						
Upstream signal (ft)			277			
pX, platoon unblocked	0.62				0.62	0.62
vC, conflicting volume	1662				2619	831
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	1452				3004	104
tC, single (s)	4.1				6.8	6.9
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	82				100	87
cM capacity (veh/h)	285				5	574

Volume Total	51	864	864	1096	566	74
Volume Left	51	0	0	0	0	0
Volume Right	0	0	0	0	17	74
cSH	285	1700	1700	1700	1700	574
Volume to Capacity	0.18	0.51	0.51	0.64	0.33	0.13
Queue Length 95th (ft)	16	0	0	0	0	11
Control Delay (s)	20.4	0.0	0.0	0.0	0.0	12.2
Lane LOS	C					B
Approach Delay (s)	0.6			0.0		12.2
Approach LOS						B

Average Delay	0.6		
Intersection Capacity Utilization	53.2%	ICU Level of Service	A
Analysis Period (min)	15		

Queues
4: Joyce Blvd. & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Group Flow (vph)	318	1408	46	1421	39	119	268	497
v/c Ratio	0.82	0.70	0.22	0.96	0.42	0.25	0.85	0.85
Control Delay	34.1	15.2	9.3	37.2	38.2	13.2	51.6	29.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	34.1	15.2	9.3	37.2	38.2	13.2	51.6	29.0
Queue Length 50th (ft)	91	264	7	324	15	20	116	111
Queue Length 95th (ft)	#225	352	18	#485	46	59	#238	#277
Internal Link Dist (ft)		197		455		223		238
Turn Bay Length (ft)	150		150		100		100	
Base Capacity (vph)	391	2006	212	1484	99	503	338	607
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.81	0.70	0.22	0.96	0.39	0.24	0.79	0.82

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis
4: Joyce Blvd. & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0	4.0		4.0	4.0		4.0	4.0		4.0	4.0	
Lane Util. Factor	1.00	0.95		1.00	0.95		1.00	1.00		1.00	1.00	
Frt	1.00	0.99		1.00	0.97		1.00	0.92		1.00	0.86	
Flt Protected	0.95	1.00		0.95	1.00		0.95	1.00		0.95	1.00	
Satd. Flow (prot)	1770	3519		1770	3446		1770	1717		1770	1609	
Flt Permitted	0.11	1.00		0.13	1.00		0.22	1.00		0.68	1.00	
Satd. Flow (perm)	204	3519		244	3446		407	1717		1267	1609	
Volume (vph)	293	1247	49	42	1078	229	36	52	57	247	42	415
Peak-hour factor, PHF	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	318	1355	53	46	1172	249	39	57	62	268	46	451
RTOR Reduction (vph)	0	3	0	0	23	0	0	47	0	0	183	0
Lane Group Flow (vph)	318	1405	0	46	1398	0	39	72	0	268	314	0
Turn Type	pm+pt			pm+pt			Perm			Perm		
Protected Phases	5	2		1	6			8			4	
Permitted Phases	2			6			8			4		
Actuated Green, G (s)	48.6	41.7		35.5	32.6		18.3	18.3		18.3	18.3	
Effective Green, g (s)	48.6	41.7		35.5	32.6		18.3	18.3		18.3	18.3	
Actuated g/C Ratio	0.65	0.56		0.47	0.44		0.24	0.24		0.24	0.24	
Clearance Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		4.0	4.0	
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)	383	1959		175	1500		99	420		310	393	
v/s Ratio Prot	c0.13	0.40		0.01	c0.41			0.04			0.20	
v/s Ratio Perm	0.41			0.11			0.10			c0.21		
v/c Ratio	0.83	0.72		0.26	0.93		0.39	0.17		0.86	0.80	
Uniform Delay, d1	19.4	12.2		11.4	20.1		23.7	22.3		27.1	26.6	
Progression Factor	1.00	1.00		1.00	1.00		1.00	1.00		1.00	1.00	
Incremental Delay, d2	14.1	1.3		0.8	10.8		2.6	0.2		21.3	10.8	
Delay (s)	33.6	13.5		12.2	30.9		26.2	22.5		48.4	37.4	
Level of Service	C	B		B	C		C	C		D	D	
Approach Delay (s)		17.2			30.3			23.4			41.3	
Approach LOS		B			C			C			D	

HCM Average Control Delay	26.6	HCM Level of Service	C
HCM Volume to Capacity ratio	0.90		
Actuated Cycle Length (s)	74.9	Sum of lost time (s)	12.0
Intersection Capacity Utilization	93.3%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

HCM Unsignalized Intersection Capacity Analysis
6: Drive B & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	9	26	71	503	678	14
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	10	28	77	547	737	15
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)				318	42	
pX, platoon unblocked	0.93					
vC, conflicting volume	1446	745	752			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	1481	745	752			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	92	93	91			
cM capacity (veh/h)	116	414	858			

Volume Total	10	28	77	547	752
Volume Left	10	0	77	0	0
Volume Right	0	28	0	0	15
cSH	116	414	858	1700	1700
Volume to Capacity	0.08	0.07	0.09	0.32	0.44
Queue Length 95th (ft)	7	5	7	0	0
Control Delay (s)	38.8	14.3	9.6	0.0	0.0
Lane LOS	E	B	A		
Approach Delay (s)	20.6		1.2	0.0	
Approach LOS	C				

Average Delay	1.1		
Intersection Capacity Utilization	53.8%	ICU Level of Service	A
Analysis Period (min)	15		

SITE ACCESS STUDY – BELLAFONT

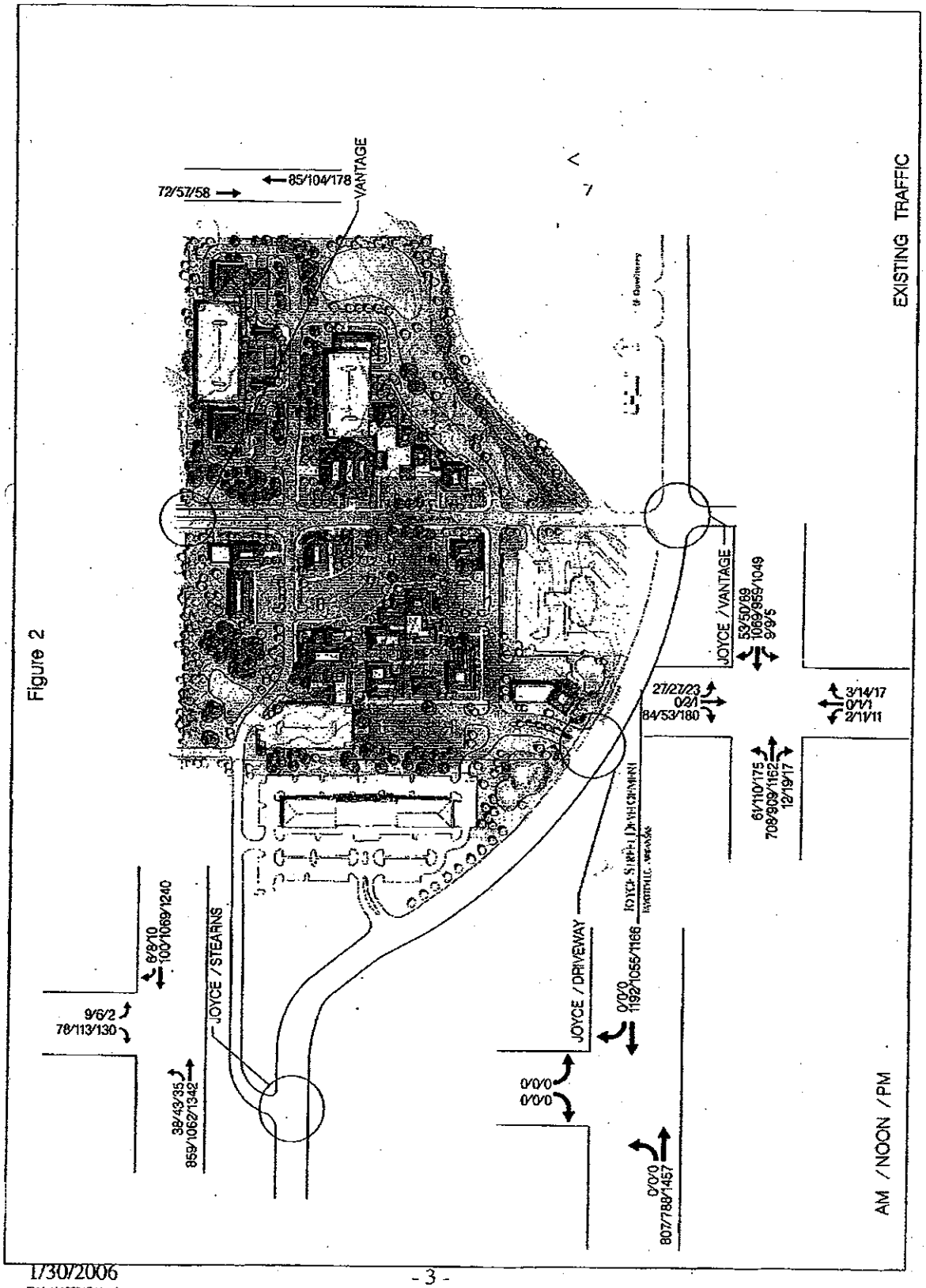
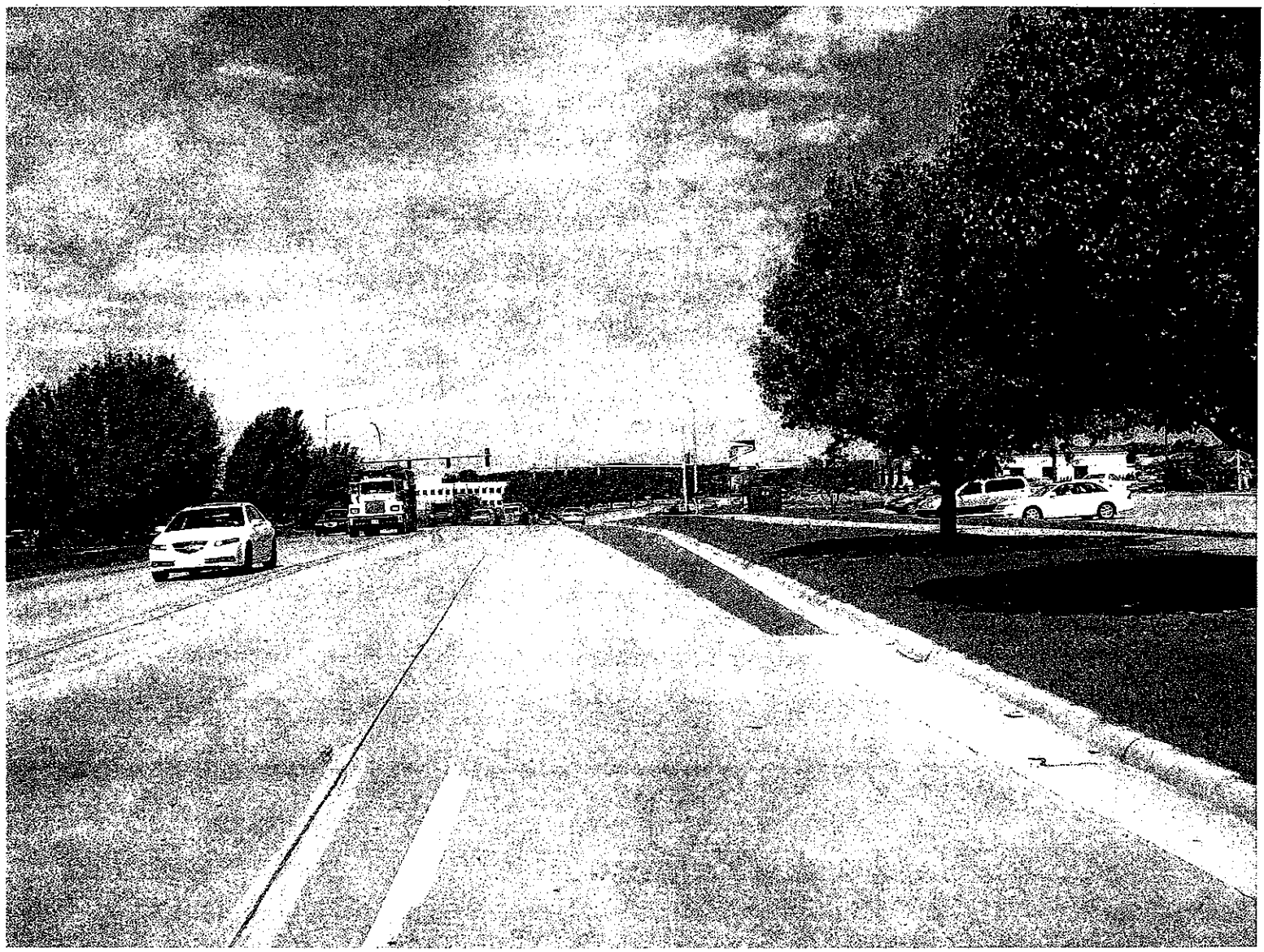


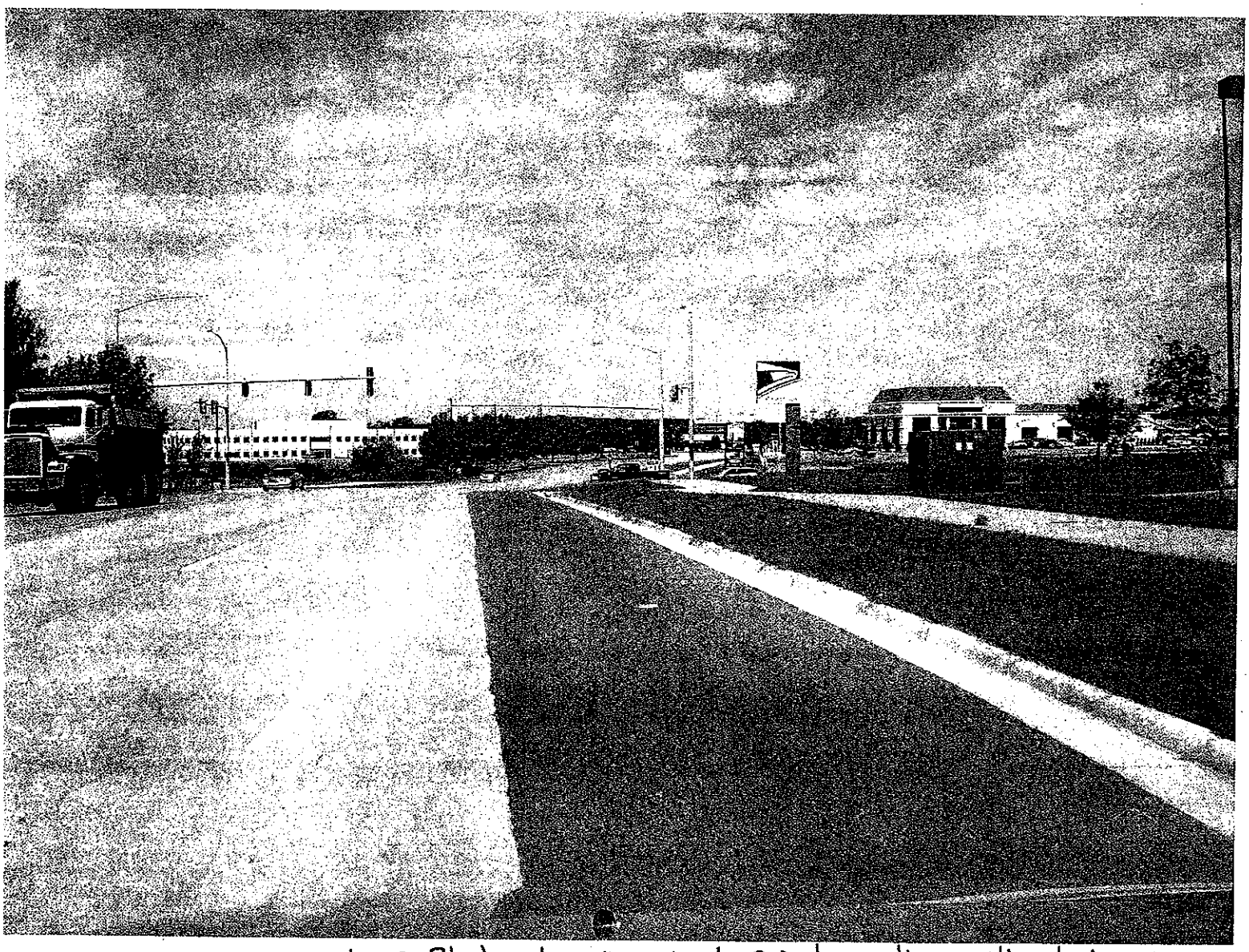
Figure 2

SITE ACCESS PHOTOGRAPHS

- Joyce Blvd. - Looking West

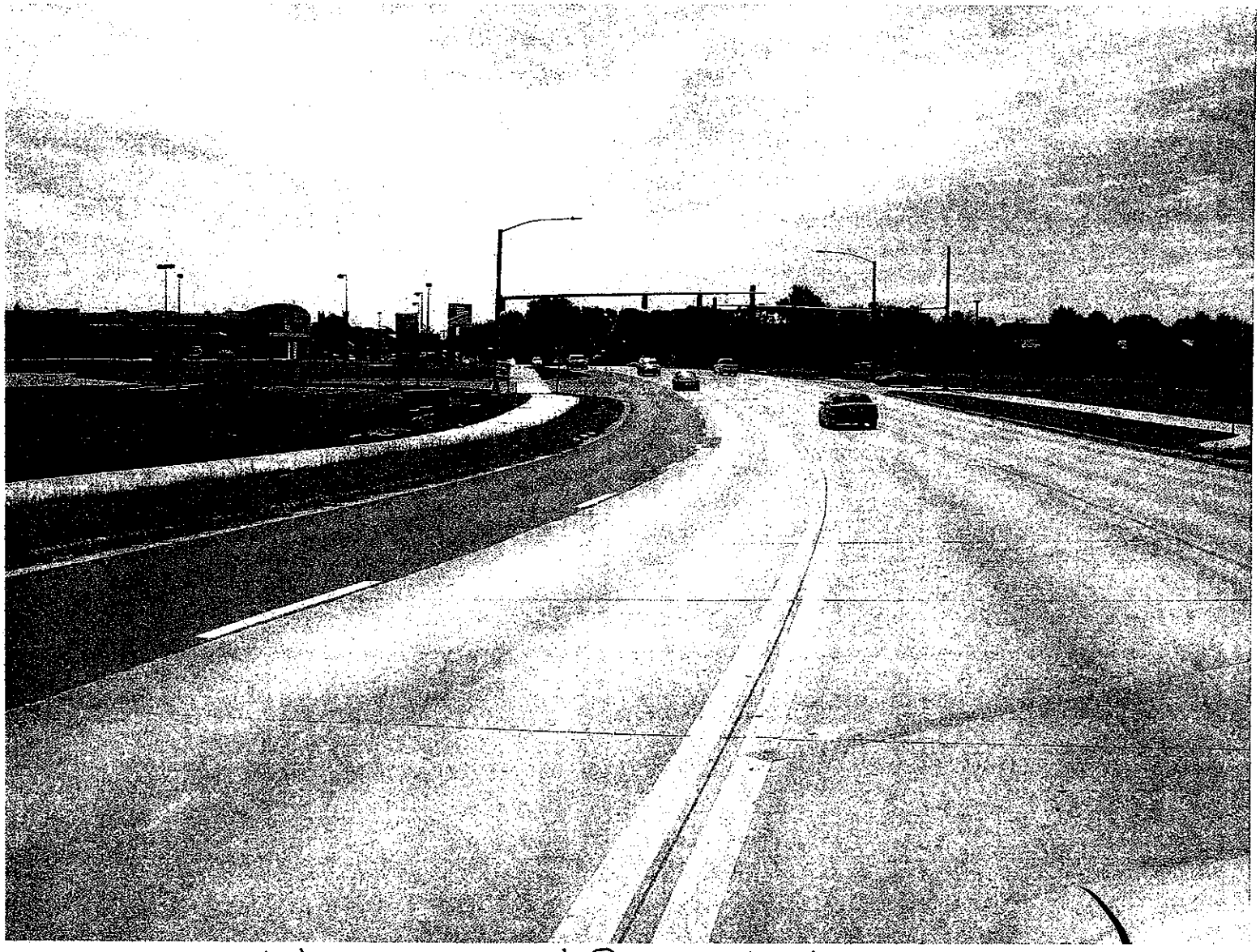


- Joyce Blvd. - Looking West

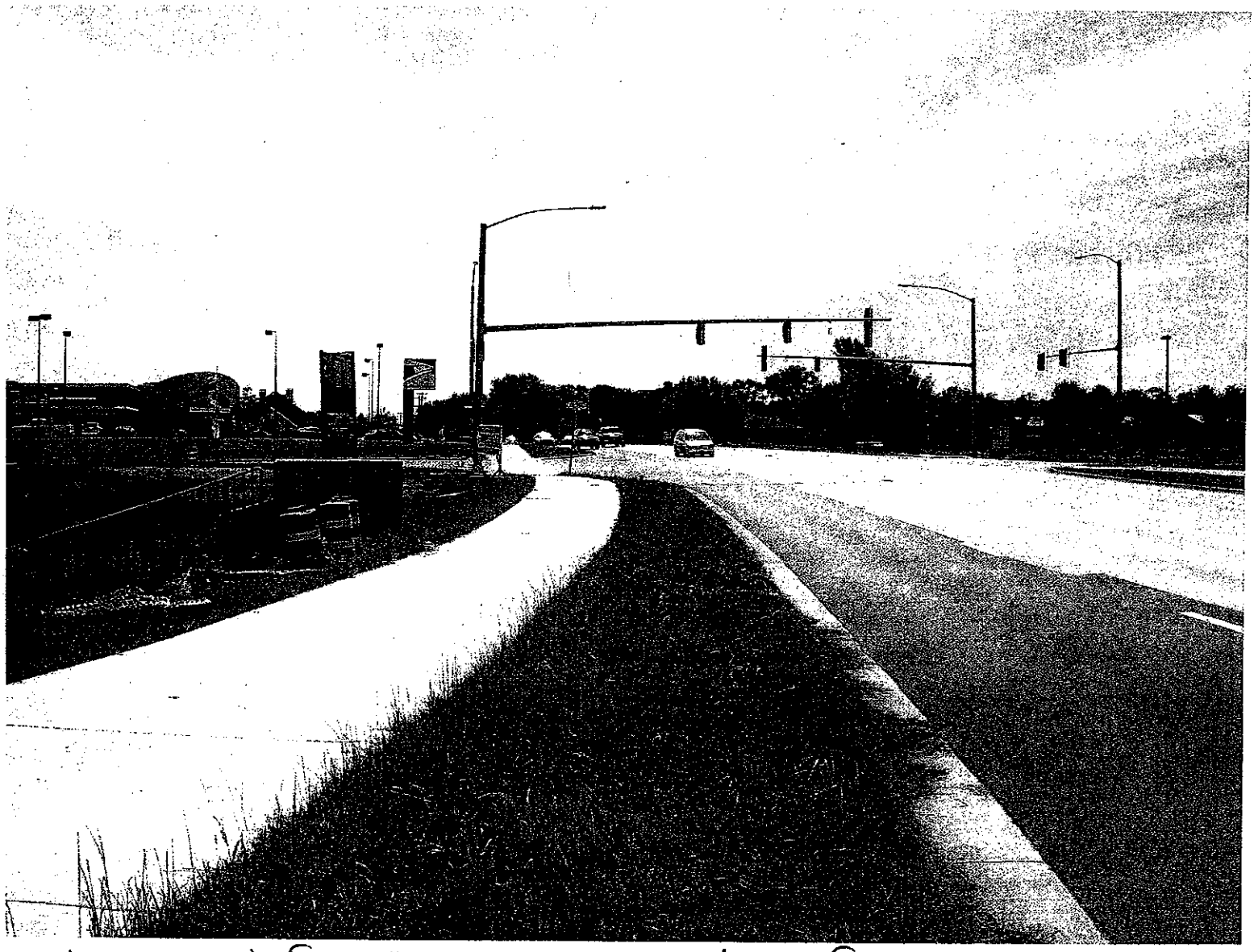


- Joyce Blvd. - Looking West @ intersection with Vantage Dr.

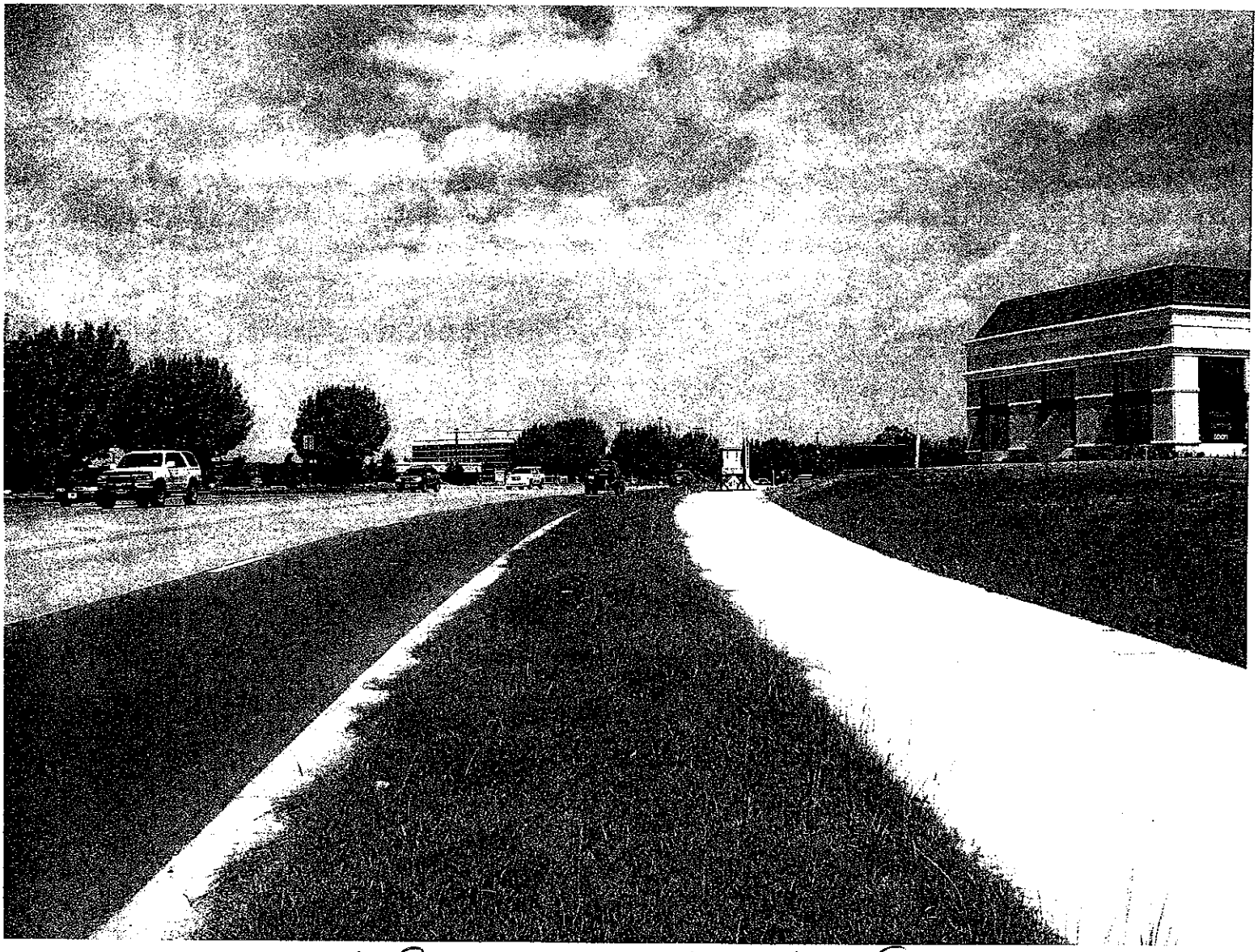
Joyce St. - Looking East from entrance of Proctor & Gamble, which is the location of a funded traffic signal.



-Joyce Blvd.- Looking east from center turn lane

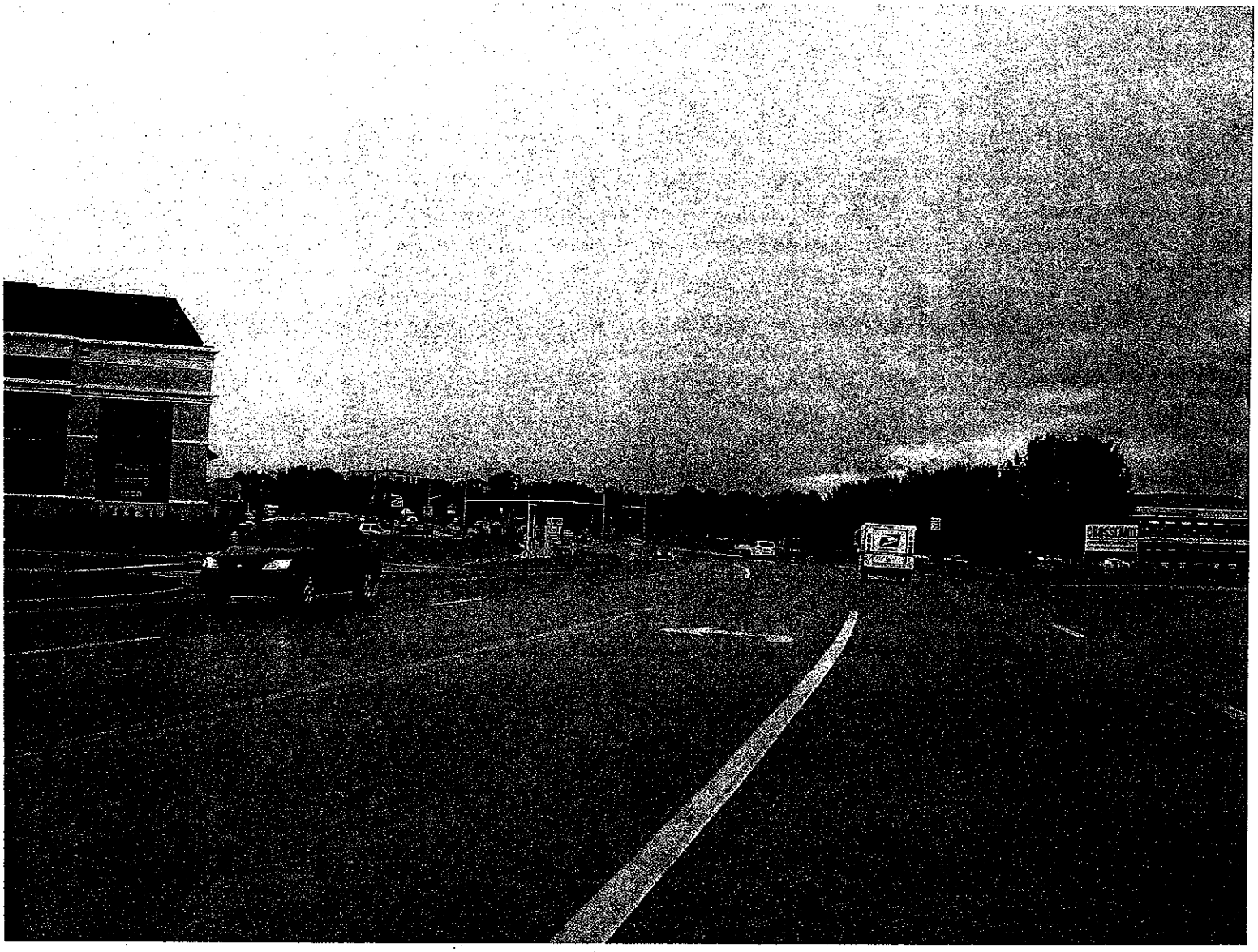


-Looking east from the approximate location of the proposed curb-cut



-Looking west from the approximate location of the proposed curb-cut.

-Looking West @ Joyce Blvd. / Vantage Dr. intersection

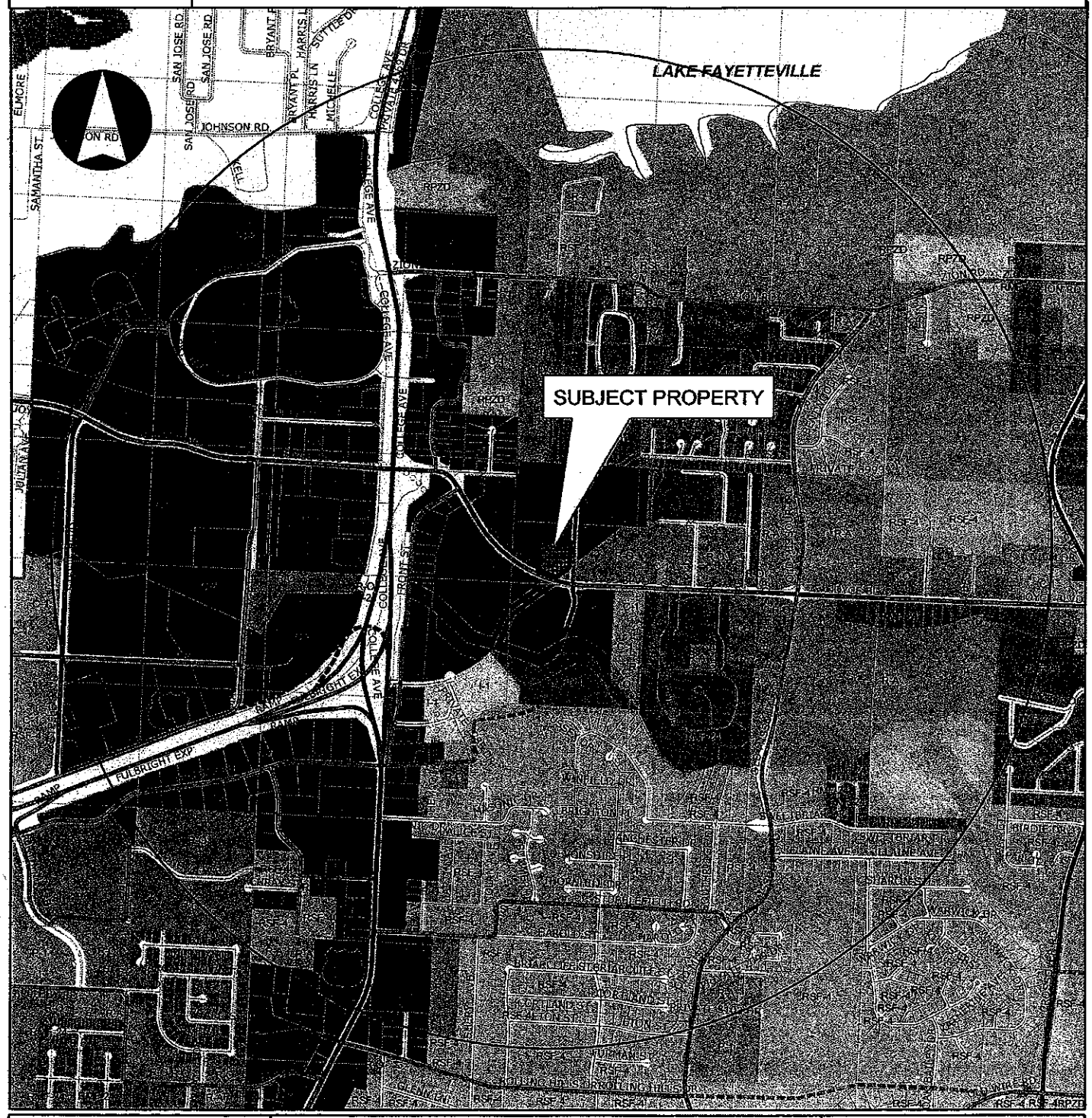


-Looking east -

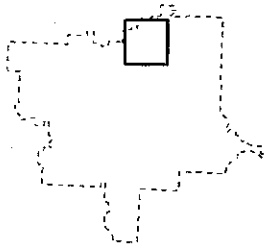
LSD07-2574

One Mile View

LIBERTY BANK OF ARKANSAS



Overview



Legend

Subject Property

LSD07-2574

Boundary

Planning Area

Overlay District

Outside City

Legend

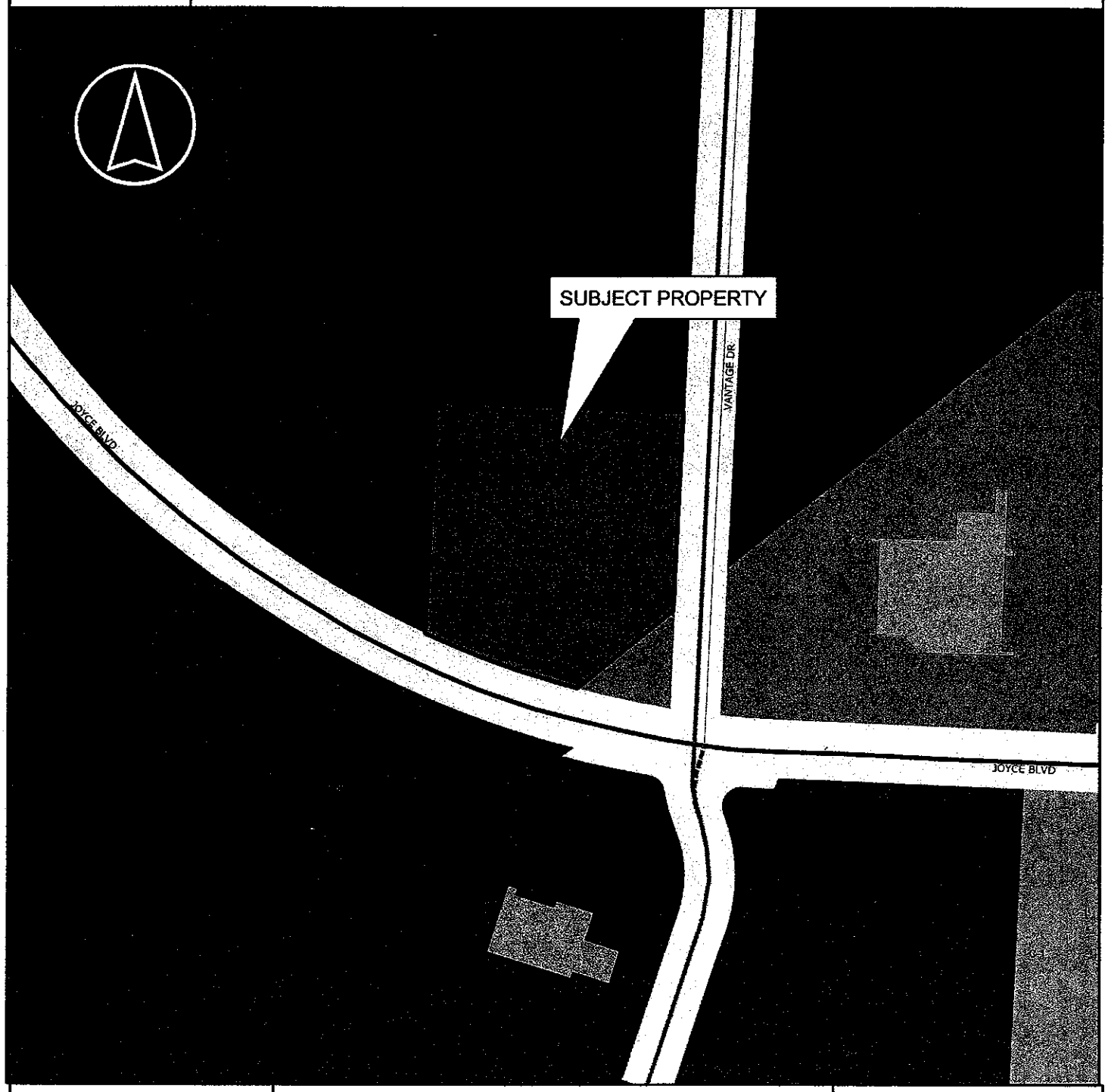
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

LSD07-2574

Close Up View

LIBERTY BANK OF ARKANSAS



Overview

0 75 150 300 450 600 Feet

Added at Agenda Session 7/31/07

ALDERMAN AGENDA REQUEST FORM

for the 8/7/07 Agenda

FOR: COUNCIL MEETING OF August 07, 2007

FROM: Kyle Cook

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

Abshier Heights Planned Zoning District – Extension of approved PZD

An ordinance to waive Ch. 166.20 of the Unified Development Code, to permit an extension for the Abshier Heights Planned Zoning District (R-PZD 06-1183), and requiring the applicant to obtain all building permits by April 04, 2008.

APPROVED FOR AGENDA:

Alderman **Kyle Cook** — Date 7/31/07

Jeremy Pate — Date 07.31.07
Director of Current Planning

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 31, 2007

Subject: Abshier Heights Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordinance repealing and replacing Ordinance No. 4850, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Abshier Heights R-PZD and extending the expiration date for R-PZD 06-1883 (Abshier Heights), with the condition that all building permits be obtained by the applicant prior to April 4, 2008 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The property consists of a total of 4.11 acres occupying land with frontage on Abshier Drive and Hillcrest Avenue. Both parcels are undeveloped and are zoned R-PZD 06-1883. It is surrounded by single-family homes on the south/east and the Evelyn Hills Shopping Center to the north/west.

The subject Planned Zoning District was approved on April 4, 2006, including a maximum of 24 dwelling units in six buildings, at a density of 5.8 dwelling units per acre. When this project was approved, the project booklet indicated two different time frames for development. One allowed for construction within 3 years, while the other placed a blanket one-year time period in which to obtain all building permits associated with the project. Pursuant to Chapter 166.06 (G)(Conflicts); where there is more than one provisions within the PZD Master Development Plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator. The one-year time frame expired on April 4, 2007.

The applicant has been working with City divisions to obtain the necessary permits to begin construction of the development. At this time grading of the property and utility installation has commenced and building permits have been applied for. However, staff is unable to approve any building permits as the one year time frame allowed to obtain all permits from the date of approval has expired.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately one year to expire on April 4, 2008. All building permits for Abshier Heights PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE CHAPTER 166.20 OF THE UNIFIED DEVELOPMENT CODE EXPIRATION OF APPROVED PLANS AND PERMITS, FOR R-PZD 06-1883 (ABSHIER HEIGHTS) AND TO PROVIDE FOR A ONE-YEAR APPROVAL EXTENSION

WHEREAS, The City Council of the City of Fayetteville approved a Residential Planned Zoning District known as Abshier Heights (R-PZD 06-1883) on April 4, 2006 with Ordinance No. 4850; and

WHEREAS, Abshier Heights PZD has applied and been approved for construction of all necessary public improvements, such as streets, sidewalks, water and sewer mains and other infrastructure improvements that could not be accomplished within the one-year period of time granted; and

WHEREAS, the Abshier Heights development is actively under construction at this time for said public infrastructure improvements; and

WHEREAS, building permits have been submitted for construction of the buildings, but upon review may not be permitted due to the expiration of the PZD on April 4, 2007.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the one year time limitation of R-PZD 06-1883 (Abshier Heights) adopted on April 4, 2006 to obtain all building permits\

Section 2: That the applicant must obtain all building permits associated with R-PZD 06-1883 (Abshier Heights) on or before April 4, 2008, or the R-PZD shall be null and void.

Section 3: That all other conditions, commitments, development standards and other requirements of the project approved by Ordinance No. 4850 shall remain in full effect unless otherwise modified by the City Council.

PASSED and **APPROVED** this___day of ___, 2007.

DRAFT

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

31 July 2007

Jesse Fulcher
Planning Department
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

RE: R-PZD 06-1883 Abshier Heights

The above-referenced PZD was approved by City Council on 04 April 2006. After earning City Engineering & State Health Department approval over that following summer, the Owner, David Chance, began site work in February 2007. Plan approval and construction has been underway since that time and continues to this day.

By starting construction in the February of 2007, Mr. Chance believed he was well within the time limit as described in Section 166.20(B)1d of the Unified Development Code regarding the expiration of approved plans and permits. Upon submitting plans for a building permit on or around 13 July of this year, however, he was informed that the PZD approval had expired subject to a 1-yr time limit for receiving the actual building permit, though the permitting process and construction had been underway for some time.

On Mr. Chance's behalf, we ask that you please grant an extension until 04 April 2008 for the building permit application for this project.

Thank you for your consideration.

Sincerely,

Paul M. Mortensen AIA 7-31-07

Paul Mortensen, AIA
Cooper Architects

Date

ORDINANCE NO. 4850

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-1883, ABSHIER HEIGHTS, LOCATED SOUTH OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST, CONTAINING APPROXIMATELY 4.11 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From C-2, Thoroughfare Commercial, to R-PZD 06-1883 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

Section 5: That the Master Development Plan is approved subject to the list of compromises agreed to by the neighbors, developer and architect shown on Exhibit "B" presented to and accepted by the City Council. The Master Development Plan is also subject to the Revised Site Plan attached as Exhibit "C".

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

EXHIBIT "A"
R-PZD 06-1883

TRACT A:
PART OF THE NW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF THE NW ¼ OF THE NW ¼, SAID POINT BEING A FOUND 1" PIPE; THENCE N87°12'10"W 352.90 FEET; THENCE N02°59'53"E 25.00 FEET TO THE POINT OF BEGINNING; THENCE N02°58'47"E 635.03 FEET TO A CHISLED "X"; THENCE S87°00'06"E 149.72 FEET TO A FOUND IRON PIN IN THE WEST RIGHT-OF-WAY LINE OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT-OF-WAY S02°57'25"W 634.95 FEET TO A FOUND PK NAIL IN THE APPROXIMATE CENTER LINE OF WOODCREST DRIVE NOW VACATED BY THE CITY OF FAYETTEVILLE BY ORDINANCE #1205; THENCE ALONG SAID CENTERLINE N87°02'16"W 149.97 FEET TO THE POINT OF BEGINNING, CONTAINING 2.187 ACRES, MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

TRACT B:
PART OF THE SW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SW ¼ OF THE NW 1/4; THENCE N87°12'10"W 203.60 FEET; THENCE S02°58'05"W 30.14 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN IN THE WEST RIGHT OF WAY OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT OF WAY S02°58'12"W 313.56 FEET TO A FOUND IRON PIN IN THE NORTH RIGHT-OF-WAY LINE OF ABSHIER DRIVE; THENCE ALONG SAID RIGHT-OF-WAY LINE N86°36'30"W 537.42 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID RIGHT-OF-WAY N63°01'26"E 620.21 FEET TO THE POINT OF BEGINNING, CONTAINING 1.935 ACRES MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

EXHIBIT "B"
R-PZD 06-1883

WE AS NEIGHBORS, THE AFOREMENTIONED DEVELOPER AND ARCHITECT, HAVE RESPECTFULLY AGREED UPON THE FOLLOWING COMPROMISES:

1. Modifications to architectural design of development to complete and complement existing neighborhood homes. Examples include planter boxes with stone facades; the agreed upon stone façade on the back of the development (on the side of the town homes facing Hillcrest and Abshier) the architect will modify rear elevations of development to include partial stone facades on the back of the development (on the side of the town homes facing Hillcrest and Abshier) for approval of abovementioned neighborhood representatives; house numbers re-styled and moved to the lower portion of the front of the house near planter boxes; changes in paint palette in the natural earth tones; enlarged window shapes and styles in the latest drawings presented to the neighborhood – all to create a more natural, "softer" feel in line with the traditional character of the existing neighborhood.

2. Reduction in the number of units to 24.

3. Speed bumps to be built/installed on Hillcrest, Abshier, Lakeridge and Oakwood by Developer and City with 50/50 cost share with up to four speed tables.

4. A permanent, WRITTEN plan for maintaining the park and greenspace throughout the development included in the homeowner's association agreements and/or covenants for those who purchase the town homes. The association agreements or covenants must be worked out in consultation with the above-mentioned neighborhood representatives throughout the process and approval. Additionally, new neighbors in the development must be aware that Lade Lucille and surrounding property is a private entity and is not available for their use for swimming, fishing, picnicking, etc. (only accessible by property owners in Lake Lucille/Clay Yoe subdivision).

5. Additional trees and shrubs are to be planted along Hillcrest and Abshier to fill in gaps and ensure that the tree buffer is maintained and expanded. Trees and shrubs are needed to fill in both high and low gaps and present an attractive, natural appearance to neighbors in the development and across Hillcrest and Abshier.

6. Core and soil sample testing will be conducted due to grade and incline, instability of land because of natural springs and previous construction difficulty in area with USA Drug.

7. We respectfully request that City Planning division allow that no bridges or steps leading form the town homes to Abshier or Hillcrest will be constructed. This would only encourage street parking and exacerbate traffic problems. The only steps in the development that are agreeable to the neighbors are those from the pocket park/viewing area to the parking area for the E. Fay Jones' home as designated on plans.

8. Trees and/or shrubbery will be planted at the back of the development to screen the development's residents from the shopping center. These also should include plantings to fill in high and low gaps and present an attractive, natural appearance consistent with a high quality development.

9. No parking signs to be installed along Hillcrest & Abshier on the development side, with no parking allowed on either side of these two streets.

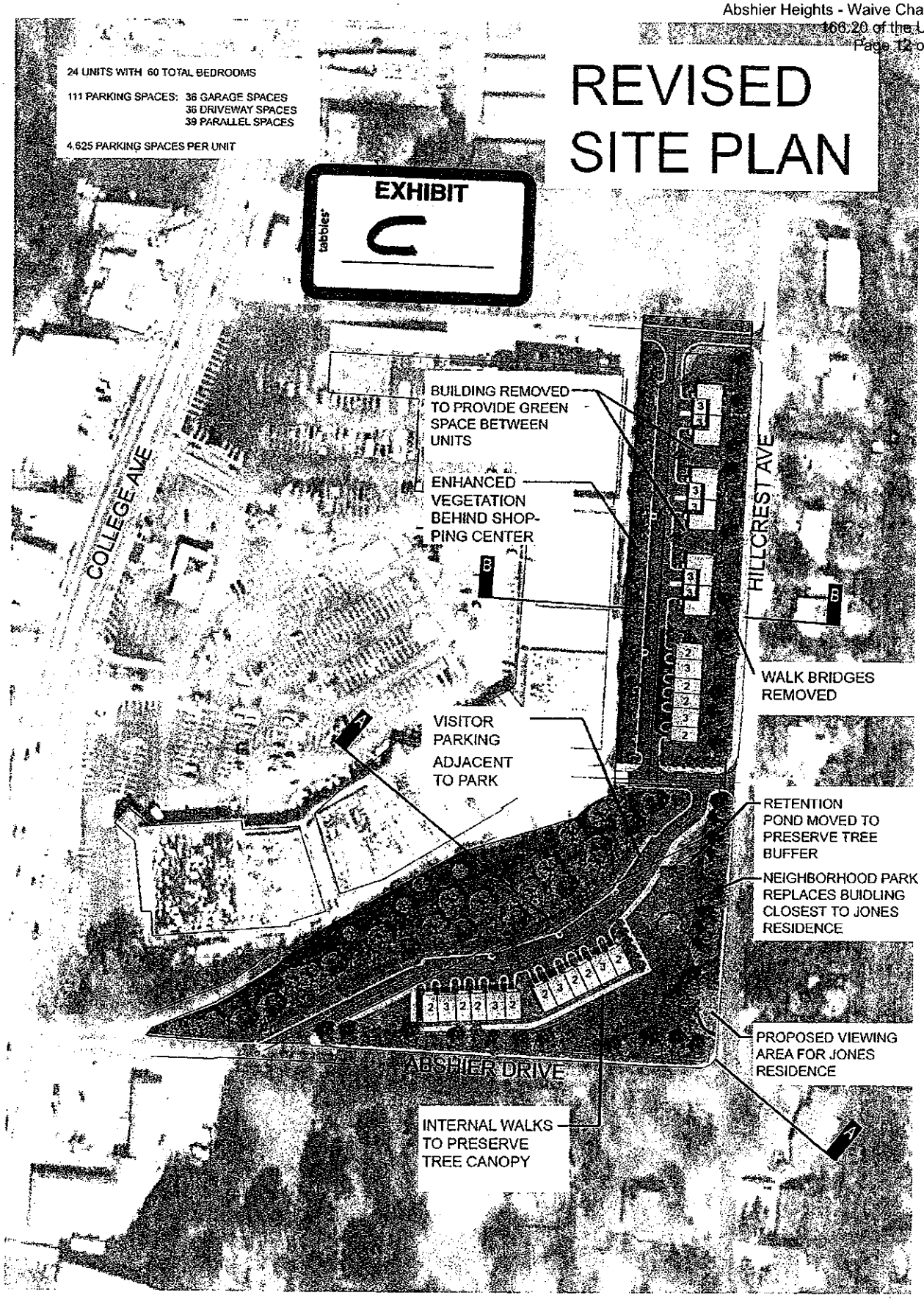
10. Landscape design, and any newly planted trees and shrubbery will, as closely as possible, be in accordance with E. Fay Jones' written/drawn design plans for the property from the U. of A. Mullens Library, Special Collections (neighbors have this document) (i.e. species of trees, placement, etc.).

11. Above-mentioned neighborhood representatives will see sample/rendering of mailbox design and of the sign for the development and provide input for approval, prior to installation.

12. Construction will be limited to daylight hours only.

13. We respectfully request that if this development, PZD 06-1883, Abshier Heights, is not executed, that the City require that this property revert back to RSF-4 (R-1), not its current zoning of record, C-2.

14. All agreed upon compromises will be put in writing and officially recorded as amendments to PZD 06-1883 and presented at the meeting of the Fayetteville City Council, Tuesday, April 4, 2006. All compromises throughout this document are legally binding on the developer and must be carried out.



SITE PLAN WITH BEDROOM COUNT

0 50 100 250

ABSHIER HEIGHTS

P.O. Box 1782 Fayetteville, AR 72702
p 479.575.0071 f 479.575.0074

Fayetteville
ARKANSAS

PC Meeting of February 13, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Brent O'Neal, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~February 8, 2006~~ **Updated February 14, 2006 for City Council**

R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407): Submitted by H2 ENGINEERING for property located at S OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.11 acres. The request is for a Residential Planned Zoning District with 30 multi-family dwelling units.

Property Owner: SMITH 2-WAY RADIO
Planner: JESSE FULCHER

Findings:
Property Description: This site is located north of Abshier Drive and west of Hillcrest Avenue, directly behind the Evelyn Hills Shopping Center.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Evelyn Hills Shopping Center	C-2
South	Single Family Neighborhood	RSF-4
East	Single Family Neighborhood	RSF-4
West	Evelyn Hills Shopping Center	C-2

Background: Research conducted by staff indicates in 1960 when the Evelyn Hills Shopping Center was rezoned, that a 150' strip was left zoned residential to serve as a buffer strip. In 1962 the City Council approved rezoning of the western 130' of the 150' tract, partly because the owners offered to place a restrictive covenant on the property that limited development on the 20' residual strip along Hillcrest Ave. It should be noted that all structures and land disturbances associated with the proposed structures is further than 20' from Hillcrest Avenue (approximately 45' from the curb). Street improvements to Hillcrest will require construction in this area. However, later in 1962 the rezoning was rescinded after an election was called by referendum. Any covenants that were in place with the rezoning were most likely invalidated when the rezoning was rescinded.

It appears that in 1967 a second request was made to rezone the property to C-2. The request was denied, but was later appealed to the Board of Directors, who then approved the requested rezoning to C-2.

In 1991 a rezoning was requested to rezone the property from C-2 to R-1.5 to allow for the construction of duplexes, which was withdrawn. Pertinent information on the zoning history of this property has been included.

Subdivision Committee Comments: The Subdivision Committee voted 2-1-0 to forward the item to the Planning Commission. A consensus was not reached on the findings. Numerous adjacent property owners attended the meeting with several concerns regarding the proposed project. These concerns included traffic, density, compatibility, trash, aesthetics, drainage and the E. Fay Jones property which is near the site. Included in the staff report are letters from adjacent property owners.

Planning Commission Comments: The Planning Commission voted 6-3-0 to forward the item to the City Council. There was considerable public comment regarding traffic, density, water pressure, architectural compatibility and the E. Fay Jones property. Some of the Planning Commissioners shared some of the same concerns as the neighbors. In addition, the Planning Commissioners had added concerns and questions for staff to address prior to City Council, including Fire Department access, parallel parking on Hillcrest Avenue, water pressure, pedestrian bridges, trash service and building materials.

Proposal: The applicant requests a rezoning, Master Development Plan and Large Scale Development approval for a multi-family development on the property. The 8-building proposal includes 30 residential units, consisting of 22 multi-family units and 8 two-family units. The 8 two-family units will be located in the northern 4 buildings along Hillcrest and the 22 multi-family units will be located in the remaining 4 buildings, three facing greenspace off of Abshier and one on Hillcrest. The overall density is 7.3 units per acre.

The applicant is attempting to create a transition between the commercial shopping center to the north/west and the single-family neighborhood to the south/east. The Planned Zoning District contains one (1) Planning Area. The Planning Area has its own specific density (maximum number of dwellings units allowed), and established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a drawing of the overall Planning Area boundaries and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards and approval of the large scale development which would allow the immediate review of construction plans. Proposed setbacks are not close to the street; rather they allow for the development of the flat parts of the site, while preserving the slope and trees along the street.

Process: The purpose of the subject request is for a rezoning and development approval. Approval of the Residential Planned Zoning District would effectively rezone the property based on the engineered plans and information provided.

The following bulk and area regulations are proposed by the applicant:
(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 9	Two-family dwellings
Use Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 24	Home Occupations

(B) *Density.*

Units per acre	7.3

(C) *Bulk and area regulations.*

Lot minimum width	N/A - Condo units and duplexes
Lot area minimum	N/A
Land area per dwelling unit	5,000 sq. ft.

(E) *Setback requirements.*

Front Building Setbacks: 25'.

Rear Building Setback: 15'

Side Building Setback: 8'

(F) *Height.* 35' maximum height

(G) *Building area.* 16.8% of site.

Water: Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue and a 6" sewer line along Abshier Drive, west of the site. A study of the downstream system shall be conducted by the developer. Substantial improvements to the sewer system may be required which includes other off-site improvements. Sewer service will need to be extended within the property at the time of development connecting within the proposed development.

Adjacent Master Street Plan Streets:
East: Hillcrest Ave. (Local Street)
South: Abshier Road (Local Street)

Traffic: Access to the site is provided by way of two private drives from surrounding streets, which will supplement two existing access drives into the Evelyn Hills Shopping Center. The two existing access drives are located behind the shopping center, both of which are accessed from Hillcrest Ave. A private drive will be allowed access from Abshier Dr. and will traverse through the southern tract and intersect with the existing drive into the shopping center. A second private drive will traverse north across the northern tract and connect the two existing access drives. A traffic study was not recommended for the proposed development. However, further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Street Improvements: Staff recommends the following improvements:

- Improve Abshier Drive to include a 14' wide street section from centerline with curb, gutter, storm drains and 6-foot sidewalk. Street improvements shall extend to College Avenue.
- Improve Hillcrest Avenue to include a 14' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk.

**Staff recommends that the location of the sidewalks on both Abshier Drive and Hillcrest Avenue be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

Tree Preservation: The two sections of property have very different topographies. The triangle shaped, southern tract is very sloped from Abshier Drive down to the proposed building locations, while the building location is very flat. Most of the tract is covered in small saplings and underbrush, with some larger significant trees. This tract contains the trees that will be removed in order to construct a detention pond. The rectangle shaped, northern tract has only a slight slope from Hillcrest Avenue to the proposed building locations. Many mature trees exist on this tract, but are within an existing easement. However, these trees should not be affected by this development.

The applicants have designed the layout of the driveways and buildings so that they are located on the flat portions of the property, while staying away from the outer boundaries of the property. After removal of the tree canopy for the detention pond, the canopy will fall to 17.0% canopy coverage, from 17.9% existing canopy coverage.

Parks: On November 7, 2005 the Parks Recreation Advisory Board recommended accepting money in lieu in the amount of $13,086 for 22 multi-family homes and 8 single-family homes. These amounts may need to be adjusted if the two-family homes are left on the same lot and not utilized as single-family attached homes.

Public Comment: Staff has received several comments, letters and e-mails from adjacent property owners. Any additional written comments from adjacent property owners will be included in the Planning Commission packet.

Recommendation: Staff recommends forwarding a recommendation of approval of the Residential Planned Zoning District for Abshier Heights (R-PZD 06-1883) to the City Council, with the following conditions:

Conditions to Approval:

1. Planning Commission determination of street improvements, to include the following:
   a. Installation of a 14' wide street from centerline of Abshier Dr., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk. Street improvements shall extend off-site to include the intersection of Abshier Drive and College Avenue.
   b. Installation of a 14' wide street from centerline of Hillcrest Ave., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk.
   c. Right-of-way to meet Master Street Plan requirements shall be dedicated prior to building permit.
   d. Egress from the proposed drive onto Abshier Drive shall be signed/marked to allow a right out only.

   **Staff recommends that the location of the sidewalks be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

   THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED STREET IMPROVEMENTS, INCLUDING THE LOCATION OF SIDEWALKS TO BE DETERMINED BY THE SIDEWALK COORDINATOR AND THE URBAN FORESTER.

2. All setbacks, protective easements, density, designated uses and other zoning criteria are binding with the approval of the R-PZD. Submitted covenants are likewise binding to the project.

3. Structures shall be constructed as presented in the PZD, meeting the architectural design standards established herein.

4. Parks fees in the amount of **$13,086** for 8 single-family units and 22 multi-family units shall be paid prior to issuance of building permits, or as constructed to meet the parkland dedication fee-in-lieu requirements.

5. If street lights do not exist, they shall be installed with a maximum separation of 300 feet along Abshier Drive and Hillcrest Avenue.

6. The applicant shall submit 15 sets of the plats, project booklets, and elevations along with any other correspondence and information the applicant would request the City Council to review. Please submit half-size drawings for City Council review.

7. Coordination with the Solid Waste Division for centralized trash pick-up. *THE SOLID WASTE DIVISION HAS REQUESTED THAT TWO DUMPSTER PADS BE LOCATED ON THE SITE. IF PLANNING STAFF FINDS THAT THERE IS NOT SUFFICIENT*

ROOM FOR LOCATING A DUMPSTER PAD, OR THAT REQUIRING DUMPSTERS WOULD RESULT IN THE REMOVAL OF EXISTING TREE CANOPY, THE SOLID WASTE DIVISION WILL ALLOW INDIVIDUAL CARTS.

8. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development with a one (1) year extension available.

9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

10. Prior to City Council consideration, the applicant shall modify the project booklet and Site Plans to reflect any recommended revisions from the Planning Commission.

11. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.

12. Access easement agreements for the driveways located off-site, shall be provided on the easement plat and filed of record prior to building permit.

13. Manufacturer's cut-sheets shall be required for any outdoor lighting, prior to building permit.

14. Trees are required to be planted every 30 linear feet along the right-of-way, where existing canopy is not currently located. Trees should also be planted every 12 parking spaces. Include these revisions prior to City Council.

15. If after construction, open areas exist along the right-of-way, trees shall be planted within the open areas, to provide a continuous buffer along the right-of-way between the PZD and the existing neighborhood.

16. Two bicycle racks are required and shall be shown on the site plan and legend with revisions prior to City Council.

Standard Conditions of Approval:

17. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

18. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the

materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

19. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.

20. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

21. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

22. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

23. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Building Permit.

Planning Commission Action: Required YES
√ Forward ☐ Denied ☐ Tabled
Motion: Vaught
Second: Graves
Vote: 6-3-0 Commissioners Clark, Myers and Allen voted no.

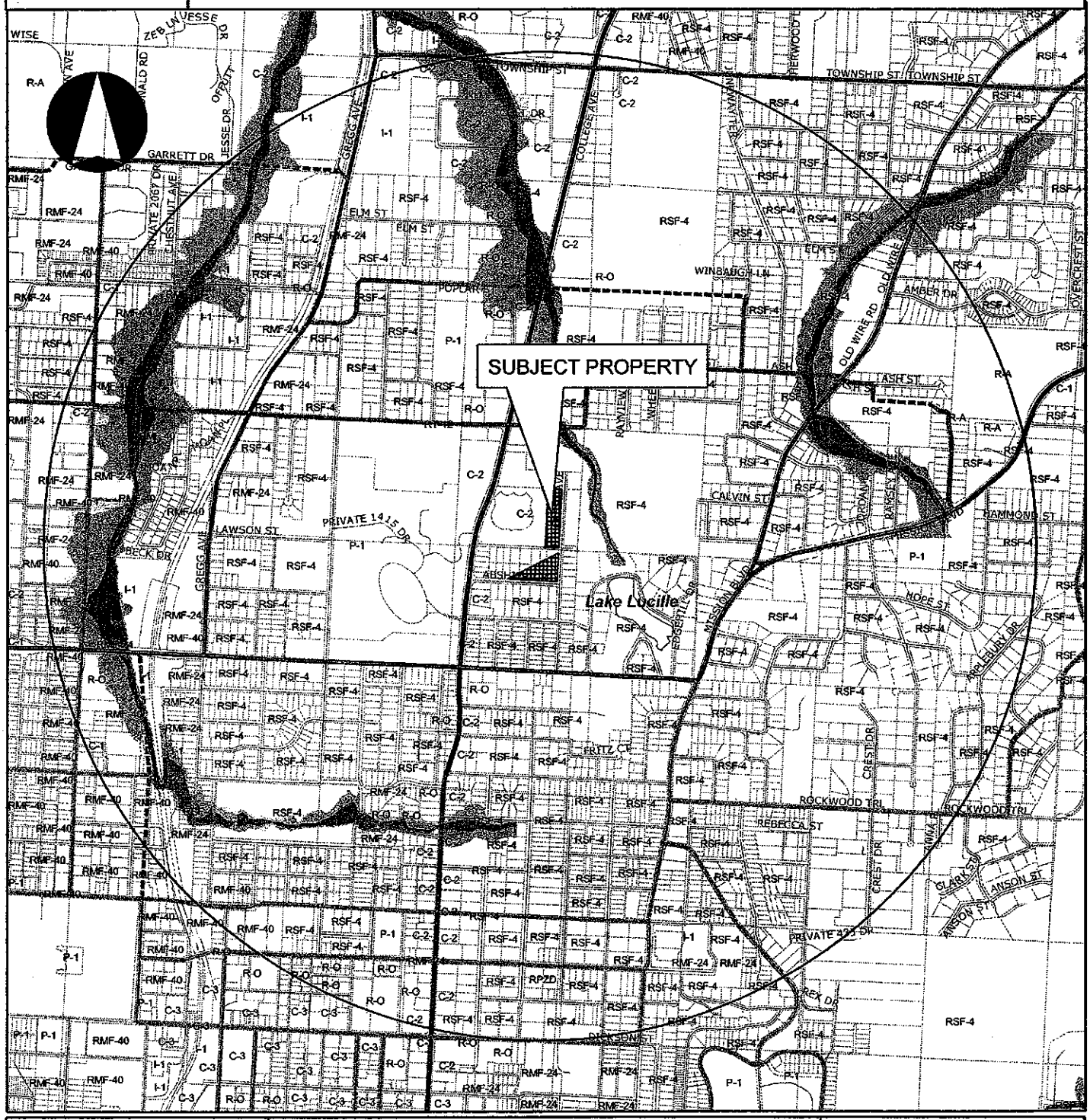
Meeting Date: **February 13, 2006**

Comments:

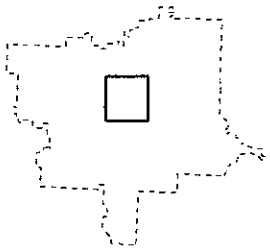
RPZD06-1883

One Mile View

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Boundary

Planning Area

Overlay District

Outside City

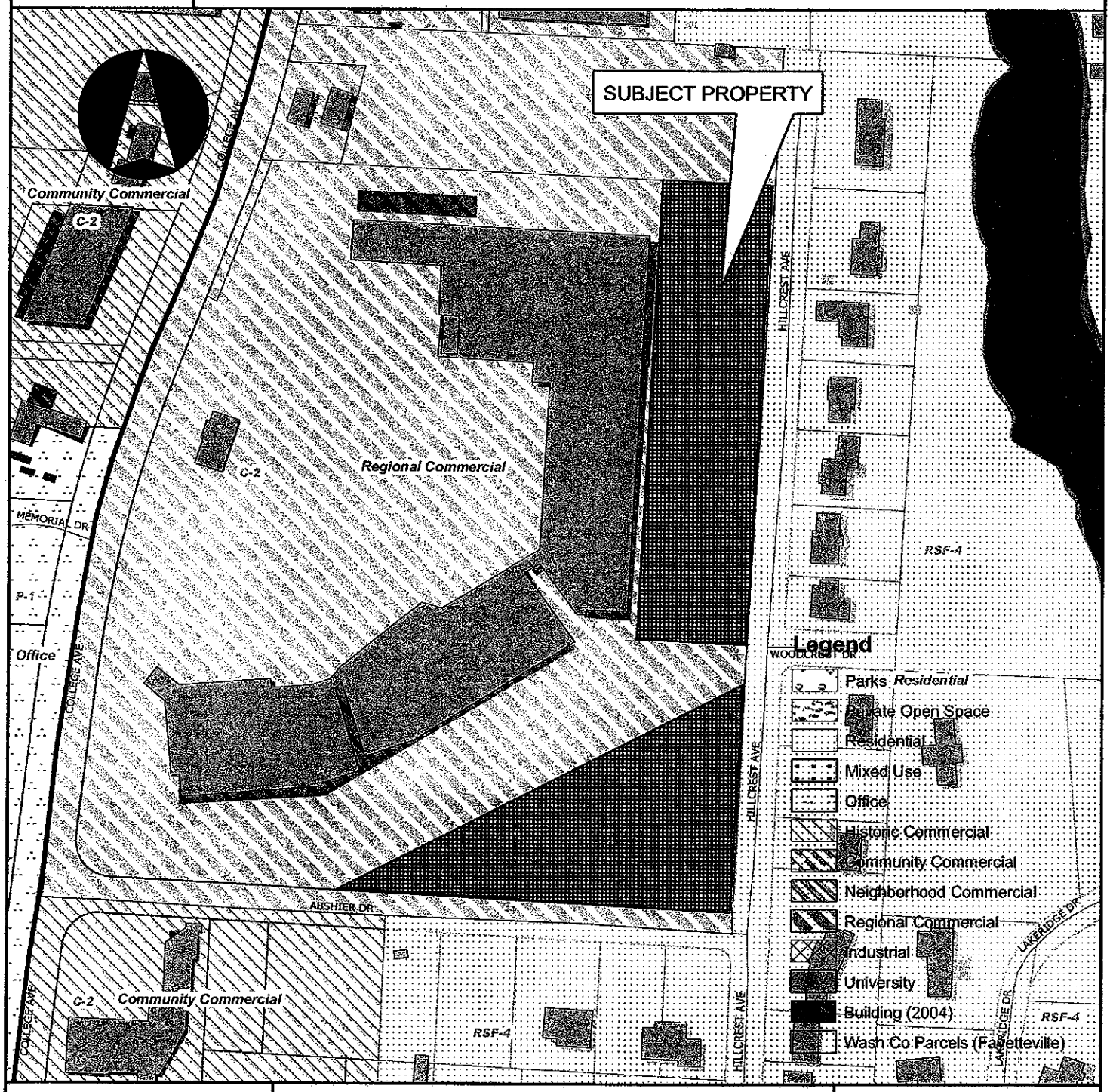
Legend

0 0.125 0.25 0.5 0.75 1 Miles

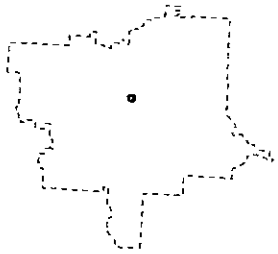
RPZD06-1883

Future Land Use

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 75 150 300 450 600 Feet

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
July 3, 2007

A meeting of the Fayetteville City Council was held on July 3, 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.

Alderman Rhoads was absent until 6:15 PM.

Pledge of Allegiance

Mayor Coody: Fayetteville received a national award on sustainability and they picked our trails program to highlight. I asked Matt Mihalevich our Trails Coordinator to put together a success story on our trails. One thing we learned in a retreat that we did a couple of years ago was that in Fayetteville we don't celebrate our successes as much as we should and our trails system is a big success here in town. I want to let Matt give a presentation on the trails program we have here and a timeline that we could not have done without three things coming into play all at one time. This will pinpoint how it takes the public support, City Council support and administrative support to make any program flourish. When all three of those things come together the sky is the limit.

Matt Mihalevich, Trails Coordinator gave a presentation on the trails program.

Mayor Coody: Matt prepared a history here for those of you that have an interest in this that goes into more detail about people who have been on the Sidewalk and Trails Committee over time and more events. It's really interesting. If you have an interest to go back and look and see where we've started and how far we've come please get one of these. The reason that Fayetteville got this award, there are bigger towns with bigger budgets with bigger trail

programs, but the U.S. Conference and Wal-Mart wanted to show other cities our size that if we can do a trails program like this, they can too.

Mayor Coody gave responses they have received from other cities all over the U.S. He stated Fayetteville has a lot to be proud of and none of this could have happened without public support and City Council support. I want to thank and congratulate everyone in Fayetteville for all the work that has gone into this.

CONSENT: There were no items to consider.

Mayor Coody: Lioneld wants to add an ordinance.

City Attorney Kit Williams: The rules need to be suspended and have this placed on the agenda.

The following item was added to the agenda at the City Council meeting.

Alderman Jordan moved to add the Legacy Pointe Phase 5 Preliminary Plat Extension to the agenda. Alderman Lucas seconded the motion. Upon roll call the motion passed 7-0. Alderman Rhoads was absent during the vote.

Legacy Pointe Phase 5 Preliminary Plat Extension: An ordinance to waive the one year expiration of the preliminary plat approved for Legacy Pointe Phase 5 and to grant a one year extension.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: It's just a situation where he was waiting on the lift station and the decision on where it was going to be. So he waited on the city so he wouldn't hurry the thing along.

Mayor Coody: So this was the City of Farmington and Fayetteville's joint lift station?

Alderman Jordan: Yes.

Alderman Lucas: It was Fayetteville's lift station.

City Attorney Kit Williams: Basically if we didn't do this they would have to go back to square one and the project has already been approved through the whole process and it doesn't make any sense to have them go through it again.

Alderman Jordan: It was brought up at the Ward 4 Meeting a week ago and Shirley and I were going to bring this forward.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5030 as Recorded in the Office of the City Clerk.

Alderman Ferrell: I would like to ask that we table New Business Item #2 which is dealing with Highway 265. This is the eve of a holiday and several of the citizens are not able to be here that would like to speak. Secondly I have asked through the proper channels for an Attorney General opinion regarding question #3 on our special election for transportation and trails. You may read the attached question that was sent to the Attorney General. Some citizens thought they were voting for the $65,900,000 improvement for streets and that the $2,100,000 which is on a subsequent ballot question, there might have been some confusion there. I asked our City Attorney to opine.

Alderman Ferrell read the letter from the City Attorney. He stated it is going to take a couple of weeks to get an Attorney General opinion and I would ask that we table this for the two reasons that I have cited.

Mayor Coody: Alright, so you are asking this to be tabled. Do you want to do this now and move this up on the agenda or do you want to wait until this is on the agenda and it comes up on its own?

Alderman Ferrell: Well, I would like to try and do it now because it would save some people time if it is tabled rather than having them sit around.

Mayor Coody: It would take a motion and a second to table this.

City Attorney Kit Williams: Mr. Mayor, first you would have to suspend the rules and change the agenda around. Usually what happens on the Planning Commission, if an item is going to be tabled, the Planning Commission always gives the opportunity for anyone that is already here that came down to speak on it to go ahead and speak before they table it so that if people have come they wouldn't have come for no reason.

Alderman Thiel: Let's just go ahead and do item #1.

Mayor Coody: I don't think this is going to be a long agenda until we get down to this item.

UNFINISHED 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 Master Development Plan. ***This ordinance was Left on the Second Reading at the June 19, 2007 City Council meeting.***

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I got an email from someone this afternoon that wanted to know if there are any wetlands and have they gone through the determination process.

Ron Petrie, City Engineer: It is our standard procedure that the engineer of record has to certify if there are or aren't any wetlands and that has to be processed before we issue the grading plan. Specifically on this site I don't know the answer.

Alderman Thiel: This is just approving the PZD and then they would still have to go through all of administrative review and stormwater.

Ron Petrie: If you could email that to me I would be glad to check on it and give you a specific answer that you can forward to the appropriate person.

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

Ordinance 5031 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 stepback 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.***

Alderman Cook moved to table the ordinance to the July 17, 2007 City Council meeting. Alderman Allen seconded the motion. Upon roll call the motion passed unanimously.

This ordinance was Left on the Second Reading and Tabled to the July 17, 2007 City Council meeting.

PUBLIC HEARINGS:

Mayor Coody Opened the Public Hearing

Hotel Executive Transportation: A resolution granting a Certificate of Public Convenience and Necessity to Hotel Executive Transportation, LLC for the operation of five (5) to fifteen (15) limousines in the City of Fayetteville, Arkansas.

Captain William Brown: I have the applicant's application and I believe they have everything that the ordinance requires.

Mayor Coody: They meet all the criteria obviously.

Captain Brown: Yes sir.

Alderman Thiel: We are depending on you to make sure that this is going to work out. When Alderman Reynolds was on the Council he pretty much kept up with the taxi cab situation.

Alderman Cook: The necessity part of our ordinance is going to be basically dictated by the market.

Captain Brown: That would be up to you all. I was asked the question of how many were needed and I think that the market will dictate how many cabs and or limos are needed in the area.

Alderman Ferrell: Kit what is the certificate of convenience and necessity, does necessity have to be proven or what's the deal on that.

City Attorney Kit Williams: It just has to be proven to your satisfaction. If it is not proven to your satisfaction, and I have seen the Council not approve one of these a long time ago when there were several cab companies in town. Then the existing cab companies came before the City Council and said we can barely make it with what we have, don't split up the market anymore and that is not exactly the case here. It is up to your judgment whether or not we need this.

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

Resolution 120-07 as Recorded in the office of the City Clerk.

Mayor Coody Closed the Public Hearing.

Mayor Coody Opened the Public Hearing

NWA Taxi: A resolution granting a Certificate of Public Convenience and Necessity to NWA Taxi, LLC the operation of five (5) to fifteen (15) taxicabs in the City of Fayetteville, Arkansas.

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

Resolution 121-07 as Recorded in the office of the City Clerk.

Mayor Coody: I will close this public hearing with the comment that we have come a long way on our taxicab system in the last six years haven't we. It's a lot better.

Mayor Coody Closed the Public Hearing.

NEW BUSINESS:

Fayetteville Municipal Property Owners' Improvement District No. 19 - Oakbrooke, Phase 1: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 19- Oakbrooke, Phase 1 Subdivision Infrastructure Project.

City Attorney Kit Williams read the ordinance.

Alderman Jordan: Jim, this does not have anything to do with what we have going on at Oakbrook with the rezoning and sizes of the house. A lot of people have called and asked and wanted to make sure that this doesn't have anything to do with that.

Attorney Jim McCord: No it is just a financing alternative to pay for the infrastructure. The only issue presented by this petition is whether it is signed by all the property owners and an abstractor's certificate has been filed certifying to that fact.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5032 as Recorded in the Office of the City Clerk.

Reaffirm the City of Fayetteville's Adopted Policy – Highway 265: A resolution to reaffirm the City of Fayetteville's request that Highway 265 north of Mission Boulevard be constructed as a boulevard with bike lanes.

Mayor Coody: This has been a hot item for some time. Basically the Highway Department has provided two options. H1 is a divided median with a grassy strip in the middle with bike lanes. H2 is a continuous turn lane paved all the way from south to north also containing bike lanes. So the two options are essentially the same except for the median, the divided highway median. There is a lot of controversy, a lot of folks don't want the median, they want the continuous turn lane, other people don't want the bike lanes and other people want both the bike lanes and the divided median for safety and other reasons. Right now I would like to invite Mr. Ferrell to continue with this conversation.

Alderman Ferrell: I move to table. My concern is in the letter there is the inclusion of the expense for the bike lanes on a ballot issue that does not mention bike lanes and the possible confusion between two ballot measures that citizens might have felt like the second ballot measure dealing with alternative transportation could have caused some confusion. A lot of citizens that would like to be here tonight are on vacation or getaways and have asked if we could put this of. So I would move to table to the next meeting.

Alderman Ferrell moved to table the resolution to the July 17, 2007 City Council meeting. Alderman Rhoads seconded the motion.

Alderman Cook: When we went through the whole process of building up to the vote itself, did we not have cross sections showing the bike lanes and six foot sidewalks? We showed those to the public and they understood that that was what we were looking to build, is that correct?

Ron Petrie: That is correct. All of them had specific cross sections. We showed the wide outer lanes for the bike traffic. For Crossover Road we had no specific detail, but we did call it a principle arterial which is the boulevard.

Alderman Allen: I just wanted to ask Alderman Ferrell if he thought it would be of any help to read this aloud so the folks that are here would understand exactly what it is that you are doing.

Alderman Thiel: This is just the ballot.

Alderman Ferrell: Part of it but not all. Ron when you said that it was shown that it was a boulevard, were the bike lanes included in that or was it just stated that it was a boulevard?

Ron Petrie: It was only stated as a principal arterial. The Master Street Plan shows the cross section. It does not specify lanes in our Master Street Plan.

Alderman Ferrell read the letter that was submitted to the Attorney General.

Mayor Coody: Kit, since you wrote an opinion on this, do you mind sharing that with us?

City Attorney Kit Williams: Bobby asked me a couple of weeks ago whether or not it was proper for the city to use funds from the $65 million street bond program for bicycle lanes. I pointed out and opined that bicycles have a right to use streets. They have a legal right just like cars do to use the street, they are part of the street and if we designate a specific place for them in the street that doesn't mean they are still not a part of the street. I would also opine that we could not use any of the $2.1 million that is set for the trail system in the streets for bicycle lanes because that is part of the street and not bicycle lanes. I thought it would be much more conservative and clear if we made it a clear question for the voters and therefore we divided the trail system which is not part of the street system, these are separate trails and cars don't get on them, they are for bicycling or walking. They are separated from the streets they are not part of the streets per say sp that can be financed with the $2.1 million part of Question 4. Everything within a street in my opinion can be used by the street bond program. Just because something is designated a bicycle lane doesn't mean it is no longer part of the street in my opinion. The only problem I have with this question, I would not say that bicycle lanes would ever be referred to as bicycle trails or paths. A trail or a path is something generally means something separate, away from the street and not something that is between the curbs of the street. I believe what we have been doing is legal; by using the street bond proceeds to build a street whether or not it has bicycle lanes.

Alderman Cook: That was one of my comments I wrote here and Kit covered that. The $2.1 million in my opinion is specifically tied to our Trails Master Plan. The other transportation money is for streets and as our street cross sections show, bike lanes are included in that. I would agree with Kit's comment on that.

Alderman Thiel: I think there is some confusion that if the bike lanes were eliminated it would save us money and that is not the case. The City Council adopted a resolution saying that we would partner with this project and that was long before the bond issuance. We are committed to a maximum of $7.7 million and that's it. Whatever else the highway costs will be bared by the State. It will not save us one way or the other if we put in boulevards, or have the extra width for the bike lanes. I have to ask Bobby if he thinks we could get an Attorney General opinion in two weeks.

Alderman Ferrell: I don't know. I have been told two to four weeks.

City Attorney Kit Williams: My experience is that it generally takes a good deal longer than that. Normally it would take at least four to six weeks before you can expect anything back. Part of it is their case load and how many questions have been asked and I don't know what their back log is right now.

Alderman Ferrell: I would say that bicyclist do ride on trails today, the reason we went to two ballots is because there was an opinion by the bonding attorneys in Little Rock that we would we have to separate it into two bonds. The main question that I am seeking to have answered is, since it is not included in the language is it legal? The other question about the trails that is

something that there could be some confusion on, but that is not the thrust. The main thrust is there is no mention of using public funds for bicycle trails. Not only bicycle trails but eight feet of right of way for I don't know how long through the very expensive part of town. You keep talking about the funds, those state tax dollars are our dollars just like city tax dollars are our dollars.

City Attorney Kit Williams: I will say that the bond attorney in Little Rock did agree with me when I indicated that I thought it should be divided into two questions. Gordon Wilburn who is our bond counsel, despite some opposition from the City Council insisted that it be divided into two questions.

Mayor Coody: The metropolitan planning organization, Regional Planning has submitted their request to the State to maintain the H1 design which is the divided highway with the bicycle lanes. Part of Highway 265 will have bike lanes regardless of what we do, north of Zion Road because that is part of the Heritage Trail System, and if they are using federal money they are required to put bicycle lanes on these parts of highways that parallel to Heritage Trail. It will continue through Springdale on up north all the way through town. I guess the question is does the City Council want to table this discussion on Highway 265 that also includes awaiting for return opinion of the Attorney General.

Alderman Rhoads: The Street Committee is made up of who?

Alderman Jordan: I am the Chairman of the Street Committee. H1 passed the Street Committee 3-1.

Alderman Rhoads: There was a lot of public comment?

Alderman Jordan: There was a lot of public comment on the issue. I think it really boiled down to following the 2025 Plan and our street design. Alderman Ferrell brought up some good points and there was a neighborhood that spoke against it but at the end of the day the Street Committee voted to support it 3-1. We had Wedington and Highway 265 that night and it was quite an evening. It was about four or five hours and there was a lot of discussion on it.

Mayor Coody: As far as the public comment goes that went to the State, there was over 400 people that supported the H1 design, 190 wanted H2.

Alderman Jordan: If I remember correctly not all the votes had been tallied at that time.

Mayor Coody: No, they cut it off after that. From the public comment period to the Highway Department it was 2 ½ to 1.

Ron Petrie: The numbers that the Highway Department presented is 350 people supported the median, 190 supported the center turn lane, then they had 190 support bike lanes, 15 opposed bike lanes. That is what they stated at the meeting.

Mayor Coody: Well it is safe to say it was overwhelmingly supportive of H1 and bike lanes.

Alderman Rhoads: Who will make the final decision on how this will be laid out?

Ron Petrie: The decision will be the Highway Department. They will make the final decision no matter what resolution we send to them. I think they will certainly take our resolution in consideration especially since we are paying $7.7 million but ultimately it is their decision fully.

Alderman Rhoads: Do we have any sort of experience with this procedure and by that I mean if a City Council in Arkansas passes a resolution does the State Highway Department follow it 90% of the time or 10% of the time or do we know?

Ron Petrie: I don't think we know. There is probably not enough cities in Arkansas that have agreed to spend $7.7 million on a State Highway so I am not sure that there is anything to compare it to.

Alderman Rhoads: Do we have a sense from talking to the decision makers with the Highway Department how much stock they will put in this City Council's resolution?

Ron Petrie: I do not know the answer to that question.

Mayor Coody: All I know is that the Highway Department wants a resolution from the City Council determining what it is that we want because they want to hear from us since we are partnering on this with such a financial load. I think they do want our input on this.

Alderman Thiel: They were there at the Street Committee, their representatives. It seemed to me like they certainly were weighing the amount of comments they had. That coupled with a resolution from this Council supporting what a majority of the citizens had said they wanted. They acted like it would make a difference.

Alderman Rhoads: I second Mr. Ferrell's motion for three reasons. I wanted to hear the discussion from Kit and the dialogue regarding the Attorney General's opinion as well as whether or not there has been a lot of public comment or not very much. Also I will second it because I like Bobby. Unfortunately I will vote against it and vote not to table it.

Alderman Ferrell: Robert, I don't think you were at the Street Committee meeting but on Highway 16 West, you asked how much credence they put in what local government does. The State Highway Department was going to build a five lane highway. They had a public meeting and told all the citizens. Through city government they changed that plan to go to four lanes. So I would say before we even get to city government, that city administration drives the policy pretty hard with the State Highway Department.

Mayor Coody: I would say that if we had wanted a plan that would cost them more money, they wouldn't have done it. The plan we suggested saved them money and I think that is why they were all over it.

Alderman Jordan: There are three issues that were running this thing. The Elks Club, the funeral home and Candlewood. Those are where we heard a majority of the complaints I

believe. On the other hand there were folks that were in support of it. There was a pretty good mix. We talked about being able to tweak the plan a little bit for the Elks Club, the funeral home and the jury was kind of out on how Candlewood was going to go. That is what we basically recommended to the State. Is that the clear statement of the Street Committee?

Alderman Thiel: Uh huh.

Mayor Coody: Once the Highway Department settles on a plan, if they pick H1, that is when they are going to get down to brass tax on tweaking the design. We have made it clear that we would like for them to do what they can to minimize the impact of the entrance of Candlewood. We want them to add another cut through and appropriate turning situation there at east Zion which would take care of both the Elks and Nelson Berna and it would allow convenient traffic flow at Zion Road and there are a couple of odds and ends in there that we would talk about. They want to know what changes we would like to see mostly after they pick a plan.

Alderman Jordan: But they are just wanting us to make a decision and then they will start tweaking the plan.

Alderman Cook: I don't have a problem if we table it for two weeks for public comment because I don't have an issue with more public commenting but I don't want to wait on an Attorney General's opinion because we have no earthly idea when that will come forward.

Alderman Ferrell: I asked for two weeks, I didn't ask you to wait.

Alderman Jordan: I believe Alderman Ferrell is being fair with this and if we go two weeks and we don't have an Attorney General's opinion then we vote.

Alderman Thiel: I would hope that if we vote to table this that we follow the City Attorney's suggestion that we follow the Planning Commissions rules and let the public that is here to talk about this go ahead and speak.

Mayor Coody: We have all been getting a lot of feedback on both sides of the issue and I don't know that tabling it is going to change the public or the City Council's perception on which way we need to go. We could drag this thing out forever and keep taking public input but I bet at the end of the day we are where we are going to be two weeks or a month from now. I would just assume go ahead and vote on tabling this and go ahead and get this done.

Alderman Lucas: We have had a tremendous amount of public comment. I think we could rely on our City Attorney's opinion and not table this.

Alderman Jordan: Kit, if we don't table this tonight and the Attorney General comes back different than what we recommend, that is just the opinion of the Attorney General is that correct?

City Attorney Kit Williams: That is true, I don't like to disagree with the Attorney General, however that would always give you a chance in the future if a different issue came back that

you could look back at what you were doing financing wise. We agreed to finance this long before the bond issue. So you can cross that bridge when you come to it if you think there is a big problem. I really don't think the Attorney General is going to come back if he looks at the bond issue very carefully, I am not overly concerned about what the Attorney General is going to say. It is pretty clear that everything between the curbs is a part of the street and I can't imagine that he would say that is not part of the street.

Upon roll call the motion to table failed 1-7. Alderman Ferrell voting yes.

The motion to Table Failed.

Ron Petrie gave a brief presentation and displayed the H1 design. He also displayed the H2 design and pointed out the differences between the designs.

Alderman Ferrell: I asked Ron at the last meeting if he could try to give us an idea of the cost and number of people it would take to maintain this median and the recurring cost on an annual basis. I would also like to know from the Fire Chief if medians have any affect on response to getting to an emergency with a fire truck.

Jeff Coles, Parks Maintenance Superintendent: Based on the extent of the length of this proposed raised median and the calculations that we have made, the estimated annual cost will be $9,000 to $10,000 for routine maintenance as we would treat a park. Its equivalent to 7 ½ acres so that includes capturing costs for personnel, vehicle and equipment. That is based on a fairly high visitation rate which might be a little bit higher than the typical of 30 visits annually.

Alderman Ferrell: Does that include mowing the 30 visits?

Jeff Coles: Yes. It would probably be 26-30 visits. That is maintaining it at a fairly high service level. We have six service levels of park maintenance and it would be one of those higher levels, a level one or two service level.

Alderman Ferrell: Is the median on Steele Boulevard, is that private or public?

Mayor Coody: That is private. If it was highly maintained like a park, but if we were to put in some low maintenance landscaping, would you go out there as often as you would on a high maintenance?

Jeff Coles: No sir, we would not. There have been a number of elements and advanced ideas to that end. Hopefully we would be able to do that and we would be able to incorporate those elements in order to reduce that necessity of a higher visitation rate.

Fire Chief Tony Johnson: Alderman Ferrell in answer to your question, I have not experienced a problem where a median would impede our travel to an emergency or response time. In fire and emergency services we are placing more emphasis on arriving safely and cutting down on the road speed.

Alderman Ferrell: So if you were responding to a home fire a mile off the road and you are going down the median road coming one way and you have to go further to turn around to get to it because you don't have access to come from another direction, that wouldn't have any impact on the response time?

Chief Johnson: We are confronted with that all the time whether it be traffic or a median. There have been instances where I don't recommend it but if need be we would drive across the median if necessary.

Mayor Coody: If there was a 40% less chance of an accident with a divided highway, you would be called out less often.

Chief Johnson: Yes that's one of the things I am looking at, but the number two killer of firefighters is traffic accidents. So if it is a move towards safety then I am all for that. I am for traffic calming devices and for safety devices.

Mayor Coody: We'll have the public come forward and express your opinion on whether we should do a divided median or the continuous turn lane and your opinions on bike lanes.

Corey Osborn, resident of 2740 N. Candlewood Drive: What I am concerned most about is the context of this project and will those bike lanes receive ridership and are they safe. I struggle with the rationale behind bike paths and divided medians running through a residential corridor. Is this to move traffic or is it to create alternative transportation routes? If this is to move traffic then let's move traffic and find a safer route for bicycles and pedestrians.

Mr. Osborn expressed his concerns about the project. He stated I am not asking you to oppose this, I just think we can do better.

Alderman Lucas: Did I understand you that you didn't care for the way the road was built south of Mission?

Corey Osborn: Correct.

Alderman Lucas: And you don't want medians?

Corey Osborn: I want medians to the extent they are maintained and that they don't sacrifice mature landscape to the sides. It seems nonsensible to me to replace green areas that are currently being maintained primarily by POA's and private residence and stick that green space in between a divided highway essentially.

Alderman Lucas: But you don't want the highway the way it is south of Mission?

Corey Osborn: I want an environment that controls speed. I am very concerned that if the lane width is increased that speeds will increase.

Mayor Coody: One of the problems we have is 265 South of 45. There are four very wide lanes, no bike lanes and the sidewalks are right up against the travel lanes. People do speed because the lanes are wide, there is a fifth turn lane through a lot of it and there is this huge expanse of concrete. The more concrete expanse you have the faster you want to drive. You get to a certain point where we change the design and we go to 11 foot lanes instead of 12 foot and the sidewalks are further off the road and we have trees planted along there, psychologically it is a different world and it does psychologically slow down traffic. We don't want to replicate 265 south of 45.

Corey Osborn: I agree Mr. Mayor. Psychologically we have to anticipate as best we can motorist's reaction. I am concerned about the reduction in lane width and the addition of the curbed median. It will make it more difficult for motorist to evade pedestrians. The important thing to remember as we approach this, we have to go in with a delicate approach to the existing environment. I know we will all win as a result of that.

Laura Kelly, a resident gave statistics regarding bicyclists. She stated I think designating the roadways for fast traffic only is a very backwards notion considering the statistics saying that there is a lot of people that want to be on their bike, they are just scared. If a bike lane makes them feel safer then I have a lot of respect for a biker. She went on to discuss the increase in property values. She stated I hope that you will give us a chance to earn your respect.

Alderman Ferrell: Obviously you are very informed about bicycles; would you feel comfortable riding in a bike lane with 50 to60 miles per hour traffic?

Laura Kelly: I've shown up for metropolitan planning organization meetings in Springdale on my bicycle. I ride 265 the whole way. I feel very safe. There is plenty of room to pass me. I have been treated very well by motorists on busy roads.

Alderman Ferrell: Do you just ride on the shoulder.

Laura Kelly: I ride as far right as is safe and practical because that is what the vehicle code says. If I am on a narrow two lane and there is not a center turn lane and it is difficult for cars to pass then the motor vehicle code mandates that if five cars pile up behind me then I am required to get off the roadway and let them pass. I never let five cars pile up because I'm not that rude. It works.

Bruce Dunn, a citizen asked all those in favor of bikes lanes and paths to please stand.

Members of the audience stood.

Mayor Coody: To be fair, all those opposed to bike lanes that are here?

Bruce Dunn gave a brief description his involvement with bicyclist. He stated obviously I am for bike lanes. I would like to step back and look at the bigger picture. I just wanted to show you the support that is out there and it is not just cyclists. A lot of these are racers and they are going to ride on the roads no matter what. We need to make a good decision on offering our

citizens an alternative way to transportation. He stated I want to commend you on what you have done on the fast track of the Council for the trails system. It has increased our lifestyle and I want to thank you for that.

Wade Colwell spoke in favor of the bike lanes. He stated all of us that have ever ridden a bike have also wished that we had a safer place to ride and that is why I think the bike lanes are good.

Brad Fierke, a resident of 931 N. Hyland spoke in favor of more greenspace and bike lanes. He stated teaching the kid's safety and having more bike lanes would be great. Having more bike lanes is just going to help us.

Sam Lafoy, a resident of the Wilson Park area stated a safe dedicated north south bike lane, all the way to Springdale and beyond, would be extremely helpful for the laborers and workers as well.

Isabelle Soxin, a citizen stated I ride my bike everyday on 265 and I feel it is not safe but I must ride my bike to get to where I need to go. I feel that bike trails in this area and other areas are very necessary for those who need to ride their bikes.

Shaun Colwell, a citizen stated I challenge you to follow our plans that you have led us too. We like them and want them. It will never be any cheaper to build them than now. Let's put our actions where our words are and go for it.

Mayor Coody: Shirley has to leave at 8:30 PM this evening and I know that she wants to be here for this vote so I would like to expedite everyone as best we can so that everybody who really feels compelled to speak can and if you just agree, raise your hand and wave.

Jerry Biel: I just want to make sure that we are clear that there is a difference between commuter biking and recreation. I recreate on the weekends and on the paths but I have to use the roads and bike lanes to get to work or the grocery store. He went on to speak in favor of the bike lanes.

Erica McCourt, a resident of Copper Creek: Our neighborhood is directly affected by this and will make a huge difference to me as a cyclist. This would allow us to get extra miles in and take advantage of the time after hours. I appreciate that you are even considering making this available. She also thanked the Council for the measures they are taking to improve the quality of life in Fayetteville.

Mayor Coody: Redmond advertised itself as the bicycle capital of the world.

Erica McCourt: Yes, it's amazing if you have not been to one of these cities I highly encourage you to go check it out. There are bicycle lanes on every single road, not just in one stretch. It's a great environment and it only encourages people to use bikes more because they have the ability to use them.

Joel McCourt, a citizen: I am on Highway 265 everyday, it's scary but I am going to get on the roads regardless so the bike lanes are not necessarily for me. What I see is with motorists being on the roads everyday with bike lanes, that alone is going to raise motorists awareness of cycling and the more we do that around the town, the more awareness there is going to be for when they are on roads that do not have bike lanes. I think we are enhancing the lives for people who are new cyclists.

Dusty Woodson, a citizen asked about the setup with the turn lanes with the center median. He asked what the distance was entering the turn lane to turn left and then actually making that turn.

Ron Petrie: I would be glad to get you that information.

Dusty Woodson: That was kind of in reference to a point that I wanted to make. If you look really closely at my lip you can see a scar and that is because of a center turn lane that is currently on Highway 265. He described the accident. He stated putting in the median with the immediate turn lanes would help to slow the traffic down and secondly it will get rid of the people in the center turn lane causing those accidents.

Millie Hogue a citizen stated I am 14 years old and I use my bike everyday to get to where I need to go. She asked the Council not to take the bike lanes away.

Keith Stewart, a citizen stated I ride to stay healthy. He expressed his concerns about not being able to ride his bike. He stated I think there are a lot of people out there with gas prices soaring that would ride back and forth to work.

Pete Heinzelmann, a citizen congratulated Fayetteville for all the awards that we have received on the trails and for all the effort that has been put forth to create the trails. He went on to speak in favor of a shoulder, bike lane and a median.

Paul Leblanc, a resident of 2842 Stanton Avenue stated people can be taught to safely cycle on the roads. He stated I think that you are providing a safe environment for us. I want to work with Laura Kelly to educate our citizens on how to ride safely.

John Nooncaster, a resident of 2655 Wakefield stated I think everyone would agree that Crossover is broken and it needs to be fixed. He asked why don't we ask the State to make some tweaks to the plan and come back with a plan that the city can okay. He went on to express his concerns with the current plans that are being proposed.

Mayor Coody: One of the things that we asked the Highway to consider if they choose H1 is to put that break at east Zion.

John Nooncaster: One of the reasons the resolution says we should adopt this tonight is because that is what the Master Street Plan says. We have the Master Street Plan that says Zion is a collector and Albright is a minor collector but we do not provide access for those two things. Ask the State, this is our Street Plan, can you accommodate that? Then come back and let's have the discussion on that. I don't think there is an answer today.

Alderman Ferrell: On Hearthstone, it looks like we are going to be able to provide them some relief but if we don't this room will be packed. Mayor, after the Highway Department goes back and looks at these things aren't we going to have some kind of another venue to look at what their proposals are to take care of our problems.

John Nooncaster: I spoke with a representative of the State Highway Department and I asked if there was anything planned as far as citizen input after the City Council and he said there is nothing planned.

Alderman Ferrell: The City Engineer and the Highway Department were trying to work to address some of the things that you brought out tonight.

John Nooncaster: Well let's address that before we have this resolution.

Alderman Ferrell: I would like to but it doesn't look like that is going to happen. So what I am saying is when it comes back from the Highway Department and the City Engineer trying to resolve these things, I think we will have a chance to say this is what we are going to do. My understanding is all we are doing is letting them know which way we are headed.

Mayor Coody: If we decide H1, then they have a gameplan to go through and look at. They can't design all the tweaks and designs on H1 and then we decide to go with H2. That is why they want us to say which one we want to go with and that is when we get down to brass tax and the details.

John Nooncaster: Does the State have the rules and guidelines of where they can have crossovers? If this is going to help us with safety, I think we should do it down where the neighborhood is and let's block some accesses. If it is improved without bike lanes it is still going to be legal for people to bike on the road. I already use my bike on the road. There has been some discussion about how many people will be using the bike lanes if they are constructed that way. I think a lot of people will, but even if they're not I know people who will still be biking on the road.

Mayor Coody: I would like to thank everyone for speaking tonight. There may be more who would like to speak but I bet no new ground would be plowed. I would like to close it for public comment and bring it back to a discussion by the City Council.

Alderman Ferrell: All I have to say is I have listened to everybody and I understand that there are a lot of people that love bicycling, I think it is great and great for people's health, I personally have great trepidation about people riding adjacent to 60 mph automobiles. The thing that bothers me is we have a great deal of neighborhoods along this way. The juveniles I would hate to see them get out there. Obviously people have spoke, I won't support it.

Mr. Hawkins with the Metropolitan Planning Organization who is Regional Planning stated your Engineering staff has done a good job in pointing out the relevant safety studies that have been done. We did comment to the Highway Department and our comment was that we

preferred, based on safety, the facilitation of traffic as well as safety for bicyclist. The H1 alternative is the recommendation that we said that we preferred. The Heritage Trail Plan is required to do that part from Zion Road north with bike lanes. My information is that the Highway Department will in fact have a design public hearing but they do have to get farther along with design of a preferred alternate.

Mayor Coody: Since you are regional do you know Springdale's perspective?

Mr. Hawkins: Yes sir, we asked Springdale that question, their staff indicated that their preferred alternate was H1 as well.

Alderman Ferrell: Thank you for your response in coming to see us. In reading the information that you sent us in talking about the preference for medians, boulevards, bike lanes, etc, can you tell me how many similar plans are there in Rogers and Bentonville? My understanding is in Springdale that it was a staff person that said they were planning to go with the median with the bike lanes. The staff person doesn't vote. I have visited with a voter and that was not their understanding, that that had been decided.

Mr. Hawkins: I think Springdale had a clear understanding that that part in Springdale was on the Heritage Trail and it would be that way.

Alderman Ferrell: Do you know of any plans for arterial streets in Bentonville, Rogers right now that plan to have the bike lanes?

Mr. Hawkins: I don't know about the specific cross section. I think all the projects that the Highway Department is doing; they've indicated their commitment to follow the plan.

Mayor Coody: After speaking with Mayor Jerry VanHoose Mayor of Springdale, he reiterated that they were going to recommend H1 as well and he gave me permission to reiterate that tonight.

Alderman Lucas: I wanted to be here to vote because in Fayetteville a lot of people rode bikes a number of years ago. But then there came a time when people were a little hesitant and our roads were not built for bicycles. I think it's good that we are finally recognizing that that is a form of transportation and providing a safe place for them to ride. I know most of them aren't happy because of changing their entry ways and everything but unfortunately we didn't plan for bikes at that time and we should've. I think that is the future, having us prepare for bikes.

Alderman Cook: Sidewalk and Trails Task Force met Wednesday and discussed this alternate H1 and we passed unanimously a resolution in support of that. Some of our points were the ideal time to build the bike lanes would be during the construction phase and not after improvements have been completed. Sidewalk and Trails was unanimously in favor of H1.

Alderman Thiel: Both H1 and H2 have bike lanes. Speaking from someone that represents the south portion of 265 that does not have bike lanes but it mainly does not have a boulevard. I want to point out how people in that section have said they really support the idea of a boulevard

running all the way out of the north side because of the safety issue they have on the south side of Mission. We are really looking at the difference between the boulevard and the continuous turn lane. Based on what the people of Ward 1 have told me I strongly support alternate H1.

Alderman Jordan read statistics received from the Federal Highway Administration regarding the boulevards and the refuge islands that are in the middle of the highways. He stated having looked at this, I don't ride a bike but I see the need for alternative transportation and some folks say it's not going to work but we are never going to know unless we try it so I am going to support it.

Alderman Allen: This is certainly a commitment that the City has made. We are a forward looking city to be looking at an alternate transportation. It will be much cheaper to put it in now than it will later. A lot of people have complained that only a few people will be using it and that it seems pointless. To me, if you build the surface and the surface is there then people will ride. This is part of making us a healthier city too and adding to our quality of life so I am very much in support of this plan.

Mayor Coody described how the City of Portland has created bike trails.

Alderman Rhoads: Bobby and I are the Alderman for that Ward at that section of 265. I know a lot of the people that came to speak and then also I know a lot of the people that have emailed us that are in opposition of it so I am torn from that regard. I believe that if we are going to move to the next century then we have to do some things that may be a bit costly but in the long term it's better for everybody. I am not voting as a Ward 3 Alderman, I am voting for someone that represents all of Fayetteville. I think having bike lanes with the median is good for all of Fayetteville.

Alderman Cook moved to approve the resolution with the H1 design. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-1. Alderman Ferrell voting no.

Resolution 122-07 as Recorded in the office of the City Clerk.

Air Cleaning Technologies Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving the purchase and installation of a Plymovant Vehicle Exhaust Removal System from Air Cleaning Technologies in the amount of $49,328.00 plus applicable taxes for Fire Station #3.

City Attorney Kit Williams read the ordinance.

Alderman Thiel moved to suspend the rules and go to the second reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Lucas and Cook were absent during the vote.

Ordinance 5033 as Recorded in the Office of the City Clerk.

United Engines Bid Waiver: An ordinance waiving the requirements of formal competitive bidding and approving the purchase of a Generac Back-up Power Generator from United Engines in the amount of $28,000.00 plus applicable taxes for Fire Station #3.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Ferrell seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Lucas and Cook were absent during the vote.

Ordinance 5034 as Recorded in the Office of the City Clerk.

RZN 07-2602 (ARMAC/Hopmann): An ordinance rezoning that property described in rezoning petition RZN 07-2602, for approximately 0.18 acres, located at 28 South University Avenue from NC, Neighborhood Conservation, to MSC, Main Street Center.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the ordinance. He stated Planning Commission voted 6-0 in favor of this request and staff recommends approval.

Alderman Jordan moved to suspend the rules and go to the second reading. Alderman Gray seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Jordan moved to suspend the rules and go to the third and final reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Lucas and Cook were absent during the vote.

Ordinance 5035 as Recorded in the Office of the City Clerk.

VAC 07-2600 (Joyce Business Park): An ordinance approving VAC 07-2600 submitted by Steve Clark for property located at 2474 East Joyce Boulevard to vacate a portion of a utility easement within the subject property, a total of 0.023 acres.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: When were these built, is this another issue of something being built after?

Jeremy Pate: I'm not sure exactly. It was approved in 2001 for the four office buildings as a large scale development. Evidently based on our research the utility companies requested a utility easement. It was granted and then they changed their utility plans and so it was never vacated at that time. All the utilities run in different utility easements to service the structures and the surrounding properties.

Alderman Ferrell moved to suspend the rules and go to the second reading. Alderman Thiel seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to suspend the rules and go to the third and final reading. Alderman Jordan seconded the motion. Upon roll call the motion passed 6-0. Alderman Lucas and Cook were absent during the vote.

City Attorney Kit Williams read the ordinance.

Mayor Coody: It's less than 1/40 of an acre. It's only about 450 square feet.

City Attorney Kit Williams: It's about.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 6-0. Alderman Lucas and Cook were absent during the vote.

Ordinance 5036 as Recorded in the Office of the City Clerk.

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 for the purposes of the noise ordinance.

Alderman Allen: Alderman Cook and I would like to table this and wait until we have had an opportunity to meet with the neighbors along with staff.

City Attorney Kit Williams: Maybe you should just put it on the first reading.

Alderman Allen: That would be fine.

City Attorney Kit Williams read the ordinance.

Mayor Coody: Jeremy Pate when Tim Conklin would return.

Jeremy Pate: He will be back by the next Agenda Session.

Mayor Coody: Okay, so he will be here to discuss the depth of this.

Jeremy Pate: Yes.

City Attorney Kit Williams: People are here to speak.

Mayor Coody: Yes, before we leave it on this reading we do want to take public input so please come forward.

Sylvia Scarborough, a resident of 216 N. Locust Avenue: My property boundary is 50' from ground zero. It has been unbearable; there are lots of complaints from different neighbors. It is not just one neighbor complaining, we are all bothered.

Mayor Coody: This is by the Smokehouse?

Sylvia Scarborough: Yes, the garden patio. She expressed her concerns about the noise in this area. She stated it has been unbearable and embarrassing, if I have company and the band or D.J. starts up my guests look at me like what on earth is that. I can't sleep until the band quits and I can't even hear my own television in my bedroom with the air conditioner on and the windows

closed. I had sprayed in foam insulation which is supposed to cut down on the noise. I love the music that comes off of Dickson Street but this is above and beyond reason.

Mayor Coody: Whoever thought they tried to get it tabled but couldn't, it takes the City Council to table things so from my understanding this is the first time it has been in front of the Council. This is the first opportunity to table it.

Sylvia Scarborough: They were trying to get it off the agenda because we knew that everyone would be gone.

Mayor Coody: It is left on the first reading which essentially puts it off for two weeks. So everyone can come back and have a conversation about it.

Alderman Ferrell: When Mr. Sharp was there, did they have similar type events going on?

Sylvia Scarborough: I don't know when Mr. Bourdeaux moved in there.

Alderman Ferrell: Was music played when Mr. Sharp owned it.

Sylvia Scarborough: I don't ever remember anything like this.

Alderman Ferrell: Do you mean loud?

Sylvia Scarborough: Yeah.

Alderman Ferrell: How long have you lived there?

Sylvia Scarborough: About 35 years.

Julie Dora, representing the Dickson Street Neighborhood Association stated we are trying to get a meeting with Nancy, Kyle and Tim Conklin and those in the neighborhood could not be here tonight to learn more about this. None of us really understand what the impact could be and the problems are obviously currently happening.

Julie Meisch, the catering manager of the Garden Room at the Ozark Mt. Smokehouse: I am speaking on behalf of Mr. Tom Bourdeaux who was unable to make the meeting tonight.

Ms. Meisch read a statement from Mr. Bourdeaux. The statement pointed out that the Ozark Mt. Smokehouse has operated a catering venue including the garden on Dickson Street for the last 25 years. He stated Dickson Street has been Fayetteville's entertainment center where bars and restaurants have played host to all sorts of noise making activities until November of last year when the Council passed the new zoning map, and our entire block was zoned C-3 Commercial Zone. He went on to describe the current noise ordinance. He stated that after the passage of this zoning map for reasons unrelated to noise some lots on our block along Locust Avenue were given a zoning for the purpose of a noise ordinance and were zoned residentially. This zoning requires noise level of no more than 55 decibels after 11:00 PM and 60 decibels during the day.

Our problem is it is a simple matter of fairness. Until last November we could operate our business as we have always operated it, until that time there was no cry from our neighbors to alter the noise ordinance as it pertained to our business on Dickson Street. It seems strangely unfair to us that we must now plead for our ability to continue an operation after it was by all accounts inadvertently taken from us. He went on to address points of residents who were opposed to the ordinance and his feelings toward the unexpected zoning change. He pointed out how this has affected his business and stated we appreciate your swift resolution in this matter.

Julie Meisch: Mr. Frank Sharp is still a part of our business at the Ozark Mt. Smokehouse. He left us last June of 2006 on semi-retirement. I have been a part of the business for the last five years. Our events have not changed in any way.

Police Chief Greg Tabor: I can tell you that since 1998 we have had 22 noise complaints for the garden room. It does seem like there has been a significant increase in 2007 so out of the total 22 complaints, 7 of those have been in 2007. From the 200 block of North Locust, there have been a total of 34 noise complaints since 1998. In that list it appears that in 2003 is when the most of those were generated. That does not necessarily mean that the complaint was generated towards the Smokehouse. They have been issued four citations over the last couple of months. If the zoning was the way that it was prior to November, they would have only received one of those citations. If you move forward with the change in the ordinance, three of those tickets, the level would have been below that.

Mayor Coody: I don't know how loud 70 decibels is. Maybe there is a way that we could set up a demonstration because this is something we have to deal with all the time.

Chief Tabor: I think that happened years ago. Radios were brought in and turned up and down so everybody could get an idea.

Alderman Thiel: I think during the racetrack issue Chief Hoyt gave us some comparisons of sound.

Chief Tabor: Like what a train might be?

Alderman Thiel: You might revisit some of those minutes to see. You said that in the past two months there have been four citations.

Chief Tabor: If we were using the commercial limit, only one of the four was above that limit which is 75 decibels.

City Attorney Kit Williams: It depends on the time.

Alderman Thiel: Yeah I know, after 11:00 PM. There were other complaints, did you all register decibels over the last few years.

Chief Tabor: I could go back and hopefully find all 22 of these.

Alderman Thiel: I would be very curious what the decibels were during those complaints.

Chief Tabor: Yes, they were taken if I can find paperwork that goes back that far.

Alderman Thiel: I think it would be helpful to see if the noise actually increased. The argument is the business existed, but has something changed to make it more disruptive.

Chief Tabor: I probably can't find those numbers back to 1997 but I can definitely go back some amount of years.

Alderman Thiel: It would at least give us some idea of whether the noise decibels have actually increased.

Chief Tabor: I don't think that is a problem.

Brad Zogerman, resident next to the Garden Room: I support the ordinance as it was initially read. If you are going to live in an entertainment district, sometimes you are going to hear entertainment.

Mayor Coody: How long have you lived there?

Brad Zogerman: Five years in April.

Sylvia Scarborough invited the Council to her home when the D.J. is playing.

This ordinance was Left on the First Reading.

Meeting adjourned at 9:05 PM

Dan Coody, Mayor | **Sondra Smith, City Clerk/Treasurer**

The Recycling Song

words by Donovan, Kyle, Molly
and McRae
chords by Ms. Carolyn

G D C G
Recycling is good for the earth - (Donovan)
G D C G
It helps the world look neater - (Kyle)
C D C D
It helps the air smell cleaner - (Molly)
C D C G
Let's get together and clean the world - (McRay)
C D C G
Let's get together and clean the world!

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
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Presentation: First School of First Presbyterian Church K-1 Class - Carolyn Swaney, Teacher and David Channell on guitar.

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 137-07.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 138-07.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 139-07.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 140-07.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 141-07.

7. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

   THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION.

8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 142-07.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 143-07.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 144-07.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 145-07.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 146-07

13. **McClelland Consulting Engineers, Inc:** A resolution approving task order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an obstruction survey of the Drake Field Runway Approaches; accepting a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00; and approving a budget adjustment in the amount of $45,000.00.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 147-07.

1. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 148-07.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 149-07.

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5042.

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

   THIS ITEM WAS TABLED TO AUGUST 21, 2007 CITY COUNCIL MEETING.

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

   THIS ITEM WAS LEFT ON THE THIRD READING OF THE ORDINANCE AND TABLED INDEFINITELY.

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5043.

2. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

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

3. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5044.

4. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5045.

5. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

   THIS ITEM FAILED ON THE VOTE TO PASS THE ORDINANCE.

6. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

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

7. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5046.

8. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5047.

9. **Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637:** An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

   PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5048.

10. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5049.

11. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5050.

12. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5051.

13. **Liberty Bank Appeal:** A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

    PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 150-07.

14. **Abshier Heights – Waive Chapter 166.20 of the UDO:** An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

    PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5052.

D. INFORMATIONAL:

City Council Tour: None

Meeting adjourned at 10:25 p.m.

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **August 8, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of August 7, 2007**

1. **Littlefield Oil Company:** Resolution approving annually renewable contract with Littlefield Oil Company pursuant to Bid #07-46 in approximate annual amount of $1,228,023.00;

2. **Sunbelt Fire, Inc.:** Resolution awarding Bid #07-49 to Sunbelt Fire, Inc. (Emergency One) for purchase of one 114"" Articulated Aerial Platform Truck in amount of $886,843.00 for use by Fayetteville Fire Dept. and approving purchase of ancillary equipment in amount not to exceed $25,000.00;

3. **Downing Sales & Service:** Resolution awarding Bid #07-56 to Downing Sales & Service, Inc. for purchase and installation of one recycling baler in amount of $211,393.00 plus applicable taxes; and approving contingency in amount of $5,500.00;

4. **IBM AS400:** Resolution approving purchase of IBM AS400, Model 9406-515 through State Purchasing Contract in amount not to exceed $43,700.00 for use by Fayetteville Police Department;

5. **Air Museum:** Resolution approving budget adjustment in amount of $16,000.00 from Economic Development funds to Airport Museum to finish cabinets for display of historic documents;

6. **Stone Bridge Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $236,225.00 for upgrade of Lift Station 13 (Stone Bridge) WSIP Subproject EL-4 LS-13; and approving 2% EL-4 contingency in amount of $7,000.00;

7. **Industrial Park Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $74,942.00 for upgrade of Lift Station 14 (Industrial Park) WSIP Subproject EL-4 LS-14; and approving 2% EL-4 contingency in amount of $1,500.00;

8. **McCollum Road Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $74,931.00 for upgrade of Lift Station 16 (McCollum Road) WSIP Subproject EL-4 LS-16; and approving 2% EL-4 contingency in amount of $1,500.00;

9. **Clean-up of 509 E. Huntsville Road:** Resolution certifying to Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon property located at 509 E. Huntsville Road in City of Fayetteville'

10. **Eagle Park Improvement Grant:** Resolution authorizing Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in amount not to exceed $125,000.00 for improvements to Eagle Park;

11. **McClelland Consulting Engineers, Inc.:** Resolution approving Task Order #1 with McClelland Consulting Engineers, Inc. in amount of $45,000.00 to conduct an obstruction survey of Drake Field Runway approaches; accepting grant form Arkansas Department of Aeronautics in amount of $2,250.00; and approving budget adjustment in amount of $45,000.00;

12. **GeoSyntec Consultants, Inc.:** Resolution awarding contract to GeoSyntec Consultants, Inc. in amount of $199,883.00 to develop Nutrient Reduction Plan in accordance with Beaver Water District Agreement, WSIP Subproject DWD-1, RFP 06-17;

13. **CUP 07-2560 Bohot Appeal:** Resolution granting appeal of Planning Commission's approval of Conditional Use Permit 07-2560 (Bohot) and to deny the conditional use;

14. Amend Chapters 171 and 172: Ordinance amending Title XV: Unified Development Code of Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in front yard area of residential dwelling units;

15. Amend Ordinance #5002: Ordinance amending Ordinance No. 5002 in order to make newly enacted §92.32 of Fayetteville Code effective earlier;

16. Sale of 4.0 Acres to Ozarks Electric: Ordinance waiving requirements of Ordinance No. 4358 and approving Offer and Acceptance contract between City of Fayetteville and Ozarks Electric Cooperative Corp. for sale of four acres of unneeded land with an access and utility easement for same at West Side Wastewater Treatment Plant for $140,000.00; approving budget adjustment and authorizing Mayor and City Clerk to execute said agreement;

17. Repeal Youth Activities Committee: Ordinance repealing Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code;

18. Liberty Bank Appeal: Resolution granting appeal of Planning Commission's approval of LSD 07-2574 for Liberty Bank by modifying Condition #3 and allowing Bank's requested curb cut on Joyce Boulevard.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

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

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

FROM: **Kit Williams**, City Attorney

DATE: **August 2, 2007**

RE: **Liberty Bank appeal: Curb cut regulation**

In my memo of May 3rd, 2005, I advised you that the Arkansas Supreme Court has held that "the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress. . . . (T)his property right is not diminished merely because the property owner has alternative means of ingress and egress." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3d 851, 857 (2001). Attached is that memo, as well as my memos of March 7, 2007, and February 6, 2003, discussing abutting owner's access easement rights to city streets.

I have also attached a one page memo dated July 31, 2007, from Liberty Bank's attorney which also discusses access easement rights owned by abutting property owners.

All of my earlier memos were directed toward proposed vacations or closing of streets or alleys, not the disallowance of a requested curb cut which is what Liberty Bank is appealing to you. The Arkansas Supreme Court has held that a city council has been given "broad discretion" in matters pertaining to city streets by the state legislature.

> "With such broad (statutory) power over streets and alleys, it seems the latitude of discretion vested in city governing boards should be very wide indeed." City of Little Rock v. Linn, 245 Ark. 260, 432 S.W.2d

455, 461 (1968).

> "This court long ago recognized that the varied uses and conflicts of city life required that much be left to the discretion of city authorities, whose actions should not be judicially interfered with unless manifestly unreasonable and oppressive, an unwarranted invasion of private rights, or clearly in excess of powers granted."
> Id. at 462.

Another case discussing the access easement rights of an abutting owner to a state highway described the **access easement as "limited"** and agreed the owner whose land had been condemned for the highway could recover damages because the access easement the owner was left with "would surely be **subordinated to the needs of the highway department** and those political subdivisions and utilities. . . ." Arkansas State Highway Commission v. Wallace, 249 Ark. 303, 459 S.W.2d 812, 814 (1970) (emphasis added).

Those cases lead me to conclude that cities do have the legal and constitutional power to control access to their streets by regulating where and how curb cuts will be allowed. Such curb cut regulation has existed in Fayetteville and most larger cities in Arkansas for decades without serious legal challenge. I do not believe that Liberty Bank is questioning the City's power to regulate curb cut location, but does question whether the City can **prohibit** any curb cut along Joyce Boulevard for the entire length of the bank's fairly large lot. I believe that the City has a heavy burden in this case to absolutely prohibit any curb cut on Joyce.

The case cited by the bank's attorney, Campbell v. Arkansas State Highway Commission, 183 Ark. 780, 38 S.W.2d 753 (1931), has some strong language, but it is based upon significantly different facts. In that case, the Highway Commission built a bridge over the White River in Newport. The bridge and its approaches were necessarily raised dramatically above Campbell's house and property and thereby obstructed his previous access to his property. Therefore, the Highway Commission had to pay Campbell for his loss of access.

In our case, we are considering a loss of **potential** access, not current access. However, even blocking access to a public street by a curb or barrier can constitute a taking for which the City could be liable for loss of the property owner's access easement. Curbs and curb cuts were discussed in Flake v. Thompson, Inc., 249 Ark. 713, 460 S.W.2d 789 (1970), in relation to blocking access to a public street. The Arkansas Supreme Court held:

> "The property right of ingress and egress of appellants in the easement was one that could not be taken by the city, at least without payment of just compensation." Id. at 796.

An argument that the property owner had other access on another city street was rejected by the Arkansas Supreme Court.

> "The mere fact that appellants also have a means of ingress and egress via University Avenue does not affect or diminish their property rights in the easement, and they cannot be deprived of these rights because of the remaining means of ingress and egress." Id. at 797.

CONCLUSION

The requested curb cut does not specifically violate our current distance requirements from intersections. **Therefore, the curb cut requested by the bank can only be denied pursuant to our U.D.C. if it creates or compounds a dangerous traffic situation.** The Planning Commission tied 4-4 on this issue.

If no curb cut on Joyce is allowed for a good public policy reason (safety), **the City might still be liable** to the bank for depriving it of its access easement to serve a City goal of facilitating safe and efficient traffic management just as we would if we condemned private property to obtain enough right of way to enlarge a street for safety or efficiency improvements.

MEMO

DATE: July 31, 2007

RE: Liberty Bank - Ingress and Egress

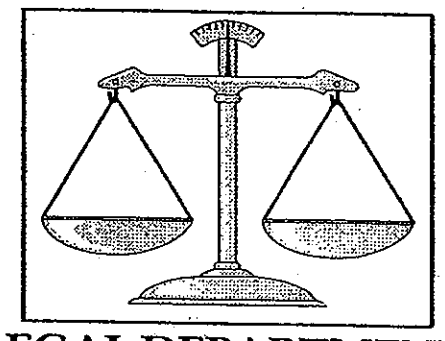
The Supreme Court of Arkansas in *Campbell v. Arkansas State Highway Commission*, 183 Ark. 780, held that an owner of property abutting upon a street has easement for ingress and egress which attaches to his property. The reason is that the easement in the street or highway is incident to the lot itself, and any damage, whether by destruction or impairment, is a damage to the property owner, and independent of any damage sustained by the public generally. This right of ingress and egress which attaches to the lot is right derivative of the taking section in the Arkansas Constitution, Article 2, Section 22. The Supreme Court of Arkansas in a recent decision of *Wright v. City of Monticello*, 345 Ark. 420 (2001), echoed the well established principals of law holding that an abutting landowner has a property right of ingress and egress as a means of accessing the property. That right attaches to the property as fully as in the lot itself.

The right of an easement for ingress and egress off of a public roadway or street is independent of whether there are any alternate routes to access the property. See *Wright v. City of Monticello*, 345 Ark. 420 (2001). This right was specifically discussed in the Supreme Court of Arkansas case *Flake v. Thompson*, 249 Ark. 713 (1970), which the court held that the mere fact that a property owner has a means of ingress and egress via an alternate route does not affect or diminish their property rights in the easement which is affected and they cannot be deprived of these rights because of the remaining means of ingress and egress. Quoting; *Langford v. Griffin*, 179 Ark. 574 and *Campbell v. Ford*, 244 Ark. 1141.

The courts have repeatedly held that the right of a property owner to ingress and egress cannot be taken without just compensation. There is also an ALR article discussing the principals associated with the power to directly relate or prohibit abutter's access to a street or highway. This article is located at 73 A.L.R. 2d 652. Let me know what else I can do for you on this issue.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **City Council**
Planning Commissioners

FROM: **Kit Williams**, City Attorney

DATE: **May 3, 2005**

RE: **Vacation of streets, alleys and easements**

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

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

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

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

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

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

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

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

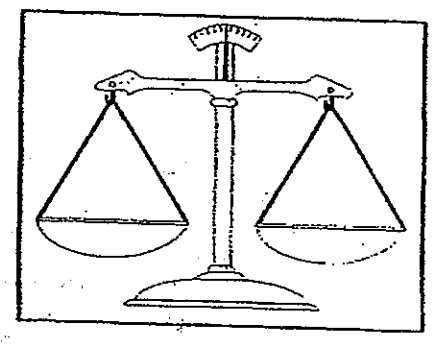
If an owner of a large tract of undeveloped, platted land wishes to vacate dedicated streets and alleys (which have never been built or used) in order to reconfigure and replat his property (which would require appropriate new access and easements because of our UDC), there would seem to be no corporate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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Tim Conklin,** Planning Department

FROM: **Kit Williams,** City Attorney

DATE: **February 6, 2003**

RE: **Vacation of dedicated streets and alleys**

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

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

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

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

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

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

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

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

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

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

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

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

The Arkansas Court of Appeals has held:

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

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

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

CONCLUSION

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

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

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

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

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

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

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

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

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

FROM: **Kit Williams**, City Attorney

DATE: **March 7, 2007**

RE: **Vacations of streets and alleys**

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

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

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

City Council Meeting August 07, 2007 Adjourn 10:25 PM.

Subject:	Roll				
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads Arrived at 6:45PM	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Alderman Thiel Left at 9:45 PM	**Cook**	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				
		8-0			

Subject:	Consent				
Motion To:		Approve	Item #	7 GeoSyntec Consultants	
Motion By:		Lucas		moved to before New	
Seconded:		Cook		Business	
Item # 7 Removed to discuss.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
passed	**Cook**	✓			
Res. 137-07 to 147-07	**Allen**	✓			
	Rhoads	absent during the vote.			
Minutes Approved	**Ferrell**	✓			
	Mayor Coody				
		9-0			

City Council Meeting August 07, 2007

Subject:	GeoSyntec Consultants, Inc.				
Motion To:		Approve			
Motion By:		Allen			
Seconded:		Lucas			
Moved from Consent to discuss.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Passed	**Allen**	✓			
	Rhoads	absent during the vote			
	Ferrell	✓			
148-07	**Mayor Coody**				

7-0

Subject:	CUP 07-2560 Bohot Appeal				
Motion To:		Approve	Grant Appeal		
Motion By:		Thiel			
Seconded:		Gray			
B.1. Unfinished Business	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Resolution Passed	**Allen**	N			
	Rhoads	✓			
149-07	**Ferrell**	✓			
	Mayor Coody				

7-1

City Council Meeting August 07, 2007

Subject:	Amend Chapter 161: Zoning Regulations				
Motion To:		Pass			
Motion By:					
Seconded:					
Unfinished Business B.2.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
passed	**Allen**	✓			
	Rhoads	✓			
	Ferrell	✓			
5042	**Mayor Coody**				

8-0

Subject:	Amend Chapter 161: Zoning Districts				
Motion To:		Table to August 21, 2007			
Motion By:		Allen			
Seconded:		Cook			
Unfinished Business B.3.	**Lucas**	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Tabled to August 21, 2007	**Allen**	✓			
	Rhoads	✓			
	Ferrell	✓			
	Mayor Coody				

8-0

City Council Meeting August 07, 2007

Subject:	RZN 07-2592 (Bellwood S/D Phase II)				
Motion To:		3rd read	Table Indefinitely		
Motion By:		Lucas	Thiel		
Seconded:		Ferrell	Lucas		
B.4. Unfinished Business	**Lucas**	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
Left on the Third Reading and	**Cook**	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
Tabled	**Ferrell**	✓	✓		
Indefinitely	**Mayor Coody**				
		8-0	8-0		

Subject:	R-PZD 07-2578 Bailey Meadows				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Thiel		
Seconded:		Ferrell	Ferrell		
C.1. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
passed	**Allen**	✓	✓	✓	
	Rhoads	absent during the vote	absent during the vote	absent during the vote	
5043	**Ferrell**	✓	✓	✓	
	Mayor Coody				
		7-0	7-0	7-0	

City Council Meeting August 07, 2007

Subject:	Amend Ordinance 4971 CR-PZD 041307 Aspen Ridge				
Motion To:					
Motion By:					
Seconded:					
C.2. New Business	**Lucas**				
	Jordan				
	Gray				
	Thiel				
	Cook				
Left on the First Reading	**Allen**				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject:	Amend Chapters 171 & 172				
Motion To:		Amend to say infrequent	2nd read	3rd read	Pass
Motion By:		Lucas	Gray	Lucas	
Seconded:		Ferrell	Lucas	Ferrell	
C.3. New Business	**Lucas**	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
passed	**Thiel**	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
5044	**Rhoads**	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

City Council Meeting August 07, 2007

Subject:		Amend Ordinance 5002			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Cook		
Seconded:		Gray	Lucas		
C. 4. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
passed	**Rhoads**	✓	✓	✓	
	Ferrell	✓	✓	✓	
5045	**Mayor Coody**				
		8-0	8-0	8-0	

Subject:		Amend Chapter 96 Noise Ordinance			
Motion To:		2nd read	3rd read	Pass	
Motion By:		Gray	Lucas		
Seconded:		Lucas	Cook		
C. 5. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	N	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	N	
	Allen	✓	✓	N	
failed	**Rhoads**	✓	✓	✓	
	Ferrell	✓	✓	N	
	Mayor Coody				
		8-0	8-0	4-4	

City Council Meeting August 07, 2007

Subject:	Boardwalk Property Owners Association				
Motion To:					
Motion By:					
Seconded:					
C.6. New Business	**Lucas**				
	Jordan				
	Gray				
	Thiel				
Left on the First Reading	**Cook**				
	Allen				
	Rhoads				
	Ferrell				
	Mayor Coody				

Subject:	Sale of 4.0 Acres to Ozarks Electric				
Motion To:		2nd reading	3rd reading	Pass	
Motion By:		Gray	Cook		
Seconded:		Ferrell	Ferrell		
C.7. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
Passed	**Rhoads**	✓	✓	✓	
	Ferrell	✓	✓	✓	
5046	**Mayor Coody**				
		8-0	8-0	8-0	

City Council Meeting August 07, 2007

Subject:	Repeal Youth Activities Committee				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Cook		
Seconded:		Lucas	Ferrell		
C.8. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5047	**Mayor Coody**				
		8-0	8-0	8-0	

Subject:	Pops Old Time Bar-B-Que Appeal				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Thiel	Cook		Aubrey
Seconded:		Ferrell	Ferrell		Shepard
C.9. New Business	**Lucas**	✓	✓	N	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5048	**Mayor Coody**				
		8-0	8-0	7-1	

City Council Meeting August 07, 2007

Subject:	R-PZD 07-2613 Holcomb Heights Phase II				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Lucas		
Seconded:		Lucas	Ferrell		
C.10. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	absent during the vote.	absent during the vote	absent during the vote.	
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5049	**Mayor Coody**				
		7-0	7-0	7-0	

Subject:	VAC 07-2638 Estes				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Lucas	Lucas		
C.11. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	absent during the vote	absent during the vote.	absent during the vote	
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5050	**Mayor Coody**				
		7-0	7-0	7-0	

City Council Meeting August 07, 2007

Subject:		UAC 07-2639 Four Seasons Sunroom / Boss			
Motion To:		Remove Condition of Approval #2	2nd read	3rd read	Pass
Motion By:		Cook	Cook	Cook	
Seconded:		Ferrell	Lucas	Lucas	
C.12.	**Lucas**	✓	✓	✓	✓
New	**Jordan**	✓	✓	✓	✓
Business	**Gray**	✓	✓	✓	✓
	Thiel	absent during the votes			—
	Cook	✓	✓	✓	✓
Passed	**Allen**	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
5051	**Mayor Coody**				
		7-0	7-0	7-0	7-0

Subject:		Liberty Bank Appeal			
Motion To:		Approve resolution			
Motion By:		Ferrell			
Seconded:		Lucas			
C.13.	**Lucas**	✓			
New	**Jordan**	✓			
Business	**Gray**	✓			
	Thiel	Absent during the vote.			
	Cook	N			
Passed	**Allen**	✓			
	Rhoads	✓			
150-07	**Ferrell**	✓			
	Mayor Coody				
		6-1			

City Council Meeting August 07, 2007

Subject:	Abshier Heights - Waive Chapter 166.20 of the UDO				
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Gray		
Seconded:		Lucas			
C.14. New Business	**Lucas**	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	Absent during the votes.			
	Cook	✓	✓	✓	
Passed	**Allen**	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
5052	**Mayor Coody**				
		7-0	7-0	7-0	

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

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AFFIDAVIT OF PUBLICATION

I, Kate MacNaughton, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of

City of Fayetteville: Final Agenda for August 7, 2007

Was inserted in the Regular Editions on:
August 6, 2007

Publication Charge: $263.75

Subscribed and sworn to before me
This day of , 2007.
06th August

Notary Public
Sean-Michael Argo

My Commission Expires:
07-25-2013

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**

Official Seal
SEAN-MICHAEL ARGO
Notary Public-Arkansas
WASHINGTON COUNTY
My Commission Expires 07-25-2013

FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
AUGUST 07, 2007

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on August 07, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Presentation: First School of First Presbyterian Church K-1 Class - Carolyn Swaney, Teacher and David Channell on guitar.

A. CONSENT:

1. Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.

2. Bid # 07-46 Littlefield Oil Company: A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. Bid # 07-49 Sunbelt Fire, Inc: A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. Bid # 07-56 Downing Sales and Service: A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. IBM AS400: A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. Airport Museum: A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

7. GeoSyntec Consultants, Inc: A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

8. Stone Bridge Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. Industrial Park Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. McCollum Road Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. Clean-up at 509 East Huntsville Road: A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. Eagle Park Improvement Grant: A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

13. McClelland Consulting Engineers, Inc: A resolution approving task order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an obstruction survey of the Drake Field Runway Approaches; accepting a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00; and approving a budget adjustment in the amount of $45,000.00.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.*

2. Amend Chapter 161: Zoning Regulations: An ordinance amending Title XV: Unified Development Code 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. 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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.*

3. 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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.*

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. *This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.*

C. NEW BUSINESS:

1. R-PZD 07-2578 (Bailey Meadows): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge): An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

3. Amend Chapters 171 & 172: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

4. Amend Ordinance 5002: An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

5. Amend Chapter 96 Noise Ordinance: An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

6. Boardwalk Property Owners Association: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

7. Sale of 4.0 Acres to Ozarks Electric: An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

8. Repeal Youth Activities Committee: An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

9. Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637: An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

10. R-PZD 07-2613 (Holcomb Heights Ph. II): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

11. VAC 07-2638 (Estes): An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

12. VAC 07-2639 (Four Seasons Sunrooms/Boss): An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

13. Liberty Bank Appeal: A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

14. Abshier Heights – Waive Chapter 166.20 of the UDO: An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

D. INFORMATIONAL:

City Council Tour: None

The Recycling Song

words by Donovan, Kyle, Molly
and McRae
chords by Ms. Carolyn

G D C G
Recycling is good for the earth - (Donovan)
G D C G
It helps the world look neater - (Kyle)
C D C D
It helps the air smell cleaner - (Molly)
C D C G
Let's get together and clean the world - (McRay)
C D C G
Let's get together and clean the world!

Agenda Session 7/31/07

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 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

Human Resource Project Updates – HR Staff – Agenda Session Only

2006 Comprehensive Annual Financial Report given by Bill Golbuff – Agenda Session Only

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

7. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

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12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

B. UNFINISHED BUSINESS:

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1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Move to after Pop's Old Time BBQ opens

2. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Move to 6

3. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

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8. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

Need new ordinance from Kit.

9. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

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12. **Pops Old Time Bar-B-Que Appeal:** An appeal of the Planning Commission's decision to deny RZN 07-2637.

D. INFORMATIONAL:

City Council Tour: August 06, 2007

(1) Liberty Bank Appeal - Add to New Business

Next to Last NB

(2) McClelland Consulting Engineers, Inc. Add to Consent

Consent

(X) (3) Red Oak Park Streambank Improvements Add to August 21, 2007 Agenda

8/21/07

(4) abshier Heights - Add to New Business

Last NB

Pre-Agenda Session 7/25/07

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

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Roll Call
Pledge of Allegiance

Human Resource Project Updates – HR Staff – Agenda Session Only

2006 Comprehensive Annual Financial Report given by Bill Golbuff – Agenda Session Only

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Remove → ~~13~~. **McClelland Consulting Engineers, Inc:** **waiting on staff review item.**

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D. INFORMATIONAL:

City Council Tour: August 06, 2007

From: Sondra Smith
To: Leflar, Missy
Date: 7/2/2007 4:49 PM
Subject: Re: End of July Agenda session
Attachments: Sondra Smith1.vcf

I have added you to the August 7, 2007 City Council agenda for a presentation at the July 31, 2007 Agenda Session.
Have a great evening!

Sondra E. Smith, CMC, CAMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Missy Leflar 7/2/2007 4:26 PM >>>
Thank you - may we have July 31st?

The title will be "Human Resource project updates" presented by the City's HR Staff. We'll shoot for 10 minutes. Thanks.

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

>>> Sondra Smith (Amber Wood) (Sondra Smith) 6/29/2007 11:11 AM >>>
Hi Missy,

We can put you on July 10th or July 31st whichever you would prefer. Just send me the title of the presentation and who will be giving the presentation and we will add it on the agenda.

Have a nice day!

Amber Wood

>>> Missy Leflar 6/29/2007 10:12 AM >>>
Sondra,

Could HR do a brief (10 - 15 minute) staff presentation at the last agenda session in July? (Even if it's the "pre-August council meeting" session)?

The Mayor asked us to do one at a short agenda session. Provided that this is a short agenda session, we would like to do it at this one.

Thanks,
Missy

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

From: Missy Leflar
To: Sondra Smith
Date: 7/20/2007 5:20 PM
Subject: July 31st Agenda session presentation

CC: Gary Dumas; Susan Thomas

The HR Division is doing a brief (about ten minute) staff presentation at the July 31st agenda session.

Do we get to do it at the beginning of the session?

We'd prefer to, from the standpoint of having the powerpoint all set up and ready to go.

Thanks,
Missy

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From: Vicki Deaton
To: Branson, Lisa
Date: 7/18/2007 4:10 PM
Subject: agenda session information item

Lisa,
This is to confirm that an information only item for agenda session has been added to the 8/7/07 City Council agenda. Bill Golbuff, Audit Committee Chair, will present the 2006 Comprehensive Annual Financial Report on 7/31/07. Thanks.

Vicki D. Deaton
City of Fayetteville
Internal Auditor
113 W. Mountain
Fayetteville, AR 72701
479-575-8261

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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Ward 2 Position 1 – Kyle B. Cook
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Presentation: First School of First Presbyterian Church K-1 Class - Carolyn Swaney, Teacher and David Channell on guitar.

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9. **Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637:** An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

10. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

11. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

12. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

13. **Liberty Bank Appeal:** A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

14. **Abshier Heights – Waive Chapter 166.20 of the UDO:** An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

D. INFORMATIONAL:

City Council Tour: None

Added at Agenda Session 7/31/07 for the 8/7/07 Agenda

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

8/7/2007
City Council Meeting Date

Ray M. Boudreaux	Aviation & Economic Development	General Government
Submitted By	Division	Department

Action Required:

Action Required: Approve Task Order #1 with McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of $45,000 to conduct an Obstruction Survey of the Drake Field Runway approaches. Approve the acceptance of a grant from the Arkansas Dept of Aeronautics for $2,250 / $42,750 (FAA pass-through funding). Approve a Budget Adjustment.

$ 45,000.00	$ -	Obstruction Survey
Cost of this request	Budget	Program Category / Project Name
5550.3960.5314.00	$ -	Avi/ED Imp
Account Number	Funds Used to Date	Program / Project Category Name
07024 1	$ -	Airport
Project Number	Remaining Balance	Fund Name

Budgeted Item [ ] Budget Adjustment Attached [X]

Department Director — Date 7/18/07

City Attorney — Date 7/23/2017

Finance and Internal Service Director — Date 7-24-07

Mayor — Date 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/19/07 MK

Received in Mayor's Office ENTERED 7/23/07 BRP

Comments: The project is 100% funded by grants.

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: July 18, 2007

SUBJECT: **Approval of Task Order #1 July 18, 2007 with McClelland Consulting Engineers for Runway Obstruction Surveys and a Budget Adjustment recognizing $45,000.00 in Grant revenues.**

RECOMMENDATION: Approve Task Order #1 July 18, 2007 with McClelland Consulting Engineers for runway obstruction surveys of both approaches to the runway at Drake Field and a Budget adjustment recognizing the grant revenue of 45,000.00 through the State of Arkansas Department of Aeronautics FAA System Planning Grant #3-05-0000-006-2007 and a 5% match from the State Aeronautics Commission.

BACKGROUND: The first step in implementing the Fayetteville Municipal Airport five year improvement plan to improve the Runway Safety Area on the north end of the airport is to conduct a Runway Obstruction Survey. This project will provide updated survey information for both ends of the runway and will be conducted IAW guidance provided by the FAA. The survey is necessary to insure that the project we have proposed will adequately remove the obstructions currently affecting approaches from the north. Members of the Airport Board and staff presented the project to improve the Runway 16 RSA and received assurance of funding over the next few years. This project is the first of several and is the necessary first step.

DISCUSSION: Airport staff presented application for this project to the State Aeronautics Commission July 11, 2007 in Searcy, Arkansas. The project was approved and a grant letter is part of this package. The State grant is for the 5% match to the Federal AIP funding which is being provided by the FAA to the State as part of the FAA System Planning Grant #3-05-0000-006-2007 "to develop Obstruction Surveys for proposed instrument approaches at multiple General Aviation Airports as specified by the State of Arkansas Department of Aeronautics." Fayetteville Municipal Airport, Drake Field is one of the airports included in the FAA grant.

BUDGET IMPACT: This project is 100% funded by the FAA State System Planning Grant to the State of Arkansas ($42,750) and the State of Arkansas Aeronautics Commission ($2,250).

Attachments:
- Task Order #1
- Grant Letter from Department of Aeronautics
- Staff Review Form
- Budget Adjustment

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 TASK ORDER #1 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF $45,000.00 TO CONDUCT AN OBSTRUCTION SURVEY OF THE DRAKE FIELD RUNWAY APPROACHES; ACCEPTING A GRANT FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS IN THE AMOUNT OF $2,250.00; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF $45,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Task Order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an Obstruction Survey of the Drake Field runway approaches.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby accepts a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of $45,000.00.

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

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested	Adjustment Number
2007		8/7/2007	

Project or Item Added/Increased:
$45,000 in the Professional Services account

Project or Item Deleted/Reduced:
$ 2,250 in the State Grants on Federal Projects account
$42,750 in the Federal Cost Share account

Justification of this Increase:
Will provide for a Runway Approach Obstruction Location Survey.

Justification of this Decrease:
The funding will offset 100% of the expenses for the project.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5550	3960	5314	00	45,000	07024	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
State grants on Fed proj	5550	0955	6803	00	2,250	07024	1
Federal Cost Share	5550	0955	4309	00	42,750	07024	1

Approval Signatures

Requested By — Date 7/18/07

Budget Manager — Date 7-26-07

Department Director — Date 7/18/07

Finance & Internal Services Director — Date

Mayor — Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

STATE OF ARKANSAS
DEPARTMENT OF AERONAUTICS

Little Rock National Airport • One Airport Drive • 3rd Floor
Little Rock, Arkansas 72202-4402
Telephone: (501) 376-6781 • Fax: (501) 378-0820

July 11, 2007

MIKE BEEBE
GOVERNOR

JOHN K. KNIGHT
DIRECTOR

Commissioners

Marion Burton
Little Rock

Dr. Gene Jines
Little Rock

Charles Simmons
Rogers

Don Ruggles
Texarkana

Lindley Smith
Jonesboro

Ken Johnson
Pine Bluff

Dr. William Morgan
Paragould

Mr. Ray M. Boudreaux, Director
Aviation & Economic Development
Fayetteville Municipal Airport
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701

RECEIVED
JUL 13 2007
AIRPORT

Ch to file
Ch to City Council
Ch to return

Dear Mr. Boudreaux:

The Arkansas Aeronautics Commission in their meeting of July 11, 2007 approved a State Airport Aid Grant in the amount of $2,250.00 for obstruction survey at the Fayetteville Municipal Airport. (AIP-5%)

Your grant has been assigned a number for identification purposes. Please use 2481-07 as your grant number when corresponding with our office concerning your project. You should advise the Director of this office if you find you will not be able to complete the project for the amount approved. An amendment request for the project may then be acted on at the next Commission meeting. The Commission will not be responsible for any additional project costs unless the sponsor has received notification in advance.

The Commission has asked that we call your attention to Page Three (3) of your application for State Airport Aid. You agreed, when the application was submitted to start the project within three months after approval or the grant would be null and void. The next to the last paragraph requires that the project be completed within one year unless it is partially funded by the Federal Aviation Administration (FAA). Please advise if circumstances beyond your control prevent the completion within the allotted time, otherwise, the grant may be canceled.

Payment of this grant may be made on completion of the project. Please request payment of this grant in writing and include your documentation for the project at that time.

Sincerely,

John Knight

John K. Knight
Director

JK/cb

MCE McCLELLAND CONSULTING ENGINEERS, INC.
DESIGNED TO SERVE

P.O. Box 1229
Fayetteville, Arkansas 72702-1229
479-443-2377
FAX 479-443-9241

July 18, 2007

RECEIVED
JUL 18 2007
AIRPORT

Mr. Ray Boudreaux
Airport Manager,
Fayetteville Municipal Airport
4500 S. School Suite F
Fayetteville, AR 72701

Re: Task Order No 1
Approach Surveys
Fayetteville Municipal Airport

Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No 1 for the obstruction surveys for runways 16 & 34.

Please advise if you need further information regarding this Task Order.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.

R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 1 (3 copies)

W:\DRAKE FIELD\CONTRACTS\2006-2008\BOUDREAUX-0718-TO 1.DOC:

TASK ORDER NO. 1

APPROACH OBSTRUCTION SURVEYS
RUNWAYS 16 & 34

FAYETTEVILLE MUNICIPAL AIRPORT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on June 6, 2006, as amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the necessary surveys to identify any obstructions within the approaches to Runways 16 & 34 at the Fayetteville Municipal Airport. The surveys will be conducted for a Class "D" ¾ mile Non-Precision Instrument Runway Approach for a distance of 10,000 feet from each runway end, in accordance with FAA Publication No. 405 and NGS requirements.

SECTION I - PROJECT DESCRIPTION

The project is to consist of: assistance in applying for state and federal funding for the project; establishment of Primary and Secondary Airport Control Stations (Pacs & Sacs); field surveys to determine the geodetic location of each Pacs and Sacs; field

surveys to establish control points for the aerial photo obstruction data; field surveys to determine the location and height of any object on the airport not identified by the aerial survey; project administration; submission of the data to NGS and the FAA; meetings with the City's Airport Department and Airport Board to review various aspects of the project; and any engineering services associated with this obstruction survey project.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), MCE will endeavor to execute the project as expeditiously as possible within an estimated approximate three (3) months period.

SECTION III - SCOPE OF SERVICES

MCE shall, generally, provide those services listed in the basic agreement which are applicable to this specific Task Order. Specifically, this project is likely to include:

A. Establish Pacs & Sacs with control.

B. Field Control Surveys.

C. Aerial Obstruction Mapping.

D. Project Administration

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to MCE as compensation for his services:

A.	Establish Pacs & Sacs:	estimated to be	$ 15,500.
B.	Control Surveys:	estimated to be	$ 5,000.
C.	Aerial Obstruction Mapping:	estimated to be	$ 22,000.
D.	Project Administration:	estimated to be	$ 2,500.

The engineering cost for this project will not-exceed a total fee of $ 45,000.00. Appendices A, & B presents hourly rates for personnel anticipated to be assigned to this project and the unit prices as well as the basis of payments to be made to the MCE.

SECTON V - BASIC AGREEMENT IN EFFECT:

Except as amended specifically herein, the basic AGREEMENT FOR ENGINEERING SERVICES shall remain in full force as originally approved and executed.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be duly executed as of the date and year first herein written.

FOR THE CITY OF FAYETTEVILLE:

By: _____

Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: John C. Quinn

President

Attest: R W Aydelmer

Vice President

APPENDIX B

Hourly Rates for Personnel
Drake Field, Fayetteville Municipal Airport

CATEGORY	BILLABLE HOURLY RATE RANGE
Principal Engineer	$ 147.00
Sr. Project Manager	$ 137.00
Project Manager	$ 126.00
Project Engineer II	$ 105.00
Project Engineer I Design Engineer	$ 84.00
Landscape Architect	$ 86.00
Engineering Technician III	$ 79.00
Engineering Technician II	$ 63.00
Engineering Technician I	$ 48.00
Construction Observer III	$ 79.00
Construction Observer II	$ 58.00
Construction Observer I	$ 42.00
Chief Draftsman	$ 68.00
Draftsman II	$ 53.00
Draftsman I	$ 48.00
Computer Technician	$ 74.00
Survey Technician	$ 74.00
Registered Land Surveyor	$ 90.00
2-Man or Robotic Survey	$ 137.00
Party Chief	$ 63.00
Soils Lab Supervisor	$ 55.00
Soils Lab Technician II	$ 42.00
Soils Lab Technician I	$ 37.00
Clerk/Typist	$ 48.00
Mileage	$ 0.42

* Subject to Annual Adjustment Mid-Year.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 1
80' BY 120' CORPORATE HANGAR
FAYETTEVILLE MUNICIPAL AIRPORT

	CLASSIFICATION > / HOURLY RATE >	PROJECT DIRECTOR $147.00	PROJECT MGR./ENGR. $125.00	ENGINEERING TECHNICIAN $78.00	CADD OPER. 2 $63.00	LICENSED SURVEYOR $90.00	SURVEY CREW $135.00	CLERK TYPIST $48.00	MILEAGE $0.42	SUB.-CONS. FEE	DIRECT EXPENSE	EXTENDED TOTAL
LINE	TASK DESCRIPTION											
A	ESTABLISH PACS & SACS WITH CONTROL	6		32		35	66		80		$28	$15,500
B	CONTROL SURVEYS	1		5		4	30		126			$5,000
C	AERIAL OBSTRUCTION MAPPING									$22,000		$22,000
D	PROJECT ADMINISTRATION	16						3	10			$2,500
	GRAND TOTAL, ENGINEERING SERVICES	23	0	37	0	39	96	3	216	$22,000	$28	$45,000

W:\DRAKE FIELD\CONTRACTS\2006-2008\fee sheets\TO 1 Fee.wb3

STATE OF ARKANSAS
DEPARTMENT OF AERONAUTICS

Little Rock National Airport • One Airport Drive • 3rd Floor
Little Rock, Arkansas 72202-4402
Telephone: (501) 376-6781 • Fax: (501) 378-0820

July 11, 2007

MIKE BEEBE
GOVERNOR

JOHN K. KNIGHT
DIRECTOR

Commissioners

Marion Burton
Little Rock

Dr. Gene Jines
Little Rock

Charles Simmons
Rogers

Don Ruggles
Texarkana

Lindley Smith
Jonesboro

Ken Johnson
Pine Bluff

Dr. William Morgan
Paragould

Mr. Ray M. Boudreaux, Director
Aviation & Economic Development
Fayetteville Municipal Airport
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701

RECEIVED
JUL 13 2007
AIRPORT

Ok to file
Ok to City Council
for action

Dear Mr. Boudreaux:

The Arkansas Aeronautics Commission in their meeting of July 11, 2007 approved a State Airport Aid Grant in the amount of $2,250.00 for obstruction survey at the Fayetteville Municipal Airport. (AIP-5%)

Your grant has been assigned a number for identification purposes. Please use 2481-07 as your grant number when corresponding with our office concerning your project. You should advise the Director of this office if you find you will not be able to complete the project for the amount approved. An amendment request for the project may then be acted on at the next Commission meeting. The Commission will not be responsible for any additional project costs unless the sponsor has received notification in advance.

The Commission has asked that we call your attention to Page Three (3) of your application for State Airport Aid. You agreed, when the application was submitted to start the project within three months after approval or the grant would be null and void. The next to the last paragraph requires that the project be completed within one year unless it is partially funded by the Federal Aviation Administration (FAA). Please advise if circumstances beyond your control prevent the completion within the allotted time, otherwise, the grant may be canceled.

Payment of this grant may be made on completion of the project. Please request payment of this grant in writing and include your documentation for the project at that time.

Sincerely,

John Knight

John K. Knight
Director

JK/cb

From: Ray Boudreaux
To: Becker, Paul
Date: 7/25/2007 3:43 PM
Subject: Fwd: Notice to Proceed/Aeronautics/FAA

Hi Paul,

Here is the information you requested.

Cheers, Ray

Ray M. Boudreaux, Col. USAF (ret)
Director, Aviation & Economic Development
4500 S. School Ave., Suite F
Fayetteville, AR 72701
ph. 479.718.7642
fax. 479.718.7646
email: rboudreaux@ci.fayetteville.ar.us

>>> <FearlessM1@aol.com> 7/25/2007 3:10 PM >>>
Mr. Boudreaux:

Please be advised that a "Notice to Proceed" is approved for the obstruction survey project at the Fayetteville Municipal Airport. FAA Airport Improvement Program Grant #3-05-0000-006-2007 in the amount of $42,750.00 will provide 95% funding for the study. A 5% state airport aid grant in the amount of $2,250.00 was approved by the Arkansas Aeronautics Commission on July 11,2007. Total project cost not to exceed $45,000.00.

Please call our office at (501) 376-6781 if you have questions concerning this matter.

Sincerely,

John K. Knight
Director

JK/cb

****
Get a sneak peek of the all-new AOL at
http://discover.aol.com/memed/aolcom30tour

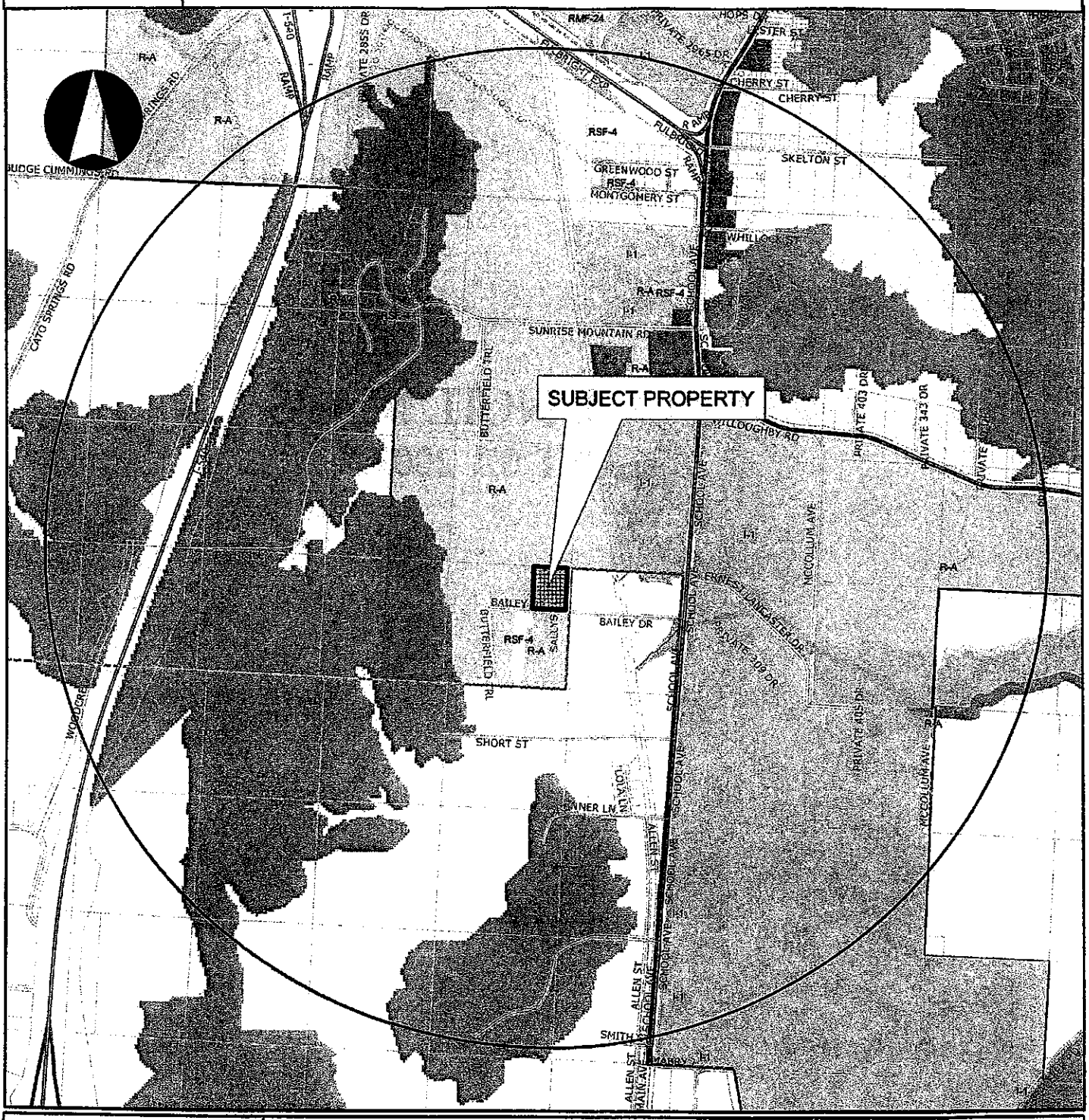
R-PZD-07-2578
Bailey Meadows
Handed out at
Agenda Session
7/31/07

CITY COUNCIL MAPS
AUGUST 07, 2007

RPZD07-2578

One Mile View

BAILEY MEADOWS



Overview

Legend

Subject Property

RPZD07-2578

Boundary

Planning Area

Overlay District

Outside City

Legend

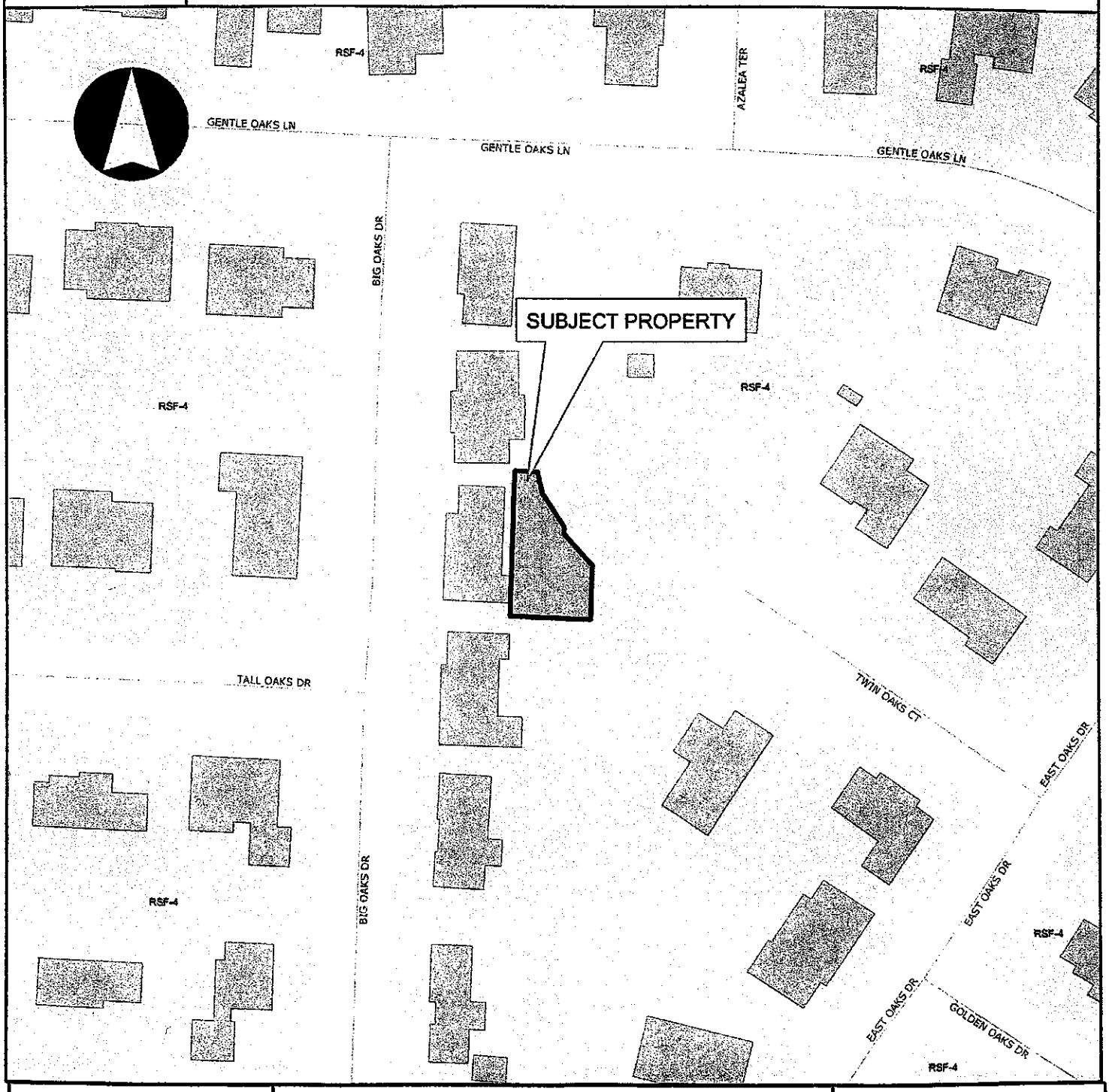
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

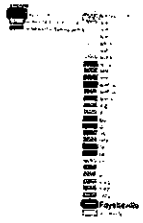
VAC07-2638

Close Up View

ESTES



Overview

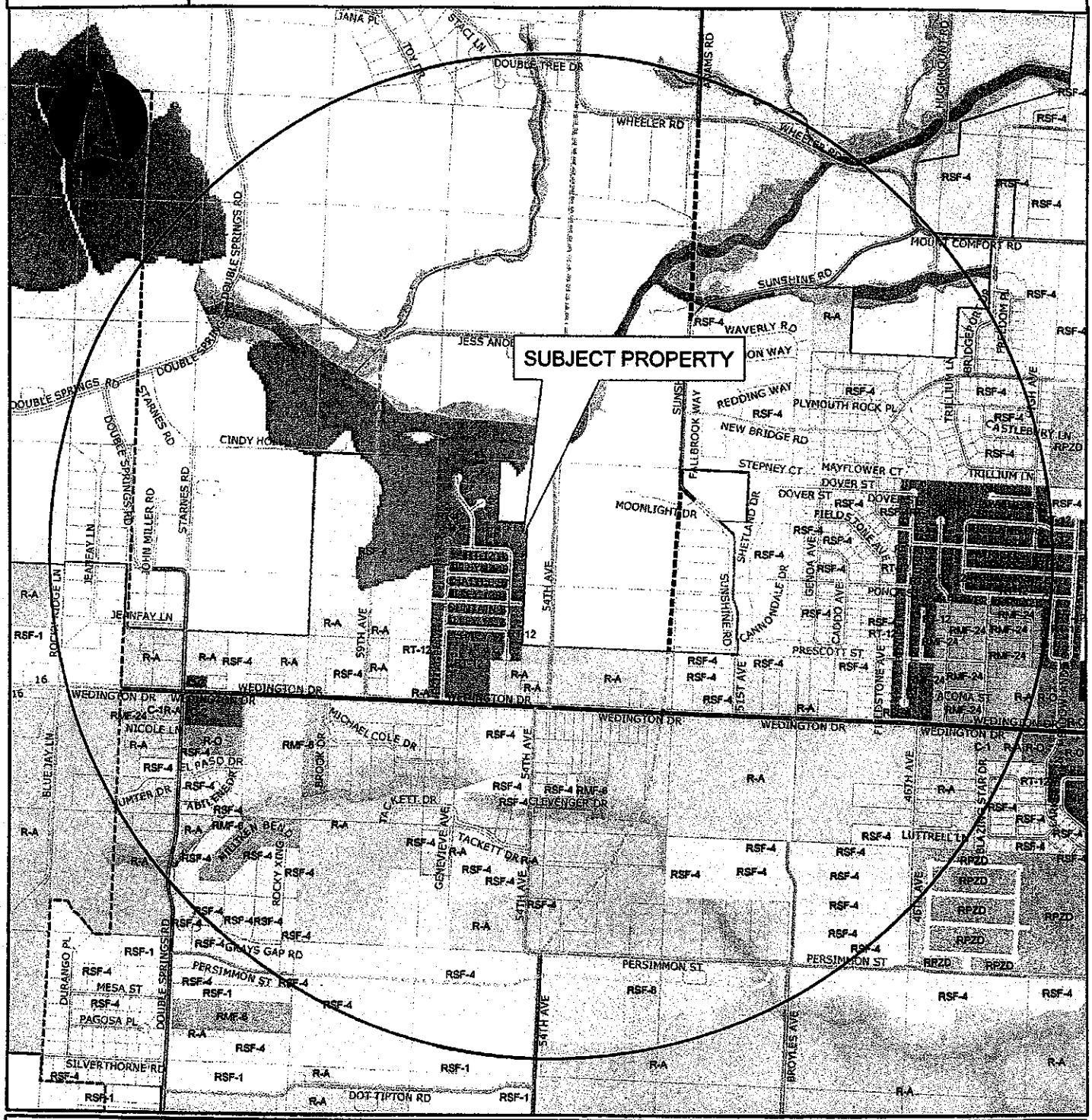


0 37.5 75 150 225 300 Feet

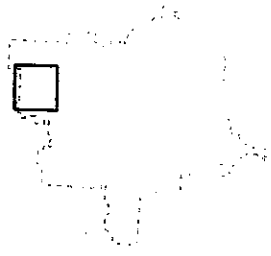
VAC07-2639

One Mile View

FOUR SEASONS SUNROOM/BOSS



Overview



Legend

Subject Property

VAC07-2639

Boundary

Planning Area

Overlay District

Outside City

Legend

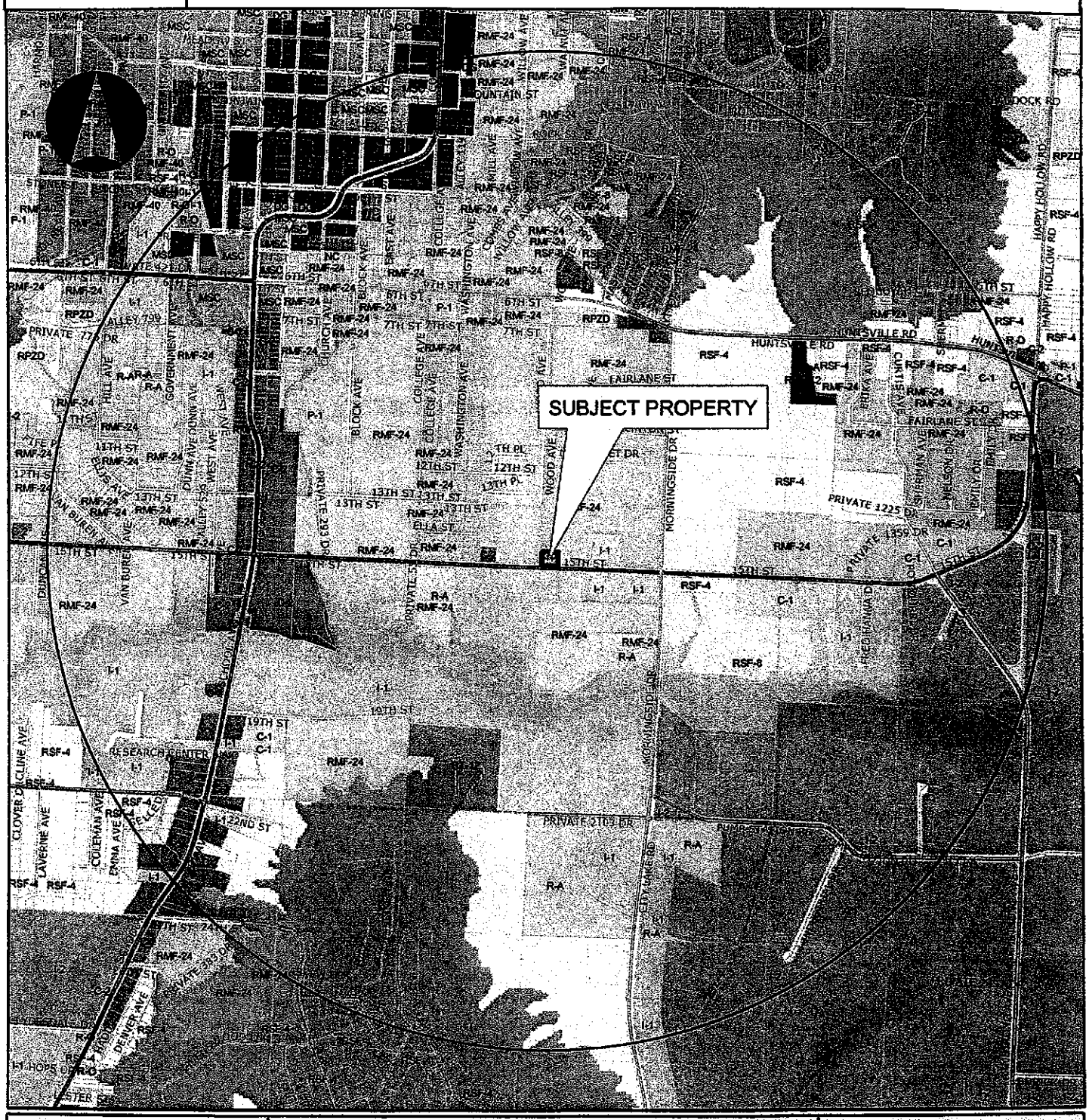
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

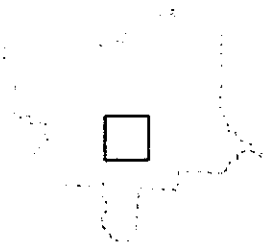
RZN07-2637

One Mile View

STARKS



Overview



Legend

Subject Property

RZN07-2637

Boundary

Planning Area

Overlay District

Outside City

Legend

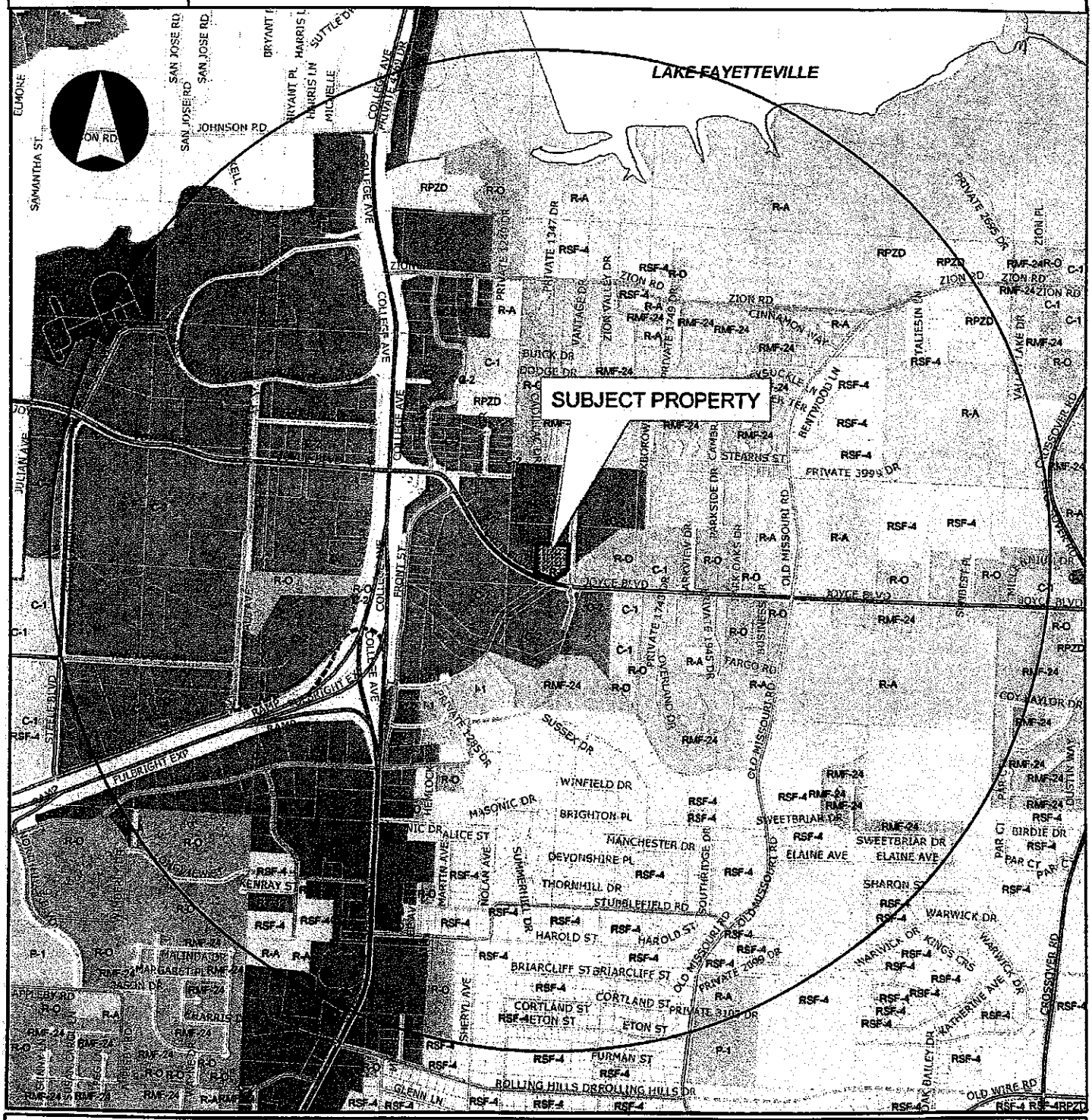
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

LSD07-2574

One Mile View

LIBERTY BANK OF ARKANSAS



Overview

Legend

Subject Property

LSD07-2574

Boundary

Planning Area

Overlay District

Outside City

Legend

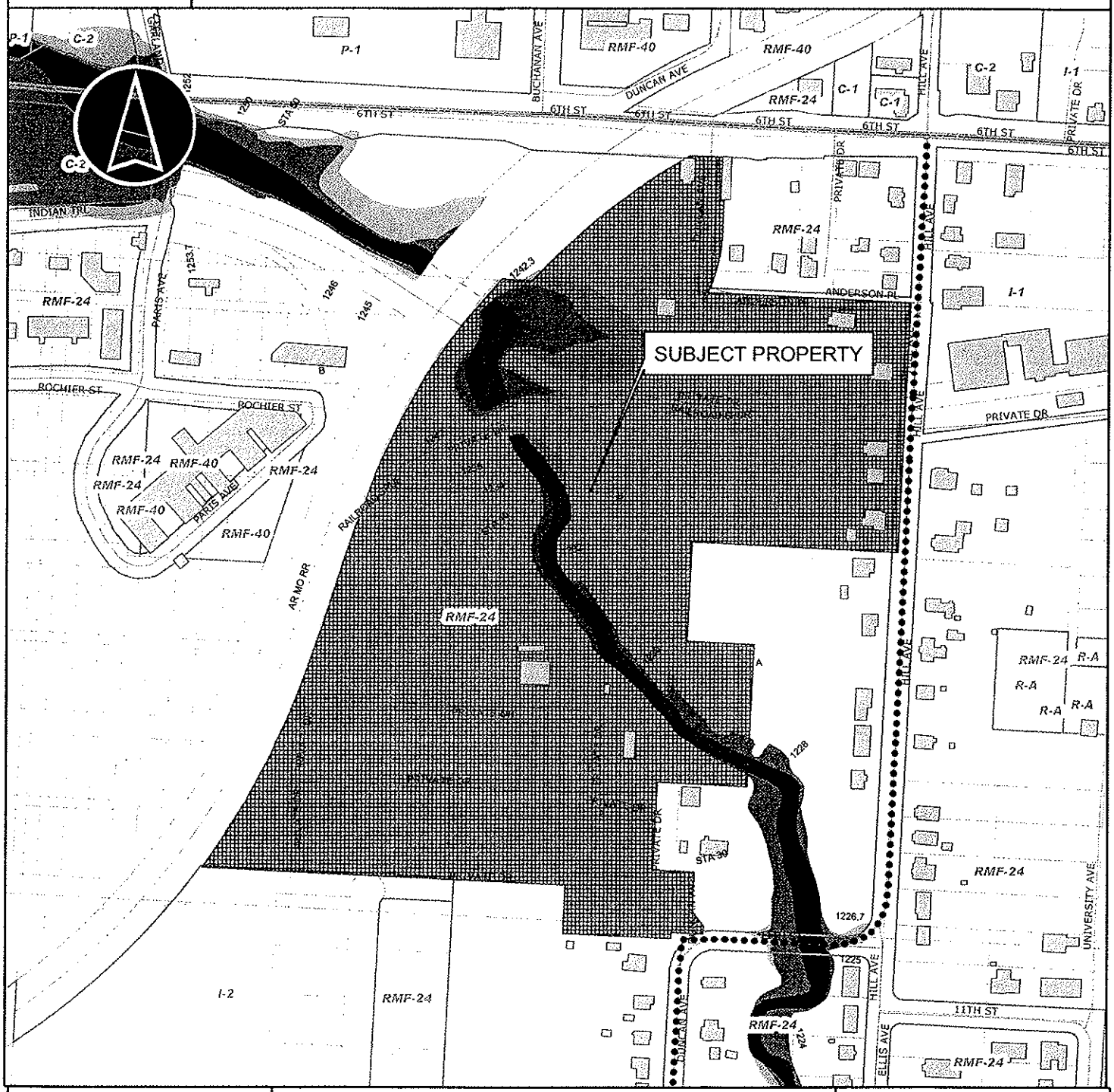
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

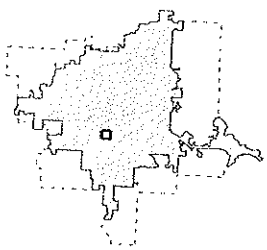
RPZD04-1307

Close Up View

ASPEN RIDGE



Overview



Legend

RPZD04-1307

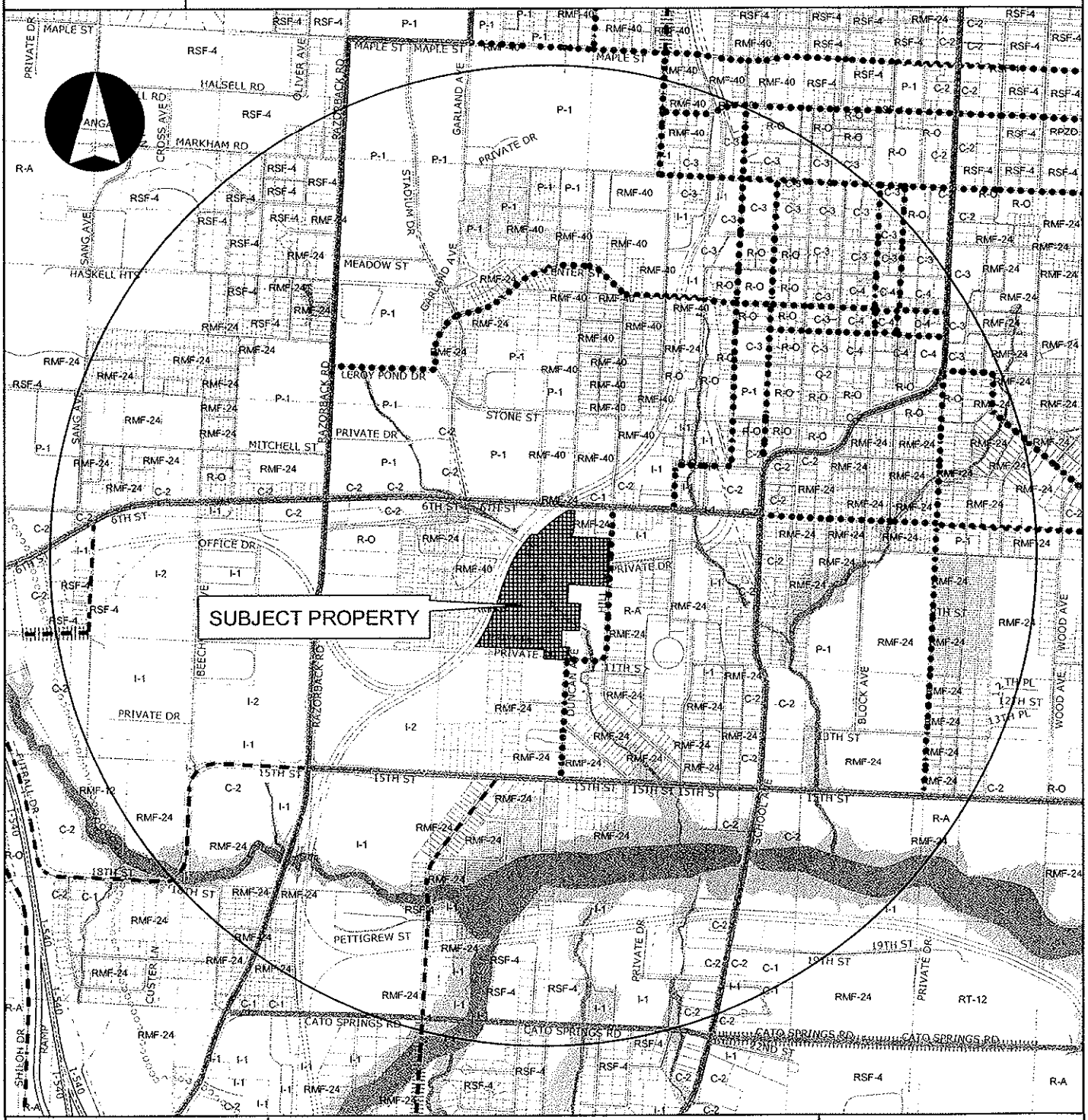
Overlay District
Master Street Plan
Master Street Plan
Freeway/Expressway
Principal Arterial
Minor Arterial
Collector
Historic Collector
FLOODWAY
100 YEAR
500 YEAR
LIMIT OF STUDY
BaseLine Profile
Fayetteville
Outside City

0 75 150 300 450 600 Feet

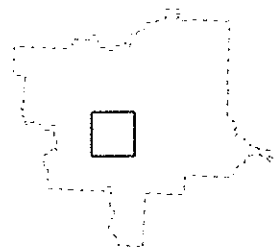
R-PZD04-1307

One Mile View

ASPEN RIDGE



Overview



Legend

Subject Property

R-PZD04-1307

Boundary

Planning Area

Overlay District

Outside City

Master Street Plan

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.05 0.1 0.2 0.3 0.4 Miles

ORDINANCE NO.____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE BOARDWALK PROPERTY OWNERS ASSOCIATION (POA) IN AN AMOUNT NOT TO EXCEED $69,674.00 TO DREDGE THE BOARDWALK POA POND.

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 this constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department: Sewer Plant Const Rev Division: Program:	Date Requested	Adjustment Number
2007		8-7-07	

Project or Item Added/Increased:

Increase WSIP project by $140,000.

Project or Item Deleted/Reduced:

No items reduced. This budget adjustment is necessary to recognize revenue in the amount of $140,000 from Ozarks Electric property purchase of four (4) acres of West Plant property.

Justification of this Increase:

The increase represents the proceeds from the City's land sale to Ozarks Electric Cooperative Corp. Ozarks Electric Cooperative is purchasing a four (4) acre section of the West Plant's property; specifically, a part of the Northeast Quarter of Section 14, Township 16 North, Range 31 West.

Justification of this Decrease:

No items reduced. This budget adjustment is necessary to recognize revenue in the amount of $140,000 from Ozarks Electric property purchase of four (4) acres of West Plant property.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Transfer to WWT Imp Cap	5400	5700	7602	48	140,000	06032	1
Contract services	4480	9480	5315	00	140,000	02133	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Gain/loss sale of assets	5400	0940	6881	02	140,000	06032	1
Trans from Water & Sewer	4480	0948	6602	40	140,000	02133	1

Approval Signatures

Requested By	Date
Budget Manager	8-1-07 Date
Department Director	1 Aug 07 Date
Finance & Internal Services Director	8/1/07 Date
Mayor	8/1/07 Date

Budget Office Use Only

Type: A B C D E

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

Pop's Old Time
Bar-B-Que Appeal

Additional Information
Added at Agenda Session
7/31/07 for the 8/7/07
Agenda

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2637, FOR APPROXIMATELY 0.64 ACRES, LOCATED AT 504 EAST 15TH STREET FROM R-O, RESIDENTIAL OFFICE TO C-1, NEIGHBORHOOD COMMERCIAL.

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-O, Residential Office to C-1, Neighborhood Commercial, as shown on Exhibits "A" and "B" 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 "C" 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:

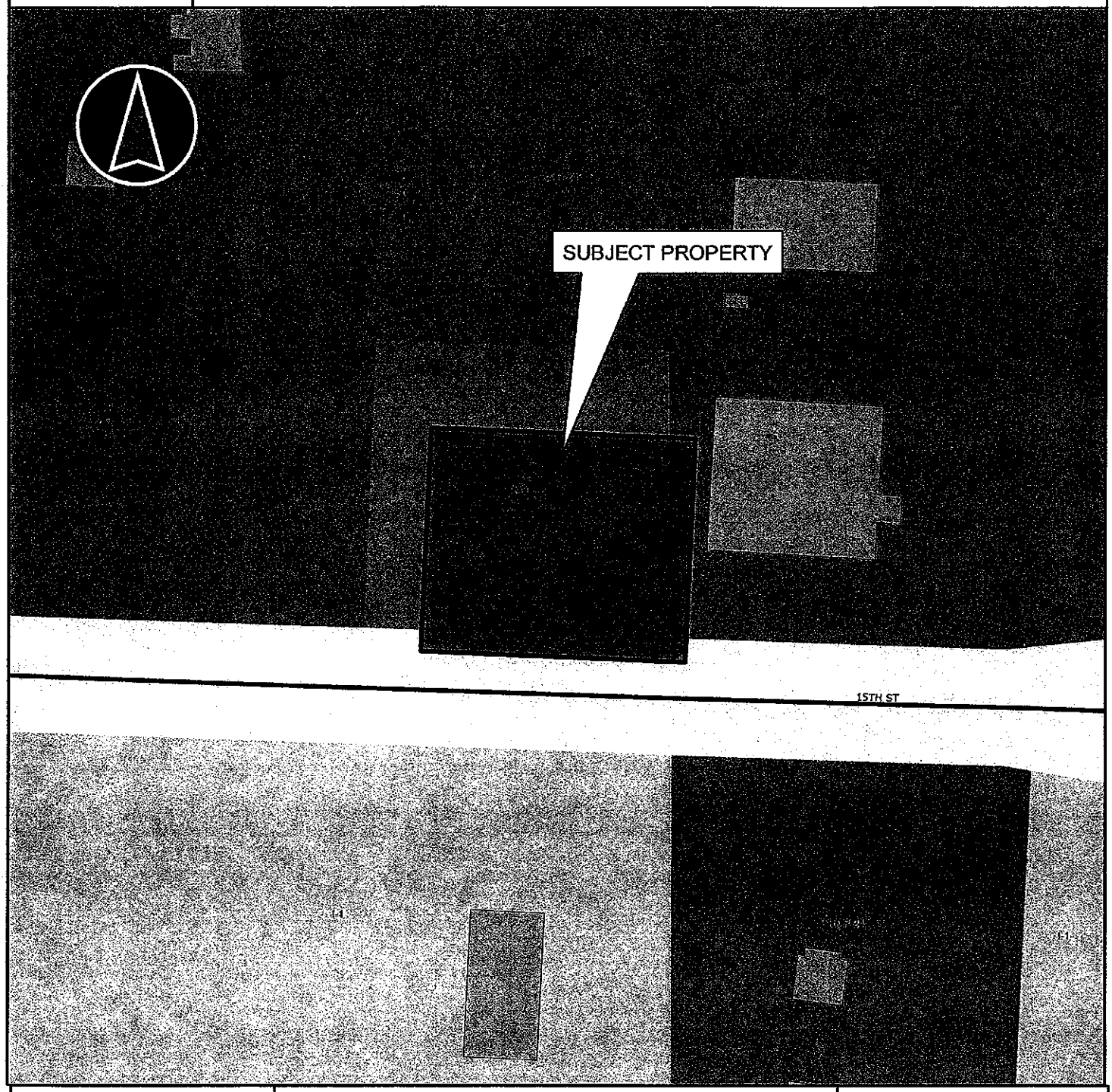
By: _____ By: _____
DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

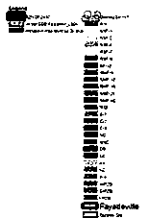
RZN07-2637

Close Up View

STARKS



Overview



0 37.5 75 150 225 300 Feet

EXHIBIT "B"
RZN 07-2637

A PART OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION TWENTY-TWO (22) IN TOWNSHIP SIXTEEN (16) NORTH, RANGE (30) WEST, DESCRIBED AS BEGINNING AT A POINT EAST 20.0 FEET AND NORTH 00 DEGREES 10 MINUTES 20 SECONDS EAST 40.0 FEET OF THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT; THENCE NORTH 00 DEGREES 10 MINUTES 20 SECONDS EAST 154.00 FEET, THENCE EAST 180.00 FEET, THENCE SOUTH 00 DEGREES 10 MINUTES 20 SECONDS WEST 154.00 FEET, THENCE WEST 180.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.636 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

Added at Agenda Session 7/31/07 for the 8/7/07 Agenda

901 North 47th Street, Suite 200
Rogers, Arkansas 72756

Crafton Tull Sparks
architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

July 24, 2007

City Clerk
City of Fayetteville
City Administration Building
113 West Mountain Street
Room 308
Fayetteville, Arkansas 72701

RE: Liberty Bank of Fayetteville
CTS Job No. 071019-00

Dear Sir or Madam:

I am writing this letter on behalf of my client Liberty Bank to appeal the decision by the Planning Commission on July 23, 2007 for project LSD 07-2574 condition of approval number 3. The Planning Commission did not approve item 3 (which was to allow a curb cut onto Joyce Boulevard) on a 4 to 4 split vote. The decision to deny this access was based on the opinion that adequate access was being provided for and per city code item 166.05, 7, d, iv which states a development can be denied based on "The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern. We demonstrated with empirical sight specific data that this was not the case and that in fact the turning movements for this drive off of Joyce would be as safe as the proposed signalized intersection at Joyce and Vantage. It should be noted that neither the staff nor the planning commissioners had any data to contradict our findings.

Secondly it was the commission's position that adequate access was being provided by a dedicated drive off of Vantage Drive and a private drive directly north of our site. In actuality, this is incorrect. After analyzing these drives it was determined that during the peak pm hour, when most of the customers will be visiting the bank, Vantage Drive southbound traffic will back up so far that both drives will be blocked by waiting traffic and it will be nearly impossible to enter the bank site except at the mercy of the opposing traffic. It should also be noted that our curb cut request onto Joyce Boulevard does not require any waivers or variances and fully complies with the City of Fayetteville codes and ordinances.

I have attached a drawing showing the curb cut that we are asking for as well as the numerical data showing the operation of the curb cut on Joyce Street. We also showed in our opinion what will happen to the drive off Vantage Drive during the pm peak hour. In addition I will show two videos to model at the council meeting the traffic patterns with and without the curb cut onto Joyce Boulevard.

If you should have any questions concerning this request please feel free to contact me at 479-636-4838.

Respectfully,
Crafton, Tull, Sparks & Associates, Inc.

Daniel P. Ellis

Daniel P. Ellis, P.E., CPESC
Vice President

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

Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour

PROJECTED TRAFFIC CONDITIONS / INTERSECTION / PEAK HR		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
			PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C	D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A						B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A		A		n/a

Projected Level-of-Service with Drive B at Vantage as Sole Access Point

PROJECTED TRAFFIC CONDITIONS / INTERSECTION / PEAK HR		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
			PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	E	B		B	C		C	C	D	D		C
PM	Vantage Drive and Drive B	SIGN	F		C				A	A		A		n/a

RESOLUTION NO. _____

A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF LARGE SCALE DEVELOPMENT 07-2574 FOR LIBERTY BANK BY MODIFYING CONDITION #3 AND ALLOWING THE BANK'S REQUESTED CURB CUT ON JOYCE BLVD.

WHEREAS, on July 23rd, 2007, the Fayetteville Planning Commission approved LSD 07-2574 (Liberty Bank) after denying the bank's request for a curb cut on Joyce Blvd.; and

WHEREAS, on July 24, 2007, the property owner/developer properly appealed this decision to the Fayetteville City Council.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the Liberty Bank's appeal of the Planning Commission's denial of the bank's request (by a 4 to 4 vote) for a curb cut on Joyce Blvd. should be granted such that LSD 07-2574 (Liberty Bank) is amended by modifying Condition of Approval #3 to allow a two way in and right turn only exit curb cut on Joyce Blvd. as shown on Exhibit A attached hereto. LSD 07-2574 remains fully approved with this one modification.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

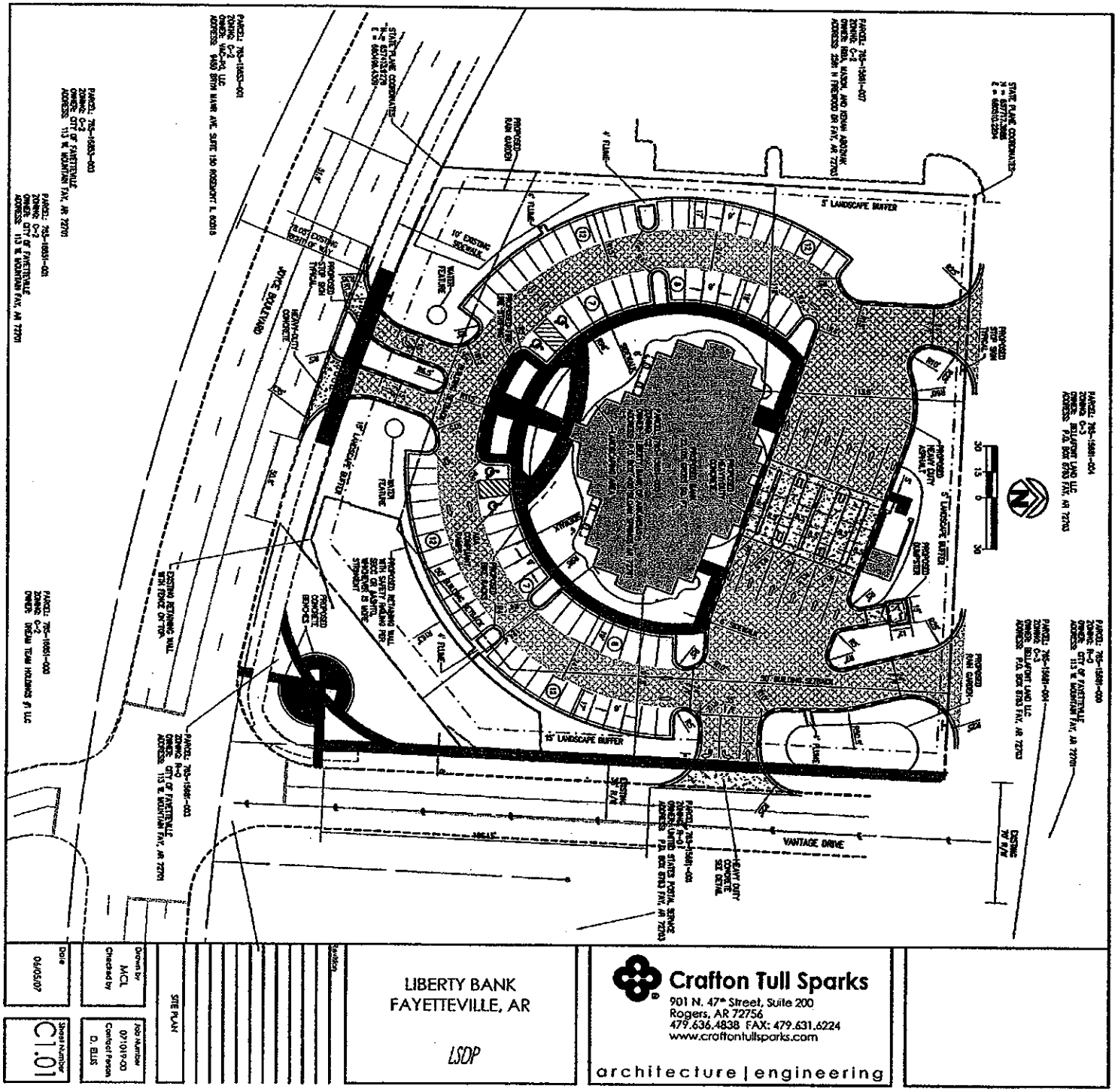

LIBERTY BANK
FAYETTEVILLE, AR
LSDP
Crafton Tull Sparks
901 N. 47th Street, Suite 200
Rogers, AR 72756
479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com
architecture | engineering
SITE PLAN
Date
06/05/07
Drawn by
MCL
Checked by
Job Number
07101900
Contact Person
D. ELLIS
Sheet Number
C1.01
VANTAGE DRIVE
JOYCE BOULEVARD
15' LANDSCAPE BUFFER
5' LANDSCAPE BUFFER
PROPOSED BUILDING
PROPOSED HEAVY DUTY ASPHALT
PROPOSED DUMPSTER
PROPOSED RAIN GARDEN
PROPOSED CONCRETE BLOCKS
PROPOSED RETAINING WALL WITH SAFETY HANDRAIL PER SECT. OF AASHTO WHERever is more STRINGENT
EXISTING RETAINING WALL WITH FENCE ON TOP
EXISTING 10' EASEMENT
EXISTING 70' R/W
HEAVY DUTY CONCRETE SEE DETAIL
PARCEL: 765-15551-004
ZONING: P-O
OWNER: BELLAPORT LAND LLC
ADDRESS: P.O. BOX 8763 FAY, AR 72703
PARCEL: 765-15551-000
ZONING: P-O
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-001
ZONING: C-2
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-003
ZONING: P-O
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-007
ZONING: C-2
OWNER: DALE WASSON AND VERNA ARDOINAK
ADDRESS: 2284 N FREDRICK DR FAY, AR 72703
PARCEL: 765-15551-001
ZONING: P-O
OWNER: UNITED STATES POSTAL SERVICE
ADDRESS: P.O. BOX 8763 FAY, AR 72703
PARCEL: 765-15553-003
ZONING: C-2
OWNER: MACO, LLC
ADDRESS: 14400 60TH MAIN AVE. SUITE 150 ROSEMONT IL 60018
PARCEL: 765-15553-001
ZONING: C-2
OWNER: CITY OF FAYETTEVILLE
ADDRESS: 113 W. MOUNTAIN FAY, AR 72701
PARCEL: 765-15551-002
ZONING: C-2
OWNER: DREAM TEAM HOLDINGS #1 LLC
STATE PLANE COORDINATES
N = 637135.5878
E = 1664114.5301
N = 637175.5888
E = 1664110.2204
N = 637124.5279
E = 1664114.5301

EXHIBIT
A

Added at Agenda Session 7/31/07 for the 8/7/07 agenda.
Liberty Bank
LSD 07-2574

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF August 07, 2007

FROM: Bobby Ferrell

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
LSD 07-2574 Liberty Bank Large Scale Development – Appeal for a curb cut

An appeal filed by the property owner's representative to contest the decision by the Planning Commission on July 23, 2007 to affirm a condition of approval of the subject large scale development requiring the removal of a curb cut from Joyce Blvd.

APPROVED FOR AGENDA:

Bobby Ferrell — 7/31/07
Alderman **Bobby Ferrell** — Date

Jeremy L. Pate — 07.31.07
Jeremy Pate — Date
Director of Current Planning

City Council Meeting of August 07, 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: July 30, 2007

Subject: Large Scale Development for Liberty Bank (LSD 07-2574)

RECOMMENDATION

Staff recommends denial of the applicant's appeal of the condition of approval #3 for LSD 07-2574 Liberty Bank, approved by the Planning Commission on July 23, 2007, and recommends the large scale develoment approval be affirmed as approved, with all conditions.

BACKGROUND

The subject property contains approximately 2.68 acres and is located at the northwest corner of Joyce Boulevard and Vantage Drive, just east and south of the Bellafont development. The applicant proposes to construct a two-story bank building containing a total 21,613 square feet with 76 parking spaces. The Planning Commission approved the large scale development subject to conditions of approval. The applicant is appealing condition of approval #3, which reads as follows:

> #3: Planning Commission determination of curb-cuts and appropriate locations. *Staff is not supportive of the proposed curb-cut onto Joyce Boulevard, finding that the additional turning movements created by the requested curb-cut will increase the potential for traffic conflicts on a highly traveled and high speed principal arterial street. As noted in Figure No. 8 in the submitted traffic study, a high number of vehicle turning movements will be created by the proposed curb-cut that will likely conflict with through traffic on Joyce and east bound traffic attempting to utilize the turning lane to access Vantage Drive. Sufficient access to serve the proposed development was planned and is available to the property via Vantage Drive (a Collector Street), which is signalized, and a private drive that connects from Vantage Drive to another signalized intersection at the entrance to Bellafont at Joyce Blvd. Please reference additional information submitted by the Engineering Division (memo dated July 19, 2007), along with the articles of reference.*

The Planning Commission determined in favor of staff's recommendation.

Staff recommended approval of the subject development proposal, however recommended denial of a direct curb-cut onto Joyce Boulevard. Staff finds that safe and adequate access is being provided to the property at three other points, and that the proposed 2-lane access to Joyce Blvd. would create a dangerous traffic condition in proximity to two planned and funded traffic signals, one of which is now operational.

The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to the Bellafont drive/Joyce signal achieves a high level of access to the subject property, and recommends removal of the access point to Joyce Blvd. The property has direct access to Vantage Drive to the east and to a private drive to the north, which was planned for shared access to this bank when the Bellafont development was approved. It is staff's opinion that an additional curb-cut in this location will contribute to a decrease in traffic safety for motorists and pedestrians in the area and will contribute to the degradation of the function of the principal arterial. It has been substantiated that poor access management results in a greater increase in traffic congestion and traffic accidents, as has recently been discussed pertaining to College Avenue. Please reference the attached supplemental materials within the staff report for more information.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this project, with all conditions as recommended by staff, including the removal of the curb-cut to Joyce Blvd. Commissioners cited traffic safety as the primary reason for denying the curb cut. A previous vote to retain the curb-cut failed with a 4-4-0 vote.

BUDGET IMPACT

None.

901 North 47th Street, Suite 200
Rogers, Arkansas 72756

479.636.4838 t 479.631.6224 f
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Crafton Tull Sparks
architecture | engineering

Birmingham
Conway
Little Rock
Oklahoma City
Rogers
Russellville
Tulsa
Wichita

July 24, 2007

City Clerk
City of Fayetteville
City Administration Building
113 West Mountain Street
Room 308
Fayetteville, Arkansas 72701

RE: Liberty Bank of Fayetteville
CTS Job No. 071019-00

Dear Sir or Madam:

I am writing this letter on behalf of my client Liberty Bank to appeal the decision by the Planning Commission on July 23, 2007 for project LSD 07-2574 condition of approval number 3. The Planning Commission did not approve item 3 (which was to allow a curb cut onto Joyce Boulevard) on a 4 to 4 split vote. The decision to deny this access was based on the opinion that adequate access was being provided for and per city code item 166.05, 7, d, iv which states a development can be denied based on "The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a dangerous traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern. We demonstrated with empirical sight specific data that this was not the case and that in fact the turning movements for this drive off of Joyce would be as safe as the proposed signalized intersection at Joyce and Vantage. It should be noted that neither the staff nor the planning commissioners had any data to contradict our findings.

Secondly it was the commission's position that adequate access was being provided by a dedicated drive off of Vantage Drive and a private drive directly north of our site. In actuality, this is incorrect. After analyzing these drives it was determined that during the peak pm hour, when most of the customers will be visiting the bank, Vantage Drive southbound traffic will back up so far that both drives will be blocked by waiting traffic and it will be nearly impossible to enter the bank site except at the mercy of the opposing traffic. It should also be noted that our curb cut request onto Joyce Boulevard does not require any waivers or variances and fully complies with the City of Fayetteville codes and ordinances.

I have attached a drawing showing the curb cut that we are asking for as well as the numerical data showing the operation of the curb cut on Joyce Street. We also showed in our opinion what will happen to the drive off Vantage Drive during the pm peak hour. In addition I will show two videos to model at the council meeting the traffic patterns with and without the curb cut onto Joyce Boulevard.

If you should have any questions concerning this request please feel free to contact me at 479-636-4838.

Respectfully,
Crafton, Tull, Sparks & Associates, Inc.

Daniel P. Ellis

Daniel P. Ellis, P.E., CPESC
Vice President

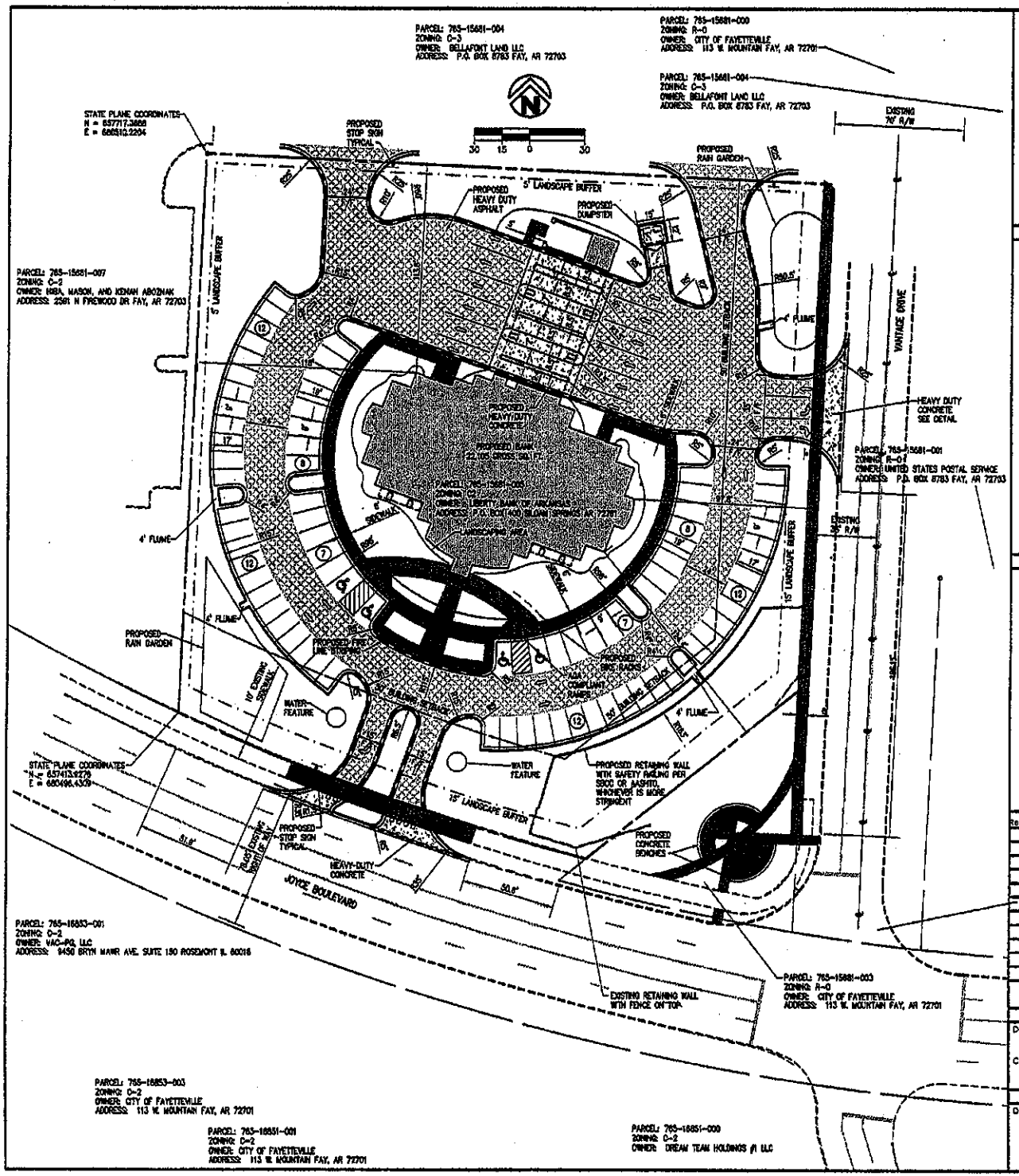
RECEIVED
JUL 26 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
PEAK HR	INTERSECTION		PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C	D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A						B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A		A		n/a

Projected Level-of-Service with Drive B at Vantage as Sole Access Point

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT						Overall Intersection
PEAK HR	INTERSECTION		PEAK HOUR - LEVEL OF SERVICE											
PM	Joyce Boulevard and Vantage Drive	SIGNAL	E	B		B	C		C	C	D	D		C
PM	Vantage Drive and Drive B	SIGN	F		C				A	A		A		n/a



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479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com
architecture | engineering

LIBERTY BANK
FAYETTEVILLE, AR
LSDP

Revision

SITE PLAN

Drawn by	Job Number
MCL	071019-00
Checked by	Contact Person
	D. ELLIS
Date	Sheet Number
06/05/07	C1.01

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Glenn E. Newman, Jr., P.E., Staff Engineer
DATE:	July 19, 2007
SUBJECT:	Liberty Bank Access Management

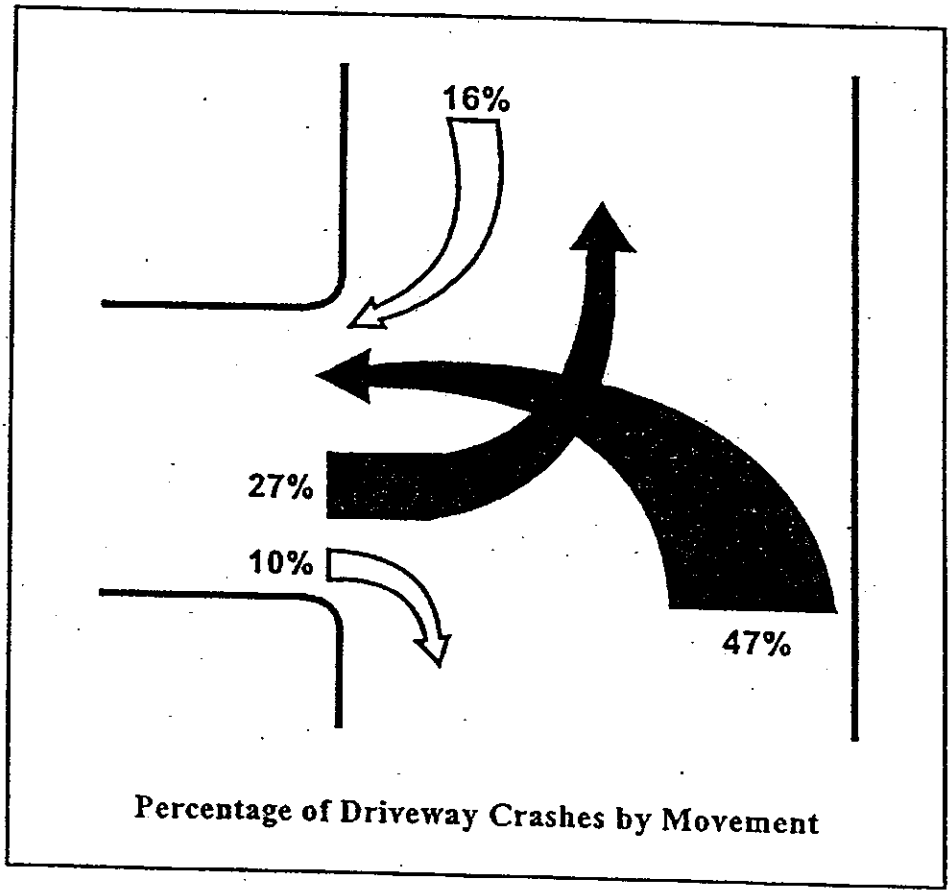
At the June 25th Planning Commission Meeting, engineering staff was asked to evaluate the "safety" of allowing a direct driveway access to Joyce Street for the Liberty Bank Project.

Addresses Left Turn Movements:
Based on research, left-turns are involved in a high proportion of crashes for access drives (47% ingress & 27% egress) as shown on the attached exhibit. The left turn maneuvers involve a heavier driver work load which increases the decision making process and possible driver error. Therefore, minimizing left-turn movements or reducing the driver work load can be effective in improving safety. This can be accomplished at a signalized intersection with a protected left turn arrow which is available at the corner of the property at Vantage and Joyce Street and/or at the intersection of Bellafont and Joyce Street (which provides internal connectivity to this site.) With the two signalized intersections within immediate proximity of this development, we recommend that the access point be denied for reasons stated above.

Addresses Access onto Arterial Roadways:
Access Management is the second reason for recommendation for denial of the driveway request. According to research, the cumulative affect of commercial driveways on to a roadway decreases the volume capacity and increases accidents on the thoroughfare. The lack of adequate access management and the proliferation of driveways is the greatest single factor behind the functional deterioration of arterial roadways. Joyce Street is classified as a principle arterial which primary purpose is to facilitate the movement of traffic, not access. With the anticipation of future development in the area and increase traffic volume on Joyce Street, we recommend that the three other points of access be used to service the site rather than contributing to decreasing the capacity of the principle arterial with another driveway when adequate safe access is readily available.

Addresses the Traffic Study Provided:
We have reviewed the latest Addendum to the traffic study prepared by Peters and Associates and acknowledge they have increased the traffic volumes to reflect the 2006 Bellefont Traffic Study prepared by Carter and Burgess. The report only includes trip generation numbers and level of service for the proposed access points. The report does NOT address the specific question asked by the planning commissioners regarding safety. Therefore for reasons stated above, the Engineering Division does not support the proposed direct access to Joyce Boulevard.

As a side note. The Bellafont Site Access Study recommends improving traffic flow along Joyce by relieving existing congestion and delays: One recommendation is to Realign/Combine/Eliminate drives and streets near the intersection of the frontage road to help eliminate conflicts.



Source: Reference (9)

Figure 2

ACCESS MANAGEMENT MATERIALS SUPPLEMENT

4. PRESERVING THE FUNCTIONAL INTEGRITY OF THE CIRCULATION SYSTEM

The link between an efficient transportation system and economic activity and land use is greatly recognized even though the linkage may not be well understood. The roadway system must provide both access to property and movement of goods and people. Traffic engineers have long recognized that the elimination of unexpected events, simplification of conflict areas and the separation of decision points simplifies the driving task. Since access management reduces the complexity of traffic conflicts as well as increases the spacing of events to which the driver must respond, it will result in improved traffic operations and reduced accident experience. Various research efforts have explored the general relationships between accidents and medial and marginal access control.

4.1 The Failure to Manage Access Results in High Crash Rates and Highway Obsolescence

The Failure to Manage Access is the Major Cause of Highway Obsolescence

With a notable exception of freeways, urban arterials and highways in the developing urban fringe commonly experience a deterioration in their ability to accommodate traffic in a safe and efficient manner as travel demand increases. This problem results from the requirement that the facility must serve the conflicting functions of providing for land access and vehicular movements. Solomon (2) reflected the observations of many engineers and planners when he stated:

> "When conventional highways are constructed on new rights-of-way, initially there are few commercial driveways and the safety record is good. As the highways get older, the traffic volume builds up, roadside businesses develop, more and more commercial driveways are cut, and the accident rate gradually increases."

Solomon concludes:

> "This demonstrates the importance of maintaining control of access when either two-lane or multi-lane highways are built on new locations. Increased numbers of either intersections or driveways alone will also increase the accident rate. Intersections should be restricted to those

essential for the highway, and the right (direct) access from abutting businesses should be severely limited."

McGuirk (3) further established the fact that accidents at access drives increase as both through-lane traffic volumes and driveway volumes increase. The problem has also been recognized in the following quote from the State Highway Access Code of Colorado (4):

> "The lack of adequate access management on the highway system and the proliferation of driveways and other access approaches is a major contributor to highway accidents and the greatest single factor behind the functional deterioration of highways in the state. As new access approaches are constructed and traffic signals erected, the speeds and capacity of the highway decrease, and congestion hazards to the traveling motorist increase."

Effective Access Management
• Reduces crashes by as much as 50% • Increases capacity 23-45% • Extends life of the highway • Consistent treatment of applicants for access permits • Protects investment in abutting property • Reduces travel time and delay by 40-60% • Decreases fuel consumption by 35% • Reduces vehicular emissions • Reduces transportation costs

Effective management of access location, control and design can result in :

- Improvement of the safety, public health and welfare – 50% or more of the traffic crashes on urban arterials are access related.

- Increase of capacity and reduction in congestion by controlling left and right turns, lateral friction, and speed of access and egress. Capacity can be increased by 25 - 45% with access control.

- Extension of the functional life of existing highways, by preserving or increasing their capacity, reducing the need for new capital construction to meet increasing system demands.

- Assurance of consistent and equitable treatment for all applicants for access permits.

- Protection of the economic viability of abutting properties and private investments in arterial corridors – congestion, delays and unsafe conditions will drive prospective clients and shoppers to other less congested locations.

- Reduction of travel time and delay, by 40-60% as a result of fewer stops, and smoother traffic flow.

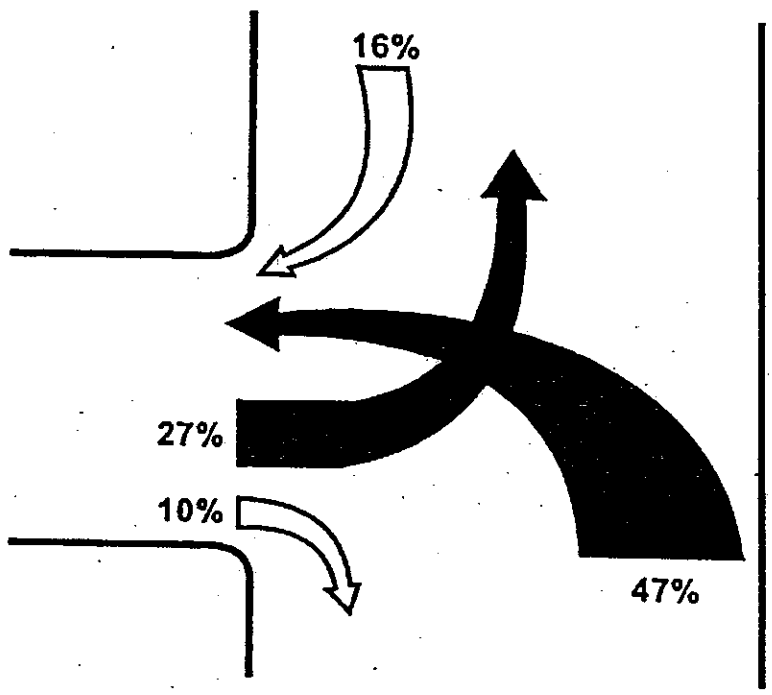
- Decrease in the amount of energy consumption by 35-50%, due to reduced stops and fewer deceleration and acceleration cycles.

- Reduction of the amount of vehicle emissions by reducing stops, deceleration and acceleration.

- Reduced costs of travelers, commercial shipments and services.

4.2 Left-Turns are Involved in a High Proportion of Crashes

Nearly three-fourths of the crashes which are access drive related involve left-turns. As illustrated in Figure 2, nearly one-half (47%) involve left-turn ingress maneuvers. Another 27% involve the left-turn egress maneuver. The left-turn maneuvers, especially left-turn ingress, involve a heavy driver work load which increases the difficulty of a driver seeing a pedestrian or bicyclist about to cross the access drive. Consequently, those access management techniques which minimize left-turns or reduce the driver work load can be expected to be especially effective in improving safety.



Percentage of Driveway Crashes by Movement

Source: Reference (9)

Figure 2

5. WHO BENEFITS FROM ACCESS MANAGEMENT?

Who Benefits from Access Management?

- Motorists
- Pedestrians and Bicyclists
- Bus Riders
- Property Owners
- General Public

Motorists

- Fewer crashes
- Reduce travel time
- Reduce travel delay
- Lower fuel consumption

Pedestrians and Bicyclists

- Fewer driveways mean fewer conflicts with vehicles
- Pedestrian refuge in median
- Fewer pedestrian and cyclist deaths and injuries

Bus Riders

- Reduce travel time
- Improved schedule reliability

Property Owners

- Preserves private investment
- Limits through traffic in residential areas

General Public

- Helps stabilize land use patterns
- Encourages coordination of land use and transportation decisions
- Preserves the public investment in major thoroughfares
- Fewer deaths and injuries resulting from vehicular crashes and vehicular – pedestrian/cyclist crashes
- Reduced loss in property damage
- Reduce vehicular emissions
- Supports and helps maintain livable communities

Exhibit 74
JOINT AND CROSS ACCESS PROVIDES DRIVERS WITH BETTER LEFT TURN ABILITY

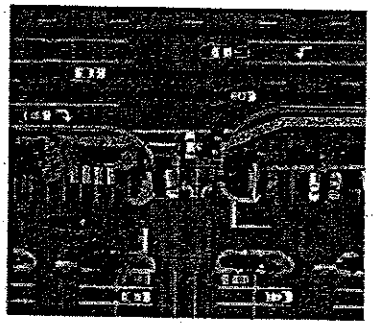
Getting people to signals for left turns across high volume roads is critical!

Interconnected developments give customers and deliveries more options, especially for safe left turns.

It is easier to provide cross and joint access if it is planned at the beginning of a development process. At that time you will have the ability to layout access systems and allow good separation between these accesses. Many local governments have already addressed these issues in their land development regulations by providing requirements for joint and cross access with large neighboring developments and small corner out parcels.

There are some challenges associated with joint and cross access in retrofit situations. In these situations you are usually dealing with a group of small shallow land parcels where joint access has never been considered in the past. One of the major problems associated with producing new joint and cross access is that the cross access points are often close to the driveway entrances. This proximity may prevent having adequate driveway depth (*See* **Chapter 6 Driveway length**). In retrofit situations you should consider the volume of traffic using these driveway entrances and exits and the volume of traffic crossing close by to determine whether these situations with a relatively shallow driveway depth will cause an internal traffic circulation difficulty. Signing and landscaping may also help in these tighter situations on cross access in retrofit situations.

Exhibit 75
DRIVEWAY LENGTH



Fayetteville
ARKANSAS

PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Glenn Newman, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 18, 2007~~ *Updated July 25, 2007*

LSD 07-2574: Large Scale Development (LIBERTY BANK, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for 21,613 s.f. bank with associated parking.

Planner: Jesse Fulcher

Findings:

Background: The subject development proposal was heard by the Subdivision Committee on May 31, 2007. The request was tabled by the Subdivision Committee to allow the applicant additional time to work with City staff regarding a landscape waiver along the east property line and a proposed 4-lane access onto Joyce Boulevard. Since the previous review, the applicant has revised the site plan to provide all required landscaping and has modified the curb-cut onto Joyce Blvd. to restrict left turns out of the development.

The Subdivision Committee reviewed the project again on June 11, 2007. The discussion centered on the appropriateness of the curb-cut onto Joyce Boulevard and was forwarded to the full Planning Commission by a vote of 3-0-0. Staff has included minutes from both Subdivision Committee meetings.

The Planning Commission reviewed the project on June 25, 2007 and the appropriateness of the curb-cut onto Joyce Boulevard was discussed at length. Additionally, the Planning Commission requested an updated landscape plan that considered the large drainage feature on the southeast corner of the property. Ultimately, the proposal was tabled to allow the applicant time to update the traffic study based on comments voiced by the Planning Commissioners, and to specifically address safety issues with the proposed access to Joyce Blvd. An updated landscape plan and traffic study has been submitted for review. Staff has included minutes from the Planning Commission meeting along with a memo from the Engineering Division describing staff's rationale for its recommendation to remove the curb-cut from Joyce Blvd.

Property: The subject property contains approximately 2.68 acres and is located at the northwest corner of Joyce Boulevard and Vantage Drive, just east of the Bellafont development.

Proposal: The applicant proposes to construct a two-story bank building containing a total 21,613 square feet with 76 parking spaces, which meets city codes for parking ratios.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Bellafont	C-3
South	Bank	C-2
East	Post Office	R-O
West	Bellafont	C-2

Right-of-way Dedication: Right-of-way shall be dedicated 55' from centerline for Joyce Boulevard (Principal Arterial) and 35' from centerline for Vantage Drive (Collector Street).
Street Improvements: A 6' sidewalk is to be constructed along Vantage Drive and a 10' sidewalk/trail is to be constructed along Joyce Boulevard.

Water/Sewer: The site is currently served by water and sewer.

Tree Preservation: Existing Canopy: 0.0%
Preserved Canopy: 0.0%
Required Canopy: 0.0%
Mitigation: Not required

Access/Connectivity: The subject property has a high level of access and street connectivity (reference Bellafont Master Plan). Access is currently proposed as follows: 1) One access from Vantage Drive, a Collector Street to the east; 2) Two access drives from the private street constructed as part of Bellafont to the north; and 3) a 1-lane ingress and 1-lane egress from Joyce Boulevard. Staff is supportive of all access points as proposed, with the exception of the access to Joyce Blvd. In 2004, when the subject tract was split out from a larger property, staff expressed concerns with the access to the property, and stated that with development, access to both Vantage and Joyce would need to be evaluated to ensure safe access and traffic movements north and west of the future signalized intersection of Vantage and Joyce. Additionally, during the master plan development of Bellafont, a large mixed-use development to the west, north and east of this property, access to the Liberty Bank site was planned by way of the private drive to the north, in an effort to reduce or eliminate additional curb-cuts to Joyce Blvd., a Principal Arterial. At this time, staff finds that the proposed 2-lane access to Joyce Blvd. would create a dangerous traffic condition in proximity to two planned and funded traffic signals, on of which is now operational. The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to Bellafont drive/Joyce signal achieves a high level of access to the subject property, and recommends removal of the access point to Joyce Blvd. It is staff's opinion that an additional curb-cut in this location will decrease traffic safety for motorists and pedestrians in the area.

Traffic Study: The traffic study performed for the subject development was undertaken to evaluate existing vehicular traffic flow and traffic volume, and to determine the impact of the traffic generated by the development on current conditions with respect to ingress and egress. These quantitative measurements were then used to calculate the level of service for pre- and post-development. However, the level of service is not an assessment of traffic safety. Staff finds that the level of service is adequate with the removal of the left-hand turn out of the development; however, staff's concerns are with traffic safety in terms of traffic volume, traffic speeds, visibility of vehicles entering and existing Joyce Blvd., the potential for vehicular conflicts within the center turn lane in close proximity to a signalized intersection, and the potential for vehicular/pedestrian conflicts along the 10' wide multi-use trail.

The original traffic study did not take into consideration additional traffic created by approved developments in the vicinity of the subject property. Accordingly, the applicant has resubmitted the traffic study with traffic generation data that was provided by a previous traffic study conducted as part of the Bellafont development. When comparing the original and the updated projected traffic conditions, it is apparent that the level of service has decreased. This is not solely due to the vehicle trips expected from the proposed development, but rather the overall increase in vehicle trips produced by multiple developments in the area. As the areas along Joyce Boulevard continue to develop and the City's population continues to grow, the level of service along Joyce Boulevard will continue to decrease. In staff's opinion, effective access management practices will increase capacity and ultimately prolong the life of our road systems. As noted with the previous traffic study conducted for this area, one recommendation made by that traffic engineer to improve traffic flow along Joyce Blvd. is to realign/combine/eliminate drives and streets near the frontage road intersection to help eliminate conflicts.

Recommendation: Staff recommends approval of **LSD 07-2574** with the following conditions:

Conditions of Approval:

1. Planning Commission determination of compliance with Commercial Design Standards. *Staff recommends approval of the proposed elevations, finding that the elevations submitted meet the criteria set forth for commercial design standards.*

   6/25/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED BUILDING ELEVATIONS.

   7/23/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED BUILDING ELEVATIONS.

2. Planning Commission determination of street improvements. *Staff recommends that a 10' sidewalk be constructed at the Master Street Plan right-of-way along Joyce Boulevard and a 6' sidewalk along Vantage Drive. The sidewalk along Vantage Drive shall be located within a pedestrian access easement as it is located outside of the right-of-way to match the sidewalk constructed as part of the Bellafont development.*

   6/25/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

   7/23/07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

3. Planning Commission determination of curb-cuts and appropriate locations. *Staff is not supportive of the proposed curb-cut onto Joyce Boulevard, finding that the additional turning movements created by the requested curb-cut will increase the potential for traffic conflicts on a highly traveled and high speed principal arterial street. As noted in Figure No. 8 in the submitted traffic study, a high number of vehicle turning movements will be created by the proposed curb-cut that will likely conflict with through traffic on Joyce and east bound traffic attempting to utilize the turning lane to access Vantage Drive. Sufficient access to serve the proposed development was planned and is available to the property via Vantage Drive (a Collector Street), which will soon be signalized, and a private drive that connects from Vantage Drive to another signalized intersection at the entrance to Bellafont at Joyce Blvd. Please reference additional information submitted by the Engineering Division (memo dated*

July 19, 2007), along with the articles of reference.

6/25/07: ITEM TABLED. NO DETERMINATION BY THE PLANNING COMMISSION.

7/23/07: THE MOTION TO APPROVE THE CURB-CUT ONTO JOYCE BLVD. FAILED BY A VOTE OF 4-4-0.

4. The project is located within Mud Creek bridge assessment area. Based on the rational nexus calculation, the developer shall be responsible for paying $50,232.00 to the City of Fayetteville for delayed off-site improvements for the construction of a bridge over Mud Creek prior to building permit approval. See attached memo from Engineering Department.

5. The applicant shall obtain written permission from the adjacent property owner (City of Fayetteville) to construct off-site improvements.

6. The signs for the Liberty Bank and Bellafont developments shall be removed from the property owned by the City of Fayetteville and shall be relocated to each of the respective properties, as off-site signs are prohibited in the City of Fayetteville. Real estate signs are limited to 8 sq. ft. for residential office zoning districts and 32 sq. ft. for commercial zoning districts, and shall be located at least 10' from the street.

7. Street lights are required at every intersection and with maximum separation of one per 300' on all surrounding streets and shall be installed prior to issuance of a Certificate of Occupancy.

8. Right-of-way dedication in the amount of 55' from centerline for Joyce Blvd. and 35' from centerline for Vantage Dr. shall be dedicated by easement plat.

9. Large scale development approval does not assure sign permit approval. All proposed signs shall be permitted separately from the large scale development proposal by a Sign Permit application and Certificate of Zoning Compliance. Additionally, all flags shall be reviewed for compliance with Chapter 174 Signs prior to installation.

10. All water/landscape features shall be reviewed for compliance with building setbacks if applicable and location in relation to utility lines and easements.

11. The following revision shall be made to the site plan prior to building permit:

    a. Update the parking table to reflect a total of 78 parking stalls.
    b. Update the parking table to reflect a parking ratio of 1 space/200 sq. ft. of bank area and 1 space/300 sq. ft. of office area, as referenced in the traffic study.
    c. Shift the tree islands on the east and west sides of the property, so that there are no more than 12 consecutive spaces.

12. Show all utilities and easements on the landscape plan and take into consideration the location of the street/parking lot lights.

13. At the time of construction drawings the landscape plan must be stamped by a licensed landscape architect.

14. The applicant shall comply with and/or address all comments listed in the attached memos from the Engineering Division, prior to revisions submittal for Planning Commission.

15. The applicant shall comply with and/or address all comments listed in the attached memos from the Urban Forester, prior to revision submittal for Planning Commission

Standard conditions of approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

18. All exterior lights shall comply with the City lighting ordinance. Manufacturer's cut-sheets are required for review and approval prior to issuance of a building permit.

19. Trash enclosures shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building. A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit.** Any additional dumpsters located on site shall be screened from the right-of-way

20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**

21. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Any proposed signs shall be permitted by a separate sign permit application prior to installation.

22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.

23. Large scale development shall be valid for one calendar year.

24. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

25. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    c. Separate easement plat for this project that shall include the tree preservation area and

all utility easements.

d. Project Disk with all final revisions
e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
f. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Additional conditions: _____

Planning Commission Action: √ Approved ☐ Denied ☐ Tabled

Meeting Date: **July 23, 2007**

Motion: Graves
Second: Myers
Vote: 8-0-0 (Motion to approve as recommended by staff)

Comments: _____

The **"Conditions of Approval"** listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

_____ _____
Signature Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701
ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Jesse Fulcher, Planner Date: June 12, 2007

From: Glenn E. Newman, Jr., P.E., Staff Engineer

Re: Plat Review Comments (June 14, 2007 Subdivision Committee Meeting)

Development: **Liberty Bank of Arkansas – LSD – 07-2574**

Engineer: **Crafton, Tull, Sparks, & Associates**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. A floodplain development permit is required for any work done within the 100-yr floodplain.
3. Elevation certificates will be required prior to building permit for each of the structures.
4. Prior to building permit, bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
5. This project is located in the assessment area for the future bridge over Mud Creek.
6. Provide a pedestrian access easement for the sidewalk located along Vantage Drive
7. Remove driveway access from Joyce Street.
8. If the driveway access from Joyce is not eliminated, the runoff must be captured before entering the right of way or the capacity and spread of the downstream inlets must be analyzed. Downstream improvements may be required.
9. Remove the proposed water feature from the proposed 20 ft UE along Joyce.
10. Remove truncated domes and ramps from driveway approaches.
11. Construct all driveways to City of Fayetteville's Commercial Driveway Standards. The sidewalk shall be continuous through driveways with a maximum of 2% cross slope and elevated 2% above top of theoretical curb. Remove lines representing curbs through the sidewalk section (in the driveway) from the drawing. Driveway approaches shall be constructed of Portland Cement Concrete with a broom finish.
12. Provide a drainage easement for the existing drainage ditch on the southeast corner of the property.
13. Provide written permission from the property owner to the west to grade within 5 ft of the property line.

14. Any retaining wall more than four feet in height shall be designed by a registered professional engineer and shall be field inspected by the design engineer.
15. Provide a minimum 20 ft Utility Easement for the proposed water main along Vantage, at least 10 ft from the water line.
16. Sanitary sewer service for commercial buildings and/or 4 plex or greater shall connect to the sanitary sewer main with a manhole.
17. Do not cross the existing drainage channel at the south east corner of the property to make the sanitary sewer service. Connect to the new sanitary sewer system north of the west driveway in the Bellafont Development (Manhole 1B elev 1205.16) as shown on the attached drawing.
18. Add an inlet in place of the 4 ft flume and pipe through rather than over the retaining wall.
19. Inlet and pipe sizing will be reviewed at the time construction drawings are submitted.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Glenn E. Newman, Jr., P.E., Staff Engineer
DATE:	May 30, 2007
SUBJECT:	Liberty Bank Bridge Assessment

The following is the Engineering Division's cost estimate for the **Mud Creek** Bridge assessment:

BRIDGE OVER MUD CREEK:

The following is a rational nexus calculation for this offsite improvement:

Approximate **Vantage** Road Bridge dimensions:
Length – 150 L.F.; Width – 56'; Surface Area of Decking – 8,400 s.f.

Projected Traffic from development – 2,467 (From Traffic Study)
Assume 33% of vehicle trips will use the intersection of Vantage/Joyce – 822 vpd
Assume 33% of vehicles using this intersection will use the bridge – 274 vpd
Collector Street traffic capacity = 6,000 vpd
% Traffic from development =4.6%

Mud Creek Bridge Costs:
8,400 s.f.($130.00/s.f.) = $1,092,000

Liberty Bank Percentage of Costs:
0.046($1,092,000.00) =$50,232.00

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew
Date: 6/13/07 4:01PM
Subject: Subdivision Committee 6-14-07

LSD 07-2574 (Liberty Bank of Arkansas) - Dumpster enclosure location okay, but cannot determine size of enclosure. Please make enclosure 15' wide and 12' deep and note on plans.

~~LSD 07-2552 (The Mill @ West End) - 30' x 12' enclosure on northwest corner still not rotated to avoid curb in front of enclosure. Please rotate enclosure so curb is not a factor in collection by Solid Waste Vehicles.~~

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

Fayetteville
ARKANSAS

PC Meeting of July 23, 2007

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

LANDSCAPE REVIEW FORM

To: **Crafton, Tull, Sparks & Associates**

From: **Sarah K. Patterson, Urban Forester**

Date: **July 19, 2007**

ITEM #: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

Applicable Requirements:

Y	**Site Development & Parking Lot Standards**
NA	**I-540 Design Overlay**
Y	**Street Tree Planting Standards**
NA	**Stormwater Facilities**

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
N	*Y*	**Irrigation** *notes either automatic or hose bib*
Y	*Y*	**Species of plant material identified**
Y	*Y*	**Size of plant material at time of installation indicated**
N	*Y*	**Soil amendments** *notes include that soil is amended and sod removed*
N	*Y*	**Mulch** *notes indicate organic mulching around trees and within landscape beds*
Y	*Y*	**Plans stamped by a licensed Landscape Architect**
N	*Y*	**Planting details according to Fayetteville's Landscape Manual**
		Site Development & Parking Lot Standards
Y	Y	**Wheel stops/ curbs**
Y	Y	**Interior landscaping** *Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces)* *Tree island (8' min. width/1 tree per 12 spaces)*

Preliminary Submittal	Final Submittal	
N	*Y*	**Perimeter landscaping** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		Overlay District Requirements
NA		**Greenspace adjacent to street R.O.W. (25' wide)**
NA		**Large street trees planted every 30' L.F. along R.O.W.**
NA		**25% of total site area left in greenspace (80% landscape)**
NA		**Parking lots and outdoor storage screened with landscaping**
		Street Tree Planting Standards *(time of F.P. or permit)*
NA		**Residential Subdivisions- 1 large species shade tree/ lot** *tree planted within R.O.W. if possible*
N	*Y*	**Nonresidential Subdivision- 1 large species shade tree/30 L.F.** *tree planted within 15-25' greenspace*
NA		**Urban Tree Wells-***urban streetscape only-10foot sidewalk*
NA		**Structural Soil-***if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan*
NA		**Timing of planting indicated on plans (subdivisions only)**
NA		**Written description of the method for tracking plantings**
		Stormwater Facilities *(time of F.P. or permit)*
NA		**1 deciduous or evergreen tree/ 3000 square feet**
NA		**4 large shrubs (3 gal) or small trees / 3000 square feet**
NA		**6 shrubs or grasses (1 gal) / 3000 square feet**
NA		**Ground cover unless seed or sod is specified**
NA		**50% of facility planted with grass or grass like plants**

Conditions of Approval:

1. **Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.**
2. **Under the new Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.**

PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Crafton, Tull, Sparks & Associates

From: Sarah K. Patterson, Urban Forester

Date: July 19, 2007

Subject: Technical Plat Review Comments

ITEM #: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

TREE PRESERVATION PLAN

1. A Tree Preservation Waiver has been submitted for this project as there are no trees on the site.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

125 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 575-8267
Fax(479)575-8202

PLANNING DIVISION

TREE PRESERVATION PLAN WAIVER FORM

Date: May 9, 2007

Project Name: Liberty Bank of Arkansas Fayetteville

Project Contact: James Parks

Location: Northwest corner of Joyce Blvd & Vantage Rd.

Reason for waiver:
There are no existing trees on the site.

JSP

Verification Submitted:

Signed by the Landscape Administrator:

Date:

Tree Mitigation Base Density/Off Site Alternatives

Crafton, Tull, Sparks & Associates, Inc.
architects, engineers, landscape architects, interior designers & surveyors

government
public works
parks & recreation
residential
commercial
transportation
industrial
sports
spiritual
education
health

April 18, 2007

Planning Commission:
City of Fayetteville
125 W. Mountain Street
Fayetteville, AR 72701

Dear Planning Commission:

This letter is to accompany the Large Scale Development application for the proposed Liberty Bank of Arkansas, located at the North West corner of Joyce Blvd. and Vantage Dr. in Fayetteville. This large scale development shall include the construction of a 21,613 S.F. bank and associated drives and parking area as well as a drive thru teller area. The area of the site is approximately 2.68 acres, all of which shall be disturbed during construction. For further details on the proposed development please refer to the Large Scale Development Plans and Drainage Report.

Sincerely,

James S. Parks, Jr., E.I.
Civil Engineer
Crafton, Tull, Sparks & Associates, Inc.

901 North 47th Street, Suite 200 • Rogers, Arkansas 72756 • phone: 479.636.4838 • fax: 479.631.6224
Birmingham | Little Rock | Oklahoma City | Rogers | Russellville | Tulsa | Wichita
www.craftontullsparks.com

Crafton, Tull, Sparks & Associates, Inc.
architects, engineers, landscape architects, interior designers & surveyors

government
public works
parks & recreation
residential
commercial
transportation
industrial
sports
spiritual
education
health

June 6, 2007

City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

RE: LSD 07-2574: Large Scale Development (Liberty Bank of Arkansas)

The above referenced project has been modified since the previous submittal to the City of Fayetteville. As a result of modifications made, a waiver for the landscape buffer is no longer necessary. Efforts were made to reduce the size of the parking lot so as to not encroach on the required landscape buffer. Presently all Landscape Buffers are present as required.

Recent modification to the Liberty Bank also included redesigning of the entrance drive onto Joyce Blvd. Upon reviewing the results of the Traffic Study performed by Peter & Associates, it was determined that a left out turn onto Joyce Blvd. might have a negative effect on the flowing of traffic on Joyce. Therefore, modifications were made to the entrance to remove the left-out turn. All other entrances and exits were shown to have a high level of service to deal efficiently with traffic volumes on Joyce Blvd.

Sincerely,

Matthew Castor

Matthew J. Castor
Civil Engineer, E.I., CPESC

901 North 47th Street, Suite 200 • Rogers, Arkansas 72756 • phone: 479.636.4838 • fax: 479.631.6224
Birmingham | Little Rock | Oklahoma City | Rogers | Russellville | Tulsa | Wichita
www.craftontullsparks.com

SUBDIVISION COMMITTEE MINUTES
MAY 31, 2007

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the request for the bank facility, and noted that there were two primary issues on the project to be discussed and decided. First, a greenspace waiver along Vantage Drive is being requested for a portion of the site. Staff is not recommending in favor of the waiver request, finding there are several options that should be pursued by the applicant to reduce or eliminate the need for the waiver request. These options were described. Secondly, staff is not supportive of the access to Joyce Blvd. as proposed. Reasons for this recommendation are outlined in the staff report; adequate access is provided to this site through three other points, and the increased turning movements onto and from Joyce in close proximity to Vantage is not advisable. Staff recommended forwarding the project to the full Planning Commission with these comments and recommendations.

No public comment was presented.

Matt Castor (applicant) presented the project for the applicant. Castor noted the access is central to the design of the site, and sets it apart from other banks. Castor described the traffic study that was conducted, which found levels of service A and B for most turning movements from the driveway, with the exception of the left-out, which was an F. Castor cited a traffic concern if the driveway was removed, because of excessive stacking from the drive-through. Castor offered to remove the left-out, and proposed to reduce the two-lane entrance to a one-lane entrance. The entry is the main focal point, and it is crucial to have access onto Joyce for the project. With regard to the landscape waiver, Castor discussed the circular design of the project reduces the ability to reduce parking stall width or length. Currently the project is at 39% greenspace, and enhancements to the area with benches, walkways, and a bio-retention facility is planned. He also questioned if the money-in-lieu assessment for Mud Creek Bridge was a negotiable fee.

Howard Hamilton (applicant), president of Liberty Bank, stated the entrance is critical to the bank to set it apart, and is important for aesthetic reasons.

Sarah Patterson, Urban Forester, stated she would like the opportunity to work with the applicant to see a reduced waiver or no waiver at all.

Matt Casey, Asst. City Engineer, explained the assessment for the Mud Creek Bridge, and that there was a memo explaining the methodology in the Committee's packet. The same methodology was used for other projects in the immediate area for Mud Creek Bridge.

Commissioner Trumbo asked if the assessment was negotiable.

Casey replied that the assessment is a recommendation to the Planning Commission for this project's

share of the Mud Creek Bridge, and the actual determination is entirely up to the Commission.

Commissioner Trumbo stated that in his years of service on the Planning Commission, he had not seen an assessment such as this negotiated.

Hamilton asked if the amount was set by ordinance, or if it is a recommendation by staff.

Jeremy Pate, Director of Current Planning, reiterated that the amount is a recommendation by staff to the Planning Commission, based on the established methodology. Pate further discussed the adjacent Bellafont development, which was required to pay for traffic signals, and improve all streets adjacent to Liberty Bank, including Vantage and Joyce, for which this project would normally be responsible.

Commissioner Graves stated he was more inclined to table the project. The offer by the developer to reduce the entry onto Joyce could result in a different recommendation by staff, who would need sufficient time to review it. Additional time would also allow the developer and staff to get together regarding the landscape issues and options there.

Pate stated that staff had actually sat down with the developer to discuss various options, and in consultation with the City Engineer and other staff, did not think staff could support Joyce Boulevard access for this project with the turning movements at the close traffic signal, more than sufficient access to other streets with less chance of conflict, and other issues concerning traffic safety.

Commissioner Ostner stated he agreed with staff on the curb cut issue, and discussed his concerns.

Commissioner Graves stated he appreciated staff's "on the fly" recommendation and comments, and is not prepared to recommend against staff's recommendation based on the information presented. He stated he is not prepared to make a finding against staff's recommendation if the project goes forward to the full Planning Commission.

Castor discussed peak hour traffic and how stacking in the turn lane would function properly with the proposed access to Joyce Boulevard.

Commissioner Trumbo discussed his experiences in West Fayetteville, near Steamboat Drive and Colorado Drive, and how there were no additional curb cuts onto Wedington in that vicinity. In his opinion, the traffic backs up because there is not enough access, and he disagrees with how it works, because traffic will cut across parking lots to get to other places. Trumbo stated he is not as concerned with access as others, and is not opposed to the curb cut.

Motion:
Commissioner Ostner made a motion to table the project. **Commissioner Graves** seconded the motion, and **Commissioner Trumbo** concurred. **The motion to table passed 3-0.**

All business being concluded, the meeting adjourned at 10.30 AM.

SUBDIVISION COMMITTEE MINUTES
JUNE 14, 2007

Old Business:

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the request for the bank facility, and noted that changes had been made from the previous meeting at which this item was discussed. The landscape waiver was not longer requested, for modifications had been made to the site plan to meet regulations. Secondly, the access drive onto Joyce Blvd. had been modified to remove the left egress potential, and now has a separated entrance drive for left-in, right-in, and right-out turning movements. Staff is not supportive of the access to Joyce Blvd. as proposed. Reasons for this recommendation are outlined in the staff report; adequate access is provided to this site through three other points, and the increased turning movements onto and from Joyce in close proximity to Vantage is not advisable. Staff recommended forwarding the project to the full Planning Commission with these comments and recommendations.

No public comment was presented.

James Parks (applicant) stated that he understood there was not a lot of support for the entry from Joyce Blvd., but asked to move forward to the full Planning Commission for a determination.

Howard Hamilton (applicant), president of Liberty Bank, stated the entrance is critical to the bank for aesthetics and appearance of the bank for the customers. He does not want customers to approach the bank from the back. Additionally, stacking onto Vantage Drive from cars in the drive-thru lanes was seen as a potential problem. He stated the development is doing a lot of things that aren't required, such as rain gardens and landscaping the city property at the corner of Vantage and Joyce.

Commissioner Graves stated he was on the previous Subdivision Committee that reviewed this project, and the amendments the applicants said they would make have been made. The project was tabled due to the curb cut on Joyce Blvd. and the landscape waiver. The applicant has removed the left-out lane, and decreased the number of lanes going in. His stated concern was that the Committee has a traffic study stating the curb cut will work and a staff recommendation to the contrary. There is no objective traffic information presented by staff. Additionally, if the only way in is from Vantage or the rear, this seems to conflict with the drive-thru as designed. Graves' inclination is to support the applicant, based on the traffic study. The only thing that was an issue at the last meeting was this item. Graves stated he was in favor of staff's calculations on the bridge assessment.

Commissioner Bryant asked about the culvert she saw on-site, if it is to be removed or landscaped with the project. She also commented that it is now down to the curb cut, and she is in favor of forwarding the project to the full Planning Commission for a review.

Commissioner Lack asked if the full turn lane on Joyce existed in front of the bank, and how far the curb cut is from Vantage.

Parks answered 220 feet, with stacking of 209 feet.

Commissioner Lack asked the applicant if he looked at removing the left turn in, for a right-in, right-out only movement, to keep people from crossing traffic. The issue is stacking for the turn onto Vantage conflicting with stacking for the turn into the bank site.

Parks stated that 209 feet of stacking is plenty of room.

Hamilton stated the traffic study said it would not be an issue.

Commissioner Lack asked Engineering staff to comment on the stacking, whether it was adequate or not.

Matt Casey, Asst. City Engineer, stated that the standard stacking distance is 100 feet, and that distance increases with volume of traffic. The 209 feet should be sufficient.

Commissioner Lack stated that answer made him more comfortable. He is not completely sold on the idea, but more comfortable with it.

Motion:
Commissioner Graves made a motion to forward the request with the conditions of approval as recommended by staff, but finding in favor of the proposed curb cut onto Joyce. **Commissioner Bryant seconded the motion. Commissioner Lack concurred, the motion passed with a vote of 3-0-0.**

PLANNING COMMISSION MINUTES
JUNE 25, 2007

New Business:

LSD 07-2574: Large Scale Development (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report. Fulcher described the issues with access that has been the subject of much discussion with this project. Safety concerns were not addressed with the traffic study, only levels of service. Staff is concerned with the addition of this curb cut to a heavily traveled street, when direct access to two signalized intersections is available to this site. Staff recommended approval of the project as presented, with the exception of the Joyce Blvd. curb cut. Staff is in favor of Commercial Design Standards, and described the street improvements, bridge assessment and all other conditions as described in the staff report.

Glenn Newman, Staff Engineer, advised no there were no disagreements with the traffic study and concurred with traffic safety concerns with the proposed curb cut.

No public comment was received.

James Parks (applicant) with CTSA advised there was proven to be plenty of stacking distance, an additional 10-15' for left turn movements into Liberty. Additionally, the project would be beautifying the corner.

Howard Hamilton (applicant) with Liberty Bank stated that Subdivision comments were significant. The traffic study indicated no problem with turning movements. He stated an example of how side streets can create even more issues. Additionally, drive-thru lanes are located on the back side of the building. The nice entry sets apart this bank from others; accessibility and visibility to front sets them apart.

Commissioner Graves stated he saw this twice at Subdivision Committee. At the first meeting, the development allowed a left turn onto Joyce, and other waivers were discussed. At the second meeting, the applicant had removed the left turn onto Joyce. In the interim, the applicants had gotten a traffic study. Stacking was the primary concern at the second meeting by staff. Engineering said stacking distance should be enough for the turn lane. Based on comments from Engineering and traffic study, and if the only way to get on-site was at the rear, it could create problems. Despite staff comments, the Subdivision Committee had recommended unanimously for the curb cut.

Commissioner Trumbo concurred with Commissioner Graves.

Commissioner Lack advised that he chaired the other Subdivision Committee meeting and still had reservations about the curb cut. He would like to hear what staff has to say, and is more concerned with the information presented now about the traffic study not addressing traffic safety.

Jeremy Pate, Director of Current Planning, discussed safety, level of service, and traffic studies in general. Pate read from the traffic study, which defines what level of service is. He also advised that when the 2004 lot split occurred that created this property, access was an issue. In 2006, when Bellafont was approved, access was required to be built for this site.

Commissioner Trumbo stated that he thought all traffic studies addressed safety.

Parks stated it wouldn't be ethical for an engineer to give a high level of service without taking into account safety.

Hamilton stated an A through F system would seem to account for safety.

Commissioner Ostner stated that he was not convinced it will be safe with a curve, a lot of traffic, and speed in the area.

Commissioner Anthes spoke about the visibility issue with the curve and hill east to west. A drainage structure with a railing was also impeding vision. Staff anticipated this would be the case and required a service drive. She stated she was for approving the project, and finding in favor of staff's recommendations.

Commissioner Graves advised that Subdivision Committee didn't have a tour, and that this was forwarded to the Planning Commission for a final determination.

Parks asked if the visibility issue was eastbound on Joyce.

Commissioner Anthes stated it was also westbound on Joyce, and anticipating the curb cut coming up.

Parks advised that the entry will be highly visible, and the traffic signal should slow traffic.

Commissioner Anthes stated if adequate access wasn't provided to this site, perhaps she would be willing to take a chance, but would err on side of safety because there is access to the site.

Commissioner Trumbo stated he didn't see safety concerns as others did.

Kit Williams, City Attorney, asked if a sight distance survey had been conducted for staff to make recommendations?

Newman stated that he had visited the site to look into these issues. A Principal Arterial limits access, places cars onto side streets; a Principal Arterial is designed to move traffic. Based on topography, he felt it was a concern.

Williams stated that if the concerns were that this is a safety issue the Planning Commissioners need further information that we don't have in front of us.

Pate stated the burden would be on applicant to provide more information; staff is evaluating what they have submitted.

Commissioner Anthes stated they don't always have hard and fast data. The experience on-site and long range plans for a Principal Arterial are both important to evaluate.

Commissioner Ostner stated the City Attorney's comments seem different than the way they were previously advised. Ostner stated they should rely on the City engineer's degree, experience, etc.

Williams stated if you were going to vote on safety issue, you should demand a traffic study. He stated he believes the City has the capability to conduct a traffic safety by Engineering. However, don't ask for a safety traffic study if it is going to be turned down based on other issues.

Commissioner Graves stated he could not remember another example of a large scale development where access was turned down if not for safety. The Planning Commission is still talking about some issue of safety. He stated if it is not safe, he won't support it, but he doesn't have information to make that decision. Graves stated he would like, before voting against the curb cut, more information. No evidence has been presented other than opinion. He would rather see real information other than anecdotal evidence.

Commissioner Lack advised he would echo Graves' comments. The only thing is safety. At this point he would have to depend on staff's recommendation.

Commissioner Winston asked if a lot of work was occurring on the corner. Is the guard rail being taken out?

Hamilton stated the rail is not going to be there, there will be a lot of landscaping.

Commissioner Winston stated he sees fountains, landscaping, entry, etc. on the plans. The entrance should be clearly delineated with building and landscaping. Winston stated if he were using the bank, he would probably use the rear entries.

Newman advised the handrail will remain for safety.

Commissioner Ostner questioned the riprap, landscaping plan inconsistencies. The landscaping is not flushed out yet.

The applicant and Commissioner discussed the plans' inconsistencies.

Commissioner Ostner stated on the issue of safety versus wanting a boulevard, safety is the issue. Has the applicant considered a traffic study with safety being the focus?

Parks stated he was not a traffic engineer.

Commissioner Ostner stated if a different package of a traffic study was presented, with safety being the focus, perhaps that could aid.

Williams asked the applicant that assuming safety is the issue, would you rather conduct another study, or see what the Planning Commission determines?

Hamilton stated a concept that is safe.

Commissioner Ostner stated he would make a motion to approve, but with staff's recommendation. Which would you prefer?

Hamilton asked to get clear definitions of what they would need to provide.

Commissioner Lack stated that he respected the applicant's desire to know what to provide, as well.

Pate indicated the information that would need to be provided would be that which has been discussed: sight distance lines, turning movements, traffic from future development, how the traffic signals affect the traffic, etc. Staff and the Planning Commission have looked at other situations in the recent past – large scale developments – such as Nelson's Crossing and Malco, and determined whether the curb cuts presented were safe or not, with or without a traffic study. In the case of Malco, it was also on Joyce Boulevard, near a signalized intersection, and it was denied. In the case of Nelson's Crossing, a right-in and right-out was permitted, but it has been proven to fail and is not safe.

Commissioner Lack stated that he would be looking for a scientific determination that this situation is safe.

Commissioner Anthes stated right-in and right-out don't function well in other situations.

Commissioner Lack asked if the traffic study showed that.

Commissioner Trumbo stated Nelson's Crossing and Malco, he could see curb cuts not in these locations. However he does not think disallowing curb cuts is necessarily the best case.

Commissioner Ostner stated he would like to see the study address actual vehicle speeds.

Parks stated it is not an engineer's responsibility to enforce the law.

Commissioner Ostner stated he understood that, but would like to see it as an option in the study. He asked staff how are traffic lights designed on arterials? Do they stop a lot of arterial traffic or side street traffic?

Newman stated that arterials should be for moving more traffic, typically that traffic already on the arterial.

Motion:

Commissioner Lack made a motion to table the item to July 09. **Commissioner Graves** seconded the motion.

Commissioner Trumbo asked if approved, can it be appealed?

Williams stated yes.

Commissioner Anthes asked if all other issues had been addressed, for the applicant's benefit, so that something else doesn't come up? Conditions?

Commissioner Winston stated he would like to see clarification on landscaping and handrails.

Commissioner Anthes stated that for the next meeting, a traffic study and an updated submittal on landscaping was needed. She stated she just wanted the applicant to understand this is moving forward.

Commissioner Ostner advised he is not partially approving.

Parks asked if they provide a strong argument, would they be approved?

Commissioner Anthes advised they can't answer that until they vote. Curb cuts are the issue.

Parks asked could we appeal to City Council?

Anthes answered yes.

Upon roll call, the motion to table passed 8-0-0.

PLANNING COMMISSION MINUTES
JULY 23, 2007

Old Business:

LSD 07-2574: (LIBERTY BANK OF ARKANSAS, 175): Submitted by CRAFTON, TULL, SPARKS & ASSOCIATES for property located at THE NW CORNER OF JOYCE BLVD AND VANTAGE DR. The property is zoned R-O, RESIDENTIAL OFFICE AND C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.68 acres. The request is for a 21,613 s.f. bank with associated parking.

Jesse Fulcher, Current Planner, gave the staff report, describing the background of the request, which included previous discussions regarding the proposed curb-cut onto Joyce Blvd. The request had been tabled by the Planning Commission on June 25, 2007 to allow the applicant additional time to evaluate the safety of the proposed curb-cut and to include projected traffic counts from adjacent developments that had been approved for development. Staff does not find in favor of the proposed curb-cut, finding that it may create a dangerous traffic condition in proximity to two planned and funded traffic signals. The proximity of the signals, with multiple turning movements, a vertical and horizontal curve in the road that reduces visibility, and traffic on Joyce Blvd. lead staff to the conclusion that the direct access to the Vantage/Joyce signal and indirect access to Bellafont drive/Joyce signal on the two roads adjacent to this property achieves a high level of access to the subject property that is safer for future users and the general public, and recommends removal of the access point to Joyce Blvd. It is staff's opinion that an additional curb-cut in this location will decrease traffic safety for motorists and pedestrians in the area, and will contribute to the degradation of the Principal Arterial, as identified in the memo and supplemental information provided by the Engineering Division.

Glen Newman, Staff Engineer, read a memo from the Engineering Department regarding the higher percentage of crashes associated with left turn movements, the use of a protected turn signals and the function of an arterial road to move traffic. He referenced the traffic safety data provided to the Commissioners as statistical evidence that additional curb cuts onto arterials degrade the function of the arterial, which leads to increased traffic congestion and danger.

No public comment received.

Greg Simmons, Peters and Associates, was asked by the applicant to review the access point onto Joyce Blvd. The study reflected all turning movements from the site except the left turn out onto Joyce Blvd., which has been removed from the proposal. The result was that the levels of service were sufficient. The previous traffic study conducted for the development had been amended to include the projected traffic conditions and although the level of service declined with the additional traffic numbers they were still acceptable. He will not dispute the high percentage of vehicle conflicts due to left turns, but the traffic signal at Vantage will create gaps in the traffic flow. Additionally, the drive onto Joyce Blvd. will alleviate some of the traffic at the signalized intersection (a computer simulation of the project traffic conditions was shown). The proposed curb-cut onto Joyce Blvd. will operate as safe as the signalized intersection because of gaps in traffic created by the signal. The driveway is crucial to the operation of a bank with drive-by traffic.

Howard Hamilton, Liberty Bank, reiterated the comments made by Mr. Simmons regarding the safety of the intersection, and stated that staff's position the last time was that the traffic was too fast, now the traffic is too slow, which is it?

Commissioner Anthes asked if the City has an access management policy.

Jeremy Pate, Director of Current Planning, stated that the City does have access management policies. He referenced the city-wide BWR study that identifies these policies and ordinances, some of which are included in Chapter 166, Development, of the Unified Development Code.

Newman read two sections from Chapter 166.08 referring to access management, which states that "Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes" and "there should be a minimum number of intersections."

Pate stated that the City continues to work on additional access management policies.

Simmons stated that by allowing the curb cut, this will improve the intersection by reducing the cars going through the intersection.

Commissioner Anthes asked if the driveway onto Joyce was the principal entrance to the project. There do no appear to be as many cars entering the site through this access point as others.

Commissioner Winston stated that a Principal Arterial section requires a median. If there were a median present, in front of the curb cut, there would be no question of left-turns. Has a median been considered?

Simmons replied no, a median has not been considered.

Pate stated that is correct, a median would alleviate the concerns of left-turns by providing the needed barrier. However, in this location, the curb cut is likely too close to the intersection and a median could potentially conflict with the stacking distance of the cars turning left off of Joyce onto Vantage.

Commissioner Myers stated that the right-in and right-out designs have not worked on other projects, and reflected on the Nelson's Crossing development, in which cars are using the right-in/right-out incorrectly, increasing traffic danger in the area. She stated she was reluctant to approve a curb cut that she feels is not in the best interest of traffic safety, in close proximity to the intersection. What is the primary access to the project?

Simmons stated more vehicles are projected on Joyce than on Vantage.

Hamilton stated that the Joyce Blvd. entrance was the designed as the primary entrance.

Commissioner Myres stated she was nervous about the access and traffic on Joyce, and can not

support the way it is currently designed.

Commissioner Graves asked if there was any type of waiver required for the proposed curb-cut.

Pate stated no, a waiver was not requested for the curb cut separation. The reason this is being called to question is that the that the safety of any curb-cut is a determination for the Planning Commission to make when they review a large scale development.

Commissioner Graves stated that staff's information regarding the safety of the curb-cut was general whereas the applicant has provided specific information regarding the safety of the curb-cut and that it meets all ordinance requirements. Traffic safety is a consideration for denial of the project, but at this time there has not been enough objective information provided by staff to deny the curb-cut, in his opinion.

Motion:

Commissioner Graves made a motion to approve the large scale development with all conditions of approval, which includes the allowance for the curb-cut onto Joyce Blvd. **Commissioner Winston** seconded the motion.

Commissioner Myers stated that she could not support the curb-cut, referenced in condition #3.

Commissioner Winston asked if the proposal included a left-turn out. Figure 8 in the traffic study still shows the left turn, but the site plans presented only show a right-in/right-out.

Simmons stated that a left turn out would be prohibited. Winston and Simmons discussed the different figures and plans submitted.

Discussion ensued regarding the motion and the outcome of the project if the motion to approve failed due to the inclusion of the curb-cut in the motion.

Commissioner Graves withdrew his motion for approval.

Motion:

Commissioner Graves made a motion to find in favor of condition #1, stating he would go through each of the required determinations one by one. **After discussion, the motion failed for lack of a second.**

Commissioner Anthes stated that she was in support of staff's recommendation finding that sufficient access was being provided to the site and that the driveway was not safe. The City has an established access management policy and ordinances, and the safety and efficiency of surrounding routes must be considered.

Motion:

Commissioner Antes made a motion to remove the Joyce Blvd. curb-cut, finding in favor of staff's recommendation on condition #3. **The motion failed for the lack of a second.**

Kit Williams, City Attorney, stated that the driveway should only be denied if the Planning Commission finds that it will create or compound a dangerous traffic condition, based on the Unified Development Code criteria for large scale developments.

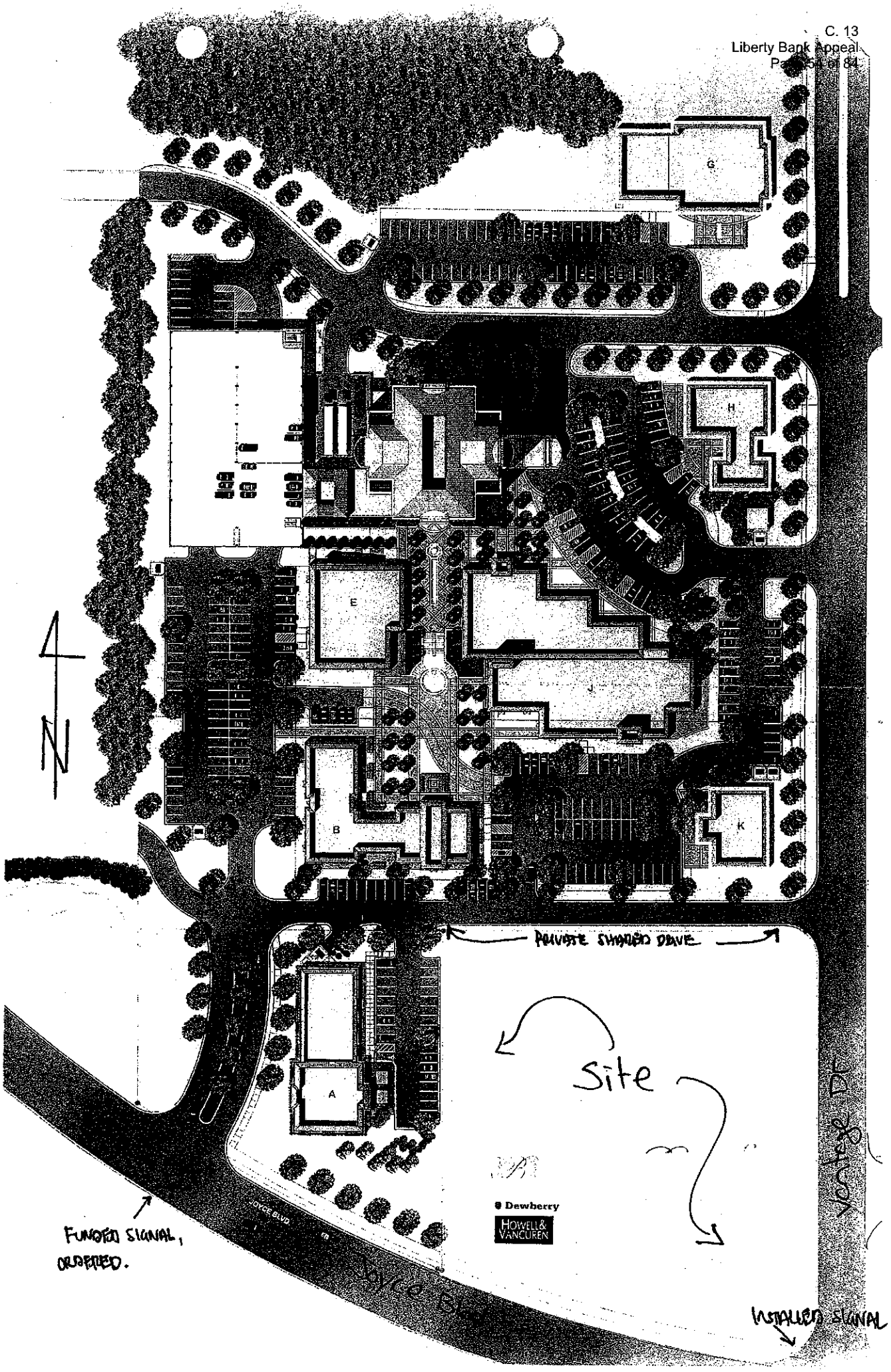
Commissioner Anthes stated that based on the expertise of staff and the information provided that left turns have a higher percentage of crash rates that this finding had been made, and the proposed curb cut would create a dangerous traffic condition.

Motion:

Commissioner Graves made a motion to approve condition of approval #3 as proposed by the applicant, which would allow the curb cut as indicated on the site plans. **Commissioner Winston** seconded the motion. **Upon roll call the motion failed 4-4-0, with Commissioners Bryant, Myres, Cabe and Anthes voting no.**

Motion:

Commissioner Graves made a motion to approve the project, finding in favor of all conditions of approval as recommended by staff. **Commission Myers** seconded the motion. **Upon roll call the motion passed 8-0-0.**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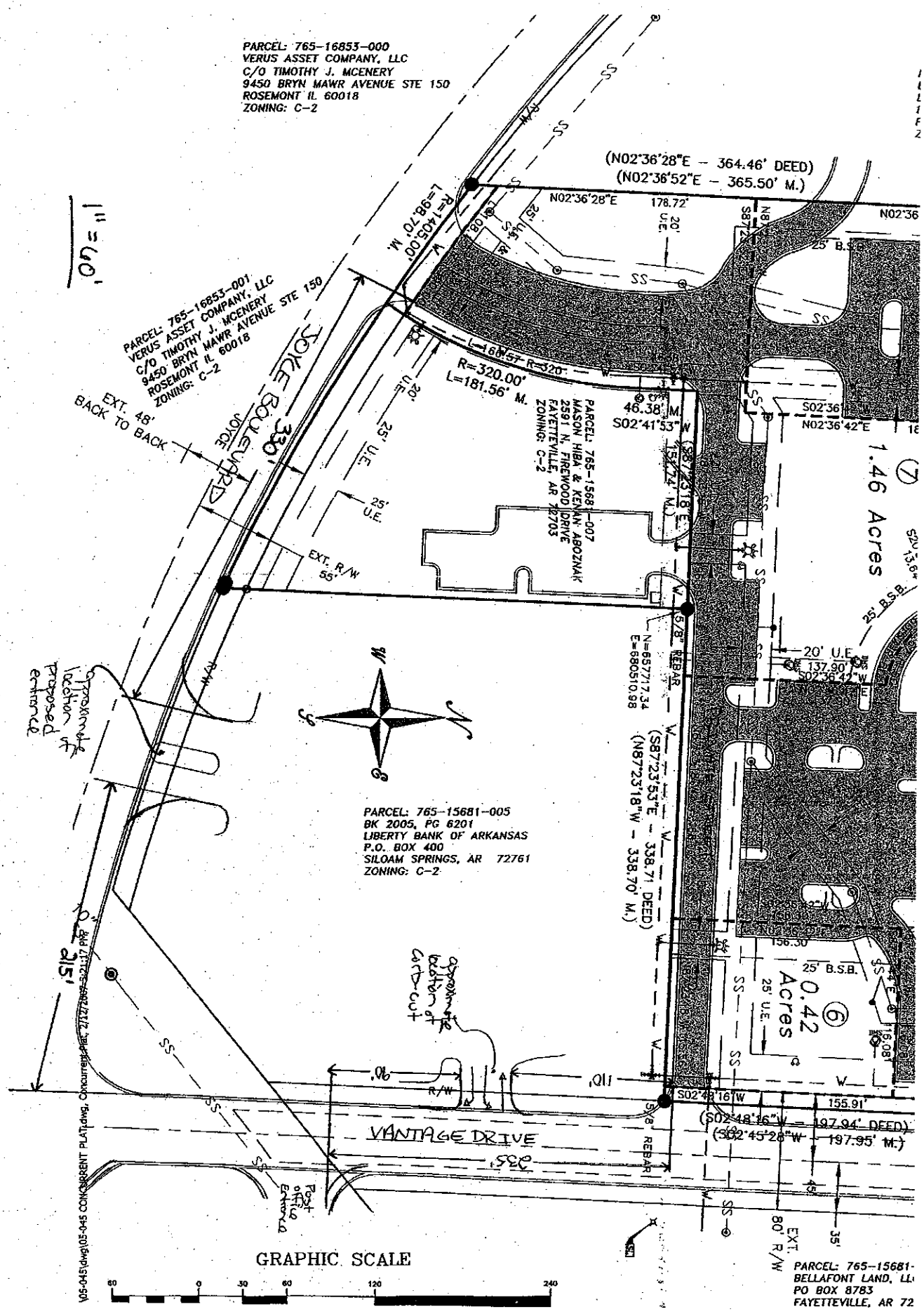
= SHARED

STREET TABLE

NAME	RIGHT-OF-WAY	STREET WIDTH	SIDEWALK	GREENSPACE
JOYCE	1[illegible] FT	60 FT	10	9 FT
STEARNS	[illegible]	28 FT	6	5 FT
VANTAGE	[illegible] FT	70 FT	6	14 FT



Traffic Study

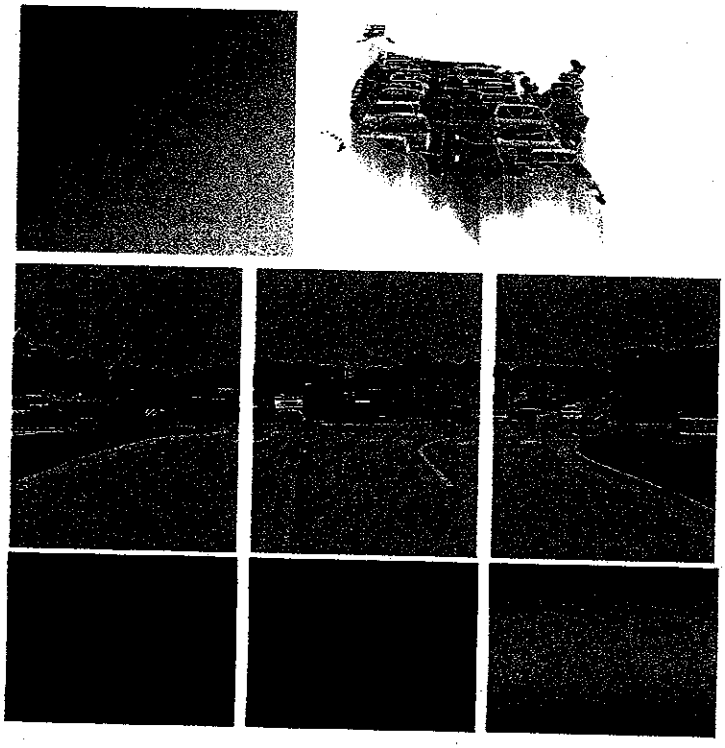
LIBERTY BANK

prepared for:

Crafton, Tull, Sparks & Associates, Inc.

Joyce Boulevard
and
Vantage Drive

Fayetteville, Arkansas



STATE OF ARKANSAS
REGISTERED PROFESSIONAL ENGINEER
ERNEST J. PETERS
No. 4682

PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING •
5507 Ranch Drive - Suite 205 (501) 868-3999
Little Rock, Arkansas 72223 Fax (501) 868-9710

Project No.: P-1291

May 23, 2007

THE SITE

The location of the development is within the City of Fayetteville in Washington County, Arkansas. The site is located on the north side of Joyce Boulevard and on the west side of Vantage Drive. The proposed development site location and vicinity are shown on Figures 1 and 2, which follow.

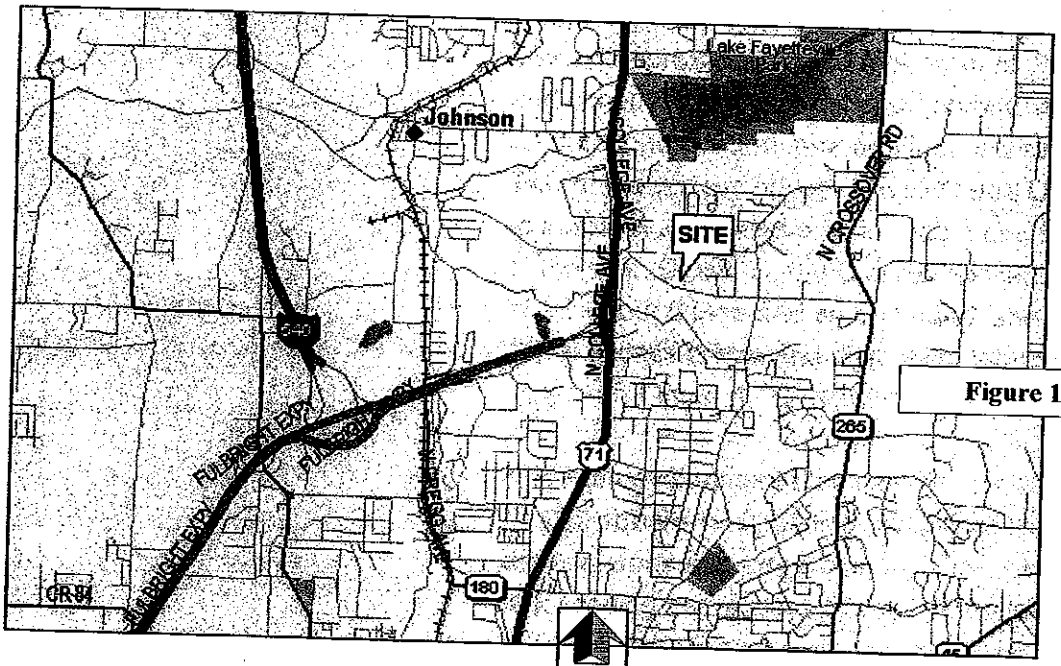


Figure 1 – Vicinity Map

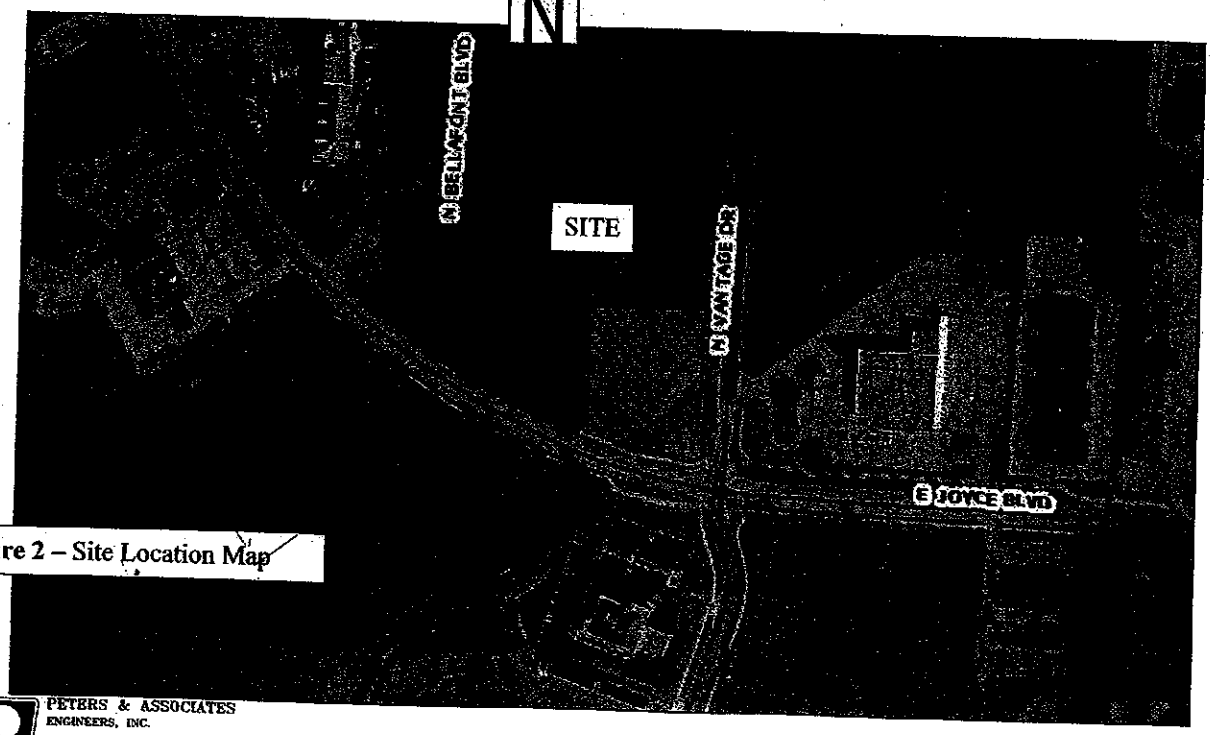


Figure 2 – Site Location Map

PETERS & ASSOCIATES
ENGINEERS, INC.

Access to the site, as shown on the site plan, is proposed from four access drives. One of the access drive (Drive A) is proposed to intersect Joyce Boulevard along the south edge of the site. Drive A is proposed to be located approximately 270 feet west of Vantage Drive and consist of an outbound right-turn lane, an outbound left-turn lane and two inbound receiving lanes. One of the access drives (Drives B) is proposed to intersect Vantage Drive along the east edge of the site. Drive B is proposed to be located approximately 320 feet north of Joyce Boulevard and constructed to consist of an outbound right-turn lane, an outbound left-turn lane and inbound receiving lane. Two of the access drives (Drives C and D) are proposed to intersect a planned private road along the north edge of the site. Drives C and D are proposed to each consist of an inbound lane and an outbound lane. The locations of the access drives and distances between them are shown on Figure 4, "Directional Distribution - Site Traffic."

The site development plan calls for the construction of a 21,613 square-foot building consisting of a bank with six drive-in lanes and office use, plus associated parking, landscaping and access drives. The site plan shows the proposed building location and the approximate locations of the drives proposed to serve the site.

STREET SYSTEM

Joyce Boulevard, in the vicinity of Vantage Drive, is a five-lane roadway consisting of two eastbound lanes, two westbound lanes and left-turn lanes. Joyce Boulevard is constructed with curbs and gutters. There are sidewalks along both sides of Joyce Boulevard at Vantage Drive and the speed limit is 35 miles per hour in the vicinity of the site. Joyce Boulevard is classified as a Principal Arterial on the City of Fayetteville Master Street Plan (MSP).

Vantage Drive, north of Joyce Boulevard, is 33-feet wide with no pavement markings currently. Vantage Drive is asphalt and constructed with curbs and gutters and there are no sidewalks in the immediate vicinity of the site. The speed limit on Vantage Drive is 25 miles per hour. Vantage Drive is classified as a Collector on the City MSP.

A traffic signal at the intersection of Joyce Boulevard and Vantage Drive is currently under construction by the City of Fayetteville. This traffic signal should be operational within the next two months. This will be a 5-phase signal operation with signal indications mounted on mast arms. It will not be interconnected with any other traffic signals.

The site is currently undeveloped. The following photos show the general layout of Joyce Boulevard, Vantage Drive and surrounding land uses in the vicinity of the site. These were taken at locations as indicated on the photo captions.

Traffic Study

The Site

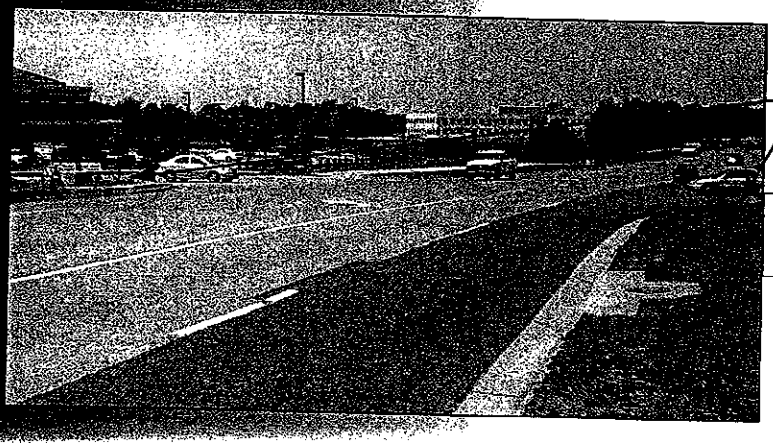
Looking north on Vantage Drive toward Joyce Boulevard.

Vantage Drive

Looking east on Joyce Boulevard toward Vantage Drive.

The Site

Looking south on Vantage Drive toward Joyce Boulevard.



Vantage Drive

Looking west on Joyce Boulevard toward Vantage Drive.

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the site at full development are approximately 2,632 vehicle trips (combined in and out) per average weekday.

- The AM and PM peak hours of the adjacent street have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 139 additional vehicle trips will seek ingress and egress at the site during this adjacent street AM peak hour and approximately 329 additional vehicle trips will seek ingress and egress at the site during this adjacent street PM peak hour.

- Capacity and LOS analysis for existing traffic conditions (existing traffic volumes, lane geometry and traffic control) were conducted for the intersection of Joyce Boulevard and Vantage Drive. all existing vehicle movements for existing traffic conditions at the intersection of Joyce Boulevard and Vantage Drive presently operate at what calculates as an acceptable LOS "B" or better for the AM and PM peak hours except for the northbound and southbound left-turn vehicle movements on Vantage Drive at Joyce Boulevard during both the AM and PM peak hours with the existing "Stop" sign control. These movements experience delay under "Stop" sign control, resulting in less than acceptable LOS. Traffic signal control is currently being installed at this intersection. Once the traffic signal is installed, the LOS are projected to be "C" or better for existing traffic volumes.

- Capacity and LOS analysis was performed for AM and PM peak hours for the full build-out of this development projected traffic conditions. All of the vehicle movements for projected traffic conditions are expected to operate at what calculates as an acceptable LOS "B" or better for the worst-case AM and PM peak hours except for the southbound left-turn vehicle

movement from Drive A onto Joyce Boulevard with "Stop" sign control during the AM and PM peak hours (LOS "F"). These volumes are low (2 vehicles during the AM peak hour and 7 vehicles during the PM peak hour) and the delay should only occur for short times during these peak hours with all other hours operating at better LOS. Additionally, these vehicles turning left out of the form Drive A onto Joyce Boulevard have the option to exit out of Drive B onto Vantage Boulevard and turn left at the signalized intersection of Joyce Boulevard and Vantage Drive.

- As a part of this study, for projected traffic conditions, queue length analysis was conducted for the study intersections. Analysis shows vehicle queue lengths will be minimal and will not exceed proposed storage lengths. The 95th percentile queue for eastbound thru movements on Joyce Boulevard at Vantage Drive are projected to be 110 feet during the AM peak hour and 209 feet during the PM peak hour. These 95th percentile queue lengths do not exceed the available storage distance between Vantage Road and the proposed location of Drive A (approximately 220 feet from the eastbound stop bar at Vantage Drive to the easternmost curb line at Drive A). The queue length analysis is included in the Capacity and Level of Service section in the Appendix for reference.

Recommendations of this study are summarized as follows:

- It is recommended that the roadway lane geometry at the site access drives be constructed as shown on the attached site plan.

- Curb cuts along Joyce Boulevard and Vantage Drive should be constructed in accordance with intersection design standards of the City of Fayetteville and will require approval by the City.

TRAFFIC STUDY FOR LIBERTY BANK
SECOND SUBMITTAL

PETERS & ASSOCIATES
ENGINEERS, INC.

July 13, 2007

Mr. James Parks
Crafton Tull Sparks & Associates, Inc.
901 N. 47th St.
Suite 200
Rogers, AR 72756-9634

Re: P1291
Addendum No. 2 to Traffic Study
Liberty Bank; Joyce Boulevard at Vantage Drive
Fayetteville, Arkansas

Dear Mr. Parks:

As requested, Peters & Associates Engineers, Inc. conducted additional analysis for the referenced project as a result of the meeting held with the City planning and engineering staff on July 12, 2007 at 2:00 pm. As suggested by the City staff, we have used the projected PM peak hour traffic volumes for the intersection of Joyce Boulevard and Vantage Drive as stated in a study published by Carter-Burgess, Inc. in January, 2006. The traffic volumes at the adjacent intersections have been adjusted to balance with the intersection of Joyce Boulevard and Vantage Drive. These volumes are depicted on Figure 8 (revised and attached), "Site Generated Traffic Plus Existing Traffic Volumes, PM Peak Hour."

This analysis includes the following:

- Analyze the intersection of Joyce Boulevard at Drive A to allow all turning movements EXCEPT the southbound to eastbound left-turn exiting the site.

- The geometry of the intersection of Joyce Boulevard at Drive A includes an eastbound left-turn only lane with taper, two eastbound-thru lanes, a westbound-thru lane, a westbound-thru-right-turn lane, a southbound right-turn only lane exiting the site and two northbound receiving lanes entering the site.

- Projected traffic volumes for the PM peak hour reflect the geometry described above.

Findings

The level of service (LOS) for all turning movements at the study intersections is projected to be an acceptable LOS "D" or better for PM peak hour except the eastbound left-turn at Vantage Drive and Drove B. This movement is projected to operated a LOS "E" for the PM peak hour. The results are depicted in the table below:

PROJECTED TRAFFIC CONDITIONS		Traffic Control	EB LT	EB TH	EB RT	WB LT	WB TH	WB RT							Overall Intersection
PEAK HR	INTERSECTION	PEAK HOUR - LEVEL OF SERVICE													
PM	Joyce Boulevard and Vantage Drive	SIGNAL	C	B		B	C		C	C		D	D		C
PM	Joyce Boulevard and Drive A	SIGN	C	A			A							B	n/a
PM	Vantage Drive and Drive B	SIGN	E		B				A	A			A		n/a

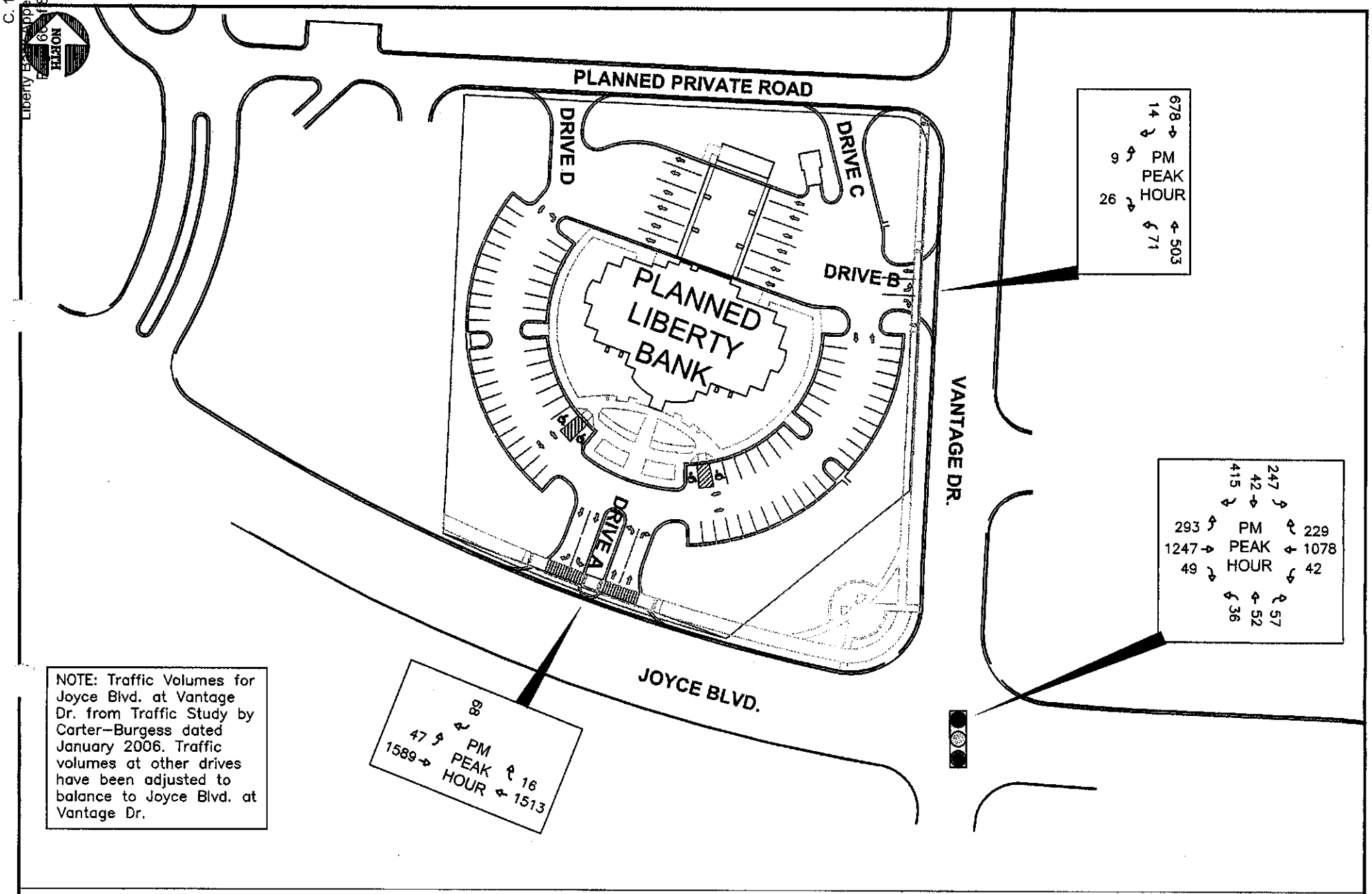
Level of Service Summary – Projected Traffic Conditions

Furthermore, analysis shows that queue lengths for Joyce Boulevard and Drive A will be minimal and not exceed the available storage lengths. The capacity and queue length analysis is attached for reference. Additionally, the traffic signal at Joyce Boulevard and Vantage Drive has provisions to allow interconnection and coordination with adjacent traffic signals. A video clip of the traffic operation of the intersections of Joyce Boulevard at Vantage Drive, Vantage Drive at Bank Access B and Joyce Boulevard at Bank Access Drive A is available in a format viewable on a PC that graphically depicts the traffic operation in PM peak hour.

If you have any questions or need additional information, please contact us.

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

Ernest J. Peters, P.E.
President



NOTE: Traffic Volumes for Joyce Blvd. at Vantage Dr. from Traffic Study by Carter–Burgess dated January 2006. Traffic volumes at other drives have been adjusted to balance to Joyce Blvd. at Vantage Dr.

PROJECT No. P-1291
DATE: 7-13-07

PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING •

LIBERTY BANK
TRAFFIC STUDY
FAYETTEVILLE, ARKANSAS

SITE-GENERATED TRAFFIC
PLUS EXISTING TRAFFIC VOLUMES
PM PEAK HOURS

FIGURE No.
8 (REVISED)

HCM Unsignalized Intersection Capacity Analysis
3: Joyce Blvd. & Drive A

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations						
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Volume (veh/h)	47	1589	1513	16	0	68
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	51	1727	1645	17	0	74
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type					None	
Median storage veh)						
Upstream signal (ft)			277			
pX, platoon unblocked	0.62				0.62	0.62
vC, conflicting volume	1662				2619	831
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	1452				3004	104
tC, single (s)	4.1				6.8	6.9
tC, 2 stage (s)						
tF (s)	2.2				3.5	3.3
p0 queue free %	82				100	87
cM capacity (veh/h)	285				5	574

Volume Total	51	864	864	1096	566	74
Volume Left	51	0	0	0	0	0
Volume Right	0	0	0	0	17	74
cSH	285	1700	1700	1700	1700	574
Volume to Capacity	0.18	0.51	0.51	0.64	0.33	0.13
Queue Length 95th (ft)	16	0	0	0	0	11
Control Delay (s)	20.4	0.0	0.0	0.0	0.0	12.2
Lane LOS	C					B
Approach Delay (s)	0.6			0.0		12.2
Approach LOS						B

Average Delay	0.6		
Intersection Capacity Utilization	53.2%	ICU Level of Service	A
Analysis Period (min)	15		

Queues
4: Joyce Blvd. & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Group Flow (vph)	318	1408	46	1421	39	119	268	497
v/c Ratio	0.82	0.70	0.22	0.96	0.42	0.25	0.85	0.85
Control Delay	34.1	15.2	9.3	37.2	38.2	13.2	51.6	29.0
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	34.1	15.2	9.3	37.2	38.2	13.2	51.6	29.0
Queue Length 50th (ft)	91	264	7	324	15	20	116	111
Queue Length 95th (ft)	#225	352	18	#485	46	59	#238	#277
Internal Link Dist (ft)		197		455		223		238
Turn Bay Length (ft)	150		150		100		100	
Base Capacity (vph)	391	2006	212	1484	99	503	338	607
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.81	0.70	0.22	0.96	0.39	0.24	0.79	0.82

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis
4: Joyce Blvd. & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)	4.0	4.0		4.0	4.0		4.0	4.0		4.0	4.0	
Lane Util. Factor	1.00	0.95		1.00	0.95		1.00	1.00		1.00	1.00	
Frt	1.00	0.99		1.00	0.97		1.00	0.92		1.00	0.86	
Flt Protected	0.95	1.00		0.95	1.00		0.95	1.00		0.95	1.00	
Satd. Flow (prot)	1770	3519		1770	3446		1770	1717		1770	1609	
Flt Permitted	0.11	1.00		0.13	1.00		0.22	1.00		0.68	1.00	
Satd. Flow (perm)	204	3519		244	3446		407	1717		1267	1609	
Volume (vph)	293	1247	49	42	1078	229	36	52	57	247	42	415
Peak-hour factor, PHF	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Adj. Flow (vph)	318	1355	53	46	1172	249	39	57	62	268	46	451
RTOR Reduction (vph)	0	3	0	0	23	0	0	47	0	0	183	0
Lane Group Flow (vph)	318	1405	0	46	1398	0	39	72	0	268	314	0
Turn Type	pm+pt			pm+pt			Perm			Perm		
Protected Phases	5	2		1	6			8			4	
Permitted Phases	2			6			8			4		
Actuated Green, G (s)	48.6	41.7		35.5	32.6		18.3	18.3		18.3	18.3	
Effective Green, g (s)	48.6	41.7		35.5	32.6		18.3	18.3		18.3	18.3	
Actuated g/C Ratio	0.65	0.56		0.47	0.44		0.24	0.24		0.24	0.24	
Clearance Time (s)	4.0	4.0		4.0	4.0		4.0	4.0		4.0	4.0	
Vehicle Extension (s)	3.0	3.0		3.0	3.0		3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)	383	1959		175	1500		99	420		310	393	
v/s Ratio Prot	c0.13	0.40		0.01	c0.41			0.04			0.20	
v/s Ratio Perm	0.41			0.11			0.10			c0.21		
v/c Ratio	0.83	0.72		0.26	0.93		0.39	0.17		0.86	0.80	
Uniform Delay, d1	19.4	12.2		11.4	20.1		23.7	22.3		27.1	26.6	
Progression Factor	1.00	1.00		1.00	1.00		1.00	1.00		1.00	1.00	
Incremental Delay, d2	14.1	1.3		0.8	10.8		2.6	0.2		21.3	10.8	
Delay (s)	33.6	13.5		12.2	30.9		26.2	22.5		48.4	37.4	
Level of Service	C	B		B	C		C	C		D	D	
Approach Delay (s)		17.2			30.3			23.4			41.3	
Approach LOS		B			C			C			D	

HCM Average Control Delay	26.6	HCM Level of Service	C
HCM Volume to Capacity ratio	0.90		
Actuated Cycle Length (s)	74.9	Sum of lost time (s)	12.0
Intersection Capacity Utilization	93.3%	ICU Level of Service	F
Analysis Period (min)	15		
c Critical Lane Group			

HCM Unsignalized Intersection Capacity Analysis
6: Drive B & Vantage Dr.

Timing Plan: PM Peak Hour
7/13/2007

Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	9	26	71	503	678	14
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	10	28	77	547	737	15
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)				318	42	
pX, platoon unblocked	0.93					
vC, conflicting volume	1446	745	752			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	1481	745	752			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	92	93	91			
cM capacity (veh/h)	116	414	858			

Volume Total	10	28	77	547	752
Volume Left	10	0	77	0	0
Volume Right	0	28	0	0	15
cSH	116	414	858	1700	1700
Volume to Capacity	0.08	0.07	0.09	0.32	0.44
Queue Length 95th (ft)	7	5	7	0	0
Control Delay (s)	38.8	14.3	9.6	0.0	0.0
Lane LOS	E	B	A		
Approach Delay (s)	20.6		1.2	0.0	
Approach LOS	C				

Average Delay	1.1		
Intersection Capacity Utilization	53.8%	ICU Level of Service	A
Analysis Period (min)	15		

SITE ACCESS STUDY – BELLAFONT

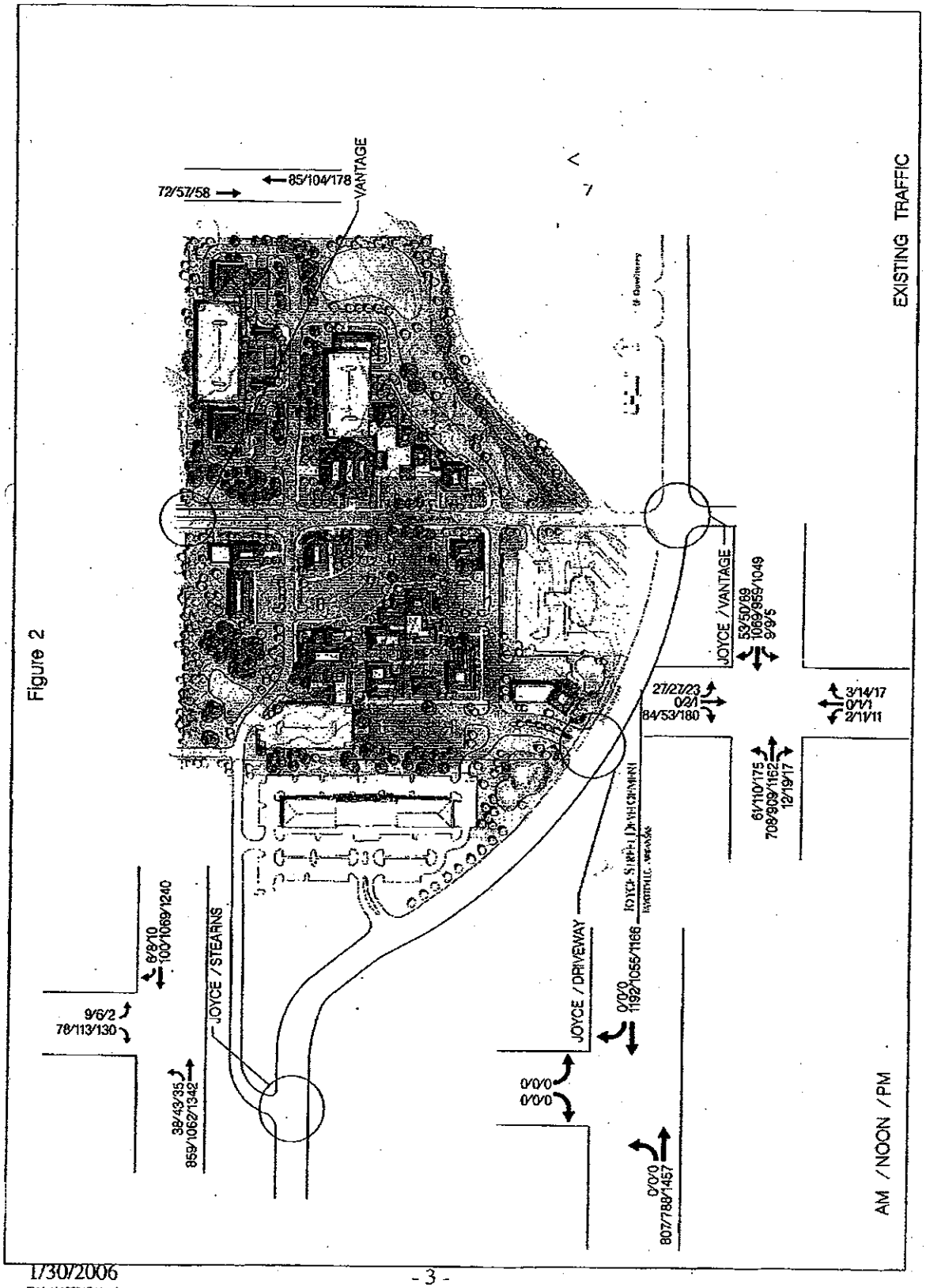
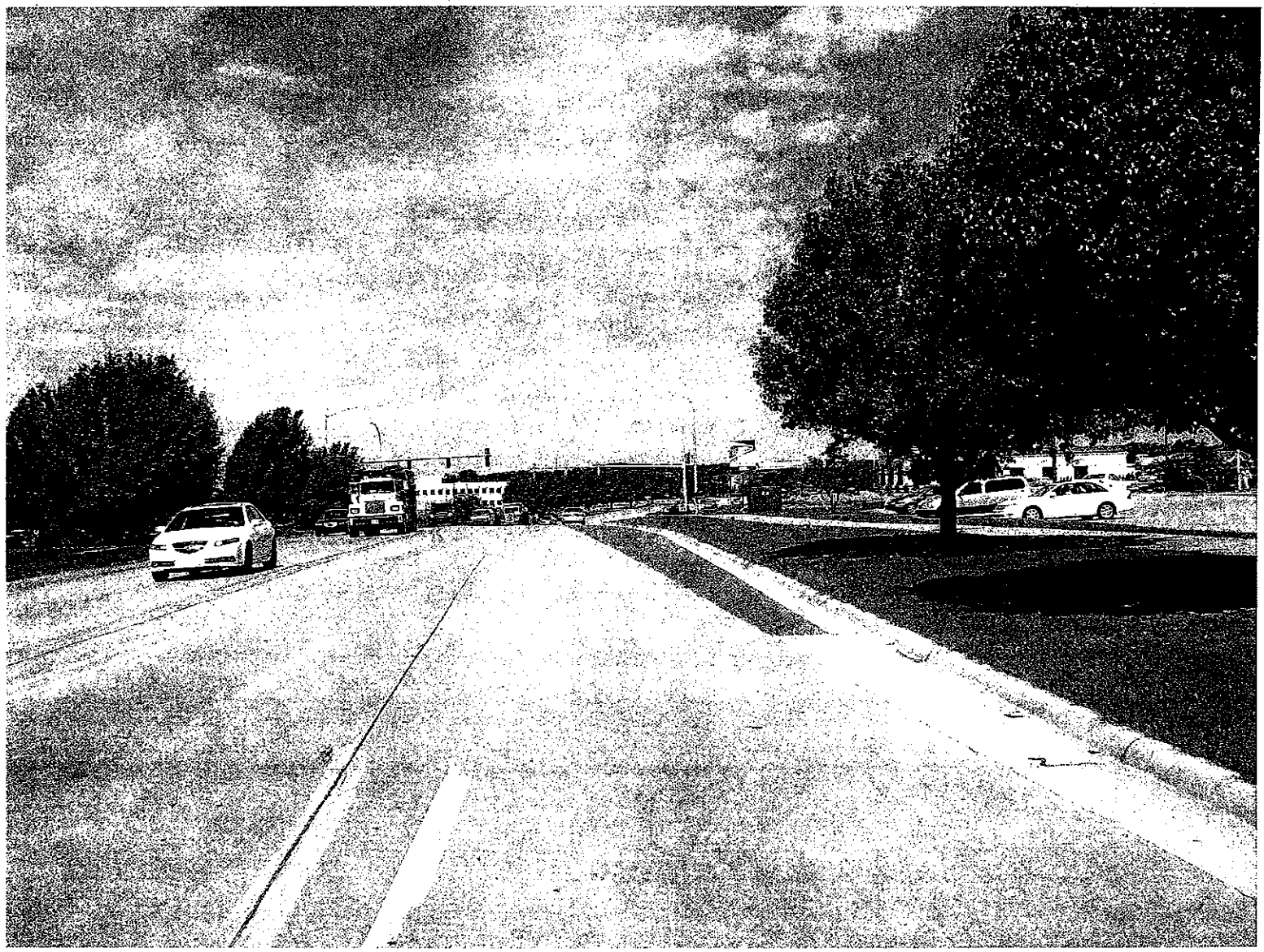


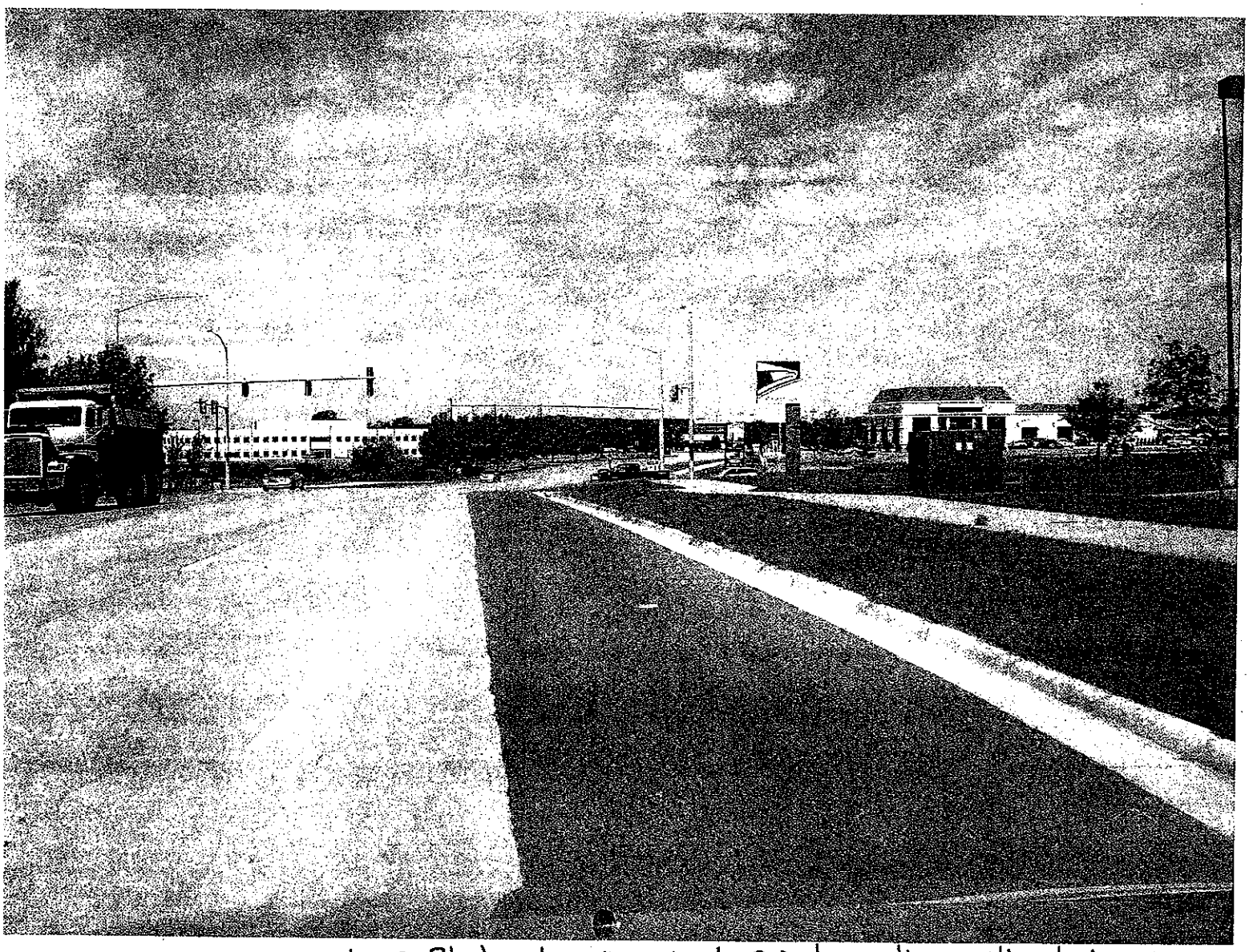
Figure 2

SITE ACCESS PHOTOGRAPHS

- Joyce Blvd. - Looking West

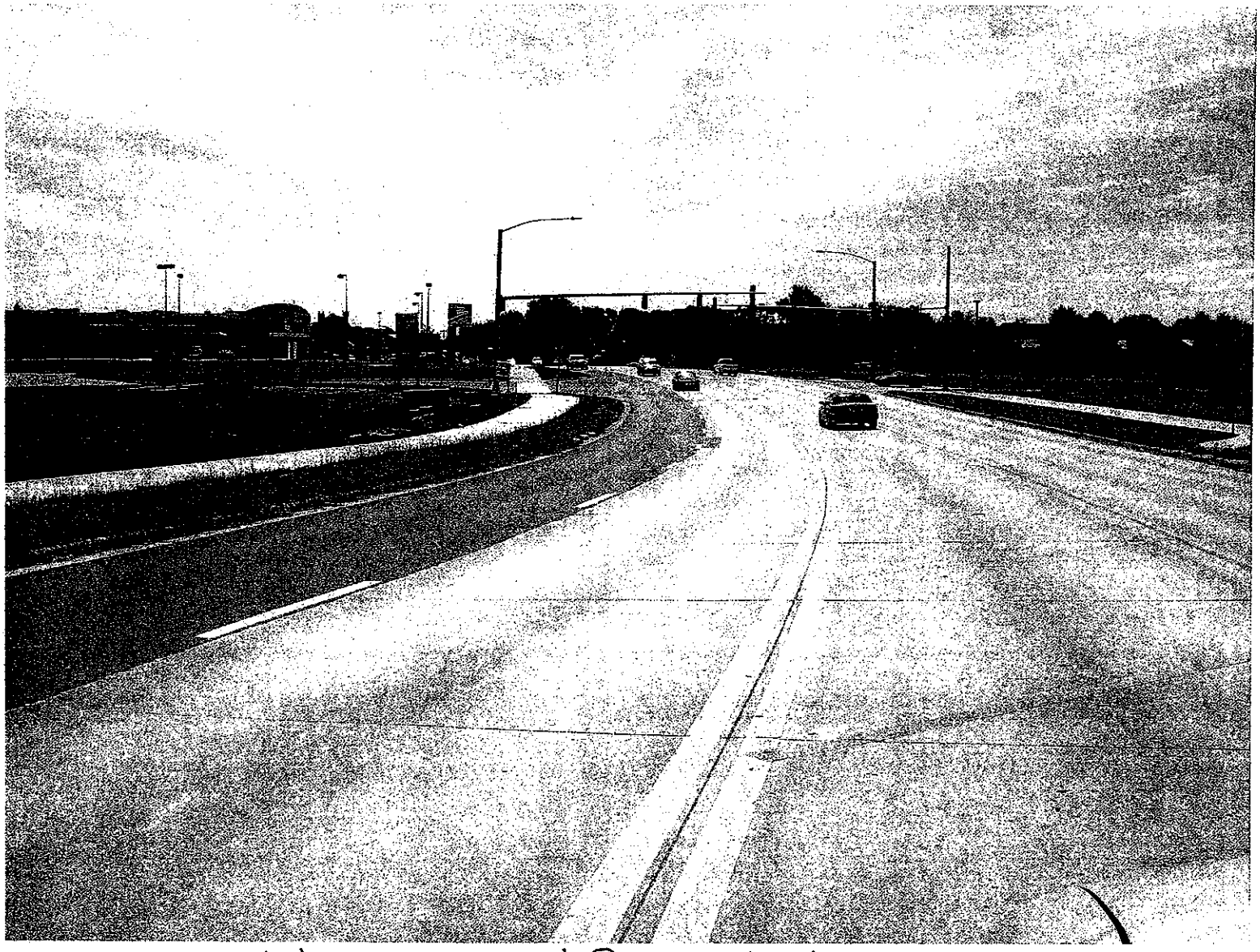


- Joyce Blvd. - Looking West

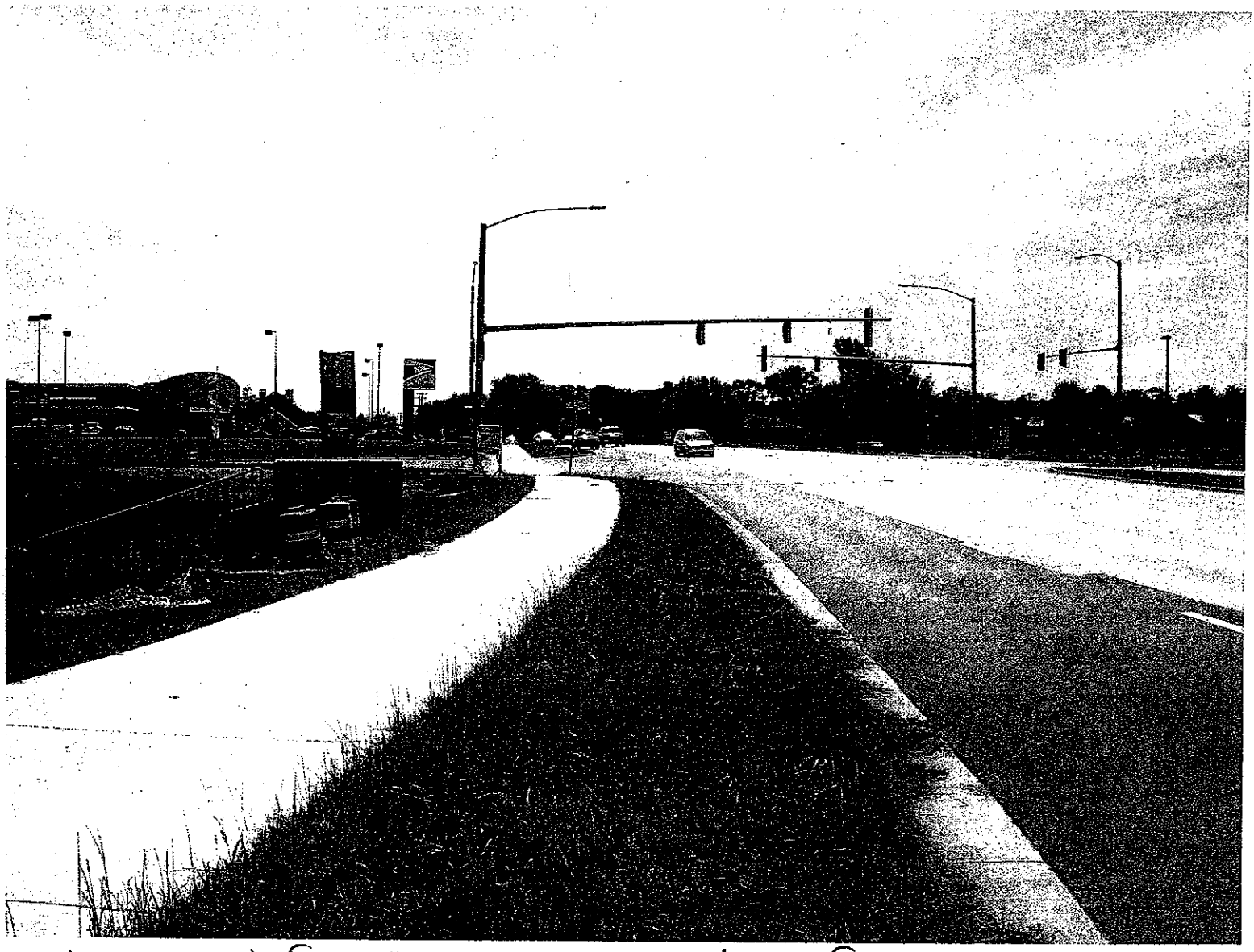


- Joyce Blvd. - Looking West @ intersection with Vantage Dr.

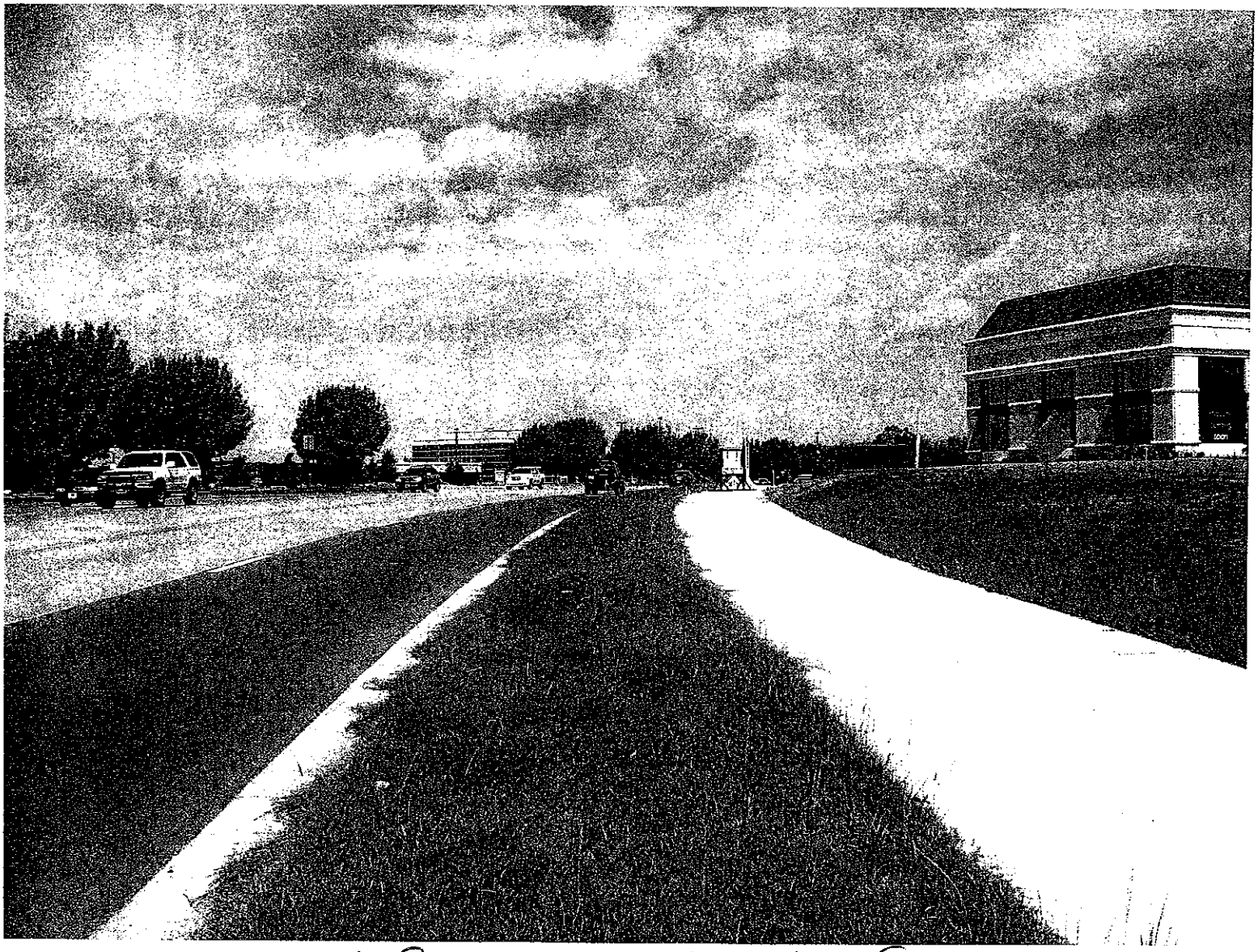
Joyce St. - Looking East from entrance of Proctor & Gamble, which is the location of a funded traffic signal.



-Joyce Blvd.- Looking east from center turn lane

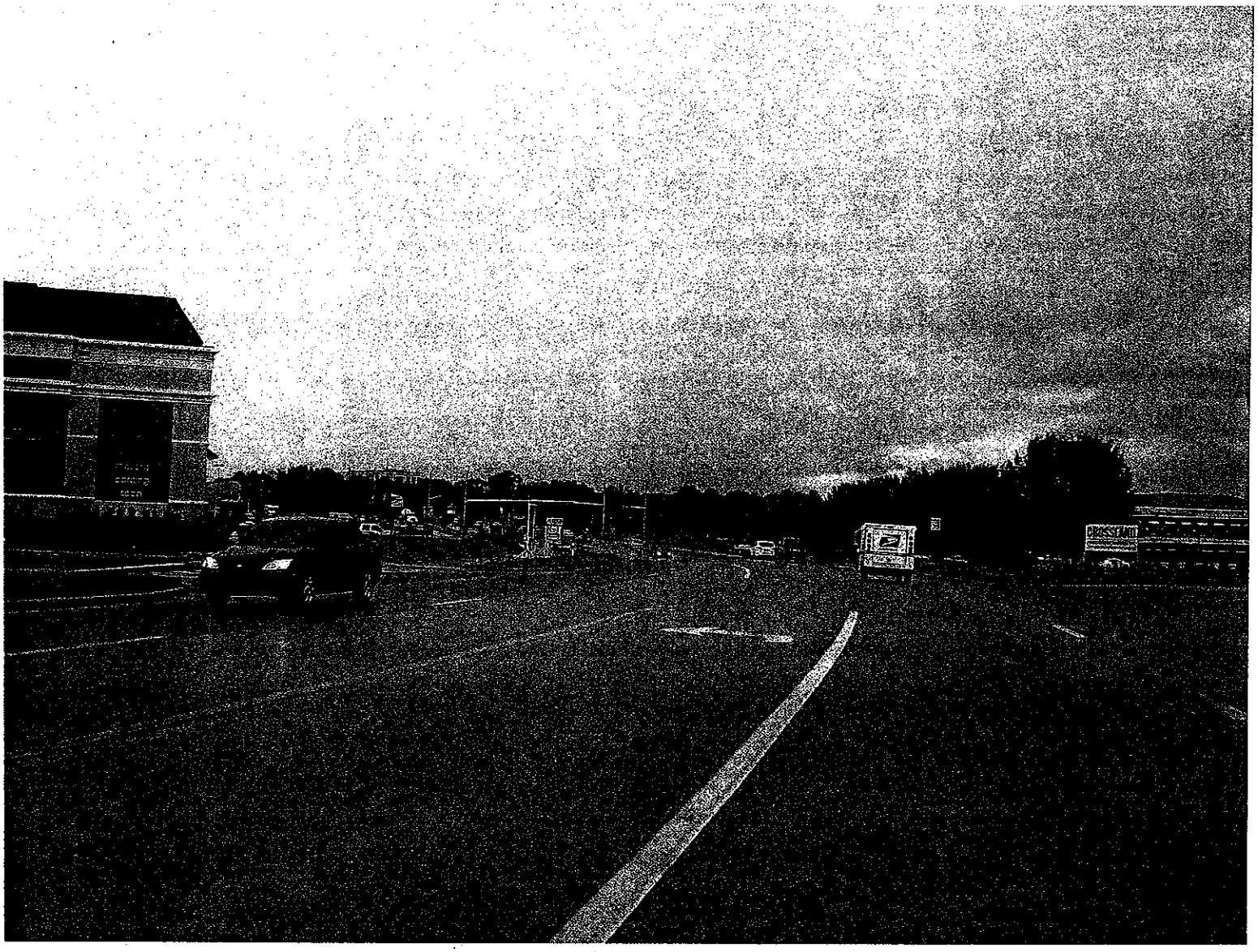


-Looking east from the approximate location of the proposed curb-cut



-Looking west from the approximate location of the proposed curb-cut.

-Looking West @ Joyce Blvd. / Vantage Dr. intersection

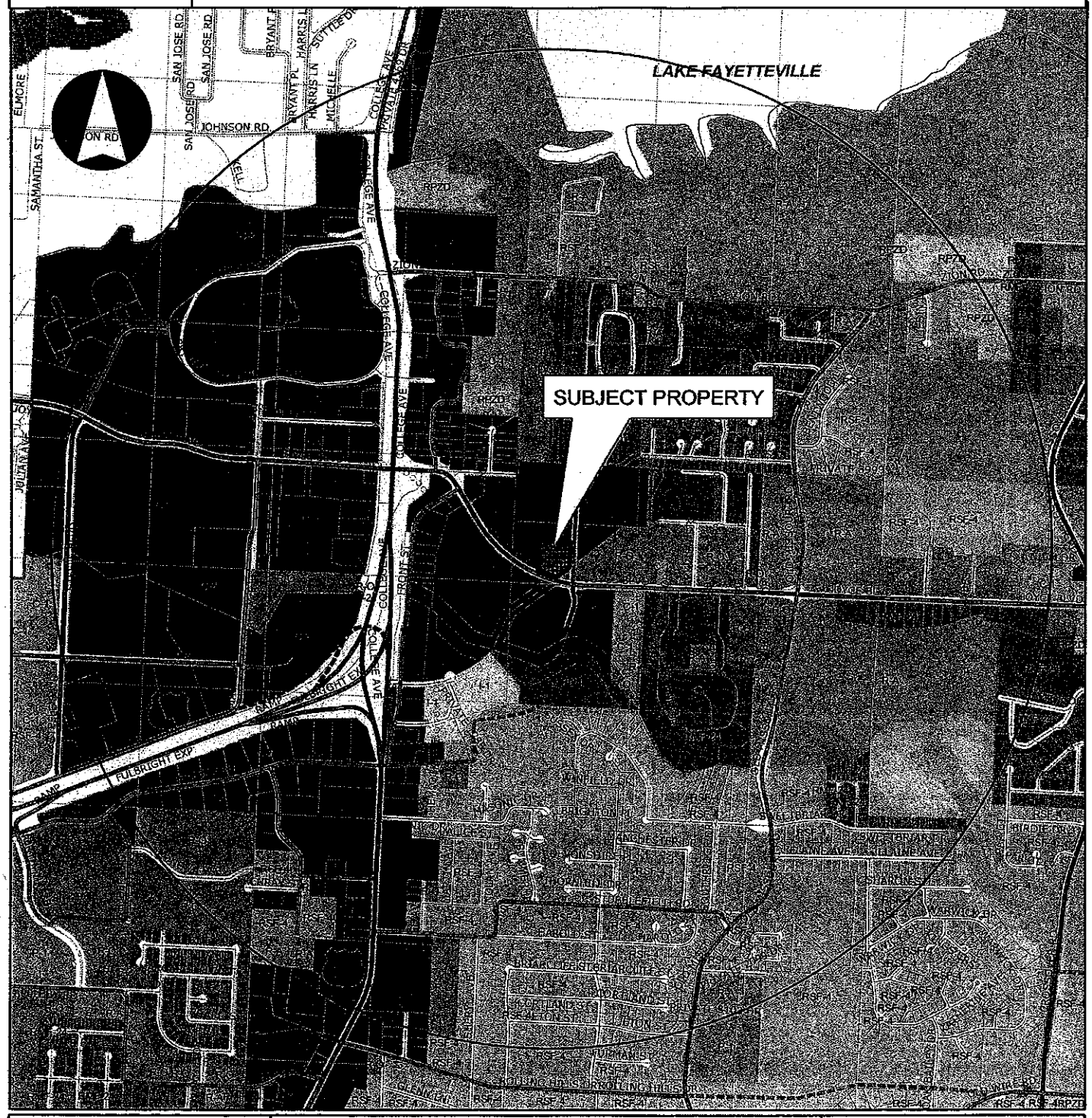


-Looking east -

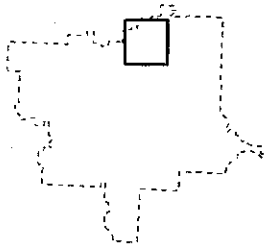
LSD07-2574

One Mile View

LIBERTY BANK OF ARKANSAS



Overview



Legend

Subject Property

LSD07-2574

Boundary

Planning Area

Overlay District

Outside City

Legend

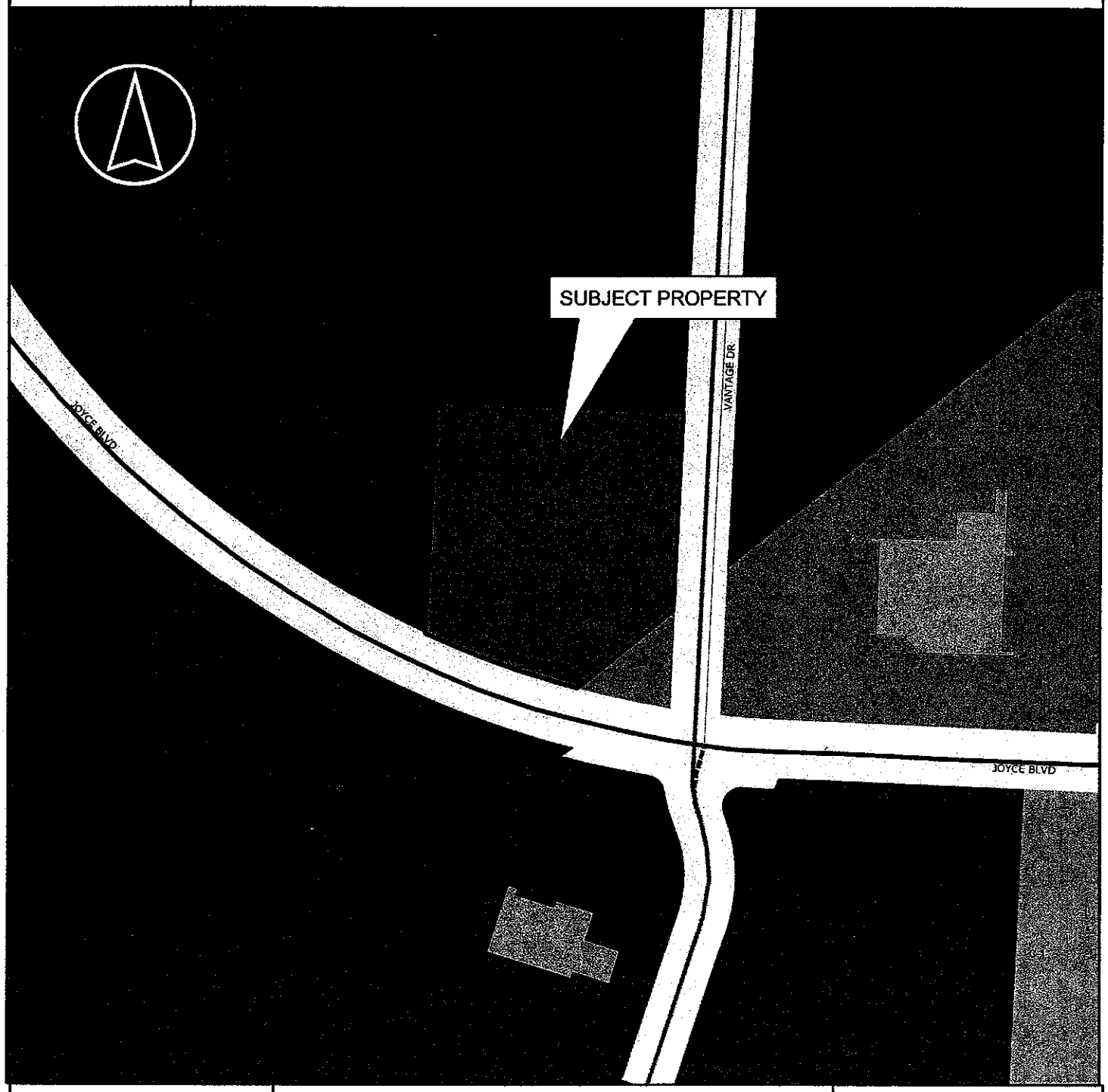
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

LSD07-2574

Close Up View

LIBERTY BANK OF ARKANSAS



Overview

0 75 150 300 450 600 Feet

Added at Agenda Session 7/31/07

ALDERMAN AGENDA REQUEST FORM

for the 8/7/07 Agenda

FOR: COUNCIL MEETING OF August 07, 2007

FROM: Kyle Cook

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

Abshier Heights Planned Zoning District – Extension of approved PZD

An ordinance to waive Ch. 166.20 of the Unified Development Code, to permit an extension for the Abshier Heights Planned Zoning District (R-PZD 06-1183), and requiring the applicant to obtain all building permits by April 04, 2008.

APPROVED FOR AGENDA:

Alderman **Kyle Cook** — Date 7/31/07

Jeremy Pate — Date 07.31.07
Director of Current Planning

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 31, 2007

Subject: Abshier Heights Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordinance repealing and replacing Ordinance No. 4850, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Abshier Heights R-PZD and extending the expiration date for R-PZD 06-1883 (Abshier Heights), with the condition that all building permits be obtained by the applicant prior to April 4, 2008 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The property consists of a total of 4.11 acres occupying land with frontage on Abshier Drive and Hillcrest Avenue. Both parcels are undeveloped and are zoned R-PZD 06-1883. It is surrounded by single-family homes on the south/east and the Evelyn Hills Shopping Center to the north/west.

The subject Planned Zoning District was approved on April 4, 2006, including a maximum of 24 dwelling units in six buildings, at a density of 5.8 dwelling units per acre. When this project was approved, the project booklet indicated two different time frames for development. One allowed for construction within 3 years, while the other placed a blanket one-year time period in which to obtain all building permits associated with the project. Pursuant to Chapter 166.06 (G)(Conflicts); where there is more than one provisions within the PZD Master Development Plan that covers the same subject matter, the provision which is most restrictive or imposes higher standards or requirements shall govern unless determined otherwise by the Zoning and Development Administrator. The one-year time frame expired on April 4, 2007.

The applicant has been working with City divisions to obtain the necessary permits to begin construction of the development. At this time grading of the property and utility installation has commenced and building permits have been applied for. However, staff is unable to approve any building permits as the one year time frame allowed to obtain all permits from the date of approval has expired.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately one year to expire on April 4, 2008. All building permits for Abshier Heights PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE TO WAIVE CHAPTER 166.20 OF THE UNIFIED DEVELOPMENT CODE EXPIRATION OF APPROVED PLANS AND PERMITS, FOR R-PZD 06-1883 (ABSHIER HEIGHTS) AND TO PROVIDE FOR A ONE-YEAR APPROVAL EXTENSION

WHEREAS, The City Council of the City of Fayetteville approved a Residential Planned Zoning District known as Abshier Heights (R-PZD 06-1883) on April 4, 2006 with Ordinance No. 4850; and

WHEREAS, Abshier Heights PZD has applied and been approved for construction of all necessary public improvements, such as streets, sidewalks, water and sewer mains and other infrastructure improvements that could not be accomplished within the one-year period of time granted; and

WHEREAS, the Abshier Heights development is actively under construction at this time for said public infrastructure improvements; and

WHEREAS, building permits have been submitted for construction of the buildings, but upon review may not be permitted due to the expiration of the PZD on April 4, 2007.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the one year time limitation of R-PZD 06-1883 (Abshier Heights) adopted on April 4, 2006 to obtain all building permits\

Section 2: That the applicant must obtain all building permits associated with R-PZD 06-1883 (Abshier Heights) on or before April 4, 2008, or the R-PZD shall be null and void.

Section 3: That all other conditions, commitments, development standards and other requirements of the project approved by Ordinance No. 4850 shall remain in full effect unless otherwise modified by the City Council.

PASSED and **APPROVED** this___day of ___, 2007.

DRAFT

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

DRAFT

31 July 2007

Jesse Fulcher
Planning Department
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

RE: R-PZD 06-1883 Abshier Heights

The above-referenced PZD was approved by City Council on 04 April 2006. After earning City Engineering & State Health Department approval over that following summer, the Owner, David Chance, began site work in February 2007. Plan approval and construction has been underway since that time and continues to this day.

By starting construction in the February of 2007, Mr. Chance believed he was well within the time limit as described in Section 166.20(B)1d of the Unified Development Code regarding the expiration of approved plans and permits. Upon submitting plans for a building permit on or around 13 July of this year, however, he was informed that the PZD approval had expired subject to a 1-yr time limit for receiving the actual building permit, though the permitting process and construction had been underway for some time.

On Mr. Chance's behalf, we ask that you please grant an extension until 04 April 2008 for the building permit application for this project.

Thank you for your consideration.

Sincerely,

Paul M. Mortensen AIA 7-31-07

Paul Mortensen, AIA
Cooper Architects

Date

ORDINANCE NO. 4850

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 06-1883, ABSHIER HEIGHTS, LOCATED SOUTH OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST, CONTAINING APPROXIMATELY 4.11 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From C-2, Thoroughfare Commercial, to R-PZD 06-1883 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, and conditions of approval as submitted, determined appropriate and approved by the City Council.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

Section 5: That the Master Development Plan is approved subject to the list of compromises agreed to by the neighbors, developer and architect shown on Exhibit "B" presented to and accepted by the City Council. The Master Development Plan is also subject to the Revised Site Plan attached as Exhibit "C".

PASSED and **APPROVED** this 4th day of April, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

EXHIBIT "A"
R-PZD 06-1883

TRACT A:
PART OF THE NW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SE CORNER OF THE NW ¼ OF THE NW ¼, SAID POINT BEING A FOUND 1" PIPE; THENCE N87°12'10"W 352.90 FEET; THENCE N02°59'53"E 25.00 FEET TO THE POINT OF BEGINNING; THENCE N02°58'47"E 635.03 FEET TO A CHISLED "X"; THENCE S87°00'06"E 149.72 FEET TO A FOUND IRON PIN IN THE WEST RIGHT-OF-WAY LINE OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT-OF-WAY S02°57'25"W 634.95 FEET TO A FOUND PK NAIL IN THE APPROXIMATE CENTER LINE OF WOODCREST DRIVE NOW VACATED BY THE CITY OF FAYETTEVILLE BY ORDINANCE #1205; THENCE ALONG SAID CENTERLINE N87°02'16"W 149.97 FEET TO THE POINT OF BEGINNING, CONTAINING 2.187 ACRES, MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

TRACT B:
PART OF THE SW ¼ OF THE NW ¼ OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF SAID SW ¼ OF THE NW 1/4; THENCE N87°12'10"W 203.60 FEET; THENCE S02°58'05"W 30.14 FEET TO THE POINT OF BEGINNING, SAID POINT BEING A FOUND IRON PIN IN THE WEST RIGHT OF WAY OF HILLCREST AVENUE; THENCE ALONG SAID RIGHT OF WAY S02°58'12"W 313.56 FEET TO A FOUND IRON PIN IN THE NORTH RIGHT-OF-WAY LINE OF ABSHIER DRIVE; THENCE ALONG SAID RIGHT-OF-WAY LINE N86°36'30"W 537.42 FEET TO A FOUND IRON PIN; THENCE LEAVING SAID RIGHT-OF-WAY N63°01'26"E 620.21 FEET TO THE POINT OF BEGINNING, CONTAINING 1.935 ACRES MORE OR LESS, AND SUBJECT TO ANY AND ALL EASEMENTS OF RECORD OR FACT.

EXHIBIT "B"
R-PZD 06-1883

WE AS NEIGHBORS, THE AFOREMENTIONED DEVELOPER AND ARCHITECT, HAVE RESPECTFULLY AGREED UPON THE FOLLOWING COMPROMISES:

1. Modifications to architectural design of development to complete and complement existing neighborhood homes. Examples include planter boxes with stone facades; the agreed upon stone façade on the back of the development (on the side of the town homes facing Hillcrest and Abshier) the architect will modify rear elevations of development to include partial stone facades on the back of the development (on the side of the town homes facing Hillcrest and Abshier) for approval of abovementioned neighborhood representatives; house numbers re-styled and moved to the lower portion of the front of the house near planter boxes; changes in paint palette in the natural earth tones; enlarged window shapes and styles in the latest drawings presented to the neighborhood – all to create a more natural, "softer" feel in line with the traditional character of the existing neighborhood.

2. Reduction in the number of units to 24.

3. Speed bumps to be built/installed on Hillcrest, Abshier, Lakeridge and Oakwood by Developer and City with 50/50 cost share with up to four speed tables.

4. A permanent, WRITTEN plan for maintaining the park and greenspace throughout the development included in the homeowner's association agreements and/or covenants for those who purchase the town homes. The association agreements or covenants must be worked out in consultation with the above-mentioned neighborhood representatives throughout the process and approval. Additionally, new neighbors in the development must be aware that Lade Lucille and surrounding property is a private entity and is not available for their use for swimming, fishing, picnicking, etc. (only accessible by property owners in Lake Lucille/Clay Yoe subdivision).

5. Additional trees and shrubs are to be planted along Hillcrest and Abshier to fill in gaps and ensure that the tree buffer is maintained and expanded. Trees and shrubs are needed to fill in both high and low gaps and present an attractive, natural appearance to neighbors in the development and across Hillcrest and Abshier.

6. Core and soil sample testing will be conducted due to grade and incline, instability of land because of natural springs and previous construction difficulty in area with USA Drug.

7. We respectfully request that City Planning division allow that no bridges or steps leading form the town homes to Abshier or Hillcrest will be constructed. This would only encourage street parking and exacerbate traffic problems. The only steps in the development that are agreeable to the neighbors are those from the pocket park/viewing area to the parking area for the E. Fay Jones' home as designated on plans.

8. Trees and/or shrubbery will be planted at the back of the development to screen the development's residents from the shopping center. These also should include plantings to fill in high and low gaps and present an attractive, natural appearance consistent with a high quality development.

9. No parking signs to be installed along Hillcrest & Abshier on the development side, with no parking allowed on either side of these two streets.

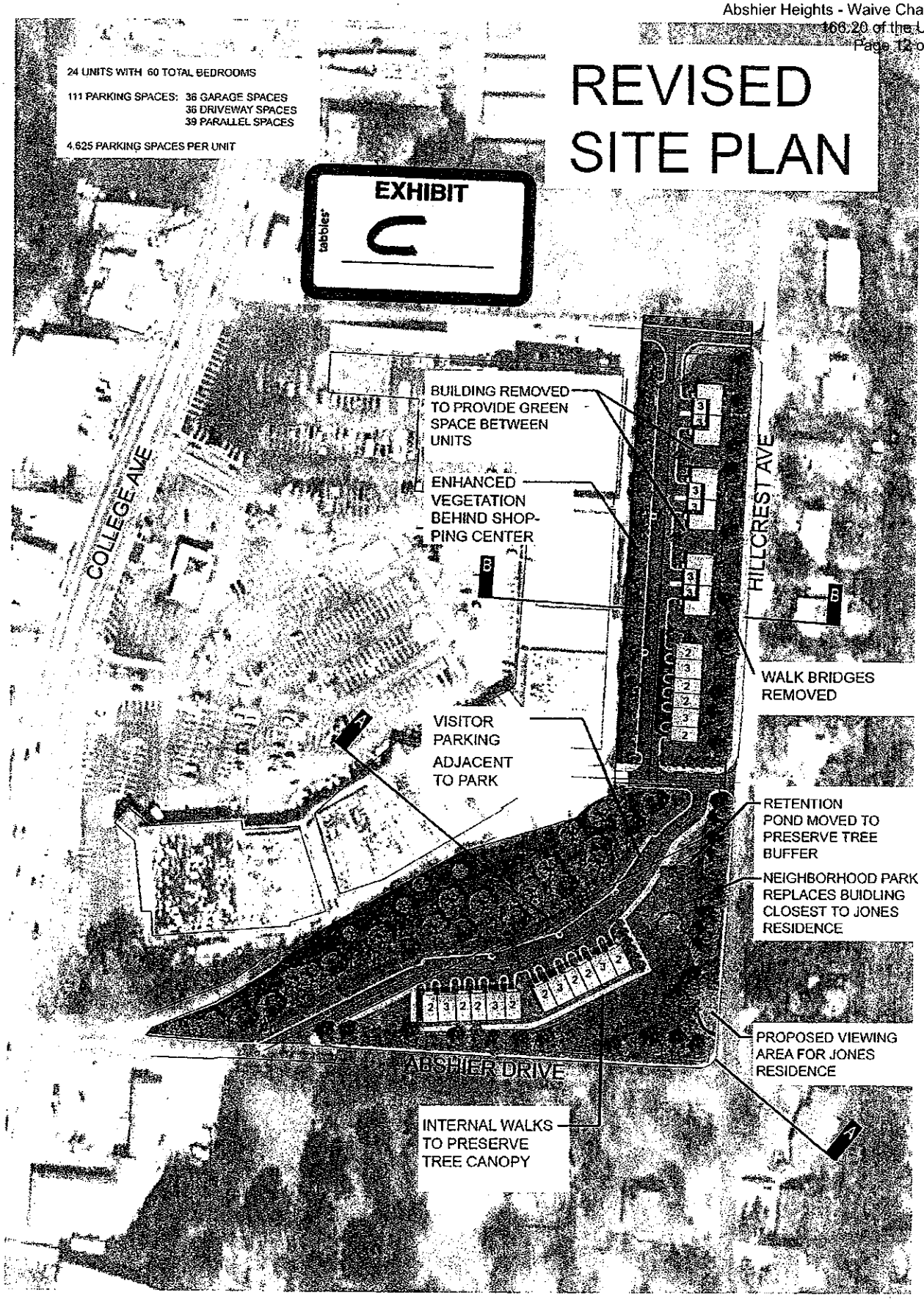
10. Landscape design, and any newly planted trees and shrubbery will, as closely as possible, be in accordance with E. Fay Jones' written/drawn design plans for the property from the U. of A. Mullens Library, Special Collections (neighbors have this document) (i.e. species of trees, placement, etc.).

11. Above-mentioned neighborhood representatives will see sample/rendering of mailbox design and of the sign for the development and provide input for approval, prior to installation.

12. Construction will be limited to daylight hours only.

13. We respectfully request that if this development, PZD 06-1883, Abshier Heights, is not executed, that the City require that this property revert back to RSF-4 (R-1), not its current zoning of record, C-2.

14. All agreed upon compromises will be put in writing and officially recorded as amendments to PZD 06-1883 and presented at the meeting of the Fayetteville City Council, Tuesday, April 4, 2006. All compromises throughout this document are legally binding on the developer and must be carried out.



SITE PLAN WITH BEDROOM COUNT

0 50 100 250

ABSHIER HEIGHTS

P.O. Box 1782 Fayetteville, AR 72702
p 479.575.0071 f 479.575.0074

Fayetteville
ARKANSAS

PC Meeting of February 13, 2006

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Brent O'Neal, Staff Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~February 8, 2006~~ **Updated February 14, 2006 for City Council**

R-PZD 06-1883: Planned Zoning District (ABSHIER HEIGHTS, 407): Submitted by H2 ENGINEERING for property located at S OF EVELYN HILLS SHOPPING CENTER ON ABSHIER AND HILLCREST. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 4.11 acres. The request is for a Residential Planned Zoning District with 30 multi-family dwelling units.

Property Owner: SMITH 2-WAY RADIO
Planner: JESSE FULCHER

Findings:
Property Description: This site is located north of Abshier Drive and west of Hillcrest Avenue, directly behind the Evelyn Hills Shopping Center.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Evelyn Hills Shopping Center	C-2
South	Single Family Neighborhood	RSF-4
East	Single Family Neighborhood	RSF-4
West	Evelyn Hills Shopping Center	C-2

Background: Research conducted by staff indicates in 1960 when the Evelyn Hills Shopping Center was rezoned, that a 150' strip was left zoned residential to serve as a buffer strip. In 1962 the City Council approved rezoning of the western 130' of the 150' tract, partly because the owners offered to place a restrictive covenant on the property that limited development on the 20' residual strip along Hillcrest Ave. It should be noted that all structures and land disturbances associated with the proposed structures is further than 20' from Hillcrest Avenue (approximately 45' from the curb). Street improvements to Hillcrest will require construction in this area. However, later in 1962 the rezoning was rescinded after an election was called by referendum. Any covenants that were in place with the rezoning were most likely invalidated when the rezoning was rescinded.

It appears that in 1967 a second request was made to rezone the property to C-2. The request was denied, but was later appealed to the Board of Directors, who then approved the requested rezoning to C-2.

In 1991 a rezoning was requested to rezone the property from C-2 to R-1.5 to allow for the construction of duplexes, which was withdrawn. Pertinent information on the zoning history of this property has been included.

Subdivision Committee Comments: The Subdivision Committee voted 2-1-0 to forward the item to the Planning Commission. A consensus was not reached on the findings. Numerous adjacent property owners attended the meeting with several concerns regarding the proposed project. These concerns included traffic, density, compatibility, trash, aesthetics, drainage and the E. Fay Jones property which is near the site. Included in the staff report are letters from adjacent property owners.

Planning Commission Comments: The Planning Commission voted 6-3-0 to forward the item to the City Council. There was considerable public comment regarding traffic, density, water pressure, architectural compatibility and the E. Fay Jones property. Some of the Planning Commissioners shared some of the same concerns as the neighbors. In addition, the Planning Commissioners had added concerns and questions for staff to address prior to City Council, including Fire Department access, parallel parking on Hillcrest Avenue, water pressure, pedestrian bridges, trash service and building materials.

Proposal: The applicant requests a rezoning, Master Development Plan and Large Scale Development approval for a multi-family development on the property. The 8-building proposal includes 30 residential units, consisting of 22 multi-family units and 8 two-family units. The 8 two-family units will be located in the northern 4 buildings along Hillcrest and the 22 multi-family units will be located in the remaining 4 buildings, three facing greenspace off of Abshier and one on Hillcrest. The overall density is 7.3 units per acre.

The applicant is attempting to create a transition between the commercial shopping center to the north/west and the single-family neighborhood to the south/east. The Planned Zoning District contains one (1) Planning Area. The Planning Area has its own specific density (maximum number of dwellings units allowed), and established bulk and area criteria, setbacks, height, etc. The information is provided both in a booklet form, which describes the intent of the Planning Area along with a drawing of the overall Planning Area boundaries and by way of the larger plat, which gives more engineered information. The applicant requests approval of both the zoning, given the proposed Master Development Plan, statement of commitments, and development standards and approval of the large scale development which would allow the immediate review of construction plans. Proposed setbacks are not close to the street; rather they allow for the development of the flat parts of the site, while preserving the slope and trees along the street.

Process: The purpose of the subject request is for a rezoning and development approval. Approval of the Residential Planned Zoning District would effectively rezone the property based on the engineered plans and information provided.

The following bulk and area regulations are proposed by the applicant:
(A) *Proposed Uses.*

Permitted uses

Use Unit 1	City-wide uses by right
Use Unit 2	City-wide uses by conditional use permit
Use Unit 9	Two-family dwellings
Use Unit 26	Multi-family dwellings

Conditional Uses

Unit 2	City-wide uses by conditional use permit
Unit 24	Home Occupations

(B) *Density.*

Units per acre	7.3

(C) *Bulk and area regulations.*

Lot minimum width	N/A - Condo units and duplexes
Lot area minimum	N/A
Land area per dwelling unit	5,000 sq. ft.

(E) *Setback requirements.*

Front Building Setbacks: 25'.

Rear Building Setback: 15'

Side Building Setback: 8'

(F) *Height.* 35' maximum height

(G) *Building area.* 16.8% of site.

Water: Public water is adjacent to the site. A study of the water system shall be conducted by the developer as directed by the Engineering Division. Substantial improvements to the water system may be required which includes other off-site improvements. Water service will need to be extended within the property at the time of development connecting within the proposed development.

Sewer: Sanitary sewer is currently available to the site. There is a 6" sewer line that runs along Hillcrest Avenue and a 6" sewer line along Abshier Drive, west of the site. A study of the downstream system shall be conducted by the developer. Substantial improvements to the sewer system may be required which includes other off-site improvements. Sewer service will need to be extended within the property at the time of development connecting within the proposed development.

Adjacent Master Street Plan Streets:
East: Hillcrest Ave. (Local Street)
South: Abshier Road (Local Street)

Traffic: Access to the site is provided by way of two private drives from surrounding streets, which will supplement two existing access drives into the Evelyn Hills Shopping Center. The two existing access drives are located behind the shopping center, both of which are accessed from Hillcrest Ave. A private drive will be allowed access from Abshier Dr. and will traverse through the southern tract and intersect with the existing drive into the shopping center. A second private drive will traverse north across the northern tract and connect the two existing access drives. A traffic study was not recommended for the proposed development. However, further evaluation will be conducted by staff at the time of construction plan submittal for any required improvements.

Street Improvements: Staff recommends the following improvements:

- Improve Abshier Drive to include a 14' wide street section from centerline with curb, gutter, storm drains and 6-foot sidewalk. Street improvements shall extend to College Avenue.
- Improve Hillcrest Avenue to include a 14' wide street section from centerline with curb, gutter, storm drains and a 6-foot sidewalk.

**Staff recommends that the location of the sidewalks on both Abshier Drive and Hillcrest Avenue be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

Tree Preservation: The two sections of property have very different topographies. The triangle shaped, southern tract is very sloped from Abshier Drive down to the proposed building locations, while the building location is very flat. Most of the tract is covered in small saplings and underbrush, with some larger significant trees. This tract contains the trees that will be removed in order to construct a detention pond. The rectangle shaped, northern tract has only a slight slope from Hillcrest Avenue to the proposed building locations. Many mature trees exist on this tract, but are within an existing easement. However, these trees should not be affected by this development.

The applicants have designed the layout of the driveways and buildings so that they are located on the flat portions of the property, while staying away from the outer boundaries of the property. After removal of the tree canopy for the detention pond, the canopy will fall to 17.0% canopy coverage, from 17.9% existing canopy coverage.

Parks: On November 7, 2005 the Parks Recreation Advisory Board recommended accepting money in lieu in the amount of $13,086 for 22 multi-family homes and 8 single-family homes. These amounts may need to be adjusted if the two-family homes are left on the same lot and not utilized as single-family attached homes.

Public Comment: Staff has received several comments, letters and e-mails from adjacent property owners. Any additional written comments from adjacent property owners will be included in the Planning Commission packet.

Recommendation: Staff recommends forwarding a recommendation of approval of the Residential Planned Zoning District for Abshier Heights (R-PZD 06-1883) to the City Council, with the following conditions:

Conditions to Approval:

1. Planning Commission determination of street improvements, to include the following:
   a. Installation of a 14' wide street from centerline of Abshier Dr., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk. Street improvements shall extend off-site to include the intersection of Abshier Drive and College Avenue.
   b. Installation of a 14' wide street from centerline of Hillcrest Ave., including 14' pavement, curb, gutter, storm drains, and a 6' sidewalk.
   c. Right-of-way to meet Master Street Plan requirements shall be dedicated prior to building permit.
   d. Egress from the proposed drive onto Abshier Drive shall be signed/marked to allow a right out only.

   **Staff recommends that the location of the sidewalks be determined by the Sidewalk Coordinator and Urban Forester at the time of development so that existing canopy along the right-of-way can be preserved.*

   THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED STREET IMPROVEMENTS, INCLUDING THE LOCATION OF SIDEWALKS TO BE DETERMINED BY THE SIDEWALK COORDINATOR AND THE URBAN FORESTER.

2. All setbacks, protective easements, density, designated uses and other zoning criteria are binding with the approval of the R-PZD. Submitted covenants are likewise binding to the project.

3. Structures shall be constructed as presented in the PZD, meeting the architectural design standards established herein.

4. Parks fees in the amount of **$13,086** for 8 single-family units and 22 multi-family units shall be paid prior to issuance of building permits, or as constructed to meet the parkland dedication fee-in-lieu requirements.

5. If street lights do not exist, they shall be installed with a maximum separation of 300 feet along Abshier Drive and Hillcrest Avenue.

6. The applicant shall submit 15 sets of the plats, project booklets, and elevations along with any other correspondence and information the applicant would request the City Council to review. Please submit half-size drawings for City Council review.

7. Coordination with the Solid Waste Division for centralized trash pick-up. *THE SOLID WASTE DIVISION HAS REQUESTED THAT TWO DUMPSTER PADS BE LOCATED ON THE SITE. IF PLANNING STAFF FINDS THAT THERE IS NOT SUFFICIENT*

ROOM FOR LOCATING A DUMPSTER PAD, OR THAT REQUIRING DUMPSTERS WOULD RESULT IN THE REMOVAL OF EXISTING TREE CANOPY, THE SOLID WASTE DIVISION WILL ALLOW INDIVIDUAL CARTS.

8. The applicant shall be granted one (1) year from the date of Planning Commission approval to receive all permits necessary for development with a one (1) year extension available.

9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.

10. Prior to City Council consideration, the applicant shall modify the project booklet and Site Plans to reflect any recommended revisions from the Planning Commission.

11. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks.

12. Access easement agreements for the driveways located off-site, shall be provided on the easement plat and filed of record prior to building permit.

13. Manufacturer's cut-sheets shall be required for any outdoor lighting, prior to building permit.

14. Trees are required to be planted every 30 linear feet along the right-of-way, where existing canopy is not currently located. Trees should also be planted every 12 parking spaces. Include these revisions prior to City Council.

15. If after construction, open areas exist along the right-of-way, trees shall be planted within the open areas, to provide a continuous buffer along the right-of-way between the PZD and the existing neighborhood.

16. Two bicycle racks are required and shall be shown on the site plan and legend with revisions prior to City Council.

Standard Conditions of Approval:

17. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

18. Prior to building permit, a cost estimate for all required public improvements are required to be submitted to Planning Staff for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the

materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

19. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential multi-family development. This shall be reflected in the booklets and on the plats.

20. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

21. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

22. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

23. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Building Permit.

Planning Commission Action: Required YES
√ Forward ☐ Denied ☐ Tabled
Motion: Vaught
Second: Graves
Vote: 6-3-0 Commissioners Clark, Myers and Allen voted no.

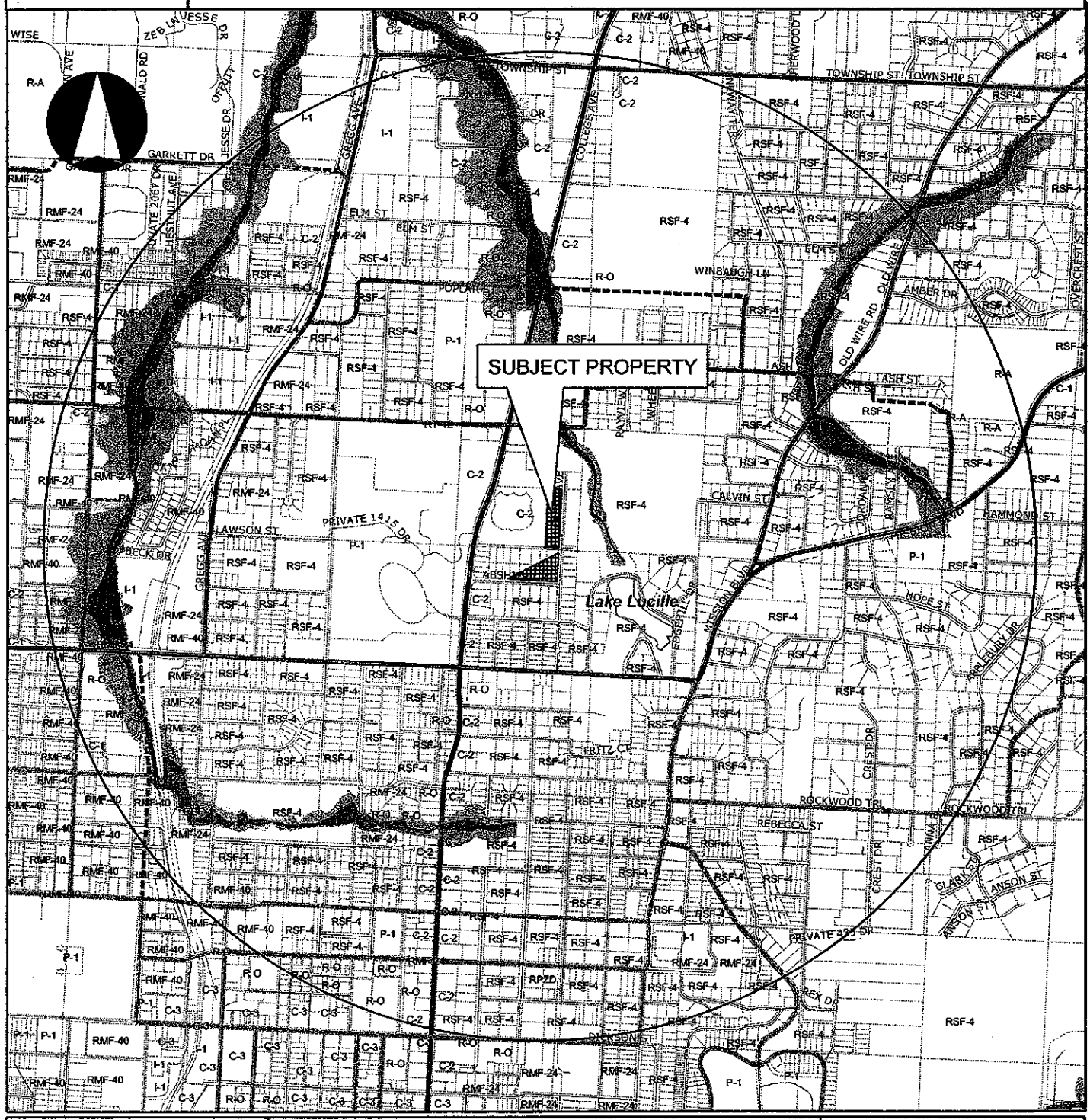
Meeting Date: **February 13, 2006**

Comments:

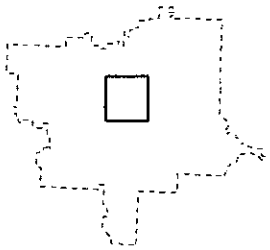
RPZD06-1883

One Mile View

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Boundary

Planning Area

Overlay District

Outside City

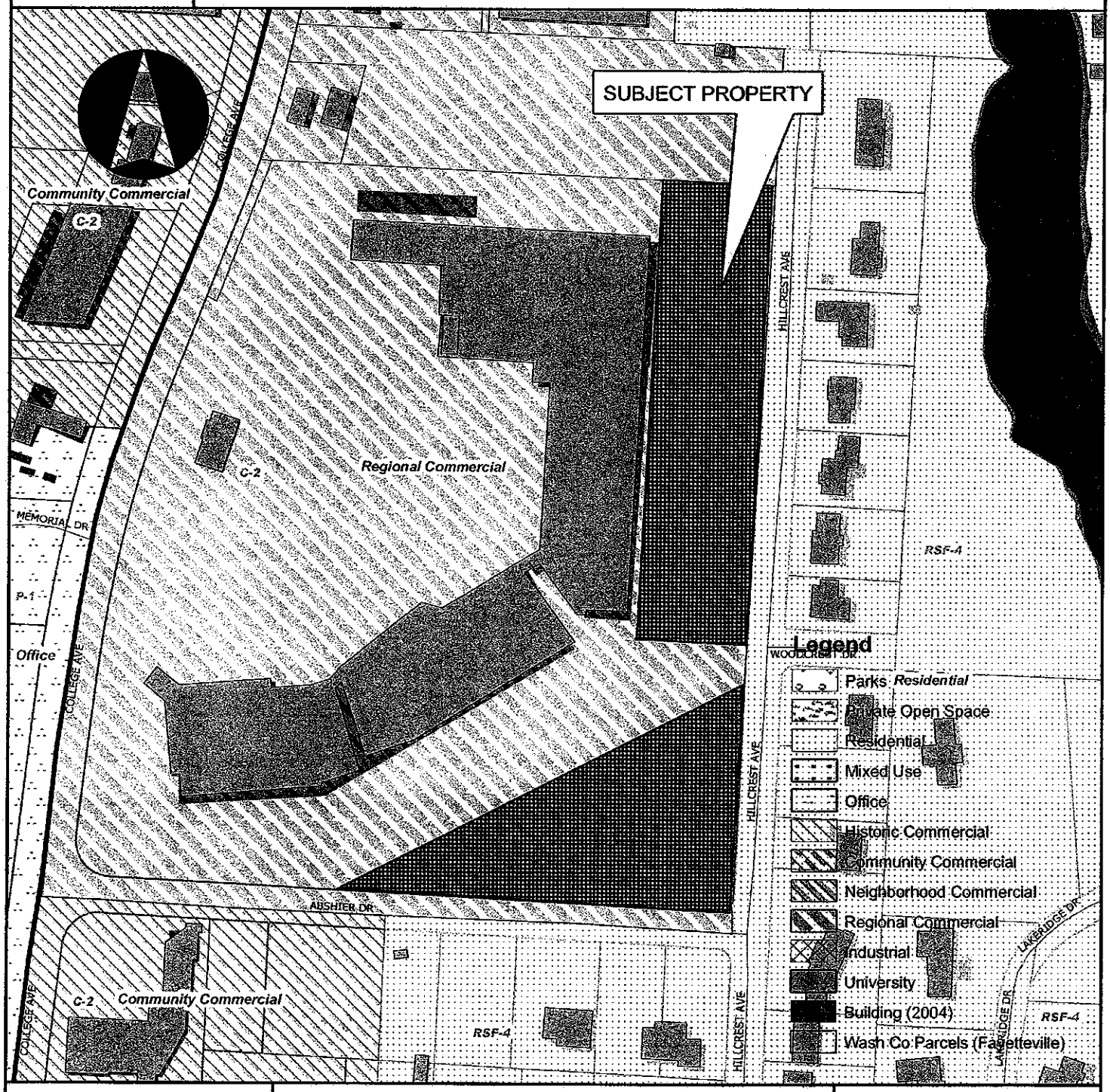
Legend

0 0.125 0.25 0.5 0.75 1 Miles

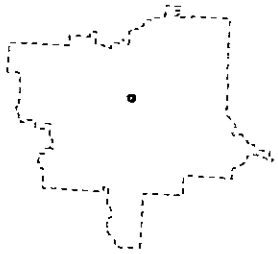
RPZD06-1883

Future Land Use

ABSHIER HEIGHTS



Overview



Legend

Subject Property

RPZD06-1883

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 75 150 300 450 600 Feet

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 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

Human Resource Project Updates – HR Staff – Agenda Session Only

2006 Comprehensive Annual Financial Report given by Bill Golbuff – Agenda Session Only

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

7. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

3. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

4. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

5. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

6. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

7. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

8. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

9. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

10. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

11. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

12. **Pops Old Time Bar-B-Que Appeal:** An appeal of the Planning Commission's decision to deny RZN 07-2637.

D. INFORMATIONAL:

City Council Tour: August 06, 2007

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Aug-07
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #07-46 to Littlefield Oil Company for a contract to purchase gasoline and diesel fuel for a period of one year with an option to renew for four additional one year periods.

$1,228,023.00	$ 1,182,000.00	Gasoline and Diesel
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1910.5213.00 and 5213.01	$ 475,967.00	Fleet Operations
Account Number	Funds Used to Date	Program / Project Category Name
	$ 706,033.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date 7/12/07

City Attorney — Date 7-13-07

Finance and Internal Service Director — Date 7-17-07

Mayor — Date 7/17/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/12/07

Received in Mayor's Office ENTERED 7/16/07

Comments:

Fayetteville
ARKANSAS

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

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent**

Date: **July 10, 2007**

Subject: **Award of Annual Automotive Fuel Contract**

RECOMMENDATION: That City Council approve a contract with Littlefield Oil Company for purchase of gasoline and diesel fuel for a period of one year with an option to renew for four additional one year periods.

BACKGROUND: **Bid #07-46** was opened on June 21, 2007 for an annual contract to supply the gasoline and diesel fuel requirements of the Fleet Operations Division and other divisions of the City government. Five bid responses were received. A detailed tabulation sheet is attached.

A thorough review and analysis of the bids was conducted by staff of Purchasing and Fleet Operations divisions. Staff determined that the lowest bid from Littlefield Oil Company meets all specifications and satisfied all requirements of responsiveness and ability to perform.

I recommend acceptance of the bid from Littlefield Oil Company in the amount of $1,228,022.90. This is the estimated amount for fuel over a 12 month period; however, the contract will run from August 15, 2007 to August 14, 2008. Estimated purchases in fiscal 2007 are $460,508.63.

Funds are available for this purchase in Fleet Operations operating budget for the balance of this year. The 2008 budget will have sufficient funds available for fuel purchases in 2008.

Award to the lowest responsive bidder as determined by Purchasing and Fleet staff was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ANNUALLY RENEWABLE CONTRACT WITH LITTLEFIELD OIL COMPANY PURSUANT TO BID #07-46 IN THE APPROXIMATE ANNUAL AMOUNT OF $1,228,023.00

WHEREAS, the City Fleet Division bid out its annual fuel needs and received four qualified bids; and

WHEREAS, the Littlefield Oil Company was the lowest qualified bidder with a total bid of $1,228,022.90.

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 awarding Bid #07-46 to Littlefield Oil Company and approves the Contract (attached as Exhibit A) with Littlefield Oil Company in the approximate amount of $1,228,023.00 for fuel supplies from September 2007 through August 2008. The budget impact is estimated to be $460,509.00 in fiscal 2007 and $767,514.00 in fiscal 2008.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Ref: Bid 07-46, Fuel
Contract

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Littlefield Oil Company and

WHEREAS, City of Fayetteville at its _____, 2007 public meeting awarded the project for **Fuel** and;

WHEREAS, Littlefield Oil Company and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Littlefield Oil Company 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 **Bid 07-46**, hereinafter set forth, whose program services together with the Bid Submittal, 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. LITTLEFIELD OIL COMPANY AGREES TO PROVIDE PRODUCTS TO THE CITY OF FAYETTEVILLE AT THE LOWEST DELIVERED PRICE AVAILABLE CALCULATED BY THE LOWEST RACK PRICE AVAILABLE FROM ALL CONTRACTED SUPPLIERS AS OUTLINED IN PAR 6.2, b OF BID -07-46 PLUS FREIGHT AND MARKUP ALSO AS SPECIFIED IN SUBJECT BID.

Littlefield Oil Company agrees to commence the project included in this Contract on a date to be specified in a written Notice to Proceed and shall be fully completed within a period of _____ (____) consecutive calendar days after the effective commencement date. AND CONTINUE FOR A PERIOD OF ONE YEAR FROM SAID DATE. CONTRACT MAY BE EXTENDED FOR FOUR ADDITIONAL ONE YEAR PERIODS UPON WRITTEN MUTUAL AGREEMENT OF THE PARTIES – SUCH AGREEMENT NO LESS THAN 30 DAYS NOR MORE THAN 60 DAYS PRIOR TO EXPIRATION OF EXISTING CONTRACT PERIOD.

City of Fayetteville agrees to pay Littlefield Oil Company in current funds, for the performance of this Contract in accordance with the **Bid 07-46 Submittal**, attached.

City of Fayetteville and Littlefield Oil Company agree that **Bid #07-46** , hereinafter set forth, whose services together with the Bid Submittal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto annexed, form the Contract and are as fully a part of the Contract as if attached or herein repeated.

City of Fayetteville shall have two weeks from receipt of invoice approval by the Project Manager in which to pay Littlefield Oil Company subject to any documentation requests by City of Fayetteville as necessary to allow City of Fayetteville to evaluate the completeness and accuracy of monies due.

To the fullest extent permitted by laws, statutes, rules and regulations, Littlefield Oil Company 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 engineers, architects, 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 Littlefield Oil Company 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.

Littlefield Oil Company agrees to comply with the laws of the State of Arkansas. Notwithstanding statutory exemptions or exclusions, Littlefield Oil Company 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. Littlefield Oil Company 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.

Littlefield Oil Company 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.

Littlefield Oil Company assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Littlefield Oil Company 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 Littlefield Oil Company without prior written approval by City of Fayetteville.

No assignment or transfer of this Agreement or any right accruing here under shall be made in whole or in part by Littlefield Oil Company 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.

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.

Littlefield Oil Company 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 Brad Arterbury VP
PRINTED NAME AND TITLE

ATTEST: CONSULTANT FIRM'S SECRETARY

_____

3403 Cavanaugh Fort Smith, AR 72908
BUSINESS ADDRESS

		Tanker	Wagon	Tanker	Wagon	
1	**Frost Oil Company**	$398,879.50	$62,951.25	$604,623.25	$172,719.75	**$1,239,173.75**
2	**Fuels & Supplies**	$405,516.30	$64,034.75	$610,060.00	$179,880.00	**$1,259,491.05**
3	**Littlefield Oil Company**	$397,986.15	$59,108.75	$603,042.00	$167,886.00	**$1,228,022.90**
4	**Mid-South Sales**	$398,456.20	$60,346.50	$602,604.75	$169,596.75	**$1,231,004.20**
5	**Petroleum Traders Corporation**	$397,964.90	No Bid	$611,026.63	No Bid	**$1,008,991.53** (tankers only)

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

CERTIFIED: P Vice — **P. VICE PURCH MGR**

A Fowler — **WITNESS**

6/26/07 — **DATE**

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

August 7, 2007
City Council Meeting Date
Agenda Items Only

Tony Johnson	Fire	Fire
Submitted By	**Division**	**Department**

Action Required:

Sunbelt Fire, Inc. 49 pts

Council approval to accept a bid from ~~Sunbelt~~/Emergency One for $886,843 in response to Bid 07-~~50~~ for a 114' articulated aerial platform truck. An equipment purchase for ancillary equipment is also necessary not to exceed $25,000 as part of this purchase.

$ 911,843.00	$ 925,000.00	Fire Apparatus - ~~100~~ 114' Aerial Truck
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5802.00	$ -	Vehicle and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
07013.1	$ 925,000.00	Sales Tax Improvement
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Department Director — Date: 7.12.07

City Attorney — Date: 7/19/2007

Finance and Internal Service Director — Date: 7-19-2007

Mayor — Date: 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/19/07

Received in Mayor's Office — ENTERED 7/19/07

Comments:

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

Project Request

Date: July 18, 2007

To: Mayor Coody, and
The Fayetteville City Council

From: Tony Johnson, Fire Chief

Subject: Recommendation for Awarding Bid 07-49, 114' Articulated Aerial Platform

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Recommendation

I recommend that you accept and approve alternate bid No. 1 submitted by Sunbelt/Emergency-One for a 114' articulating boom aerial fire apparatus in the Amount of $886,843. In addition to their bid amount, I am requesting that you approve $25,000 for a project contingency that will also include ancillary equipment. This will bring the grand total for the project to $911,843. The initial projection for the purchase was estimated at $925,000. After reviewing all of the bid submissions and their respective specification with the staff of the fire department, I believe the Sunbelt/Emergency-One bid to be the most responsive and responsible of all the submittals. The three bids submitted by Sunbelt/Emergency-One was for $1,033,524, alternate bid #1 $886,843, and alternate bid #2 in the amount of $923,999. Alternate bid #1 is for a demonstrator unit that has never been titled. After several operational and safety modifications by the manufacturer and the dealership, the vehicle and all components will have the full warranty of a new truck.

Background

The fire department is in need of adding an additional aerial apparatus to its fire fighting fleet. The need for this apparatus has been evident for some time, and the need is more apparent with the approved plans for the mid and high-rise buildings that contain mixed occupancies. In addition to the height of the buildings, we will also have to deal with the set-back requirements that add to the emergency accessibility and egress issues. The primary function of an aerial truck is gaining access and providing a pathway for emergency egress from a structure.

Justification

The purchase of this aerial truck for the fire department is an active response to the proposed development of several medium and high-rise structures in the immediate downtown area and those proposed for the far north side of the city. The acquisition of this type of emergency vehicle will enhance and strengthen the department's overall response capability to the University of Arkansas campus on the near west side, as well as the other existing structures in our jurisdiction. The 114-foot reach of this proposed aerial device will provide for an uninterrupted emergency path of egress. In addition, it will also provide a vertical path for our firefighters to gain access to areas that are unattainable from the current apparatus in service.

Conclusion

The purchase of this apparatus will synchronize the department's goal with the City's guiding principle of: *Having a Reputation as a Safe Community,* and from a public safety standpoint; it's the right thing to do.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-49 TO SUNBELT FIRE, INC.(EMERGENCY ONE) FOR THE PURCHASE OF ONE (1) 114' ARTICULATED AERIAL PLATFORM TRUCK IN THE AMOUNT OF $886,843.00 FOR USE BY THE FAYETTEVILLE FIRE DEPARTMENT; AND APPROVING THE PURCHASE OF ANCILLARY EQUIPMENT IN AN AMOUNT NOT TO EXCEED $25,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-49 to Sunbelt Fire, Inc.(Emergency One). for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of ancillary equipment in an amount not to exceed $25,000.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425

Interdepartmental Correspondence

TO: TONY JOHNSON, FIRE CHIEF

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT

DATE: JULY 18, 2007

SUBJECT: AWARD OF BID 07-49, 114' ARTICULATED AERIAL PLATFORM

Thanks to you, Chief Thompson, and the rest of your staff for including Fleet Operations in the specification and evaluation process for your new aerial purchase. We were pleased with the inspection and test drive of the demonstrator apparatus yesterday. The performance characteristics observed on the hills and back streets of Fayetteville seemed completely acceptable for an apparatus of this size.

Reviewing the bids submitted on both the standard platform (07-50) and the articulated platform (07-49), I concur with your decision to recommend acceptance of the low bid on the articulated platform.

There is certainly merit to negotiating a better deal on the demonstrator truck, however, aside from tire and brake wear, the amount of predominately highway miles on this unit does have some benefit in proper light load break-in and initial shake down of minor assembly issues which will be corrected in the pre-delivery inspection. This could potentially make the first year service more dependable than a new off the line truck.

SunbeltFire
Serving you is our calling.™
8050 McGowin Drive • Fairhope, AL 36532 • Office: 800.642.8484 • Fax: 251.928.9933 • www.sunbeltfire.com

FIRE APPARATUS PROPOSAL

Fayetteville Fire Department
303 West Center Street
Fayetteville, AR 72701

June 6, 2007

We are pleased to submit our bid for your consideration on the following, complete in strict accordance with the attached proposal for:

One (1) or more Articulating Aerial Fire Apparatus mounted on a Full Custom Chassis

Main Bid Price $ 1,033,524.00 .
Alternate Bid #1 Price $ 886,843.00 .
Alternate Bid #2 Price $ 923,999.00 .

A factory trained instructor shall deliver the unit and familiarize department personnel unless factory acceptance and familiarization is preferred. Proper manuals and third party test approval certificate where applicable shall be furnished.

Delivery on the above shall be within 330 calendar days for the main bid unit, 60 – 90 calendar days on the two alternate bids, F.O.B. Fayetteville, Arkansas.

Delivery is subject to delays due to war, fire, labor disputes, strikes, acts of God, government regulations, failure of suppliers to deliver, chassis shortage in the case of commercial chassis, accidents, and other causes beyond our control.

This quotation is good for 30 days. The pricing provided is exclusive of all Federal, State and Local taxes and any other fees which may apply unless specifically noted herein. A 100% performance bond will be provided if requested.

The vehicle proposed will be constructed at Emergency One, Inc. of Ocala, Florida. Sunbelt Fire, Inc. is the authorized dealer for Emergency One in this area. Service and parts are available through Sunbelt Fire, Inc., in Fairhope, Alabama, and from the Emergency One factory in Ocala, Florida. Service is available from locations in Hattiesburg, Long Beach, Lexington and Jackson, Mississippi. Sunbelt Fire will soon have a mobile service technician residing in the State of Arkansas.

Respectfully submitted,

By: Donald M. Rhodes Apparatus Sales Manager

City of Fayetteville
Bid 07-49, Articulating Aerial Fire Apparatus
Bid Form

DATE REQUIRED AS A COMPLETE UNIT: 330 days or less from Date of Order

***GUARANTEED DELIVERY DATE:** 60-90 days after receipt of order

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
Alternate Bid No. 1				
1.	Diesel powered 114' Telescoping / Articulating Aerial Fire Apparatus			
	SO 130184	1	$ 886,843.00	$ 886,843.00

Please Specify for Unit(s) Bid:

***MANUFACTURER:** E-One, Inc. **MODEL:** F114RLP

TOTAL BID PRICE: $886,843.00

EXECUTION OF BID -
Bidders are requested to provide a vehicle which complies with each item listed in the Technical Specifications. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. **He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.**
2. **Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.**
3. **The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.**

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

***NAME OF FIRM:** Sunbelt Fire, Inc.

***BUSINESS ADDRESS:** 8050 McGowin Drive

***CITY:** Fairhope ***STATE:** AL ***ZIP:** 36532

***PHONE:** (800) 642-8484 **FAX:** (251) 928-9933

***E-MAIL:** mweaver@sunbeltfire.com

***BY: (PRINTED NAME):** Donald M. Rhodes

***AUTHORIZED SIGNATURE:**

***TITLE:** Truck Sales Manager

BID: 07-49
6/6/2007
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 07-49, Articulating Aerial Fire Apparatus

	BIDDER	Manufacturer	Model	Total Base Bid
1	Pro-Fire Equipment, LLC			No Bid
2	Sunbelt Fire			
	Option 1	E-One, Inc	F114RLP	$1,033,524.00
	Option 2	E-One, Inc	F114RLP	$886,843.00
	Option 3	E-One, Inc	F114RLP	$923,999.00

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

CERTIFIED: P Vice — P. VICE PURCH MGR

A Foren — WITNESS

6/11/07 — DATE

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

August 7th, 2007
City Council Meeting Date
Agenda Items Only

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid # 07-56 in the amount of $211,393.00 plus any applicable taxes for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

$ 230,069.08	$ 240,000.00	Recycling Baler
Cost of this request	Category / Project Budget	Program Category / Project Name
5500.5060.5816.00	$ -	Solid Waste Improvements
Account Number	Funds Used to Date	Program / Project Category Name
07017	$ 240,000.00	Solid Waste
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] **Budget Adjustment Attached** [ ]

Department Director — Date: 7-11-07

City Attorney — Date: 7/20/07

Finance and Internal Service Director — Date: 7-19-07

Mayor — Date: 7/20/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/17/07

Received in Mayor's Office — ENTERED 7/19/07

Comments: Project contengency for $5,500 is included due to additional option of securing baler to steel plate during installation.

City Council Agenda Item

To: **Mayor and City Council**

From: Brian Pugh

Thru: Gary Dumas

Date: July 9, 2007

Subject: A resolution awarding Bid # 07-56 in the amount of $211,393.00 to Downing Sales and Service for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

Recommendation:

Staff requests approving a resolution awarding Bid # 07-56 to Downing Sales and Service in the amount of $211,393.00 plus any applicable taxes for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

Background:

On April 17th, 2007 resolution No. 70-07 authorized the Solid Waste and Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of $81,605 to partially fund the purchase of a new baler for the recycling center. Project number 07017 was budgeted in the 2007 CIP for $240,000, including the recycling grant funds mentioned here, to completely fund the purchase and installation of a new recycling baler.

Discussion:

Bid 07-56 was opened on June 22nd, 2007 with the low bidder being Downing Sales and Service with a bid of $211,393. In addition to the bid, Downing recommends the addition of a ¾" steel plate to be positioned between the floor and the baler to minimize the impact baling activities will have on the floor, protecting it from cracking. The cost of this steel plate and installation is an additional $5,500. The request for a project contingency in that amount is included with this request.

Budget Impact:

The purchase of the recycling baler was anticipated and budgeted into Solid Waste's 2007 CIP. The account number is 5500.5060.5816.00. The budget for 2007 for this purchase is $240,000.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-56 TO DOWNING SALES AND SERVICE, INC. FOR THE PURCHASE AND INSTALLATION OF ONE (1) RECYCLING BALER IN THE AMOUNT OF $211,393.00 PLUS APPLICABLE TAXES; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF $5,500.00 .

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 #07-56 to Downing Sales And Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of $5,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

A. 4
Bid# 07-56 Downing Sales and Service
Page 4 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date: 7/9/2007	
P.O Number:		Expected Delivery Date: 12/12/2007	
Vendor #: 3842	Vendor Name: Downing Sales and Service	Mail Yes:__ No: x	
Address:	Fob Point:	Taxable Yes: x No:__	Quotes Attached Yes:__ No: x
City:	State:	Zip Code:	Ship to code: 170
Divison Head Approval:			
Requester: Brian Pugh	Requester's Employee #: 2133	Extension: 685	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2 Ram baler Marathon/Nexgen Model 2R-190N-70-75 Bid 07-56	1	lot	211,393.00	$211,393.00	5500.5060.5816.00	07017		
2	Project Contengency to install 3/4" think steel plate between baler and floor	1	lot	5,500.00	$5,500.00		07017		
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	Included in bid award			

Special Instructions:

Subtotal:	$216,893.00
Tax:	$13,176.08
Total:	$230,069.08

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

BID: 07-56
6/22/2007
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 07-56, Recycling Baler

	BIDDER	Manufacturer	Model	Year	TOTAL PRICE
1	American Baler Company	American Baler	4016-100T4	2007	$215,850.00
2	Downing Sales & Service, Inc.	Marathon/Nexgen	2R-190N-70-75	2007	$211,393.00
3	Marck Industries, Inc.	Max-Pak	MP2R7510	2007	$243,500.00
4	Peterbilt of Fort Smith				No Bid
5	United Recycling Equipment, Inc.	Harris	Badger "L"	2007	$228,483.00

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

CERTIFIED: P Vice — **P. VICE PURCH MGR**

A Foren — **WITNESS**

6/26/07 — **DATE**

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Accept contract to purchase a IBM AS400 model 9406-515. This machine will allow continued operation of the Central Dispatch Center in the event the primary AS400 becomes unavailable as a result of failure or for scheduled maintenance. The cost of this purchase is not to exceed $43,700.00.

$ 43,698.94	$ 225,368.00	Police Technology Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5801.00	$ 130,669.00	Fixed Assets
Account Number	Funds Used to Date	Program / Project Category Name
06002-1	$ 94,699.00	Sales Tax Capital Improvemnts
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Tracy Risley — 7/20/07
Department Director — Date

D. P. Whit — 7/23/07
City Attorney — Date

Paul A. Becker — 7-23-07
Finance and Internal Service Director — Date

Dan Coody — 7/23/07
Mayor — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

Fayetteville
ARKANSAS

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

Departmental Correspondence

TO: Mayor Coody
Members of City Council

FROM: Greg Tabor, Police Chief GT/TR

DATE: July 20, 2007

SUBJECT: Computer Aided Dispatch AS/400 Redundancy

Recommendation
Staff recommends purchase approval of the AS/400 back up system from IBM Corporation in an amount not to exceed $43,700.00. This system is available through the State of Arkansas's purchasing contract.

Background
The Fayetteville Police Department provides dispatching for Police, Fire and after hours city services. In 2007 the scheduled replacement of our AS/400 computer system was initiated with the purchase of an IBM AS/400 model 9406-520. The second step to this upgrade is the purchase of a smaller AS/400 model 9406-515 to allow redundant operations for our Dispatch Center.

Discussion:
Redundancy is important to the Dispatch Center to allow continuous operations. The Dispatch center must be operational even when the main computer is down due to failure or scheduled maintenance, which may take up to 24 hours to complete. Approximately 52,000 calls for service are processed through the Dispatch Center annually. This software records the time and location of the call, which service was dispatched, when we arrived and when the call was completed. This call then becomes the incident to add all information to create a case file or fire records and ultimately report our crime and fire statistics. The software that runs on this system provides Dispatchers with critical information such as previous incidents at a location i.e. disturbances, armed persons, criminal activity, street directions to reach the call and hydrant information for fire calls. The proposed AS/400 provides a seamless transition between the primary AS/400 and the redundancy software stored on the back-up system.

Budget Impact:
Funding for this purchase is budgeted in the adopted 2006-2010 Capital Improvements Program in Sales Tax Capital Improvement Fund under the Police Technology Improvements Project. Additionally, annual maintenance expenses of $816 will be included in future operating budgets.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF AN IBM AS400, MODEL 9406-515 THROUGH THE STATE PURCHASING CONTRACT IN AN AMOUNT NOT TO EXCEED $43,700.00 FOR USE BY THE FAYETTEVILLE POLICE DEPARTMENT .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

07/20/2007
11:25:07

2_1781753561B --> City of Fayetteville
515 Express/2G Mem/Qty 4 70G Disk/Rack Mnt/25 OS Users

Configuration Summary

Hardware Section Totals

Initial orders	
Purchase	31,440.00
Monthly Maint	73.00
Annual Maint	816.00

Overall hardware order (Net Charges)

Purchase	USD 31,440.00
Monthly Maint	73.00
Annual Maint	USD 816.00

Software Section Totals

Initial orders	
OTC	9,709.00

Overall software order (Net Charges)

OTC	USD 9,709.00

Service Section Totals

Overall System Order (Net Grand Totals)

OTC	41,149.00
Monthly	73.00
Annual	816.00

Notes:
1) All hardware and software list prices are effective as of 07/13/2007, and are subject to change without notice. Prices do not include any applicable recycling fees.
2) Maintenance prices shown are reference prices (ESA - US Only) and are standard level of service.
3) All removed parts belong to IBM on any upgrade or Return Parts transaction.
4) Informational totals are calculated based upon current list and/or reference price and do not reflect the prices actually paid by the customer. Base starting-point prices show only the recurring charges.

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date: 7/20/2007
P.O Number:	Expected Delivery Date:

Vendor #: 5710	Vendor Name: IBM Corp	Mail Yes:__ No:____	
Address: 1605 LBJ Freeeway		Fob Point:	Taxable Yes:_ No:____
Quotes Attached Yes:_____ No:_____			
City: Dallas	State: TX	Zip Code: 75234	Ship to code: 21
Divison Head Approval: Tracey Kirkley			
Requester:		Requester's Employee #:	Extension:

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	AS/400 mosel 9406-515	1	EA	31,440.00	$31,440.00	4470-9470-5801.00	06002/1		
2	Software	1	EA	9,709.00	$9,709.00	4470-9470-5209.00	06002/1		
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:	$41,149.00
Tax:	$2,549.94
Total:	$43,698.94

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/27/06

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
ALDERMAN SHIRLEY LUCAS and ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve A Budget Adjustment In The Amount Of $16,000.00 From Economic Development Funds To The Airport Museum To Finish The Cabinets For Display Of Historic Documents

APPROVED FOR AGENDA:

Shirley Lucas — 7/10/07 Date
Alderman

Brenda Thiel — 7/10/07 Date
Alderman

Kit Williams — 7-10-07 Date
City Attorney (as to form)

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $16,000.00 FROM ECONOMIC DEVELOPMENT FUNDS TO THE AIRPORT MUSEUM TO FINISH THE CABINETS FOR DISPLAY OF HISTORIC DOCUMENTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Date Requested	Adjustment Number
2007	Division: Program:	7/12/2007	

Project or Item Added/Increased:
$16,000 in the Transfer to Arkansas Air Museum account.

Project or Item Deleted/Reduced:
$16,000 from the Use of Designated Fund Balance account.

Justification of this Increase:
Funds will be used to finish the cabinets for display of historic documents at the Arkansas Air Museum.

Justification of this Decrease:
Sufficient funding remains to comply with City policy.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Transf to Ar Air Museum	1010	6600	5733	00	16,000		

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of Designated Fnd Bal	1010	0001	4999	98	16,000		

Approval Signatures

Requested By — Date

Budget Manager — Date 7-12-07

Department Director — Date

Paul A. Becker — Finance & Internal Services Director — Date 7-12-07

Mayor — Date

Budget Office Use Only

Type: A B C (D) E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

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

7-Aug-07
City Council Meeting Date

Sarah Wrede	Wastewater System Imprv Project	Engr and Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of a contract to GeoSyntec Consultants in the amount of $199,883.00 to develop a Nutrient Reduction Plan for the City in accordance with the Beaver Water District agreement, WSIP Subproject BWD-1, RFP 06-17.

$199,883.00	$ 99,013,095	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5314.00	$ 76,213,235	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133-0316	$ 22,799,860	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item XX Budget Adjustment Attached

Department Director — Date 16 Jul 07

City Attorney — Date 7/19/07

Finance and Internal Service Director — Date 7-20-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # 59-06

Original Contract Date: N/A

Original Contract Number: N/A

Received in City Clerk's Office ENTERED 7/16/07

Received in Mayor's Office ENTERED 7/19/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: David Jurgens, Water and Wastewater Director
Ron Petrie, City Engineer

From: Sarah Wrede, Staff Engineer

Date: July 12, 2007

Subject: Resolution to award a contract to GeoSyntec Consultants in the amount of $199,883.00 to develop a Nutrient Reduction Plan for the City in accordance with the Beaver Water District agreement.

RECOMMENDATION

Staff recommends approval of a resolution authorizing the development of a Nutrient Reduction Plan for the City of Fayetteville by GeoSyntec Consultants to achieve a net reduction of the load of Total Phosphorus into Beaver Lake.

BACKGROUND

On March 27, 2006, the City Council approved a resolution "Protection of the Beaver Lake Watershed" approving an agreement with Beaver Water District to achieve a net reduction of the load of Total Phosphorus (TP) into Beaver Lake. This agreement is a result of modifications to the Noland Wastewater Treatment Plant that will result in a doubling over time of the permitted discharge of treated effluent into the White River. The Arkansas Department of Environmental Quality approved a new discharge limit for total phosphorus on the City's NPDES Permit. The City has a track record of maintaining the concentration of treated effluent below 0.5 mg/l. The City has been permitted to maintain its current NPDES discharge limit of 1 mg/l TP in exchange for the City conducting a program to reduce nonpoint source loadings of TP within the watershed. The reductions of TP from nonpoint sources should be sufficient to offset the increased loading from the treatment plant allowed by the new NPDES limit.

DISCUSSION:

The City requested proposals from consultants to provide the City with a Nutrient Reduction Plan. Three firms where interviewed by a selection committee and GeoSyntec was selected. GeoSyntec Consultants has developed a scope of work for the Nutrient Reduction Plan which consists of six tasks as follows:

1. Draft Final Work Plan and Budget
2. Compile Existing Water Quality and Watershed Data
3. Inventory Existing State and Local Regulations and Programs
4. Facilitate a Stakeholder Review Group
5. Nutrient Reduction Plan Development
6. Develop a Public Outreach Brochure and Education Plan

The project is proposed to take a year.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO GEOSYNTEC CONSULTANTS, INC. IN THE AMOUNT OF $199,883.00 TO DEVELOP A NUTRIENT REDUCTION PLAN IN ACCORDANCE WITH THE BEAVER WATER DISTRICT AGREEMENT, WSIP SUBPROJECT BWD-1, RFP 06-17.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards a contract to Geosyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GEOSYNTEC CONSULTANTS, INC.

THIS AGREEMENT is made as of _____, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Geosyntec Consultants, Inc. with offices located in Chicago, IL (hereinafter called Geosyntec).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, construction, operation, maintenance, management, and financing of the Fayetteville Wastewater System Improvement Project and in particular a Nutrient Reduction Plan (The "Project"). Therefore, CITY OF FAYETTEVILLE and Geosyntec in consideration of their mutual covenants agree as follows:

Geosyntec shall serve as CITY OF FAYETTEVILLE's professional consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of Geosyntec's services.

AUTHORIZATION OF SERVICES

1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of Geosyntec.

1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of Geosyntec.

1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 1 - BASIC SERVICES OF GEOSYNTEC

2.1 General

2.1.1 Perform professional Nutrient Reduction Plan services as described in the scope of work in Appendix A.

2.1.2 Develop and include in Appendix B of this Agreement, a project schedule in which Geosyntec shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by Geosyntec in the completion of this nutrient reduction plan. Nonconformance with this schedule by Geosyntec and its subconsultants may result in the assessment of damages payable by Geosyntec to the CITY OF FAYETTEVILLE for costs incurred including, but not limited to, interest rate increases, impacts from delay, and inflationary cost increases. The maximum cost liability of Geosyntec shall be limited to the total gross amount payable to or through the Consultant authorized under this agreement, including amendments thereto.

2.1.2.1 The progress schedule shall consist of a bar chart schedule depicting the duration of each sub-project and the discrete milestone activities which make up the sub-projects.

2.1.2.2 Render monthly Work progress reports to CITY OF FAYETTEVILLE.

SECTION 2 - ADDITIONAL SERVICES OF GEOSYNTEC

3.0 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by Geosyntec, Geosyntec shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.7 Extra Services

3.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.7.2 Contingent Additional Services

3.7.2.1 If services described under Contingent Additional Services in Paragraphs 3.1 through 3.6 are required due to circumstances beyond Geosyntec's control, Geosyntec shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described above are not required, CITY OF FAYETTEVILLE shall give prompt written notice to Geosyntec. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, Geosyntec shall have no obligation to provide those services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of Geosyntec:

3.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

3.2 Assist Geosyntec by placing at Geosyntec's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3.3 Guarantee access to and make all provisions for Geosyntec to enter upon public and private property as required for Geosyntec to perform his services under this Agreement.

3.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by Geosyntec and render in writing decisions pertaining thereto.

3.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

3.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

3.7 Give prompt written notice to Geosyntec whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.

3.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.

3.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements of the Wastewater System Improvement Project.

3.10 Furnish, or direct Geosyntec to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

3.11 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to Geosyntec in a timely manner.

SECTION 4 - PERIOD OF SERVICE

4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. Geosyntec will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 5 - PAYMENTS TO GEOSYNTEC

5.1 Compensation

5.1.1 Nutrient Reduction Plan Services

For the Scope of Services described in Attachment A, CITY OF FAYETTEVILLE shall pay monthly invoices not to exceed United States Dollars (US $ 199,883).

5.1.1.1 Subject to the City Council approval, adjustment of the not to exceed amount may be made should Geosyntec establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

5.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for services consistent with Geosyntec's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by Geosyntec and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Project.

5.1.2 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to Geosyntec shall be negotiated at the time Additional services are authorized.

5.2 Statements

Statements and updated progress schedule for each calendar month will be submitted in electronic format simultaneously to CITY OF FAYETTEVILLE and Program Manager, followed by signed original document to CITY OF FAYETTEVILLE. Statements will be based on Geosyntec's estimated percent of services completed at the end of the preceding month, and justified by the updated progress schedule. Program Manager shall review the statement and forward them to CITY OF FAYETTEVILLE with his recommendations.

5.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of Geosyntec's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise Geosyntec in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, Geosyntec shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by Geosyntec to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against Geosyntec or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

6.1.1 During the course of performance of these services, Geosyntec will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Professional Liability Insurance	$1,000,000 Each Claim

Geosyntec will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and Geosyntec waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of Geosyntec's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to

provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and Geosyntec for damage or liability covered by any construction Contractor's policy of insurance.

6.2 Professional Responsibility

6.2.1 Geosyntec will exercise reasonable skill, care, and diligence in the performance of Geosyntec's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. Geosyntec agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by Geosyntec 's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of Geosyntec.

6.2.2 In addition Geosyntec will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by Geosyntec's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 6.1.1.

6.3 Cost Opinions and Projections

Cost opinions and projections prepared by Geosyntec relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on Geosyntec's experience, qualifications, and judgment as a design professional. Since Geosyntec has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, Geosyntec does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by Geosyntec.

6.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of Geosyntec's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable

amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President, Vice President, or any Principal of Geosyntec.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that Geosyntec is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.2.2 An opportunity for consultation with the terminating party prior to termination.

6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

6.5.3.2 Any payment due to Geosyntec at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of Geosyntec's default.

6.5.4 If termination for default is effected by Geosyntec, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to Geosyntec for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Geosyntec relating to commitments which had become firm prior to the termination.

6.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, Geosyntec shall:

6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Geosyntec in performing this Agreement, whether completed or in process.

6.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

6.5.7 If, after termination for failure of Geosyntec to fulfill contractual obligations, it is determined that Geosyntec had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

6.6 Delays

In the event the services of Geosyntec are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond GeoSyntec's reasonable control, Geosyntec shall be entitled to additional compensation and time for reasonable costs incurred by Geosyntec in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

Geosyntec's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and Geosyntec which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or Geosyntec in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give Geosyntec written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and Geosyntec shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of Geosyntec and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to Geosyntec for services rendered by Geosyntec.

6.10 Publications

Recognizing the importance of professional development on the part of Geosyntec's employees and the importance of Geosyntec's public relations, Geosyntec may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to Geosyntec's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to Geosyntec. CITY OF FAYETTEVILLE may require

deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of Geosyntec's activities pertaining to any such publication shall be for Geosyntec's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and Geosyntec from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Computer Models

Geosyntec may use or modify Geosyntec's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or Geosyntec may develop computer models during Geosyntec's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by Geosyntec does not constitute a license to CITY OF FAYETTEVILLE to use or modify Geosyntec's computer models. Said proprietary computer models shall remain the sole property of Geosyntec. CITY OF FAYETTEVILLE and Geosyntec will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use Geosyntec's computer models.

6.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. Geosyntec may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by Geosyntec as part of the Services shall become the property of CITY OF FAYETTEVILLE when Geosyntec has been compensated for all Services rendered, provided, however, that Geosyntec shall have the unrestricted right to their use. Geosyntec shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Geosyntec.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. Geosyntec makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

_____

_____

_____

Geosyntec's address:

55 W. Wacker Dr..
Suite 1100
Chicago, IL 60601

6.15 Successor and Assigns

CITY OF FAYETTEVILLE and Geosyntec each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor Geosyntec shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.17 Entire Agreement

This Agreement represents the entire Agreement between Geosyntec and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to Geosyntec a purchase order,

no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by Geosyntec, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of Geosyntec:

7.1.1 CITY OF FAYETTEVILLE's or Arkansas Soil and Water Conservation Commission's (ASWCC's) review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve Geosyntec of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor ASWCC's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 Geosyntec shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by Geosyntec's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 Geosyntec's obligations under this clause are in addition to Geosyntec's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against Geosyntec for faulty materials, equipment, or work.

7.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and Geosyntec arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

7.3.1 Geosyntec shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of

this Agreement. Geosyntec shall also maintain the financial information and data used by Geosyntec in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. Geosyntec will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of Geosyntec;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

7.4 Covenant Against Contingent Fees

Geosyntec warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Geosyntec for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that Geosyntec or any of Geosyntec's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, the State or EPA in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to Geosyntec terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against Geosyntec as it could pursue in the event of a breach of the Agreement by Geosyntec. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs Geosyntec incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF

FAYETTEVILLE, Geosyntec will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of $25,000.

DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE

COMPANY NAME: Geosyntec Consultants, Inc.

SIGNATURE: [signature] DATE: 6-29-07

PRINTED NAME: William D. Ward TITLE: Associate

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and Geosyntec, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Geosyntec Consultants, Inc.

By: [illegible]

Title: ASSOCIATE

By: Susan K. Hill, P.E.

Title: PRINCIPAL

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City of Fayetteville Nutrient Reduction Plan
Scope of Work

GeoSyntec Consultants will develop a Nutrient Reduction Plan for the City of Fayetteville to implement its agreement with the Beaver Water District. The Nutrient Reduction Plan will focus on controlling nonpoint sources of total phosphorus (TP). Achieving reductions in TP load to Beaver Lake is critical to maintaining the quality of the region's principle source of drinking water. GeoSyntec has assembled a consultant team with an exceptional record of prior watershed management and source water protection experience. GeoSyntec will enter into subcontracts with the project team after reaching agreement with the City of Fayetteville with regard to this scope of work.

The GeoSyntec Team will complete this scope of work in the following six tasks. The technical approach and schedule for each task are provided below. The proposed schedule is expressed in terms of months from project initiation and will be revised in consultation with the Fayetteville Project Manager.

Task 1. Draft Final Work Plan and Budget

GeoSyntec will work with the Fayetteville Project Manager to develop the final scope of work and associated budget. GeoSyntec will not proceed with the project until final work plan approval and contract initiation is completed with the city.

Project Month: 0 - 1

Task 2. Compile Existing Water Quality and Watershed Data

The GeoSyntec Team will collect all available data to support the Nutrient Reduction Plan. Data will include any water quality monitoring conducted within the watershed. For example, in consultation with the Beaver Water District's Manager of Environmental Quality, GeoSyntec will review previous water quality data summaries including the July 2005 Beaver Lake Water Quality Report and the April 2006 Analysis of Water Quality Trends in Beaver Lake. GeoSyntec will contact FTN Associates to discuss the data summaries and issues with regard to data quality.

In addition, GeoSyntec will contact Dr. Kati White Migliaccio to discuss the applicability of the existing CE-QUAL-W2 to support the pollutant loading analysis.

GeoSyntec will also independently review water quality data sources to ensure that all available sources have been identified. GeoSyntec will collect other information and data for the watershed management strategy, including regional demographic trends and anticipated water demands.

GeoSyntec will assemble the most up-to-date land use information and key sources of TP. GeoSyntec anticipates that a key component of the Nutrient Reduction Plan will be a thorough analysis of TP sources related to specific land uses.

GeoSyntec will also collect other critical information sources, including current and draft stormwater, drainage, and erosion control specifications and ordinances; the city's Drainage Criteria Manual; the city's Subdivision and Large Scale Development ordinance; the city's NPDES permits; and historical data and information for the Noland wastewater treatment plant.

GeoSyntec will prepare a memorandum for the Fayetteville Project Manager summarizing the available data and any critical data gaps that may hinder the ability to prepare the Nutrient

Reduction Plan. At the request of the Fayetteville Project Manager, GeoSyntec will prepare a work plan and cost estimate for any additional data collection.

Project Months: 1 - 3

Task 3. Inventory Existing State and Local Regulations and Programs

Understanding the political and regulatory climate within Benton and Washington counties will be critical to the development of appropriate management controls for the Nutrient Reduction Plan. In addition to the City of Fayetteville ordinances, GeoSyntec will inventory all applicable State, county, and local land management statutes, regulations, and ordinances. GeoSyntec will also review the status of other NPDES permitted point source discharges in the watershed and other local stormwater management programs. GeoSyntec will also assess the status of 303(d) listed water bodies in the watershed, and we will contact Arkansas DEQ to document current and anticipated TMDL development and additional impaired water body listings in the watershed.

GeoSyntec will document the circumstances leading to the unsuccessful passage of the Benton County Buffer Ordinance and provide recommendations for revising the ordinance or taking a different approach to secure its passage.

GeoSyntec will prepare a memorandum summarizing the available statutes and regulations governing point and nonpoint sources in Benton and Washington Counties. GeoSyntec will also provide recommendations for regulatory changes to better address potential pollutant sources.

Project Months: 1 - 3

Task 4. Facilitate a Stakeholder Review Group

The GeoSyntec Team will provide all needed research, facilitation, and logistical support for the successful deliberations of a Stakeholder Review Group in the following three subtasks.

4.1 Assist in the Formation of a Stakeholder Review Group

In consultation with the Fayetteville Project Manager, GeoSyntec will review a list of potential stakeholders and compile a final list to be invited to participate on a Stakeholder Review Group (SRG). GeoSyntec will draft an invitation letter for the stakeholders, including background information on the project goals and schedule, and revise it as directed. GeoSyntec will complete the mailing and conduct follow up phone contacts as needed. GeoSyntec will maintain a list of the SRG participants throughout the project.

Project Months: 1 - 3

4.2 Support the SRG Deliberation Process

Geosyntec will lead the facilitation support. The Geosyntec Team will develop meeting agendas in consultation with the Fayetteville Project Manager. They will compile and distribute background information, including data reports, ordinance summaries, draft watershed strategy chapters and other background information to support the deliberations. Members of the GeoSyntec Team will also present create and deliver presentations on key findings and options for addressing watershed management issues. Geosyntec will set clear goals for each of the meetings, including key questions to be addressed and decision points to be reached. The objective of the facilitation will be to reach group consensus, although dissenting opinions will be openly aired and considered. When necessary, more focused consultations with stakeholders may be considered to resolve difficult issues and formulate new options to bring to the SRG. GeoSyntec will document

the key discussion points in the meetings and conclusions reached. Meeting summaries will be distributed to the participants within one week of each meeting.

GeoSyntec anticipates that the first SRG meeting will be held in Month 3 of the project and will be held bi-monthly throughout the duration of the project.

Project Months: 3 - 12

4.3 Maintain SRG Records and establish a web site to support the SRG deliberation process

GeoSyntec will establish a web site to support the SRG deliberation process. All project deliverables, meeting agendas, meeting summaries, and other supporting documentation will be maintained on the site. The site will also provide for a central repository to collect SRG comments and to post watershed strategy chapters as they are drafted and reviewed.

Project Months: 3 - 12

Task 5. Nutrient Reduction Plan Development

The GeoSyntec Team will work directly with the Fayetteville Project Manager and the SRG to develop a Nutrient Reduction Plan that addresses the following key objectives:

- Identifies the key characteristics of the watershed, including land use trends, hydrology, point and non-point pollutant sources, and water quality stressors.
- Establishes quantifiable water quality management goals in compliance with the Beaver Water District agreement, nutrient criteria, or other measures critical to water quality and the pollutant load reductions needed to achieve those goals.
- Inventories the regulatory and non-regulatory tools available to manage water quality stressors.
- Identifies specific best management practices (BMP) suitable to control pollutant loads.
- Estimates the pollutant load reductions resulting from the implementation of regulatory and non-regulatory controls.
- Identifies the parties implementing the controls and the funding sources needed to support them.
- Establishes a clear schedule for control project implementation, including interim milestones to ensure progress is being made on project implementation.
- Creates a monitoring program to ensure that the water quality goals are being met.
- Provides for adaptive management of the watershed to ensure that the control projects are being reviewed and updated over time to provide for ongoing protection of Beaver Lake.
- Implements a public education and outreach program to promote public support for the control measures and to help landowners understand how they impact the lake.

The Plan will acknowledge other programs addressing impaired waters within the watershed, such as the Arkansas DEQ TMDL program, and will ensure that unimpaired waters continue to meet or exceed existing standards or designated uses.

The GeoSyntec Team will support the Strategy development in the following five subtasks.

5.1 Develop Nutrient Reduction Plan Goals and Strategy

The GeoSyntec Team will work with the City of Fayetteville and SRG to establish a written Watershed Strategy. The Strategy will clearly present the mission and goals of the Nutrient Reduction. It is anticipated that several draft documents will be distributed via the project website for comment and input from all stakeholders.

Project Months: 3 - 4

5.2 Develop a Nutrient Reduction Plan Outline: Nine Minimum Elements

The GeoSyntec Team will work with the District, Technical Advisory Group and Policy Advisory Group to establish a written Nutrient Reduction Plan. The Plan will clearly present the mission and goals of the Watershed Management Plan. It is anticipated that several draft documents will be distributed via the project website (See task 2.3). The nine minimum elements will include the following:

A. Identify Pollution Sources	GeoSyntec will assemble information from (1) baseline reference documents, (2) NPDES permits and (3) reports from previous studies. As a default, land use data will be used to identify categories of potential NPS pollution sources.
B: Estimated Pollutant Load Reductions	GeoSyntec will assemble information from (1) baseline reference documents, (2) any results from the selected district or volunteer monitoring data. As a default, land use data will be used to estimate pollutant contribution from categories of potential sources such as land development, forestry, or agriculture.
C: NPS Management Measures Needed	GeoSyntec will assemble information from (1) baseline reference documents and (2) identified management measures from stakeholders.
D: Estimated Technical and Financial Assistance	GeoSyntec will assemble information about proposed and/or undertaken management measures in the watershed/subwatershed, and analyze the financial/technical resources that were necessary to implement them. Based on this exercise, GeoSyntec will estimate values for those technical and financial resources on a per-unit basis. Using the results of C., we will extrapolate the technical/financial resources necessary for watershed-wide implementation. Where no project-specific information is available, we will use either values from a similar watershed and/or basin, and/or use EPA default values from GRTS reporting.
E: Public Information /Education	The public information component of this project will address this element.
F: NPS Management Implementation Schedule	GeoSyntec will assemble (1) implementation schedules included in the baseline reference documents[1], and (2) action strategies developed by watershed stakeholders. We will then develop a default timeline (i.e., "within xx years") consistent across all management measures.
G: Interim Milestones for NPS Measures	GeoSyntec will discuss how regular updates of the Source Management Plan will satisfy this element.
H: Evaluation Criteria	To satisfy the requirements of categories H. and I., GeoSyntec will discuss

I: Monitoring Effectiveness of NPS Measures	how the ongoing assessment and monitoring activities of the city will satisfy the requirements for these categories.

Project Months: 4 - 5

5.3 Identify and Document TP Load Sources

Based on the data and land use review, the GeoSyntec Team will identify the most significant sources of TP load in the watershed. These sources may include animal feeding operations, fertilizer applications, wastewater discharges, septic or other on-site disposal systems, pet waste, or other waste disposal. The GeoSyntec Team will estimate the TP load from the multiple sources to begin setting priorities for the management practices.

Several alternate approaches are available for estimating reductions in TP loads from different management scenarios. These range from simple spreadsheet models to complex, hydraulic models. GeoSyntec will work with the Fayetteville Project Manager to identify the approach most suitable for this project following the data analysis. We believe strongly that the selection of the modeling approach is best done following the data analysis and the determination of the Nutrient Reduction Plan goals. The approaches include the following:

Spreadsheet Model – This approach involves estimating the TP load from specific sources based on export coefficients derived from literature values.

Runoff Curve Models – The Long-Term Hydrologic Impact Assessment (L-THIA) Model was developed by Purdue University to estimate changes in surface runoff and pollutants loads, including TP, resulting from land use changes.

Annualized Loading Models – The Generalized Watershed Loading Function (GWLF) Model is promoted by U.S. EPA for TMDL and other watershed modeling applications. GWLF is a moderate cost approach for assessing annual pollutant loads and the impact of BMPs.

The GeoSyntec Team will document the rationale for the selected modeling approach and develop the modeling application. The application will be suitable for assessing the pollutant load reduction impact of the best management practices (BMP) and other management measures identified under subtask 5.4.

Project Months: 5 – 8

5.4 Identify BMPs and Predicted TP Load Reductions, including city ordinance revisions

The GeoSyntec Team will develop a set of recommended BMPs and other management measures to achieve the required TP load reduction. The management measures will be selected in consultation with the city and the SRG based on the TP load reduction achieved, cost, and feasibility of implementation.

Management measures may include structural BMPs such as buffer strips, conservation easements, biofilters, and stormwater retention basins. Other non-structural BMPs may include public education to reduce fertilizer applications and encourage pet waste clean up and economic incentives to farmers and animal feeding operators to improve fertilizer and manure management. Ordinance and zoning revisions to steer development from sensitive areas and improve erosion and stormwater management will also be considered.

The GeoSyntec Team will document the set of selected management measures in preparation for completing the Nutrient Reduction Plan.

Project Months: 8 -10

5.5 Develop Monitoring Plan

GeoSyntec recommends that the Nutrient Reduction Plan include monitoring activities to assess the achievement of the TP load reduction goals. The plan will identify monitoring locations, establish a monitoring schedule, and outline recommended analytical methods. The plan will also identify parties responsible for the sample collection, the analytical laboratories to be used, and chain of custody procedures. GeoSyntec will present the draft plan to the city and SRG for review and revise the plan as necessary.

Project Months: 8 - 10

5.6 Draft Nutrient Reduction Plan including Monitoring Plan and Facilitate SRG Review

The GeoSyntec Team will draft the Nutrient Management Plan following this general outline:

1.0 Nutrient Reduction Goals
2.0 Watershed Characterization
3.0 Total Phosphorus Sources
4.0 Nutrient Management Measures and Load Reductions
5.0 Implementation Plan and Schedule
6.0 Funding and Information Sources
7.0 Monitoring Plan
8.0 Reporting Schedule

The GeoSyntec Team will present the draft to the city and the SRG for review. The GeoSyntec will facilitate plan review and revise the plan as needed. GeoSyntec will deliver a Final Nutrient Reduction Plan, including the implementation schedule, funding sources, and monitoring plan.

Project Months: 10 - 12

Task 6. Develop a Public Outreach Brochure and Education Plan

To facilitate successful implementation of residential and commercial site BMPs, GeoSyntec will draft a public outreach brochure and education plan for watershed residents and users of watershed lands.

Project Month: 12

Project Deliverables

GeoSyntec will deliver a final report documenting the collaborative process and the resulting watershed management strategy. GeoSyntec will also develop a brochure for public distribution outlining the key elements of the watershed management strategy, as described above. The final report and brochure will be provided in both hard copy and electronic format.

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date:
P.O Number:	Expected Delivery Date:

Vendor #:	Vendor Name: GeoSyntec Consultants	Mail Yes:__ No:____	
Address: 55 West Wacker Drive, Suite 1100	Fob Point:	Taxable Yes:__ No:____	Quotes Attached Yes:____ No:____
City: Chicago	State: IL	Zip Code: 60601	Ship to code:
Divison Head Approval:			
Requester: WSIP- Andrea Allen, Engineering- Sarah Wrede	Requester's Employee #:	Extension:	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	WSIP BWD-1 Beaver Watershed Nutrient Reduction	1			$199,883.00	4520.9520.5314.00	2133-0316		
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:

Bid 07-38

Subtotal:	$199,883.00
Tax:	
Total:	$199,883.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

$236,225.00	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

Department Director	20 Jul 07 Date	Previous Ordinance or Resolution #	204-06, 94-94
City Attorney	7/24/2007 Date	Original Contract Date:	12/06, 07/94
Finance and Internal Service Director	7-24-07 Date	Original Contract Number:	412
Mayor	7/25/07 Date		

Received in City Clerk's Office ENTERED 7/24/07

Received in Mayor's Office ENTERED 7/24/07

Comments:

City Council Meeting of August 7, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

RECOMMENDATION

City Administration recommend approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	**$302,495**	**$236,225**	**$66,270**
LS 14- Industrial Park	$86,960	$74,942	$12,018
LS 16- McCollum	$98,560	$74,931	$23,629
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $236,225.00 FOR THE UPGRADE OF LIFT STATION 13 (STONE BRIDGE), WSIP SUBPROJECT EL-4 LS-13; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $7,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Out-Of-Scope Agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-14. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 2% EL-4 Project Contingency in the amount of $7,000.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 878 South Stone Bridge Road as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Material and labor required to modify the existing lift station, Lift Station #13 at 878 S. Stone Bridge Rd, from a dry well-wet well configuration to a submersible station. Provide and install two submersible pumps, controls, wiring and conduit as needed. Install discharge piping, valves and a new 12" force main with provisions to facilitate discharge into either the existing 36" main or to the proposed 42" main.*
- *Labor to purchase materials and install a generator that is provided by the owner.*
- *Material and labor to purchase and install concrete pad, transfer switch, main disconnect, generator disconnect, wiring and conduit associated with the generator.*
- *Material and labor to provide temporary, bypass, pumping around the station while construction activities are underway.*
- *Material and labor to raise station site elevation above the 100 year flood plain (approximately 4' 6" on the top with a 4 to 1 slope on the sides to the existing soils) and to construct a hard surface access road to serve the station.*
- *Material and labor to install new fence and gates around the station.*

- *Remove all construction debris associated with this modification and site work under this scope from the construction site and provide for its proper disposal.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $236,225*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger B. Quayle

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/19/2007

Authorized *City of Fayetteville, Arkansas*:

Dan Coody
Mayor

Date: _____

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date:	
P.O Number:		Expected Delivery Date: ASAP	
Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Division Head Approval:			
Requester: WSIP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

$74,942.00	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

Department Director	20 Jul 07 Date	Previous Ordinance or Resolution #	204-06, 94-94
City Attorney	7/24/2007 Date	Original Contract Date:	12/06, 07/94
Finance and Internal Service Director	7-24-07 Date	Original Contract Number:	412
Mayor	7/25/07 Date		

Received in City Clerk's Office ENTERED 7/24/07

Received in Mayor's Office ENTERED 7/24/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

RECOMMENDATION

City Administration recommend approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	$302,495	$236,225	$66,270
LS 14- Industrial Park	**$86,960**	**$74,942**	**$12,018**
LS 16- McCollum	$98,560	$74,931	$23,629
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $74,942.00 FOR THE UPGRADE OF LIFT STATION 14 (INDUSTRIAL PARK), WSIP SUBPROJECT EL-4 LS-14; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $1,500.00.

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 an Out-Of-Scope Agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a% EL-4 Project Contingency in the amount of $1,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 1820 South Armstrong as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Labor to install a new generator that is provided by the owner.*
- *Material and labor to purchase and install transfer switch, main disconnect, generator disconnect and wiring associated with the generator for Lift Station #14 at 1820 S. Armstrong.*
- *Material and labor to excavate existing lift station site and backfill with appropriate material for generator pad.*
- *Material and labor to form and pour generator pad per engineer's specifications.*
- *Material and labor to purchase and install replacement wetwell hatch covers.*
- *Material and labor to cap or plug existing overflow line.*
- *Material and labor to install a security fence.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $74,942*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/18/2007

Authorized *City of Fayetteville, Arkansas*:

_____

Dan Coody
Mayor

Date: _____

A. 9
Park Lift Station Upgrade
Page 6 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date:
P.O Number:	Expected Delivery Date: ASAP

Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Divison Head Approval:			
Requester: WSP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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				

COPY

Special Instructions:

Subtotal:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

$236,225.00 ?	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

D. Jurgens	26 Jul 07	Previous Ordinance or Resolution #	204-06, 94-94
Department Director	Date	Original Contract Date:	12/06, 07/94
D. J. Whit	7/24/07	Original Contract Number:	412
City Attorney	Date		
Paul A. Becker	7-24-07	Received in City Clerk's Office ENTERED 7/24/07	
Finance and Internal Service Director	Date		
Dan Coody	7/25/07	Received in Mayor's Office ENTERED 7/24/07	
Mayor	Date		

Comments:

City Council Meeting of August 7, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

RECOMMENDATION

Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	$302,495	$236,225	$66,270
LS 14- Industrial Park	$86,960	$74,942	$12,018
LS 16- McCollum	**$98,560**	**$74,931**	**$23,629**
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $74,931.00 FOR THE UPGRADE OF LIFT STATION 16 (McCOLLUM ROAD), WSIP SUBPROJECT EL-4 LS-16; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $1,500.00.

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 an Out-Of-Scope Agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 2% EL-4 Project Contingency in the amount of $1,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 3917 South McCollum Road as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Labor to install a new generator that is provided by the owner.*
- *Material and labor to purchase and install transfer switch, main disconnect, generator disconnect and wiring associated with the generator for Lift Station #16 at 3917 S. McCollum Rd.*
- *Material and labor to excavate existing lift station site and backfill with appropriate material for generator pad.*
- *Material and labor to form and pour generator pad per engineer's specifications.*
- *Material and labor to purchase and install replacement wetwell hatch covers.*
- *Material and labor to cap or plug existing overflow line.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $74,931*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/18/2007

Authorized *City of Fayetteville, Arkansas*:

Dan Coody
Mayor

Date: _____

A. 10
Wood Lift Station Upgrade
Page 6 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date:	
P.O Number:		Expected Delivery Date: ASAP	
Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Divison Head Approval:			
Requester: WSP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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				

COPY

Special Instructions:

Subtotal:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Yolanda Fields	Community Resources	Operations
Submitted By	**Division**	**Department**

Action Required:

An Ordinance imposing a lien for the costs associated with the clean-up at 509 E. Huntsville Rd.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date

City Attorney — 7/24/07 Date

Finance and Internal Service Director — 7-24-07 Date

Mayor — 7/25/07 Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/24/07

Comments: See Memo

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: July 18, 2007

Subject: An Ordinance imposing a lien for clean-up cost at 509 E. Huntsville Rd.

RECOMMENDATION

Staff recommends imposting a lien against the real property for the amount of $3,797.09 pursuant to A.C.A. 14-54-904 and 95-02.

BACKGROUND

Case #5345: Code Compliance sent a Notice of Violation for Unsightly Unsanitary Conditions on Real Property owned by Globe CEO, LLC c/o Houssein Kouchehbagh. The Notice of Violation was signed on September 19, 2006. Clean-up began on 12/11/06 and was concluded on 12/13/06.

DISCUSSION

An Accounts Receivable Request was sent to the Accounting Division on 01/23/2007 for the amount of $3,797.09. The Accounting Division has yet to receive the payment for these services.

BUDGET IMPACT

This $3,797.09 will be imposed as a lien on the property. Once paid, the money will return to General Fund.

RESOLUTION NO. _____

A RESOLUTION CERTIFYING TO THE TAX COLLECTOR OF WASHINGTON COUNTY THE COSTS OF ABATING UNSIGHTLY AND UNSANITARY CONDITIONS UPON THE PROPERTY LOCATED AT 509 E. HUNTSVILLE RD. IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of §§ 95.01-95.03, Code of Fayetteville, as authorized by A.C.A. §14-54-901 et seq., the City of Fayetteville directed the owner of the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000) to correct unsightly or unsanitary conditions on the property; and,

WHEREAS, Globe CEO, LLC, record owner of the property, through its Registered Agent, Hossein Kouchehbagh, failed to correct the unsightly or unsanitary conditions on the property within the ten (10) days allotted; and,

WHEREAS, the City of Fayetteville, in accordance with the above-cited ordinances and statutes, entered upon the property and corrected the unsightly or unsanitary conditions; and,

WHEREAS, by operation of law, the City is given a lien against this real property for the costs of correcting the unsightly or unsanitary conditions; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas, is required to determine the appropriate amount of the lien, and certify this amount to the Tax Collector of Washington County, Arkansas to be placed on the tax books as delinquent taxes.

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

Section 1. That, by the authority granted pursuant to §14-54-901 et seq., and in accordance with the provisions of §§ 95.01-95.03, Code of Fayetteville, the City Council of the City of Fayetteville, Arkansas, hereby determines the appropriate amount of the lien against the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000) to be $3,797.09.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby certifies this amount to Mr. David Ruff, Tax Collector for Washington County, Arkansas, so that this amount, plus ten percent (10%) penalty for collection, be placed on the tax books as delinquent taxes against the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000).

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Fayetteville
ARKANSAS

Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

September 18, 2006

Owner GLOBE CEO, LLC
C/O: HOSSEIN KOUCHEHBAGH
P. O. BOX 8111
FAYETTEVILLE, AR 72703

RE: Property @ 509 E HUNTSVILLE RD, Fayetteville, AR

WC Parcel # 765-02488-000 **Case # 5345**

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. **If you need clarification of this notice or advice on how to correct the problem, please call our office at .**

Suspected Violation That Needs Correction:

§95.01 Unsightly or Unsanitary Conditions on Real Property; order and notice to correct

How This Violation Can Be Voluntarily Corrected

Mow or cut the tall grass and/or weeds on your property, including the right-of-way and utility easement.

Remove the garbage, trash, rubbish, brush, limbs, furniture, appliances, junk and/or debris from your property, including the right-of-way and utility easement.

Penalties:
If this violation is not corrected within ten (10) days from the service of this notice, our office is authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described above. The costs of correcting said conditions shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. You can also be issued a Criminal Citation for the above violation and be summoned to appear in court. If you disagree with our conclusion that your property contains a violation of the ordinance listed above, please contact our office.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

DIANE OUNPRASEUTH
Code Compliance Officer

Cc: file

7004 2510 0000 8368 8004

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

9/18/06

Postmark Here

Sent To: Globe CEO

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 — See Reverse for instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GLOBE CEO, LLC

C/O HOSSEIN KOUCHEHBAGH
PO BOX 8111

FAYETTEVILLE, AR 72703

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Kenneth Sharpe ☐ Agent ☐ Addressee

B. Received by (Printed Name) KENNETH SHARPE 501-903-9990 — C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

SEP 19 2006 NORTHEAST STATION FAYETTEVILLE, AR

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7004 2510 0000 8368 8004

PS Form 3811, February 2004 — Domestic Return Receipt — 102595-02-M-1540

534.00

Fayetteville
ARKANSAS

Code Compliance Program

OFFICER DELIVERY FORM

Document: Notice of Public Hearing

Name and Address to Deliver: GLOBE CEO, LLC C/O Hossein Kouchehbagh
P.O Box 8111
Fayetteville, AR 72703

Owner/Occupant's Signature:

Return of Service

I certify that I provided a true copy of the document described above to:

Name of Recipient: Hossein Kouchehbagh

Officer Name: Ricky Williams

Officer Signature:

Delivery Date: 7-17-07

City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

May 15, 2007

GLOBE CEO, LLC
c/o Hossein Kouchehbagh
P.O. Box 8111
Fayetteville, AR 72703

COPY

RE: Enforcement of Ordinance 95.02, Fayetteville Code of Ordinances
Arkansas Code Ann. 14-54-904

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-54-904 and 95.02 of the Fayetteville Code of Ordinances, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine the amount of the lien for costs of correcting 95.01 of the Fayetteville Code of Ordinances at: **509 E. Huntsville Rd. (Parcel #765-02488-000).**

If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on July 17, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

Chad Ball
Code Compliance Administrator

Cc: file

Record **2** of **2** Last Updated 06/22/07

Parcel Number: **765-02488-000** Prev. Parcel Number: **136377-000-00** Type: **CI**
Location: **509 E HUNTSVILLE RD**
Owner Name: **GLOBE CEO, LLC**
Mailing Address: **PO Box 8111 Fayetteville AR 72703-0002**
Lot: Block: S-T-R: **15-16-30**
Addition: **AUMICKS ADD**
School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
City: **FAYETTEVILLE**
Legal: **PT LOTS 1-2**
Current Year A79 Credit Status: **N**

Last Appraised: **2004**	**Appraised Value**	**Taxable Value**
Land	**65,300**	**11,902**
Improvement	**26,000**	**5,843**
Total	**91,300**	**17,745**

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	**17,745**	**$935.16**	**$0.00**	**$0.00**	**$0.00**		**N**	**$935.16**	**$0.00**	
2005	**16,380**	**$863.23**	**$0.00**	**$0.00**	**$0.00**		**N**	**$863.23**	**$863.23**	**PAID**
2004	**15,015**	**$778.68**	**$0.00**	**$0.00**	**$0.00**		**N**	**$778.68**	**$778.68**	**PAID**
2003	**13,650**	**$722.90**	**$0.00**	**$0.00**	**$0.00**		**N**	**$722.90**	**$722.90**	**PAID**
2002	**12,600**	**$654.70**	**$0.00**	**$0.00**	**$0.00**			**$654.70**	**$654.70**	**PAID**
2001	**11,550**	**$600.14**	**$0.00**	**$0.00**	**$0.00**			**$660.15**	**$660.15**	**PAID**
2000	**10,500**	**$551.25**	**$0.00**	**$0.00**	**$0.00**			**$667.61**	**$667.61**	**PAID**
1999	**10,500**	**$537.60**	**$0.00**	**$0.00**	**$0.00**			**$629.74**	**$629.74**	**PAID**
1998	**10,500**	**$538.65**	**$0.00**	**$0.00**	**$0.00**			**$538.65**	**$538.65**	**PAID**
1997	**10,500**	**$538.65**	**$0.00**	**$0.00**	**$0.00**			**$538.65**	**$538.65**	**PAID**

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	**120334**	**10/10/2006**	**$863.23**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$863.23**
2004	**106637**	**10/11/2005**	**$778.68**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$778.68**
2003	**107667**	**10/12/2004**	**$722.90**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$722.90**
2002	**109381**	**10/10/2003**	**$654.70**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$654.70**
2001	**117615**	**11/8/2002**	**$600.14**	**$0.00**	**$0.00**	**$0.00**	**$60.01**	**$660.15**
2000	**13614**	**11/8/2002**	**$551.25**	**$0.00**	**$0.00**	**$0.00**	**$116.36**	**$667.61**
1999	**3035**	**5/29/2001**	**$537.60**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$629.74**
1998	**13838**	**10/13/1999**	**$538.65**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$538.65**
1997	**6227**	**5/4/1998**	**$538.65**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$538.65**

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/24/2002	**2002**	**171740**	**GLOBE CEO, LLC**		**TD**	**90,000**	**297.00**

0.04A TO #001 CITY OF FAYETTEVILLE AJH 2002-171740 TD REV

	$297.00 (90M)					
8/12/1987	**1238**	**448**	**LUNSFORD, GARY B. & MARTHA C.**	**WD**	**28,000**	**61.60**
	PGS 448-454; 93-41142 RED DEED #90788; 8/88 PER PHONE CONVERSATION WITH EQB.					
1/1/1985	**1142**	**206**	**RIVERS, DIANA**	**WD**	**0**	**0.00**

Structure Number	Business Name	Year Constructed	Heated Area
1	**VACANT**	**1915**	**9804**

Grade	Condition	Story Height	Year Remodeled	Exterior Wall
				14

Sketch:

Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	**FENCE, WOOD**	**6x792**	
1	**PAVING**	**9183**	

Next Item | Previous Item | Ledger Card | Prev. Ledger Card | Parcel Map | Return to Search Results | Modify Search | New Search

ACCOUNTS RECEIVABLE REQUEST

2006-11

RECEIVED
JAN 23 2007
ACCTG. DEPT.

Date 1/23/2007 **Requested By** Anallely **Division** Comm Resources

Customer Number _____ **Customer Type** M12 **Bill Code** _____

Customer or Business Name Globe CEO, LLC

Person Responsible for Payment _____

Social Security or Tax ID Number _____ **Date of Birth** _____

Phone _____ **2nd Phone** _____ **Fax** _____

Customer or Business Address Globe CEO, LLC
Hossein Kouchehbagh
PO Box 8111
Fayetteville AR 72703

☐ **New Customer** ☒ **Existing Customer** ☐ **Please invoice separately**

Rate Code	Item	Quantity	Per Unit Price	Extended Cost	G/L Account Number
1601	Admin Fees	1	43.50	43.50	1010-0001-4460-00
1600	Disposal	1	$1,967.59	1,967.59	1010-0001-4490-07
1600	Labor Charge	89.3	$20.00	1,786.00	1010-0001-4490-07
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	

INVOICE TOTAL **$3,797.09**

Description/Message (optional) 509 Huntsville, Case #5345

Bob's Yardworks

DATE 12-11-06

Lot Leveling • Lot Cleaning • Trash Removal

INVOICE NO. 1145

Robert Evans

479.839.2501
479.601.0025

509 E. Huntsville

QTY.	Description	Unit Price	Amount
10 hrs X 1 man		28 00	280 00
10 hrs X 3 men		16 00	480 00
	Use Front End		
	Loader to Remove		
	Trash - Brush		
	Boards - Concrete		
	Secure Bldg.		

PLEASE PAY FROM THIS INVOICE

SUBTOTAL

TAX

TOTAL 760,00

Bob's Yardworks

DATE 12-12-06

INVOICE NO. 1146

Lot Leveling • Lot Cleaning • Trash Removal

Robert Evans

479.839.2501
479.601.0025

509 E. Huntsville

QTY.	Description	Unit Price	Amount
10 hrs	X 1 man	28.00	280.00
10 hrs	X 3 men	16.00	480.00
	Use Front Loader to Remove & Haul Brush-Cut up. Trees-Haul-Junk		

PLEASE PAY FROM THIS INVOICE

SUBTOTAL	
TAX	
TOTAL	760.00

Bob's Yardworks

DATE 12-13-06

INVOICE NO. 1150

Lot Leveling • Lot Cleaning • Trash Removal

479.839.2501
479.601.0025

Robert Evans

509 - E. Huntsville

QTY.	Description	Unit Price	Amount
3½	hrs X 1 man	28 00	98 00
3½	hrs X 3 men	16 00	~~56 00~~
			168 00 an
	Dump Fee		
	for Tires		45.95

PLEASE PAY FROM THIS INVOICE

SUBTOTAL	
TAX	311 95
TOTAL	~~199.95~~

TRI-COUNTY SOLID WASTE DISTRICT

Collection Center Tire Manifest/Invoice

Tire Generator/Dealer

Name	Robert Evans
Address	
City/State/Zip	
Phone	Waste Tire Reg. No.
Date	12/13/06

Tire Collector/Hauler

Name	
Address	
City/State/Zip	
Phone	Collector Reg. No.
Hauler's Signature	

Tire Collection Center

Name of Center	Washington Co. Envir. Affairs
Location	2615 Brink Dr. Fayetteville AR 72701
Signature	Elizabeth S

TYPES OF TIRES RECEIVED

	TIRE QUANTITY	TIRE FEE	RIM QUANTITY	RIM FEE	TOTAL AMT. DUE
4 or fewer Pass./Lt. Truck from public	4	N/C			
Over 4 Pass./Lt. Truck from public (<19.5" RIM)	29	1.00	11	.35	45.95
Lg. Truck from public (19.5-24.5" RIM)		1.20		.80	
Pass./Lt. Truck from Listed Dealer		N/C			
Lg. Truck from Listed Dealer		N/C			
Large Tires >24.5" RIM		$45.00			
Other					
				TOTAL AMOUNT DUE	$45.95

PAID: ☑ Cash ☐ Check Rec. #

District to Bill: _____

Authorized Dealer: _____

GENERATORS/HAULERS: By signing this form, you agree to pay the applicable fee to the Tri-County Solid Waste District for all tires delivered to a collection center in excess of the number of tires for which the generator has collected a waste tire fee or in excess of four tires from an individual.

General Ledger Transaction Inquiry GL1520S1

G/L Account . . . : **1010.6420.5315.00**
Contract services

Transaction Type(s): ***ALL** Date Range: **1/01/2006 - 12/31/2006**

Type option, press Enter. Reset: _____ +
5=Display 9=Source Information 10=Transactions
24=Documents **More: + >**

Opt	Date	Journal	TT	JT	Source	Description	Amount
__	12/31/06	0607111	JE	JE	12320 GRA	30 yd container chg	1921.64
__	12/19/06	0606837	PO	EA	PurchOrder	Evans, Rob Changing	3250.00-
__	12/14/06	0606758	AP	EA	AcctsPaybl	Evans, Rob a) Clean	2384.29-
__	12/14/06	0606759	AP	JE	AcctsPaybl	Evans, Rob a) Clean	2384.29
__	12/04/06	0606514	AP	EA	AcctsPaybl	Evans, Rob a) Clean	690.82-
__	12/04/06	0606515	AP	JE	AcctsPaybl	Evans, Rob a) Clean	690.82
__	11/16/06	0606227	AP	EA	AcctsPaybl	Evans, Rob a) Clean	648.69-
__	11/16/06	0606228	AP	JE	AcctsPaybl	Evans, Rob a) Clean	648.69
__	10/31/06	0605880	PO	EA	PurchOrder	Barkers Changing P.	4950.00-

More...

F3=Exit F4=Prompt F12=Cancel F19=Left F20=Right F22=More

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Connie Edmonston	Parks and Recreation	Operations
Submitted By	**Division**	**Department**

Action Required:

Resolution approving Parks and Recreation to submit an Outdoor Recreation Grant to the Arkansas Departmnet of Parks and Tourism in the amount of $125,000 for the development of Eagle Park.

$ 125,000.00	$ -	Neighborhood Park Development
Cost of this request	Category / Project Budget	Program Category / Project Name
2250.9255.5806.00	$ -	Neighborhood Park Development Parks Development
Account Number	Funds Used to Date	Program / Project Category Name
n/a	$ -	Parks Development / PLDO (SE)
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] **Budget Adjustment Attached** [ ]

Department Director — Date 7-23-07

City Attorney — Date 7/23/2007

Finance and Internal Service Director — Date 7-24-07

Mayor — Date 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/23/07

Received in Mayor's Office — ENTERED 7/23/07 BEP

Comments:

Fayetteville
ARKANSAS

PARKS & RECREATION
113 West Mountain
Fayetteville, AR 72701

To: Mayor Dan Coody and City Council

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

From: David Wright, Recreation Superintendent

Date: July 19, 2007

Re: Resolution to apply for Arkansas Outdoor Recreation Grant Program

Background

The Land and Water Conservation Fund (LWCF) is a federal program with funds derived from the sale of federal surplus real estate property, federal motor boat fuel tax, and Outer Continental Shelf mineral receipts. The Natural and Cultural Resources Grant and Trust Fund (NCRGTF) is a state program with funds collected from a tax on the transfer of certain real estate in the State of Arkansas. LWCF and NCRGTF funds are included in the Department of Parks and Tourism's Outdoor Recreation Grants Program for funding outdoor recreation facilities. Only incorporated cities and counties may apply. This is a 50/50 reimbursable matching grant with a $250,000 maximum request on matching funds. Last year, Arkansas Parks and Tourism awarded out City with $100,000 for the renovation of Sweetbriar and Bryce Davis Parks. In 2005, the City of Fayetteville was awarded $115,128 for construction of the Botanical Gardens of the Ozarks at Lake Fayetteville. Other parks funded in part by this grant include Braden Park, Grinders Skate Park at Walker Park, Veterans Memorial Park and Lake Fayetteville at Gulley Park. This year's grand deadline is August 31. A resolution from the City of Fayetteville is required to apply for the grant.

Current Status

On June 25, a public meeting was held at the Eagle Park Property to gather input from the public of their recreation desires and to prioritize an eligible grant program. An outreach to groups such as ethnic minority populations, the elderly and person s with disabilities was attained through group meetings. It was determined after obtaining public input that a grant for improvements to Eagle Park be submitted. Improvements to Eagle Park will include two age appropriate playgrounds, a playground / picnic area with a gazebo and an open area to allow for baseball / wiffle ball. The conceptual design will be presented to the public on August 1 and to the Parks and Recreation Advisory Board on August 6.

The grant application must include detailed budgets, plans, specifications and bid documents that are ready for immediate bid and construction. The planned improvements for Eagle Park are completely ADA Accessible. The grant asks the application to specify how funding meets the needs of the community. These improvements will provide for a safe play area as well as ADA accessible equipment for all citizens, which was a request in the Parks and Recreation Ten Year Master Plan. Developing facilities at this park will help achieve this goal.

This grant contains twelve (12) obligations covering everything from compliance of the Americans for Disabilities Act to property retained in perpetuity for outdoor recreation use. The Eagle Park project meets these obligations.

Section 6(f)(3) of the LWCF Act states "No property acquired or developed with the assistance under this section shall, without the approval of the Secretary of the United States Department of the Interior, be converted to other than public outdoor recreation use. The Secretary shall approve such conversion only if he/she finds it to be in accordance with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only upon such conditions as he/she deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location." If this property must ever be used for anything other than outdoor recreation use, it is possible to covert the park boundary.

Budget Impact

This grant application is for $125,000. The Arkansas Outdoor Recreation Grant is a 50/50 Matching Grant. If the full $125,000 is awarded, the City is responsible for applying $125,000 towards the project, resulting in a $250,000 project. Currently, the Eagle Park project has $100,000 budgeted. If the full $125,000 is awarded, Parks Staff will ask Parks and Recreation Advisory Board to approve $25,000 from $115,496 currently available in the SE Quadrant's Park Land Dedication Ordinance Fund. This would provide the $125,000 from the City of Fayetteville and $125,000 from the State of Arkansas. At that time, this item will be brought back to City Council to approve the project and budget adjustment.

Recommendation

Parks and Recreation requests City Council approval of a resolution to authorize the City to apply $125,000 from the Arkansas Parks and Tourism Outdoor Recreation Grant Program for the development of Eagle Park.

Attachments:
Public Meeting Minutes from June 25, 2007
Conditions of Arkansas Outdoor Recreation Grant
Public Advertisement
Sample Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION GRANT IN AN AMOUNT NOT TO EXCEED $125,000.00 FOR IMPROVEMENTS TO EAGLE PARK.

WHEREAS, the City of Fayetteville, Arkansas seeks to improve recreation facilities and wishes to seek grant funding assistance; and,

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and,

WHEREAS, the plans for such recreation areas have been prepared and the price therefore has been established; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas understands the grantee and grantor will enter into a binding agreement which obligates both parties to the policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following: the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all reasonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased, or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner. The City Council of the City of Fayetteville, Arkansas is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to make application to the Arkansas Department of Parks and Tourism for assistance, in an amount not to exceed $125,000.00, for improvements to Eagle Park. Therefore, such application shall be submitted as expediently as possible.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

Fayetteville Parks and Recreation
Public Meeting

Monday, June 25, 2007

At 5:30, Connie Edmonston, Parks and Recreation Director called the public meeting to order.

Edmonston welcomed 24 citizens (21 adults and 3 children) to the meeting and explained how Parks and Recreation needed their input on improvements scheduled to occur in the City and at Eagle Park. She explained the project currently had a budget of $100,000. However, depending on the types of amenities requested for Eagle Park, this dollar figure may not be sufficient to develop this much needed facility. However, there is a grant available and if Fayetteville citizens deem it appropriate to request grant funding, then Parks and Recreation can do so.

David Wright, Recreation Superintendent explained the Arkansas Outdoor Recreation Grant Program. This grant is funded through the Land Water Conservation Fund (LWCF and a tax on real estate transfers in Arkansas. In the past, Fayetteville parks and Recreation received funding from this grant on such projects as Grinder's Skate Park at Walker Park, Braden Park, the Botanical Gardens of the Ozarks and Gulley Park. One of the grant obligations is the land will be used for outdoor recreation for perpetuity.

The citizens attending the meeting anonymously voted for Parks and Recreation to apply for the grant to develop the Eagle Park Property.

Edmonston asked the citizens the types of amenities they wished to see in the park. The citizens answered with the following:

- **Hiking and Biking Trails** – somewhere where people and families can walk and bike around and feel safe.
- **Playground, Tot Playground and Swings** – Citizens requested 2 playgrounds, each being age appropriate. One of the specific requests were for swings to be included in the playground area.
- **Basketball Court**
- **Pavilion / Picnic Area** – Citizens requested a picnic area with shade where the neighborhood POA may have meetings, opportunities for birthday parties and social gatherings and more.
- **Preserve the current wiffle ball field** – neighbors of this property already have standing Tuesday night wiffle ball game at the park. They requested this area be enhanced to encourage this social activity.

Edmonston asked the citizens to prioritize their wishes.

The group overwhelmingly supported the playgrounds with swings. The other two main priorities requested was the picnic / pavilion area and the waffle ball field.

The meeting adjourned at 6:15pm.

deadline. If the Form 424 is faxed, the entire application containing original signatures must be postmarked on or before the application deadline, August 31, 2007.

Where to Send the Application

Outdoor Recreation Grants Program
Department of Parks and Tourism
Number One Capitol Mall
Little Rock, Arkansas 72201

Who Can Prepare the Application?

- The application can be prepared locally.
- The application can be prepared by consultants. (Grant preparation cannot be paid for with grant funds).
- The application can be prepared by the local areawide Planning or Economic Development Districts or the Regional Planning Commissions.

What Are Our Obligations if We Recieve a Grant?

We are jointly committed! Both the Department of Parks and Tourism's Outdoor Recreation Grants Program and the project sponsor are committed to long term program compliance. After the project is completed and all grant funds have been disbursed, our commitment to the requirements of the Arkansas Matching Grant Program continues. These ongoing commitments include:

1. Once a public park project boundary has been identified by the local project sponsor and provided to the Department of Parks and Tourism, all facilities constructed within that boundary, at any future time, must be in compliance with the rules and regulations of the Outdoor Recreation Grants Program *Project Management Guide*. This also applies to those facilities constructed in whole or in part with local funds.

2. Property acquired or developed with grant funds must be retained in perpetuity for outdoor recreation use and will be subject to inspection by the State at least once every five years. In addition each project will be inspected by the State during construction and before final reimbursement is made.

3. No overhead utility lines are allowed within the project boundary. All existing utility lines located within the park boundaries must be placed underground. This regulation applies to any overhead lines including electric lines, phone lines and public announcement system wiring. No vehicular right-of-way easements are allowed within the boundary.

4. A permanent sign stating that federal LWCF or state NCRGTF moneys were used to acquire and/or develop public outdoor recreation facilities must be maintained within the park in perpetuity. Guidelines for the size, placement and design of the signs will be presented to each applicant after grant approval. Upon project completion the applicant will be required to describe the location of the sign, and state that the sign location will not change.

5. All public recreation facilities constructed within a Matching Grant Program assisted park must be accessible to the handicapped. This also applies to those facilities constructed in whole or part with local funds.

6. Property acquired or developed with assistance from the fund must be open to entry and use by all persons regardless of race, color, religion, sex, or national origin. Discrimination on the

basis of residence, including preferential reservation or membership systems, is prohibited, except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

7. Property acquired or developed with assistance from the Matching Grant Program shall be operated and maintained in perpetuity. The property shall be maintained so as to appear attractive and inviting to the public. Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards. Properties shall be kept safe for public use. Fire prevention, lifeguards, and the like should be provided for proper public safety. Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their functional lifetime to prevent undue deterioration and to encourage public use. Facilities that have reached an age that renders them obsolete or worn out may be removed with written permission of the Arkansas Department of Parks and Tourism's Outdoor Recreation Grants Program Director. Permission must be obtained prior to removal of the facilities.

8. The Arkansas ORGP staff will conduct periodic post completion inspections of the project area to ensure that program compliance continues after the project is completed. These inspections will be unannounced. Sponsors who fail to comply with long term commitment may jeopardize future eligibility for matching grant funds for new projects and/or be subject to legal actions by the State or Federal government to enforce program compliance.

9. The property shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility. Property which is not operated and maintained in good condition may jeopardize the awarding of future grant funds to that jurisdiction.

10. Participants may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Matching Grant Program assistance when such a limitation is necessary for maintenance or preservation. Thus, limitations may be imposed on the type of users (i.e. hunters or four-wheelers, etc.). All limitations must be in accord with the applicable grant agreement and amendments.

11. All recipients of Matching Grant Program moneys must comply with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act, of 1990 Title II and Title III.

12. Properties (parks and recreation areas) acquired or developed with LWCF/NCRGTF assistance are prohibited by Section 6(f)(3) of the LWCF Act of 1965, as amended, from conversion to any use other than public outdoor recreation use.
Section 6(f)(3) of the LWCF Act states that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, U. S. Department of the Interior, be converted to other than public outdoor recreation use. The Secretary shall approve such conversion only if he/she finds it to be in accordance with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only upon such conditions as he/she deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location."

versity and will graduate this spring from Louisiana

church. Winesburg is a board member of the Com-

than 100 franchisees atter ed the three-day conferen that included informative breakout sessions and an awards dinner. Attendees were able to learn about industry trends and company information, as well ways to make their busine more successful.

Handyman Connection specializes in small- t medium-home improvements, repairs and remode ling jobs. The company has a strong history, originally founded in 1990 to addres an unmet need for a reli-

PUBLIC MEETING

FAYETTEVILLE PARKS & RECREATION

Fayetteville Parks and Recreation invites citizens and other interested parties to a public meeting to be held at Eagle Park property located at 4103 E. Goff Farm Road on Monday, June 25, 2007 at 5:30 pm.

The purpose of this meeting is to identify potential outdoor parks and recreation needs and priorities for 2007. Following the identification process, city officials will select those priorities to be submitted to the Arkansas Department of Parks and Tourism for matching grant application.

Ethnic minorities, persons with special needs, elderly persons over 55, youth and special interest groups are encouraged to attend and participate.

In case of inclement weather, the meeting will take place on Tuesday, June 26, 2007 at 5:30 pm. For more information, please call 479.444.3471.

Written comments may be sent to parks_and_recreation@ci.fayetteville.ar.us

AAO
ARKANSAS ATHLETES OUTREACH
2007 SUMMER CAMPS

FAYETTEVILLE
PARKS & RECREATION

Fayetteville Parks and Recreation invites you to a public meeting to assist in the identification of potential outdoor parks and recreation needs and priorities for 2007.

5:30 p.m. Monday, June 25, 2007

Eagle Park property at 4103 E. Goff Farm Road

Please help us select the park amenities to improve your neighborhood park.

FOR MORE INFORMATION CALL
FAYETTEVILLE PARKS AND RECREATION AT 444-3471 EXT. 471

(In the event of inclement weather, the meeting will be on Tuesday, June 26)

RESOLUTION NO. _____

WHEREAS, _____, Arkansas seeks to improve the recreation facilities and wishes to seek grant funding assistance; and

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and

WHEREAS, the plans for such recreation areas have been prepared and the price therefore has been established; and

WHEREAS, this governing body understands the grantee and grantor will enter into a binding agreement which obligates both parties to policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following; the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all resonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner.

City Council/Quorum Court is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project:.

NOW, THEREFORE, BE IT RESOLVED by the City Council/Quorum Court of _____, Arkansas that the Mayor/County judge is hereby authorized to make application to the Arkansas Department of Parks and Tourism for assistance to develop recreational facilities for the City/County; therefore such application shall be submitted as expediently as possible.

Passed this _____ day of _____, 2007.

APPROVED: _____ _____

Mayor/County Judge Clerk

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

CUP 07-2560 - Bohot Appeal

DEPARTMENTAL CORRESPONDENCE

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

Tabled to August 7, 2007 7/17/07

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.

RESOLUTION NO. _____

A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE 07-2560 (BOHOT) AND TO DENY THE CONDITIONAL USE

WHEREAS, on June 25, 2007, the Fayetteville Planning Commission approved CUP 07-2560 (Bohot); and

WHEREAS, on June 27, 2007, three aldermen properly appealed this decision to the Fayetteville City Council.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the grant of the requested conditional use would adversely affect the public interest and would not be generally compatible with adjacent properties and other property in the district especially because of traffic concerns and therefore grants the appeal of the Planning Commission's approval of Conditional Use Permit 07-2560 (Bohot) and denies this Conditional Use Permit.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

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 ~~20~~ 17th, 2007.

Sincerely,

Brenda Thiel
Alderman, Ward One

Adella Gray
Alderman, Ward One

Shirley Lucas
Alderman, Ward Four

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: 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.

Fayetteville
ARKANSAS

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."**

	Required	Provided
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.

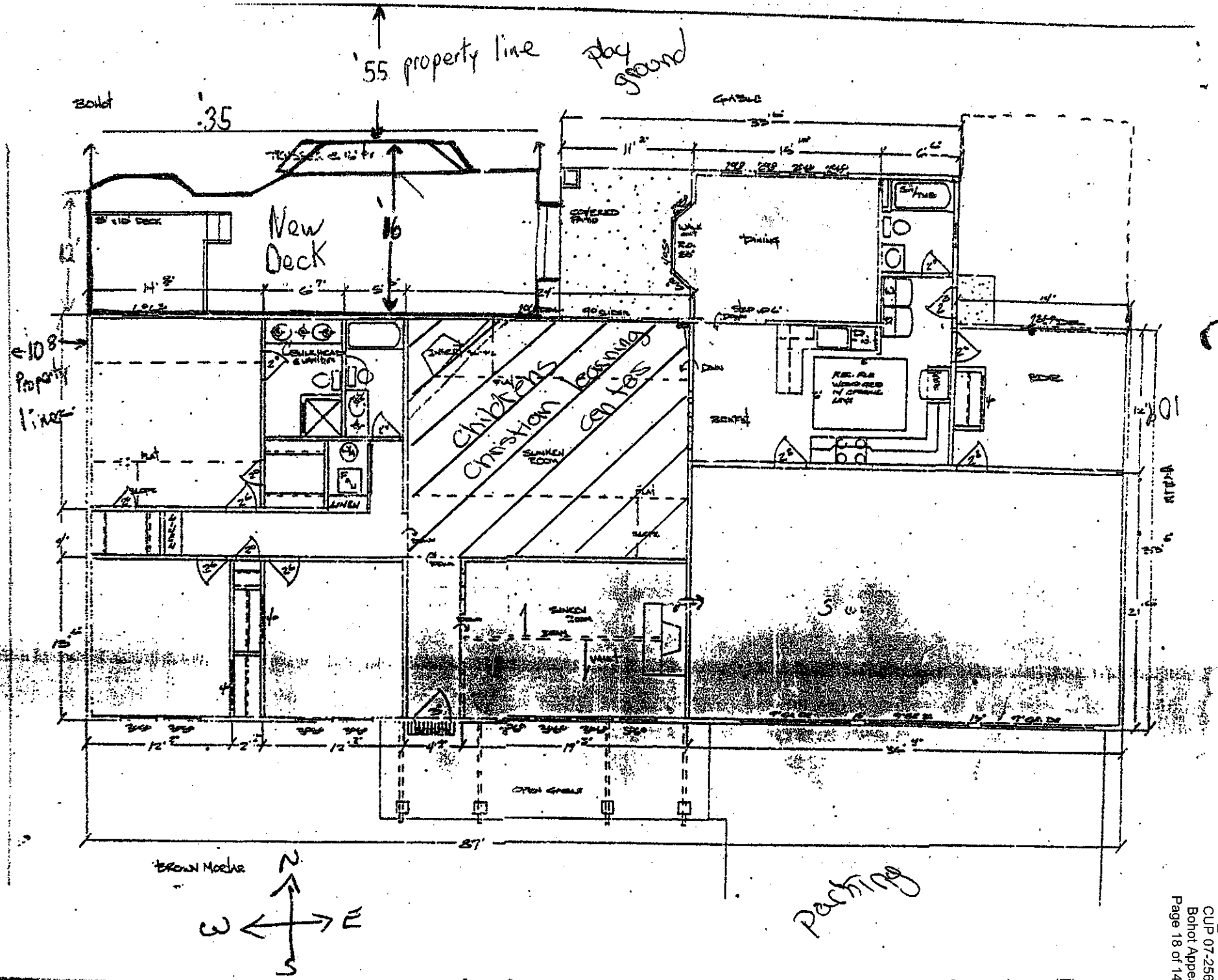
Enclosed you will find several letters pertaining to my business which include: a letter from the state licensing specialist, letter from the state nutrionlist licensing specialist, letter from Dolphin Discover Day Care licensed provider and an inspection from the fire marshal.

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


'55 property line
Play ground
Bohot
'35
New Deck
'16
Property line
Children's Christian Learning Center
Parking
BROWN MORTAR
N
W
E
S

10/31/2006

Washington Elementary

Route	Time	Stop Location	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.		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.	Morningside Apartments	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.		K-5	AM	Washington Elementary
M	6:33	1101 S. Curtis Ave.	Southmont Apartments	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.	K-5	AM	Washington Elementary
M	6:43	3375 S. Country Club Dr.	Country Club Dr & Fairway Ln	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. Layfeyette 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.		K-5	AM	Washington Elementary
M	7:20	E. Township St. & N. Terry Dr.		6-7	AM	Washington Elementary
M	7:21	E Township & N Winwood Dr		6-7	AM	Mcnair Middle School
M	7:25	3030 E. Mission Blvd	McNair Middle	6-7	AM	Mcnair Middle School
M	7:35	425 N Highland Ave	Washington Elementary	K-5	AM	Washington Elementary

9/1/2006

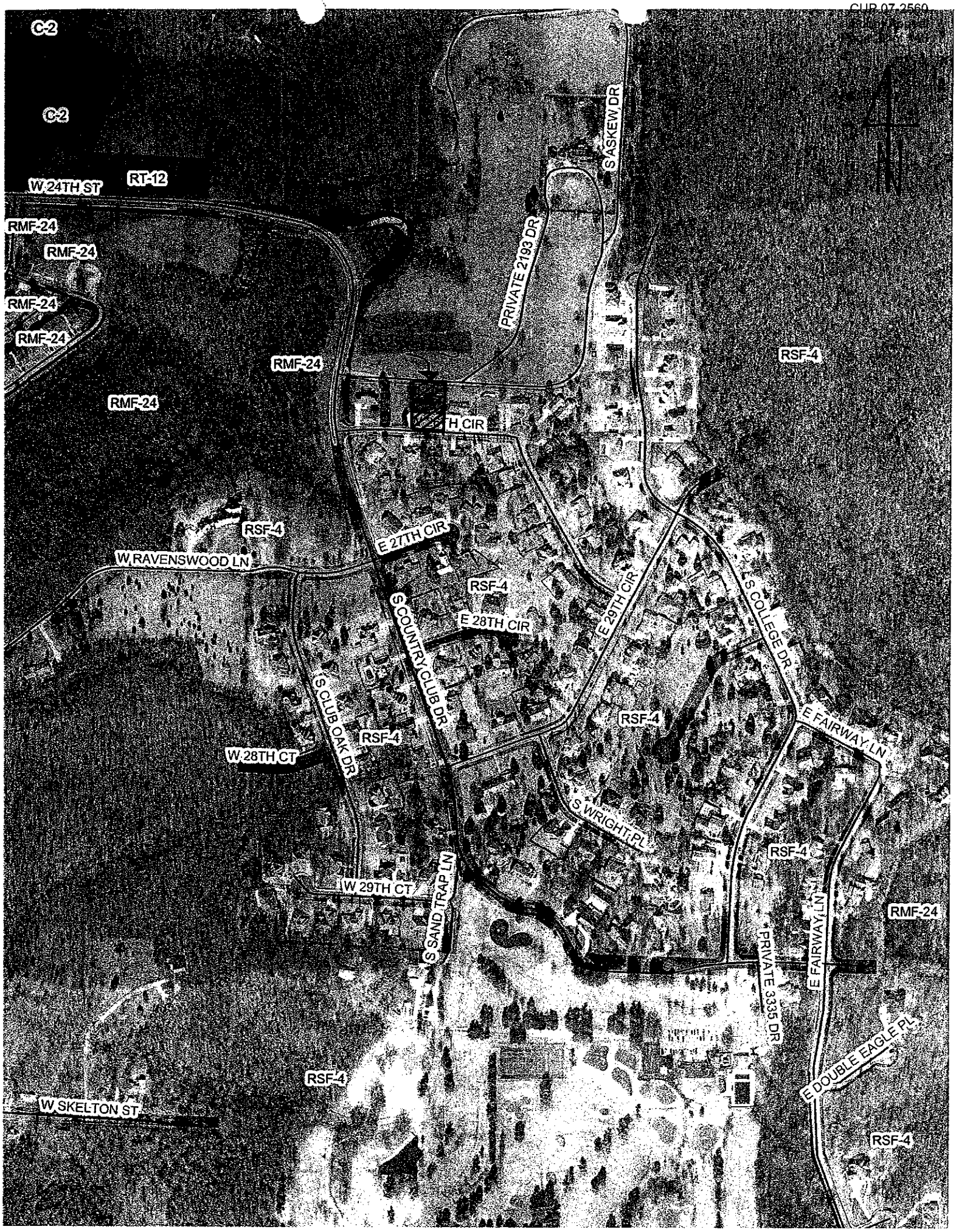
Owl Creek Middle School

Route	Time	Stop Location	Stop Description	Grade	AM/PM	School
L	6:30	2325 W. Stone St	Start Route- Bus Yard			
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.	Shanondoah 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

East Campus

Route	Time	Stop Location	Stop Description	Grade	AM/PM	School
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	7:50AM	S Contry Club Dr & W 29th St		8-9	AM	East Campus
L		S School St & W Nonamaker St		8-9	AM	East Campus
L	8:00AM	55 E 15th St		8-9	AM	East Campus
L	8:05AM	S College Ave & E 13th St		8-9	AM	East Campus
L	8:08AM	S College Ave & E 7th St		8-9	AM	East Campus
L	8:12AM	E 7th St & S Wood Ave		8-9	AM	East Campus
L	8:15AM	1001 W Stone St	East Campus	10-12	AM	East Campus
L	8:20AM	401 S Sang Ave	Ramay Jr High	8-9	AM	Ramay Jr High


C-2
C-2
W 24TH ST
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RMF-24
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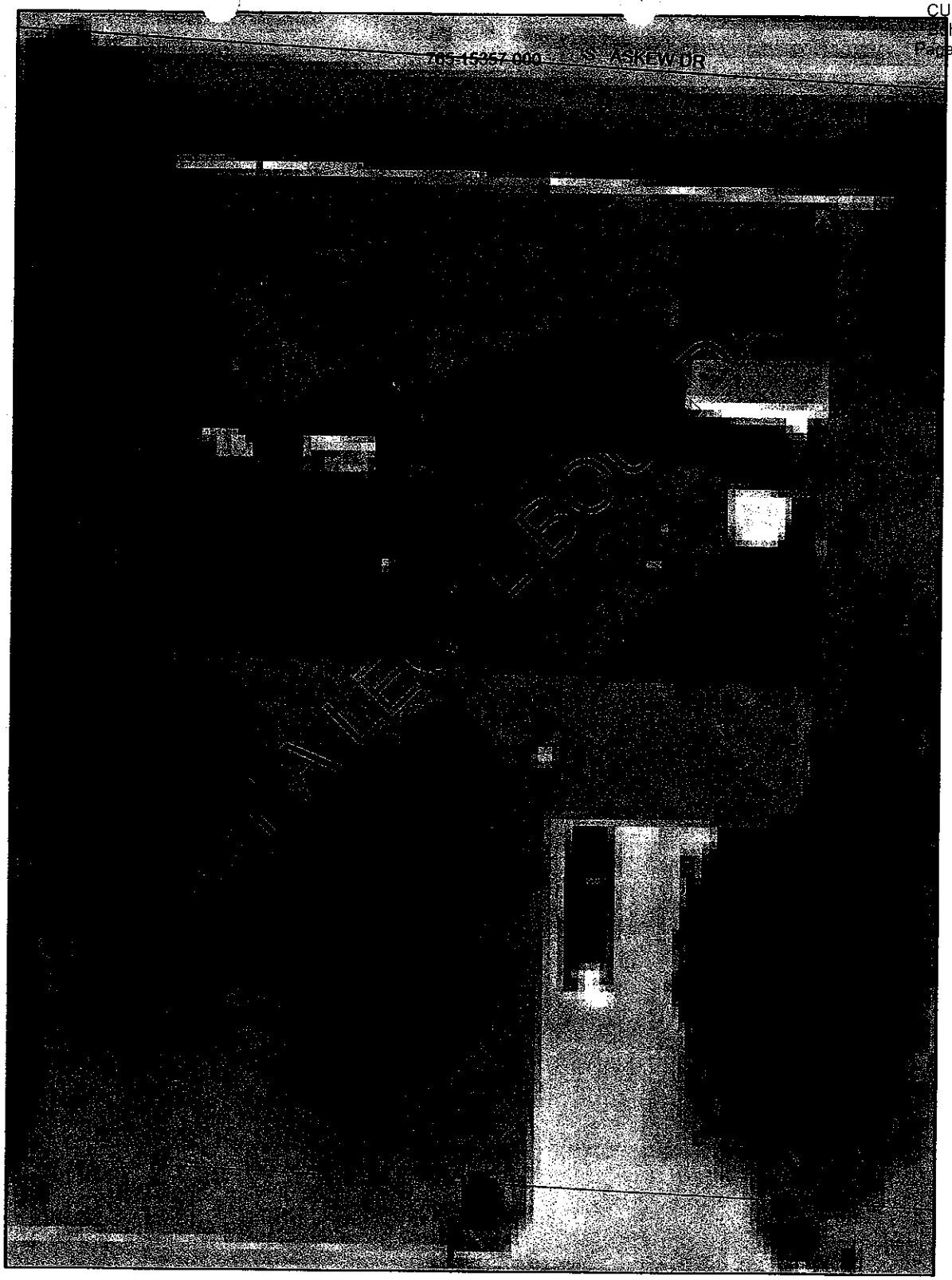
S ASKEW DR
PRIVATE 2193 DR
RSF-4
TH CIR
RSF-4
E 27TH CIR
W RAVENSWOOD LN
RSF-4
E 28TH CIR
E 29TH CIR
S COUNTRY CLUB DR
S COLLEGE DR
S CLUB OAK DR
RSF-4
RSF-4
W 28TH CT
E FAIRWAY LN
S WRIGHT PL
RSF-4
W 29TH CT
S SAND TRAP LN
RMF-24
PRIVATE 3335 DR
E FAIRWAY LN
E DOUBLE EAGLE PL
RSF-4
W SKELTON ST
RSF-4



0 15 30 60 Feet

County Disclaimer:

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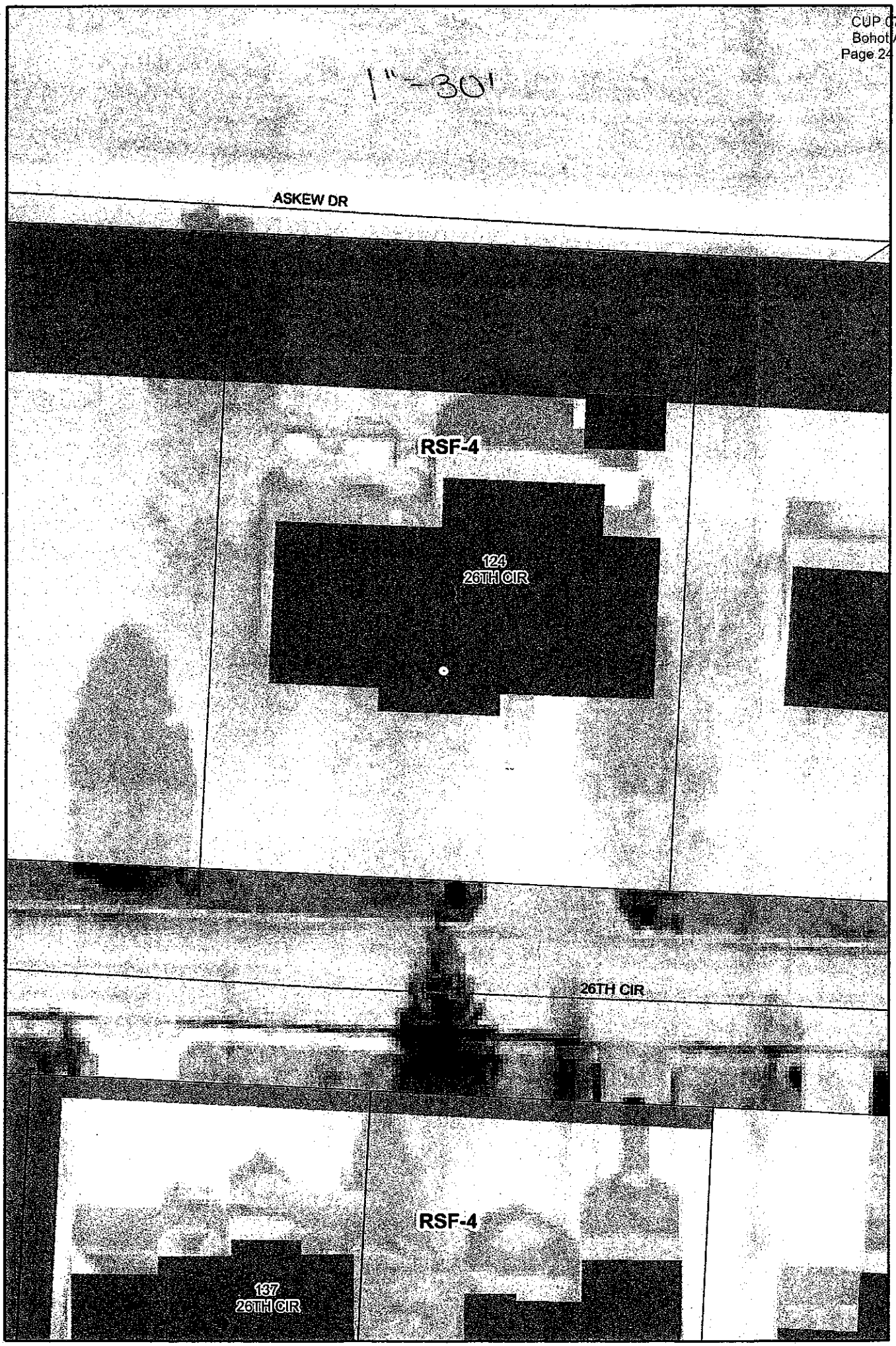
1"=30'



Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

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 & I walked & visited these neighbors.

Angels Blessings

(The hours we went to these homes) Hours 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 & Rose Marie	108 E 26th Circle	Refused to sign
	160 E 26th Circle Fay, Ar	Refused to sign
Dave & Pat Harvie	145 W. 26th Circle	Refused to sign
		Refused to sign
Ada	137 26th Circle	Refuse to sign
	Fay 145 26th Circle Fayetteville, Ar	Refused to sign
		Refused to sign
Doris	102 26th Circle	Refused to sign
Sandy & Gary	Fay	Not home
Larry	116 E 26th Circle went back & caught	would not sign
Stacy Hayes	74 26th Circle	Not home
Letter Vicky Martin	56 Circle	Not at home
Tammy Edrington	Fay 55 Circle	Not opposed
Letter Shirley Hardin	Fay 51 26th Circle	Not home
	Fay 50 26th Circle	Not opposed
	Fay 41 26th Circle	Not home
Letter Joe & Lyn	Fay 23 Circle	Not home
	Fay 26 Circle	Not opposed
Letter	2730 Country Club	Proposed letter off
Louis Toth	33 27th Circle	Not opposed
	49 27th Circle	No opinion
Robert Hempen	48 27th Circle	No opinion
Kirk Elsass	32 27th Circle	opinion
Fred Joe Starr	Ravenswood	Not home
		Not home

Mark	2489	College Dr	Not home
	2555	College Dr.	
	2556	College Dr.	
Patricia Devecsery	2583	College Dr	Not home
	2590	College	Not Home letter positive
Charlie Brown	2613	Colleg Dr.	not Home
Lori Derecsery	2651	College Dr.	no opinion
Judge	2624	college	Not opinion
	2697	college	Not Home
Tom & Connie Pori	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 Krokrich	2720 S Country club		undecide

I also left letters to the homes of whom would except 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

Ann Dalton
Child Care Licensing Specialist

Arkansas Department of Human Services
Division of Child Care & Early Childhood Education
Licensing Compliance Record

Facility Name Wilma Bohot Person in Charge Wilma Bohot
Address 124 E 26th Circle Fayetteville Phone 527-9992
Licensing Specialist Ann Dalton 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 - In packet		

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 Dalton 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
Brianey 12 & I from 5:45 - 8:30 p.m.
walked around the Pine hill top.

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	(very young not retired)
[illegible]	2730 Country Club Dr	= 1 school age daughter
Leanne Dunn	65 E 27th Circle	= 2 kids in Fay. schools
[illegible]	2834 Country Club Dr	
[illegible]	4 East 28 Circle	Retired
Betty Murphy	14 East 28 Circle	Retired
Lisa Claybrook	11 East 29th Circle	- 1 baby 6 months old
[illegible]	2891 S. Country Club	6 Kids
[illegible]	29 E 29 Circle	—
Kelly Latta	20 E. 29 Circle	1 Kid - Age 20
Jay Greenlee	2894 S. Wright Pl	
[illegible]	2899 S Wright Pl	—
Valerie Nichols	2911 S Wright Pl	2 children
JAMES HARVE	2916 S. WRIGHT Pl	0 CHILDREN
Wayne Osborn	2918 2918 S Wright	2 retire
[illegible]	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 26th CIRCLE	
Dick & Mary Lee Brock	17 E 26 Circle	
Diane Strayhorn	10 E. 26th Cir.	
Connie Serre	2702 S. College Drive	
Darlene Hatfield	30 E 29th Circle	

Brittney and I walked around
this evening from 7:00 p.m. to 7:30 p.m
Our neighborhood

Angels Blessings
Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

APRIL ~~6~~ 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 Leland	2824 Club Oak dr.	2
Scott Turley	2910 Club Oak	
Ron B Foster	2929 S. Club Oak Dr.	
Greg Stout	154 W 29th Court	1
[illegible]	99 W 29th Ct.	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 Griffith	26 w 26th Circle	—
JOHN SEXTON	2806 S COLLEGE DR	—
W. H. SUMMERS	2970 S. COLLEGE DR.	0
Wanda Lamar	2952 S. College Dr. 4-21-07	0
Shannon Beck	2912 S. Wright Place	2
[illegible]	2912 S Wright Place 5-22-07	↑
John W. Watts	123 E 26th Circle	2
Holly Watts	123 E 26th Circle	2
Darlene Phipps	2720 CC Drive	—
Mike Phipps	" "	—

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

Terry Talbott

RECEIVED
JUN 0 4 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

Pat Talbott

RECEIVED
JUN 0 4 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

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,

Heather Johnson

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,

Vickie Martin

Vickie Martin

To Whom It Concern: 4/14/07

Wilma bohot 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,

Janet Self
(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

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
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

Don Johnson, Principal
Elmdale Elementary

DJ:kl

ASSEMBLIES OF GOD
ALL THE GOSPEL
AG

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

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

Bob J. Fant

5-1-07

To whom it may concern:

I am a teachers aide at Elmdale Elementary in Springdale. I I have worked with Willma 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 Bayyon.

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

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

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,

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,

Valirie 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

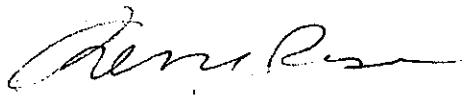
Dani Ziem

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 eàse knowing our children are being taken well care of while in her presence.

Please allow Ms. Bohot this opportunity!!!

Rene Rose



To Whom It May Concern;

My Wife and I support Ms. 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. 20th 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 siptems. She is a great parent and a my hard worker. I know she will do her best to provide ~~the~~ an excellent daycare for children.

Sincerely,
John Fallen

RECEIVED
APR 18 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

To whom it may concern:

my name is Brenda Fallen. 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.

RECEIVED
APR 18 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

Sincerely -
Brenda Fallen

5-1-07

To whom it may concern:

I am a teachers aide at Elmdale Elementary in Springdale. I I have worked with Willma 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

Norma Wright
1158 Farmer Ave
Fayetteville Ar
72701

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
May 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 L Scott

May 15, 2001
Sally
1158 Farmer Av.
Fayetteville

To the city of Fayetteville
I am writing on behave of Wilma Bohof 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 ministor to the children she would be guiding in her care.

Sincerely,
Sally Sob

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 discrves to have this daycare

Sincerly, 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,

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 and Joe F Starr

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" <et0ile13@hotmail.com>
Date: 5/15/07 4:47PM
Subject: Request to Deny the Conditional Use Permit for Home Child Care to Wilma Bohot

Clear Dayl 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>, <cmyres@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@mbl-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

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

April 28 2007
To: Jeremy Pace
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 Sr. citizens and we all know how this would decrease our property value. Once one is allowed, it opens the door to others 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 71 So. 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

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

Margaret Rodman
2835 Club Oak Drive

RECEIVED
MAY 0 2 2007
PLANNING DIV.

April 28, 2007

To: Planning Commission
RE: CUP 07-2560 (Bohot, 679)

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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.

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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

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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>; <cmyres@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

RECEIVED
MAY 07 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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,

RECEIVED
MAY 06 2007
PLANNING DIV.

Geneva Lash
345 East Fairway Lane
Fayetteville, AR 72701

Geneva M. Lash

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@mbl-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

Helen Kirby

From: Jim Hashbarger <jlhashbarger@hotmail.com>
To: <balliehi@sbcglobal.net>, <cmyres@sbcglobal.net>, <jgraves@bassettlawfirm.com>, <janthes@uark.edu>, <ipate@ci.fayetteville.ar.us>, <jfulcher@ci.fayetteville.ar.us>, <strumbo@nicklehill.com>, <alan.oster@sbcglobal.com>, <audy@mbl-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>, <mmitchellm@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=wlmailtagline

From: "GP125" <gp125@sbcglobal.net>
To: "Lois Bryant Ward 1 Planning Commission" <balliehi@sbcglobal.net>, "Christine Myres Ward 4 Planning Commission" <cmyres@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@mbl-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@mbl-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@mbl-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.

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>, "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 accomodate heavy traffic during the arrival and departure of small children: most of the residents are elderly (myself included) and this is zoned residential, and this is an unsuitable place for such a vulnerable business: Children deserve 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

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

RECEIVED
MAY 29 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

From: "Connie Dorre" <cjdorre@sbcglobal.net>
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@mbl-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....
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 Conditonal Use Permit for a child care center byWillma 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@mbl-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.

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Tom and Connie Dorre

2702 South College Drive

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479-521-3990

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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	X	2803	S. College Drive	
NOLAN	X	2817	S. College Drive	Single - No Children Living in Home
HEIDEBRECHT	X	2818	S. College Drive	Retired - No Children Living in Home
YEARGAN	X	2831	S. College Drive	No Children Living in Home
JONES	X	2834	S. College Drive	No Children Living in Home
WHEATON	X	2855	S. College Drive	
SEXTON & Assoc.		2914	S. College Drive	
		2914	S. College Drive	
SEXTON & Assoc.		2930	S. College Drive	
TENANTS	X	2930	S. College Drive	
NELMS		2933	S. College Drive	No Children Living in Home
ANDERSON	X	2941	S. College Drive	
LAMAR		2952	S. College Drive	No Children Living in Home
COOPER	X	2957	S. College Drive	Retired - No Children Living in Home
SUMMERS		2970	S. College Drive	Single - No Children Living in Home
ARNOLD	X	2979	S. College Drive	Retired - No Children Living in Home
WILSON	X	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	X	2864	S. Country Club Drive	No Children Living in Home
HOLLIS	X	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	X	2932	S. Country Club Drive	Retired - No Children Living in Home
PHILLIPS	X	2943	S. Country Club Drive	
SHUMP	X	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	Oakew	

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
Doris D Hurley	102 E. 26th Circle	6-3-07
Joseph B Hurley	102 E 26TH CIRCLE	6-3-07
Stacy Hargis	74 E 26th Circle	6-3-7
Merry Lee Booth	17 W 26th Circle	6-3-7
Tammie Edrington	55 W 26th Circle	6-3-07
Chelsea Redman	115 E 26th Circle	6-3-07
DAVE HARVIE	145 E. 26th CIRCLE	6-3-07
Pat Harvie	145 E 26th CIR	6-3-07
[illegible]	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
[illegible]	105 E 26th Circle	6-3-07
[illegible]	74 26th CIRCLE	6-3-07
Freddie Brenson	88 E 26th	6/3/07
Pat Brenson	" "	
Jill Graves	40 26th Circle	6/3/07
Dick Booth	17 E 26 Circle	6/3/07
[illegible]	23 W. 26TH CIRCLE	6-3-07

OVER →

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NAME	ADDRESS	DATE
Sandra Brinson	88 E 26th Circle	6/4/07
Gary Brinson	88 E 26th CIRCLE	6/4/07
[illegible]	2231 S. Askew Dr.	6-4-07
[illegible]	137 E. 26th cir.	6-4-07
[illegible]	137 E. 26 circle	6-4-07
[illegible]	115 E. 26 Circle	6-4-07

NAME	ADDRESS	DATE
Lawrence Turley	2910 Club Oak Drive	06-05-07
Martha J. [illegible]	2903 Club Oak Dr.	6-5-07
[illegible]	2892 Club Oak	6-5-07
Linda J Salmonson	2892 Club Oak	6-5-07

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NAME	ADDRESS	DATE
[illegible]	49 E 27th	5 Jun 07
[illegible]	48 E. 27th Circle	Jun 5, 2007
[illegible]	32 E 27th Cr	6/5/07
[illegible]	65 E. 27th Cir	6/5/07
[illegible]	48 E. 27th Cir	6/5/07
[illegible]	49 E. 27th Circle	6/5/07
[illegible]	65 E. 27th Cir	6-6-07

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NAME	ADDRESS	DATE
Barbara Pearce	2928 S Club Oak Dr.	06/04/07
Joe Pearce	" "	" "

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NAME	ADDRESS	DATE
Betty Mayberry	14 E 28th Circle	6-4-07
Carol Hawkins	12 E. 28th Circle	6-5-07
Jim Hawkins	12 E. 28th Circle	6/5/07

PETITION

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NAME	ADDRESS	DATE
Swyn + Leary Pope	125 W. 29th Ct., Fayetteville	6-3-07
C L + Linda Gitter	47 W 29th Ct. Fayetteville AR	6-3-07
Craig + Jan Thoge	227 W 29th Ct Fayetteville AR	6-3-07
Marion & Bob Lindman	25 E 29th St Fay AR	6-3-07
Michael B Newell	41 East 29th Cir - Fayetteville	6-3-07
Gene A. Hanna Newell	41 E 29th Circle	6-3-07
Darlene Hatfield	30 E 29th Circle	6-3-07
Tom Hatfield	30 E 29th Circle	6-3-07
Peg Hart	159 W 29th Court	6-3-07
Lynn Rose	230 W. 29th Ct.	6-4-07
[illegible]	5953 Sand Dune Dr	6-4-07
John Gall	99 W 29th Ct.	6-4-07
[illegible]	37 E. 29th Circle	6-5-07
David [illegible]	29 E 29th Circle	6-5-07
Mann Mitchell	37 E. 29th Circle	6-5-07

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
[illegible]	2333 S. Ashley Dr.	6/4/07
[illegible]	2333 S. Ashley Dr.	6/4/07
[illegible]	380 Ravenswood	6-4-07
[illegible]	2834 S. Colley Dr.	6-5-07
[illegible]	210 Rowland	6/6/2007
[illegible]	2420 S School	6/6/07

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NAME	ADDRESS	DATE
Joe B. Rodman	2835 Club Oak Dr	6-4-07
[illegible]	2813 Club Oak Dr	6-4-07
Dot Watkins	2817 Club Oak Dr	06-04-07
Charlene Hull	2806 CLUB OAK DR	6-4-07
Brenda Stovall	2806 Club Oak Dr.	6/4/07
Margaret Rodman	2835 Club Oak Dr	6/4/07
[illegible]	2824 Club Oak	6-4-07
[illegible]	2824 Club Oak	6-4-07
Patty Horne	2803 Club Oak Dr	6-4-07
[illegible]	" "	6-4-7
Janet K. Wise	2840 Club Oak Dr	6-4-7
Ray Wise	" " "	6-4-7
Ron Calaway	2848 Club Oak Dr	6-5-7
Sue Calaway	2848 Club Oak Dr	6-5-07
Tom Pelizon	2876 Club Oak Dr	6-5-07
Gloria Pelizon	2851 S. Club Oak Dr	6-5-07

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NAME	ADDRESS	DATE
Lindsay Mrean	2480 S. College Drive	6/4/07
Virginia Miller	2780 S. College Dr. Fayo.	6/4/07
Ellen Heidbreder	2818 So College Dr. Fayo	6/4/07
Don Heidbreder	2816 So College Dr. Fayo.	6/4/07
Ryan H. Jones	2834 S. College Dr. Fay.	6-4-07
Justin Nolan	2817 S. College Fay, AR	6-4-07
Frances Shirley	2748 S College Drive	6-4-07
Faribat Onsrain	320 Fairway 72701	6-4-07
Helen Kirby	2747 S College Dr	6-4-07
Jim Wood	2766 S College DR	6/4/07
Evelyn B Wood	2766 So College Dr	6-4-07
Patti Grace	29 East 29 Circle	6-5-07
Margaret Sexton	2803 South College Dr	6-4-07
JOHN SEXTON	2803 S COLLEGE DR	6-4-07
Jane Yearyan	2831 S. College Dr.	6-4-07
Jerry Yearyan	2831 S. College Dr.	6-4-07

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NAME	ADDRESS	DATE
Bob & PAT Cooper	2957 So. College DR.	6-4-2007
Dick & Betty Arnold	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 Hayes	2930 S College Dr	6-4-2007
Doug & Maria Wheat	2855 S. College Dr	6-4-2007

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NAME	ADDRESS	DATE
Karen Brown	2613 S. College Dr.	6-4-07
Charlie Brown	2613 S College Dr	6-4-07
Patricia Dewberry	2583 S. College Dr.	6-4-07
[illegible]	2555 S. College Dr.	6-4-07
[illegible]	2555 S College Dr	6-4-07
[illegible]	2489 S. College Dr	6-4-07
Cindy Tunnell	2488 S College Dr	6-4-07
Mark Sagaro	2489 S College Dr	6-4-7
Debbie Tunnell	2488 S. College Dr.	6-4-7
Brian Dewberry	2651 S. College Dr	6/4/07
Jeri Dewberry	2651 S. College Dr	6/4/07
Roy Clinton	2697 S. College	6/5/07
Hattie M. Clinton	2697 S. College Dr.	6/5/07
[illegible]	2702 S. College Dr	6/5/07
Connie J. Horne	2702 S. College Dr	6/5/07

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NAME	ADDRESS	DATE
Ted [illegible]	3419 S. Country Club Dr	June 3, 2007
Sandi [illegible]	3419 S. Country Club Dr.	June 3, 2007
John [illegible] Kim	2970 Country Club Dr	JUN 4, 2007
Mary A Kim	2970 Country Club Dr	JUN 4 2007
[illegible] Parker	2966 Country Club Dr.	6/4/2007
[illegible] Phillips	2943 S Country Club Dr	6/4/2007
Joann [illegible]	2943 S Country Club Dr	6/4/2007
Mary Jo Schroeder	2932 Country Club Dr	6/4/2007
William M Schroeder	2932 County Club Dr	6/4/2007
Jerry Hollis	2875 Country Club Dr	6/4/2007
[illegible]	2875 Country Club	6/4/2007
Brian Aura	3053 Sand Trap Ln.	6/5/2007

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NAME	ADDRESS	DATE
[illegible]	359 Fairway	6-5-07
[illegible]	359 FAIRWAY	6/5/07
[illegible]	330 E. Fairway	6/5/07
[illegible]	301 E Fairway	6/5/07
[illegible]	301 E Fairway	6/5/07
[illegible]	345 Fairway Lane	6/5/07
[illegible]	349 FAIRWAY LANE	6/5/07
[illegible]	300 Fairway Lane	6/6/07
[illegible]	310 Fairway Ln	6/6/07

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NAME	ADDRESS	DATE
Calvine Jarrett	491 E. Fairway Lane	6-4-07
[illegible]	492 E. Fairway Ln	6/4/07
[illegible]	" "	
[illegible]	444 Fairway Lane	6/4/07
[illegible]	444 Fairway Lane	6/4/07
Rise Bonino	422 E. Fairway	6/4/07
Calvin Goforth	506 Double Eagle Pl	6/4/07
Suzanne Clark	438 E. Fairway Ln.	6/4/07
[illegible]	515 Amen Corner	6/4/07
[illegible]	515 Amen Corner	6/5/07

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NAME	ADDRESS	DATE
James B. Harvey	2919 S. WRIGHT PLACE	6/3/07
Mary Jo D. Harvey	2919 So Wright Pl Fville	6/3/07
Nancy 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
Joy Jacobs	2915 S. Wright Pl	6/5/07
Kris Jacobs	2915 S. Wright Pl.	6/5/07

PLANNING COMMISSION MINUTES
APRIL 24, 2006

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

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.

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

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

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.

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.

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…

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. Seqouyah. 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

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

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.

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.

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

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:

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 D. Bohot

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

C.8

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_cclerk@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

Jim and Gwyn Wood
2766 S. College Drive
Fayetteville, AR 72701
479 443-4033
gwyn.wood@sbcglobal.net

Ms Sondra E. Smith
P.O. Box 9211
Fayetteville, AR 72702

Re: Request for Appeal on City Planning Commission's Approval for:
CUP 07-2560 (Wilma Bohot – 124 E. 26th Circle)

Dear Ms Smith,

We respectfully request your support for a reversal of the above referenced action by the Fayetteville City Planning Commission. This is the second year that our neighborhood has united in opposition to Ms Bohot's request for rezoning to accommodate a child care center in her home. Last year the City Planning Commission voted unanimously to reject Ms Bohot's request.

Our concern about the Planning Commission's decision is that in allowing a commercial business to operate in our neighborhood, it sets a precedent for other "home based" businesses to be allowed.

We are a largely retired community with only twelve children living on the hill. It appears that most of Ms Bohot's clients will be traveling into and out of our neighborhood daily. With only one entrance and exit (24th Street), increased traffic could also become a concern.

We appreciate your consideration of this issue. It is a very important one for us and for our neighbors.

Sincerely,

Jim Wood Gwyn Wood

Jim and Gwyn Wood

ADA HUTCHINS
137 East 26th Circle
Fayetteville, AR 72703
479-582-1911

July 9, 2007

Dear Council Member ,

My name is Ada Hutchins. I live at 137 East 26th Circle in Fayetteville. This writing is regarding a request from Mrs. Bohot to operate a day care center out of her home at 124 East 26th Circle.

My home is directly across from the Bohot residence and we are ***STRONGLY OPPOSED*** to having a daycare in front of our home.

There is no commercial activity on **Our Hill**. Traffic on our hill is one way in and one way out. Cars will turn and park in front of our home. Therefore it will create extra traffic and noise.

We chose to come to Fayetteville and build our retirement home in this nice quit **RESIDENTIAL** neighborhood.

We strongly urge you to ***DENY*** this request for a daycare center.

Please save our residential status and its tranquility.

Sincerely and respectively,

Ada Hutchins

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

6/19/2007
City Council Meeting Date

Tim Conklin T.C.	Planning and Development Mgt.	Operations
Submitted By	Division	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 STEPBACK 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 — Date 5-30-07

City Attorney — Date 5-31-07

Finance and Internal Service Director — Date 5-31-07

Mayor — Date 6/4/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 5/31/07

Received in Mayor's Office ENTERED 5/31/07

Comments: Tabled to August 7, 2007 mtg 7/17/07
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 Meeting of June 19, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director
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 claify the 15 foot stepback requirment. (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 CODE 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 Code 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 _____day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA E. 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.

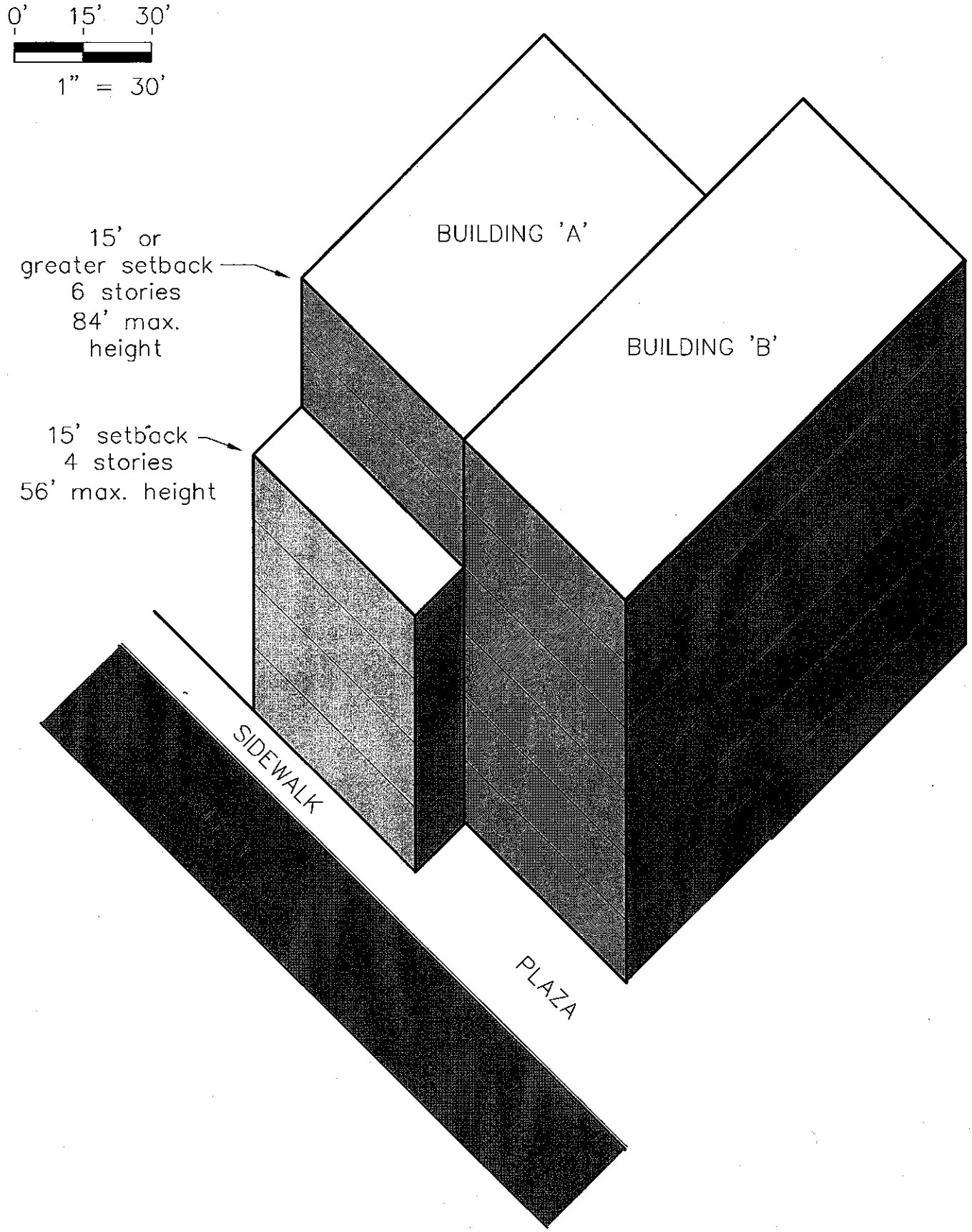
Jeremy Pate, Director of Current Planning, stated that the concern was duly noted, and staff will attempt to address the issue with a modification to the amendment if this goes forward to the City Council.

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.**

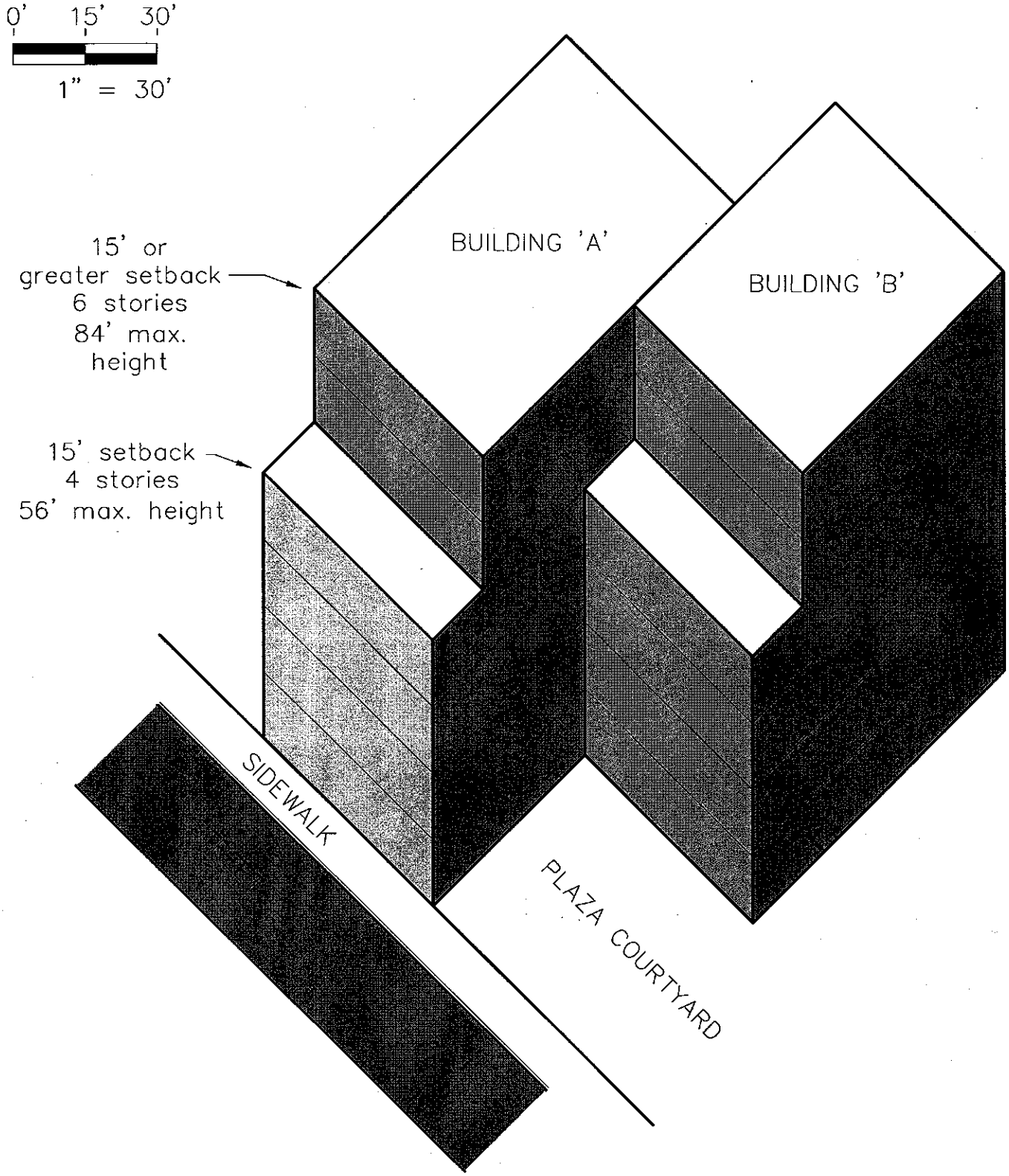
PROPOSED AMENDMENT

MAIN STREET CENTER



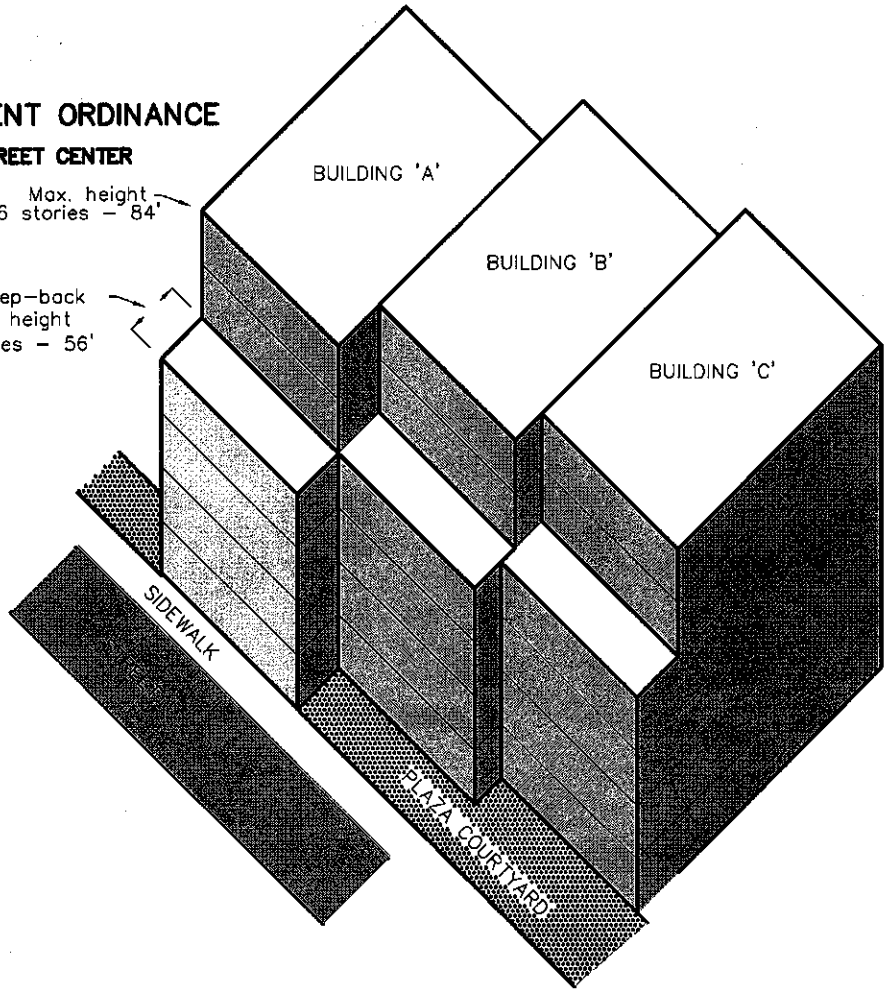
CURRENT ORDINANCE

MAIN STREET CENTER



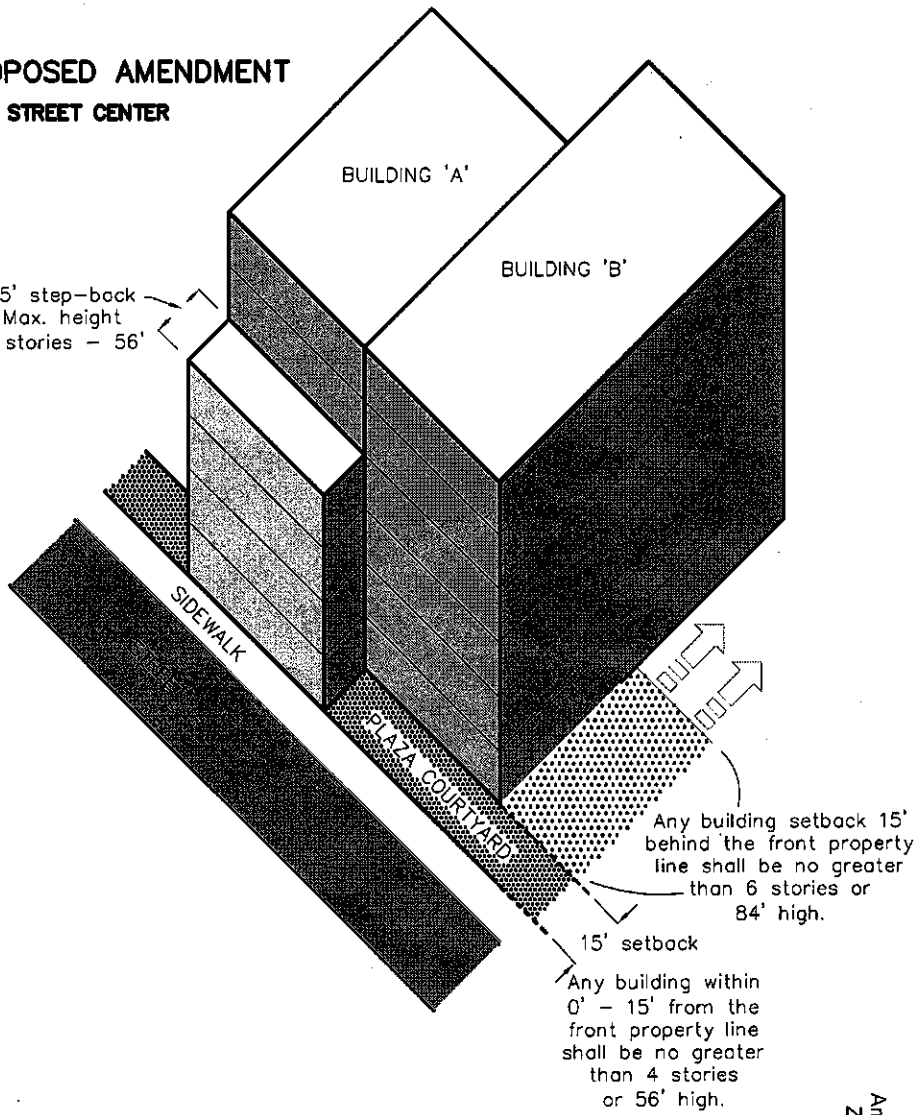
CURRENT ORDINANCE

MAIN STREET CENTER



PROPOSED AMENDMENT

MAIN STREET CENTER



B.2. Amend Chapter 161: Zoning Districts
Handed out at the City Council Meeting 7/17/07

Ozark Mountain Smokehouse Sound Survey

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 taking 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 57.0dbs to a high of 59.9dbs, with an average of 58.45dbs keeping it below the residential level of 60dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 60.2dbs to a high of 63.1dbs, with and average of 61.65dbs putting it just above the residential level of 60dbs. 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 69.9dbs, with and average of 67.95dbs, putting it above the residential of 60dbs. Although two of the readings were above the residential allowed decibels levels, all three were under the commercial set level of 75dbs 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 84dbs to a high of 91dbs, with an average of 87.5dbs. **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 80dbs to a high of 83dbs, with an average of 81.5dbs, putting it well above the residential level of 60dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 77dbs to a high of 80dbs, with an average of 78.5dbs, putting it well above the residential level of 60dbs. The next reading was taken with the volume set at 3.5. The reading ranged from a low of 73dbs to a high of 77dbs with an average of 75dbs, still above the residential level of 60dbs. **See diagram label B**

The next reading was taken with the volume set at 3.5. The reading ranged from a low of 60dbs to a high of 62.4, with an average of 61.2dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 63dbs to a high of 67dbs with an average of 65dbs. The next reading was taken with the volume set at 5.5. The reading ranged from a low of 65dbs with a high of 71.1, with an average of 68.5dbs. During these reading 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**

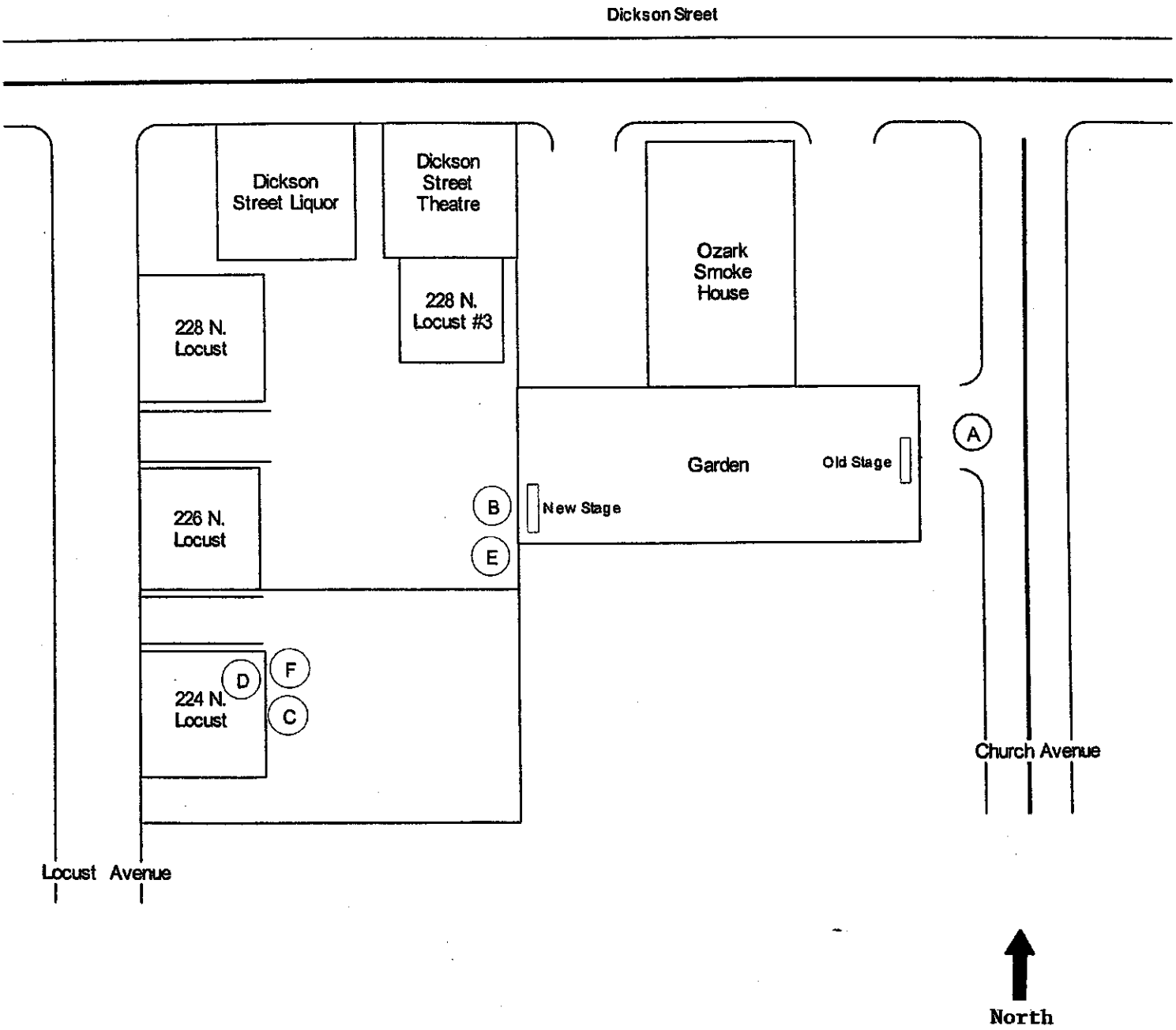
The fourth reading was taken from the backyard of 224 N. Locust Avenue, with the volume set at 5.5. The reading ranged from a low of 68.8dbs to a high of 72.1dbs, with and average of 70.45dbs. **See diagram label F**

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.

Cpl. D. Slaughter #141

NOT TO SCALE

Incident #07-68808



City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

7/3/2007
City Council Meeting Date
Agenda Items Only

Tim Conklin	Planning and Development Mgt.	Operations
Submitted By	**Division**	**Department**

Action Required:

To amend Title 15, Chapter 161, 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 — Date: 6-15-07

City Attorney — Date: 6-18-07

Finance and Internal Service Director — Date: 6-18-07

Mayor — Date: 6/18/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 6/18/07

Received in Mayor's Office ENTERED 6/18/07

Comments:

Left on the second reading 7/17/07

7-3-07 City Council Meeting - Left on the First Reading

City Council Meeting of July 3, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: 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:

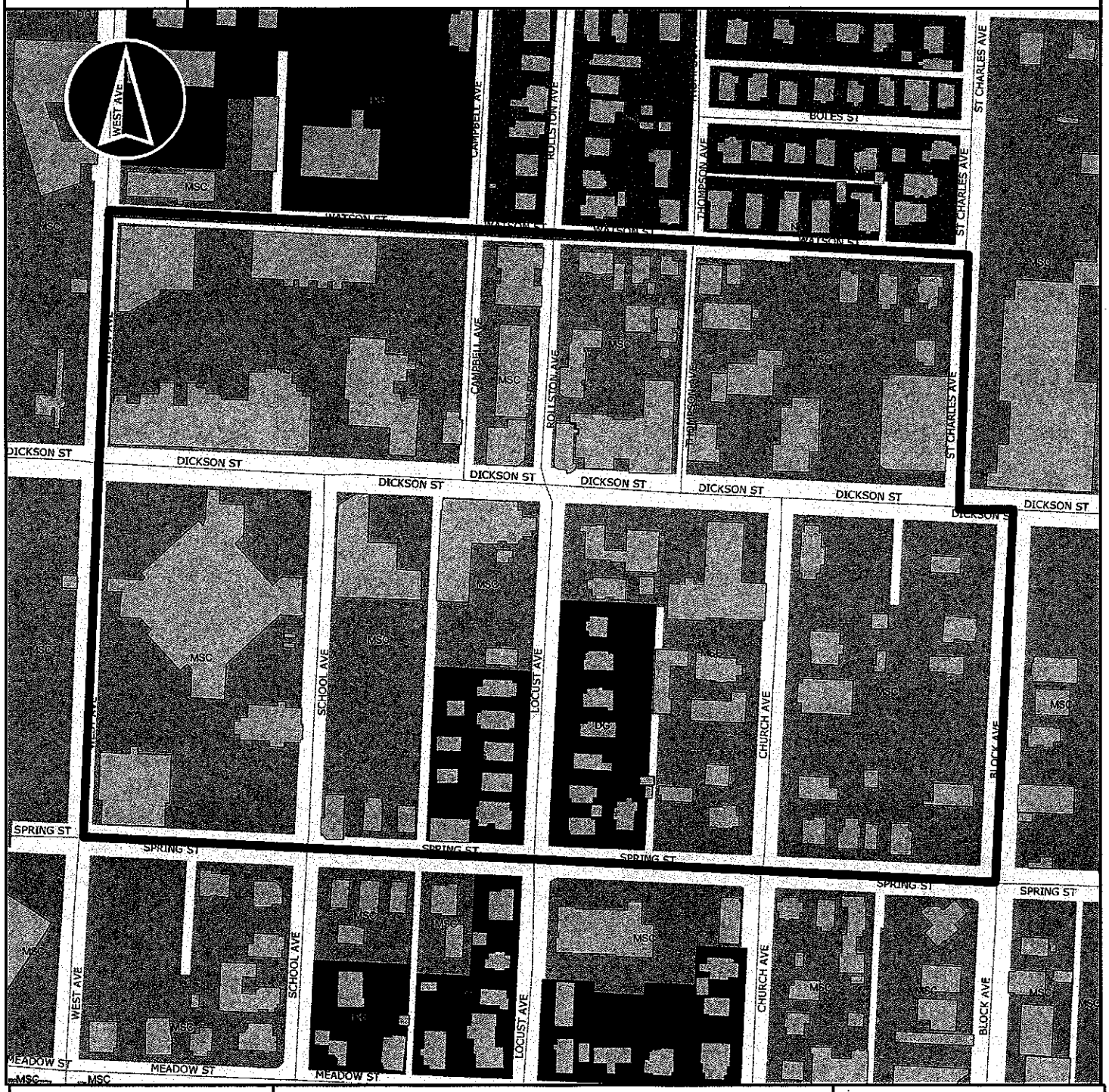
This section shall be removed:

~~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. Boudreaux'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. Boudreaux 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. Boudreaux 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

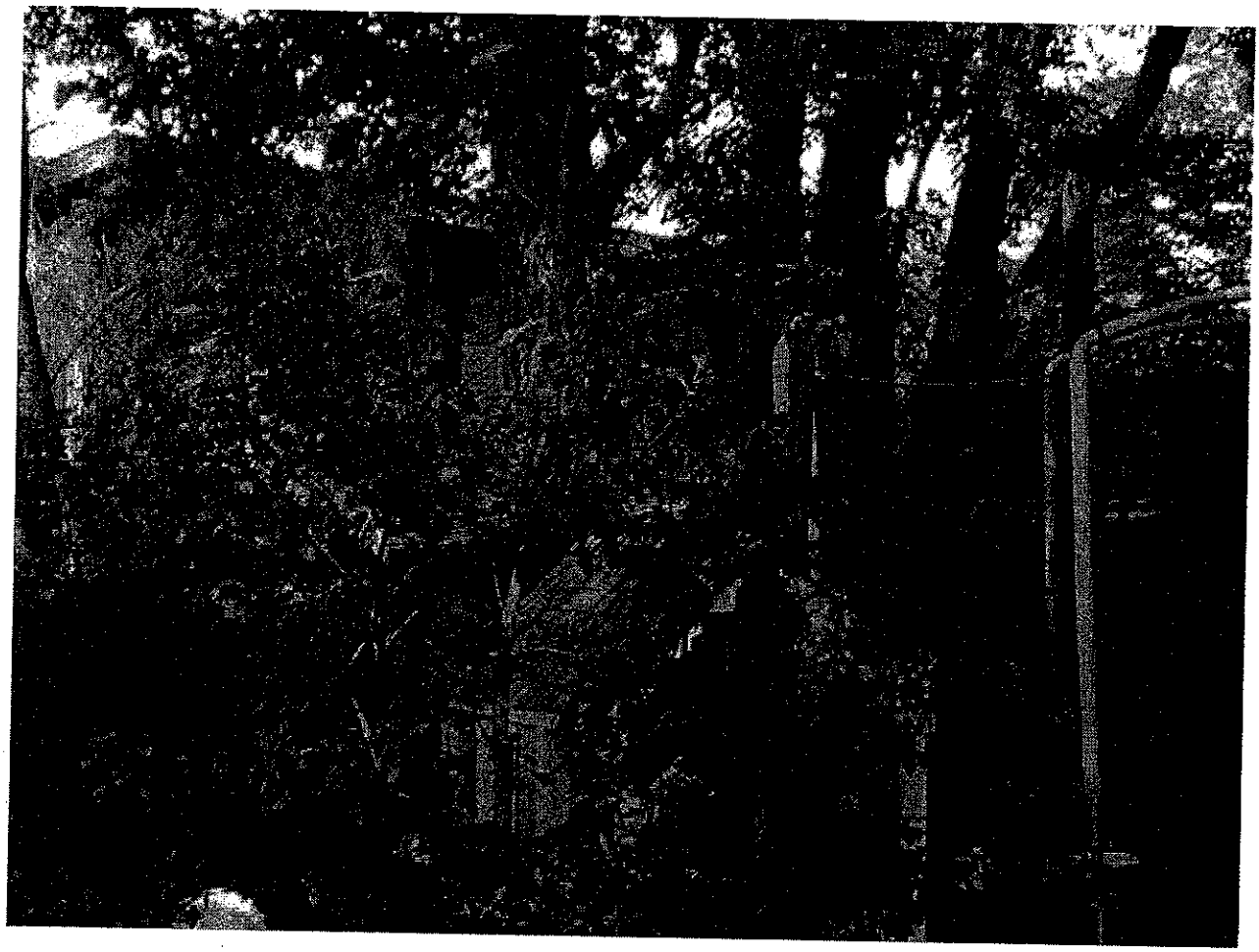
cc: Kyle B. Cook
Ward2_pos1@ci.fayetteville.ar.us

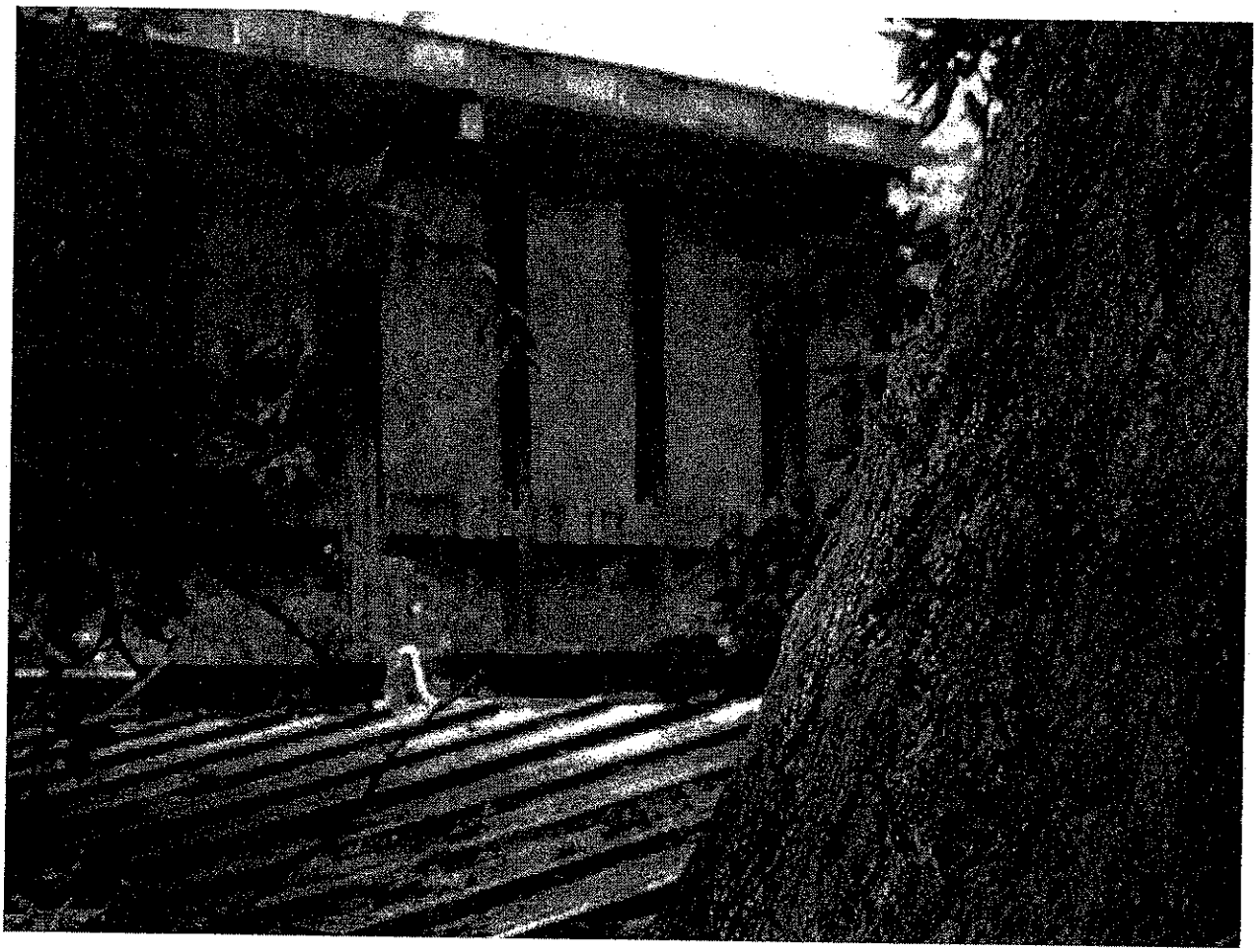
Nancy Gordon Allen
Ward2_pos1@ci.fayetteville.ar.us

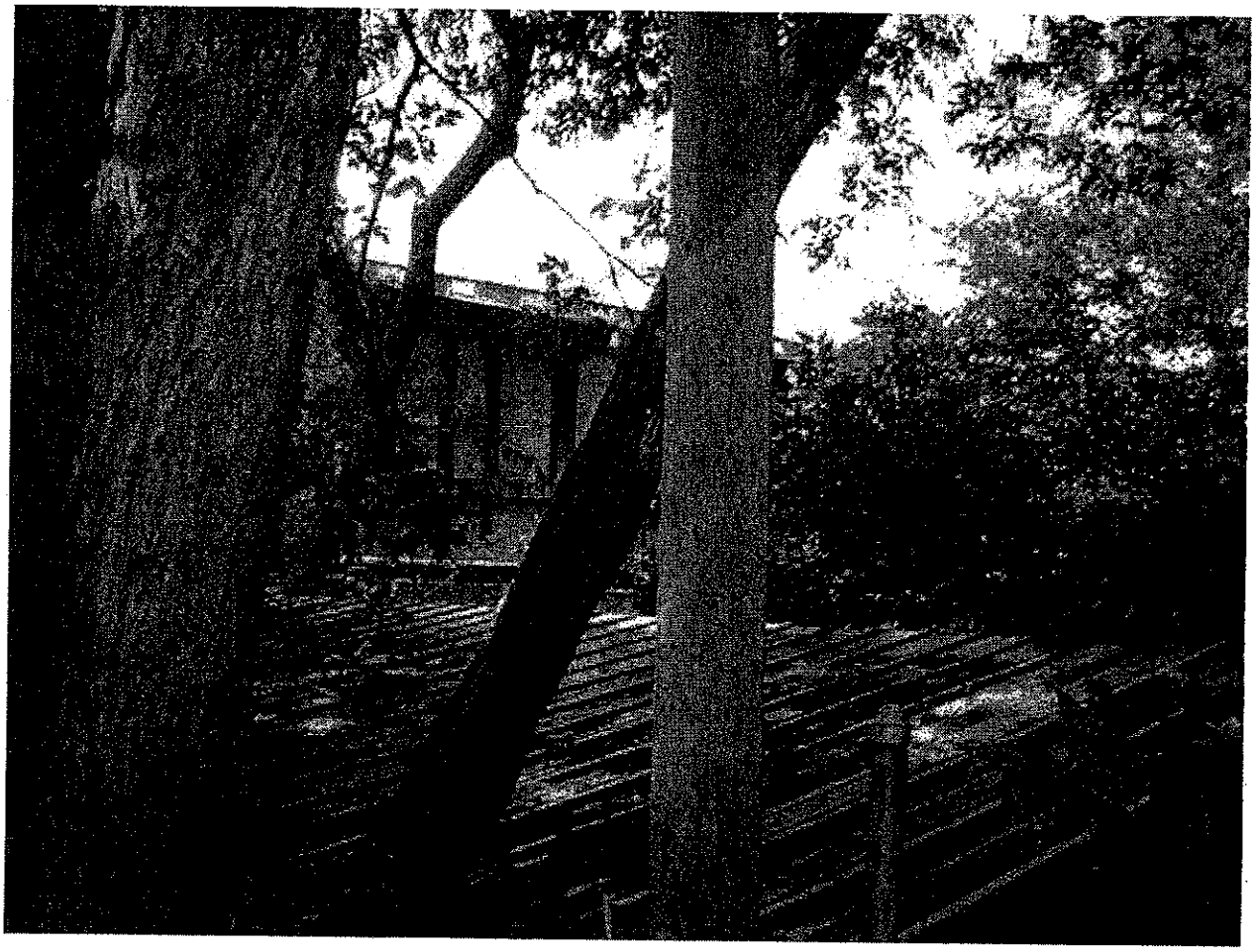
Tim Conklin
City of Fayetteville
Planning and Development Management Director

Gary Dumas
City of Fayetteville
Director of Operations

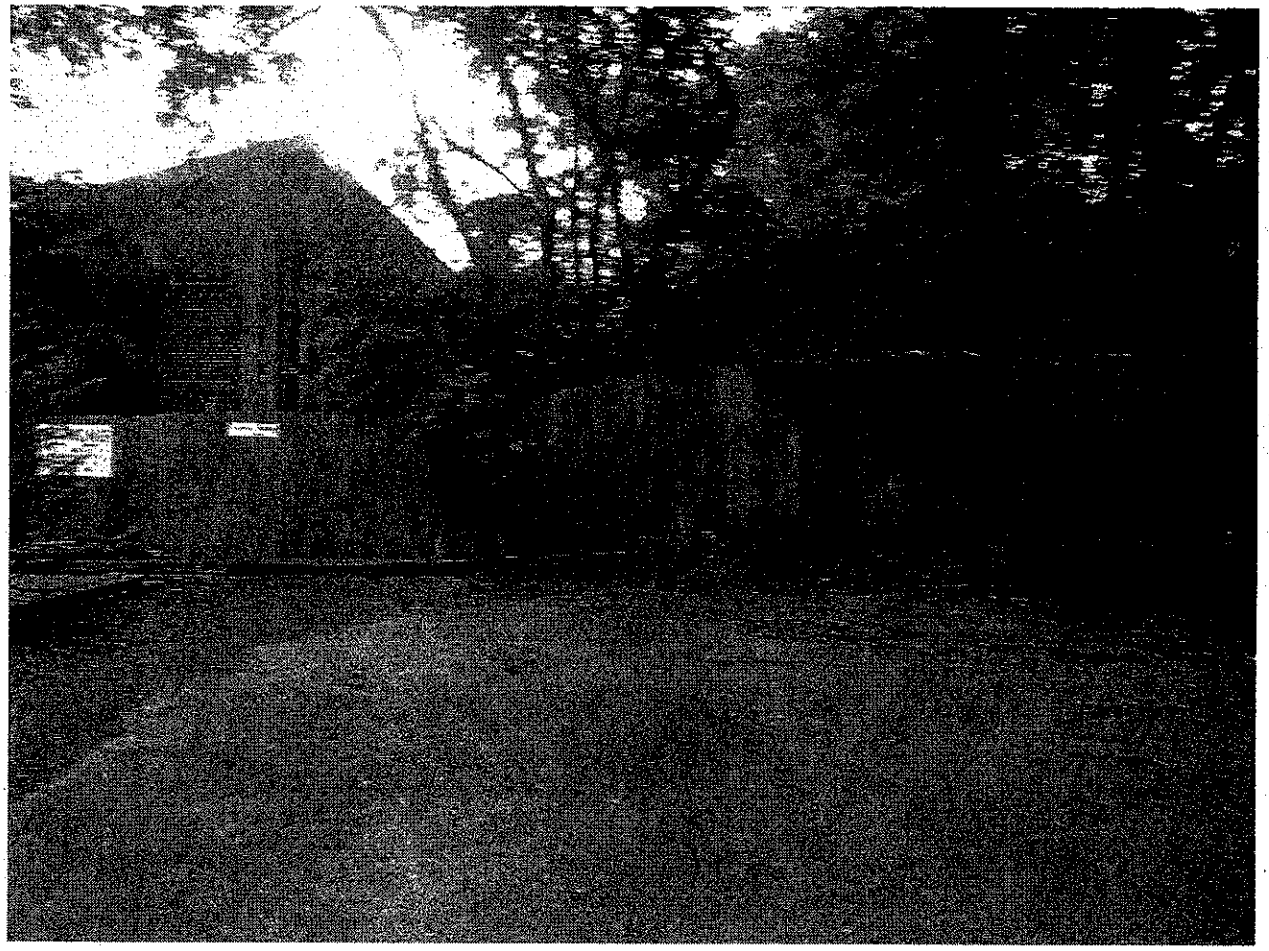
Juli D. Dorrough
Chair - Dickson Street Neighborhood Association

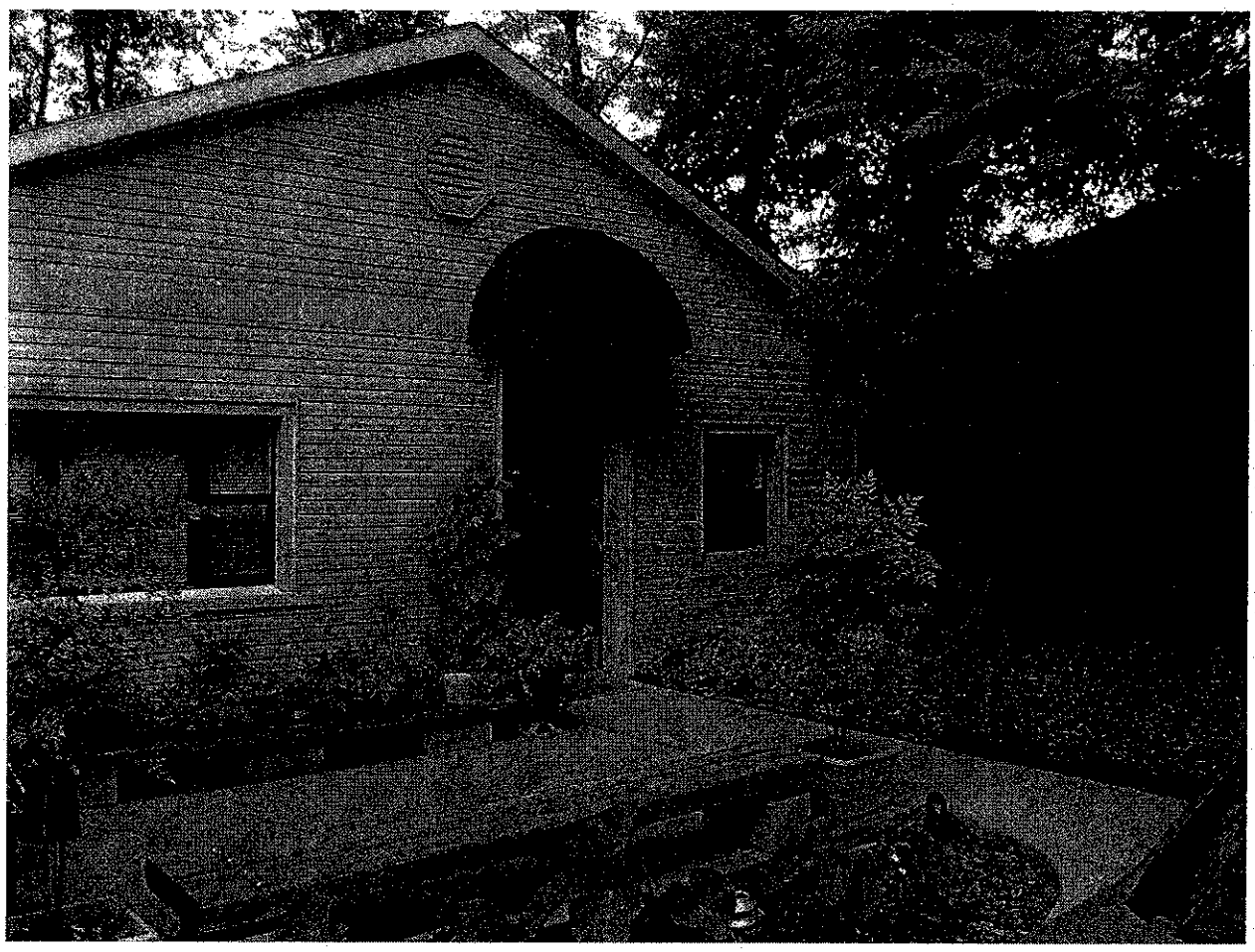


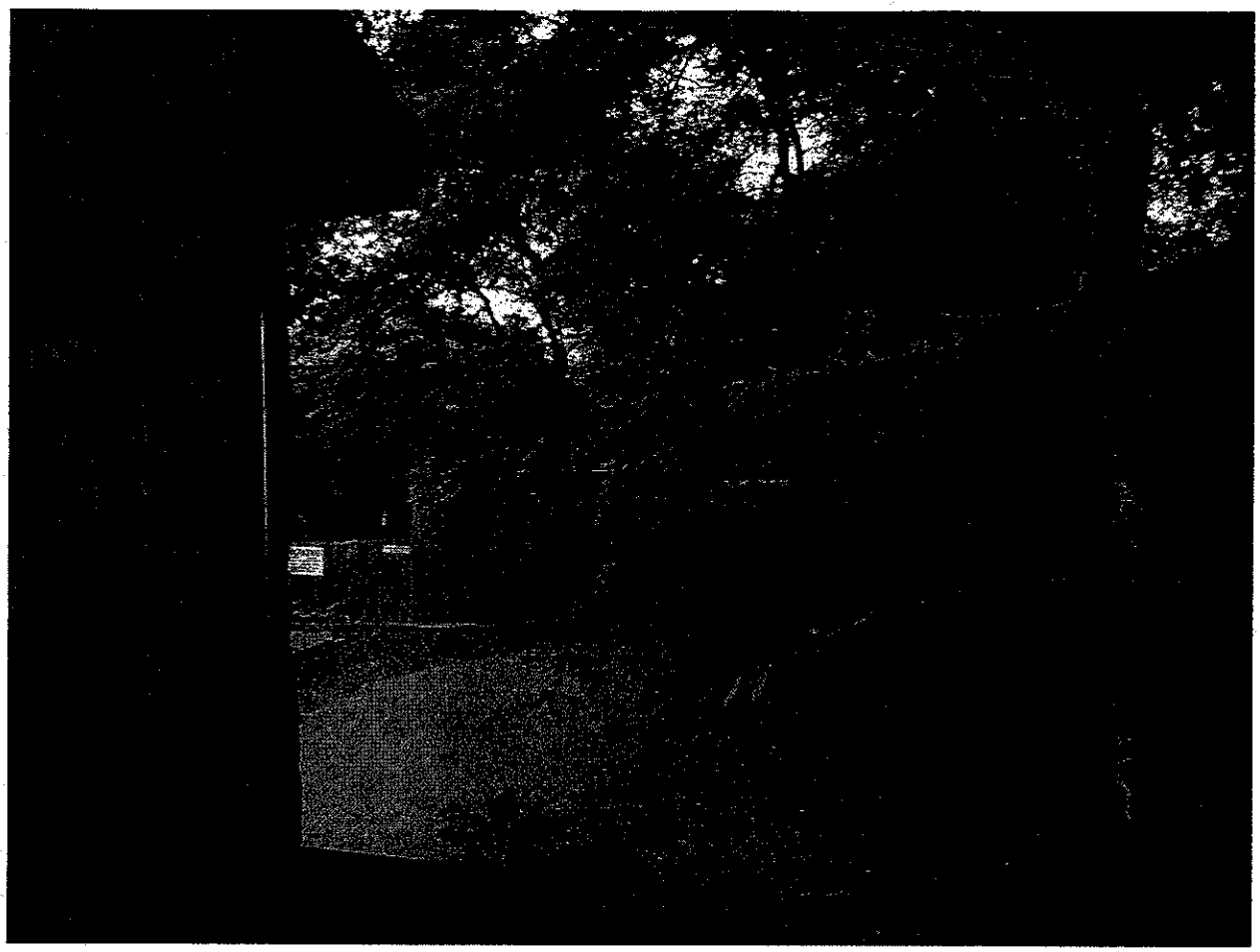




Dear Mr. Conklin My name is Rev. J.A. Gaglio I live at 226 N. Locust Ave. I have enclosed photos of how close the Garden Room is to my house and other homes.







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	W	DICKSON	LIVE BAND
199800038997	Noise Comp	19981022	21:45:48	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM INSIDE THE RESTAURANT. MDS
200000028791	Noise Comp	20000419	0:28:47	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THE AREA BEHIND THIS.
200000079345	Noise Comp	20001022	22:38:11	SASSAFRAS	215	W	DICKSON	LIVE BAND...SFS
200500009171	Noise Comp	20050129	23:23:31	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THIS LOCATION...MDS
200600048939	Noise Comp	20060513	22:16:27	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM THE BACK OF THIS LOC. JW
200600066784	Noise Comp	20060701	22:58:27	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM LIVE BAND AT THIS LOC. JR
200600069496	Noise Comp	20060708	21:54:41	OZK MTN SMOKEHO	215	W	DICKSON	LOUD BAND PLAYING AT THIS LOC. JW
200600074447	Noise Comp	20060722	22:38:32	OZK MTN SMOKEHO	215	W	DICKSON	THE GARDEN ROOM, LOUD MUSIC, THIS IS THE
200600085409	Noise Comp	20060819	18:05:23	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC..MTC
200600090705	Noise Comp	20060902	0:19:22	OZK MTN SMOKEHO	215	W	DICKSON	CALLER LIVES ON LOCUST AND IT SOUNDS LIKE THE
200600096293	Noise Comp	20060916	21:22:01	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM A BAR IN THE AREA. JW
200600096308	Noise Comp	20060916	22:00:57	OZK MTN SMOKEHO	215	W	DICKSON	AT THE GARDEN ROOM, LOUD MUSIC SHAKING THE
200600096341	Noise Comp	20060916	23:21:32	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THE GARDEN ROOM AT
200600103633	Noise Comp	20061006	21:20:41	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC ON BACK PATIO AT THIS LOC
200700036618	Noise Comp	20070420	21:25:13	OZK MTN SMOKEHO	215	W	DICKSON	LOUD BAND ON THE PATIO. MH
200700036670	Noise Comp	20070420	23:37:17	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC, COMING FROM THE BACK PATIO...ES
200700036698	Noise Comp	20070421	0:42:10	OZK MTN SMOKEHO	215	W	DICKSON	CALLER WOULD LIKE AN NOISE METER READING AS
200700039424	Noise Comp	20070428	21:49:16	OZK MTN SMOKEHO	215	W	DICKSON	IN THE GARDEN ROOM ON THE BACK PATIO, THERE
200700044345	Noise Comp	20070512	21:25:38	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM THIS LOC. JW
200700049995	Noise Comp	20070527	20:57:23	OZK MTN SMOKEHO	215	W	DICKSON	PLAYING MUSIC VERY LOUDLY. SDW
200700055206	Noise Comp	20070609	20:43:17	OZK MTN SMOKEHO	215	W	DICKSON	224 N LOCUST, LOUD MUSIC BOTHERING FEMALE

FINAL TOTALS
COUNT 22

* * * E N D O F R E P O R T * * *

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #	.	STREET NAME	FIRST LINE OF NARRATIVE
199800000512	Noise Comp	19980103	23:40:36	226	N	LOCUST	POSB AT 224, LOUD PARTY OUTSIDE, LOUD MUSIC
200700018193	Noise Comp	20070224	21:33:38	226	N	LOCUST	LOUD MUSIC IN THE AREA...JH
200700027941	Noise Comp	20070324	23:17:46	226	N	LOCUST	LOUD MUSIC COMING FROM DICKSON STREET THEATER
200700036665	Noise Comp	20070420	23:24:28	226	N	LOCUST	BACK DOOR, UP THE STAIRS, THAT IS WHERE THE
200700039432	Noise Comp	20070428	22:10:24	226	N	LOCUST	LOUD MUSIC COMING FROM THE GARDEN ROOM
200700044374	Noise Comp	20070512	22:31:16	226	N	LOCUST	THE GARDEN ROOM IS TOO LOUD, CALLER ADV HE

FINAL TOTALS
COUNT 6

* * * E N D O F R E P O R T * * *

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #		STREET NAME	FIRST LINE OF NARRATIVE
200300056559	Noise Comp	20030613	2:42:53	229	N	LOCUST	LOUD MUSIC...JPS
200300094796	Noise Comp	20030923	2:54:37	229	N	LOCUST	LOUD MUSIC...KMV
200300095479	Noise Comp	20030925	2:05:23	229	N	LOCUST	LOUD MUSIC COMING FROM THIS LOC..KMV
200300095491	Noise Comp	20030925	2:53:16	229	N	LOCUST	STILL BEING VERY LOUD..MRS
200300096200	Noise Comp	20030927	2:19:33	229	N	LOCUST	LOUD MUSIC..MRS
200300098327	Noise Comp	20031003	0:47:16	229	N	LOCUST	LOUD MUSIC..MRS
200300098346	Noise Comp	20031003	3:02:40	229	N	LOCUST	LOUD MUSIC, C2 SUBJS...JPS
200300100072	Noise Comp	20031008	2:00:16	229	N	LOCUST	LOUD MUSIC..HDK
200300107772	Noise Comp	20031028	22:09:38	229	N	LOCUST	DOWNSTAIRS, LOUD MUSIC, POSB C2...JPS
200300108536	Noise Comp	20031031	0:57:22	229	N	LOCUST	LOUD MUSIC..MRS
200300110017	Noise Comp	20031104	1:09:45	229	N	LOCUST	LOUD MUSIC....KMV
200300125208	Noise Comp	20031217	19:32:20	229	N	LOCUST	LOUD MUSIC FROM THIS APT..SH
200300125251	Noise Comp	20031217	22:35:27	229	N	LOCUST	LOUD MUSIC..MRS

FINAL TOTALS
COUNT 13

* * * E N D O F R E P O R T * * *

Handed out at the City Council Meeting 7-3-07.

D.7. New Business Amend Chapter Zoning Districts.

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, "Well ....Ok." 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

17-Jul-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 07-2592: (Bellwood S/D Ph II, 400): Submitted by Jorgensen and Associates for property located west of Rupple 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 ☐

Department Director — Date: 6.29.07

City Attorney — Date: 7-2-07

Finance and Internal Service Director — Date: 7-2-07

Mayor — Date: 7/2/07

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:

Left on the second reading 7/17/07

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

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 Rupple Road and north of Wedington Drive.

BACKGROUND

The subject property contains approximately 8.41 acres located west of Rupple 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:

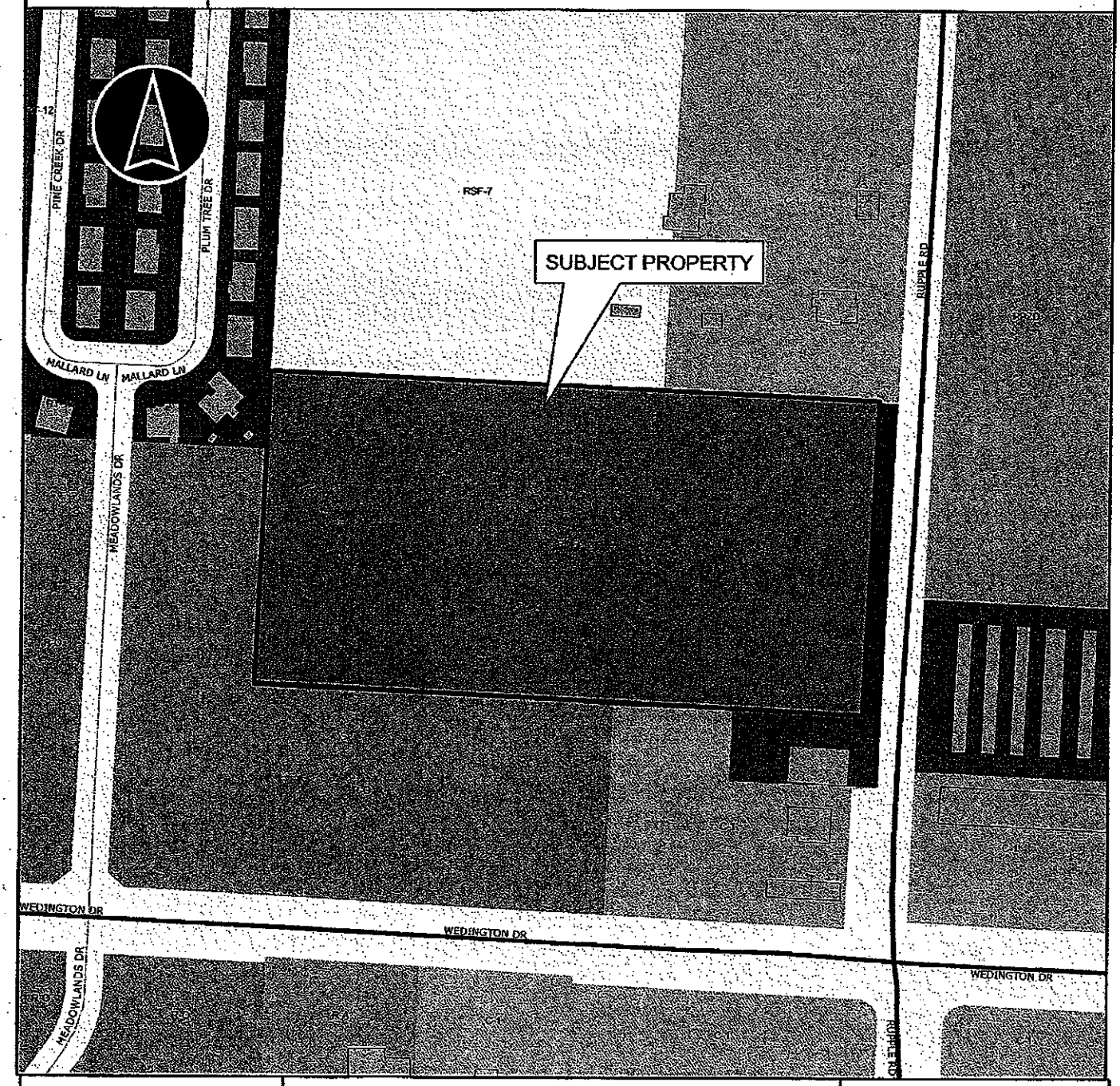
By: _____ By: _____
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

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 Rupple 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 Rupple 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
Parnership Dev.

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

JUDY BEARD
MY COMMISSION # 12359228
EXPIRES: April 8, 2017
Washington County

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.

Fayetteville
ARKANSAS

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** **YES**
√ Forwarded to C.C. ☐ **Denied**
Date: June 25, 2007
Motion: Myers
Second: Cabe
Vote: 8-0-0

CITY COUNCIL ACTION: **Required** **YES**
☐ **Approved** ☐ **Denied**
Date: July 17, 2007 (1st reading if recommended)

BACKGROUND:

Property Description: The subject property contains approximately 8.41 acres located west of Rupple 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 Rupple Road. Rupple Road is an unimproved 2-lane paved roadway adjacent to this property. Rupple 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: Rupple Road (Principal Arterial)

Water: Public water is adjacent to the site. There is a 6" waterline running along the east side of Rupple 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 Rupple 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 Rupple Road. The proximity of this property to two principal arterials - Wedington Drive and Rupple 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 Rupple Road. Rupple 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 Rupple Road and Wedington Drive will aid in facilitating safe traffic movements adjacent to the subject property. Additionally, the north section of Rupple 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

(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 •Individual lot	 10,000 sq. ft. 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 One bedroom Two or more bedrooms	 1,700 sq. ft. 1,700 sq. ft. 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

(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 Individual lot	 10,000 sq. ft. 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 One bedroom Two or more bedrooms	 1,700 sq. ft. 1,700 sq. ft. 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 Rupple 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 Rupple 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
Partner & Sole Owl.

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

JUDY BEARD
MY COMMISSION # 12359228
EXPIRES: April 8, 2017
Washington County

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 Rupple 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

Kooshesh
RZN07-2603

Bellwood
RZN07-2592
Station 7

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 ~~20.35~~ 8.41 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 Rupple Road.

Sanitary sewer is available on the site. There is an 8" main stubbed out to the property from the north and thewest. 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 Rupple Road. Rupple 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 ngineering 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 **Rupple Road, S of Phase 1 of Bellwood S/D.** The property contains **approximately ~~20.35~~ 8.41 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 Rupple Road, south of Bellwood Phase I and north of the Wedington/Rupple intersection. A mixed-use project is being planned on the east side of Rupple 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 Rupple Road. There is also an existing sewer on Rupple Road to the south.

Fire protection will be from the new fire station on Rupple 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 Rupple 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 Rupple 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.

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 Rupple 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.

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 Rupple 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

the street at Rupple 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 Rupple 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 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

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 Rupple?

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 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.

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 Rupple 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 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. ***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

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

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 Rupple 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 Rupple 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 Rupple 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 Rupple 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 Rupple 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

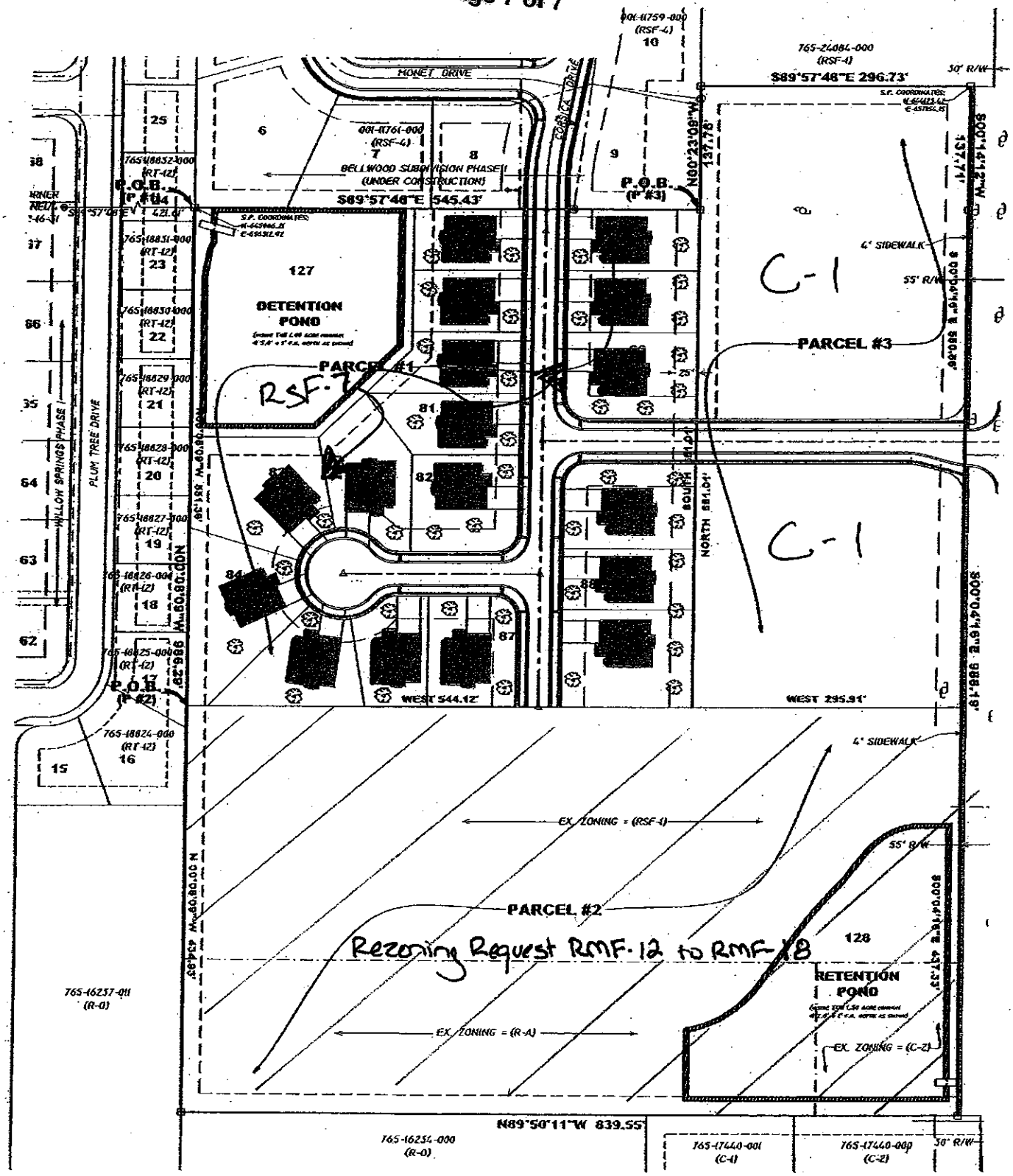
PO Box 9087
Address

FAYETTEVILLE, AR 72703

Signature

BILL Or 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.

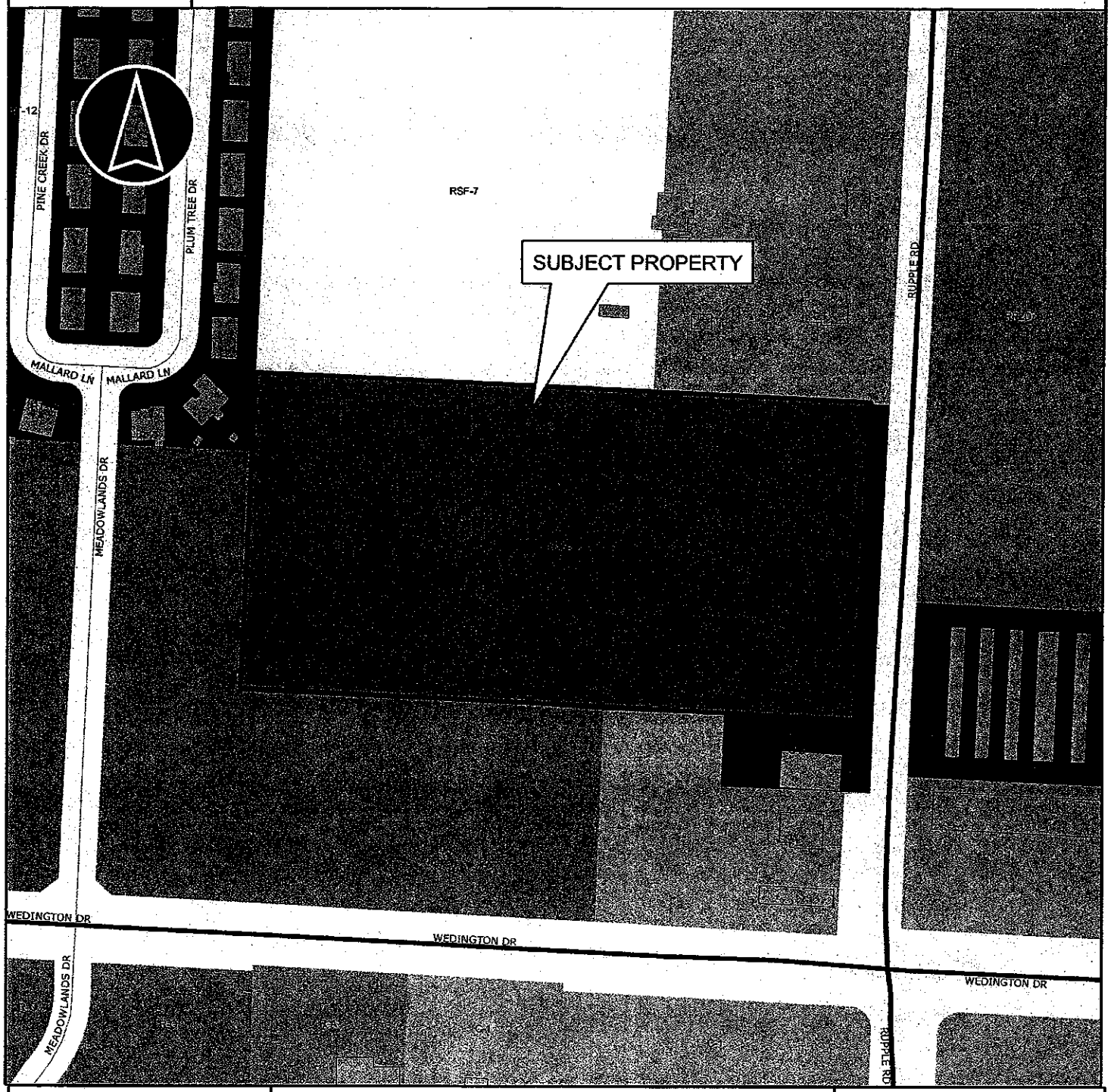
EXHIBIT "E"
Page 7 of 7



RZN07-2592

Close Up View

BELLWOOD S/D II



Overview

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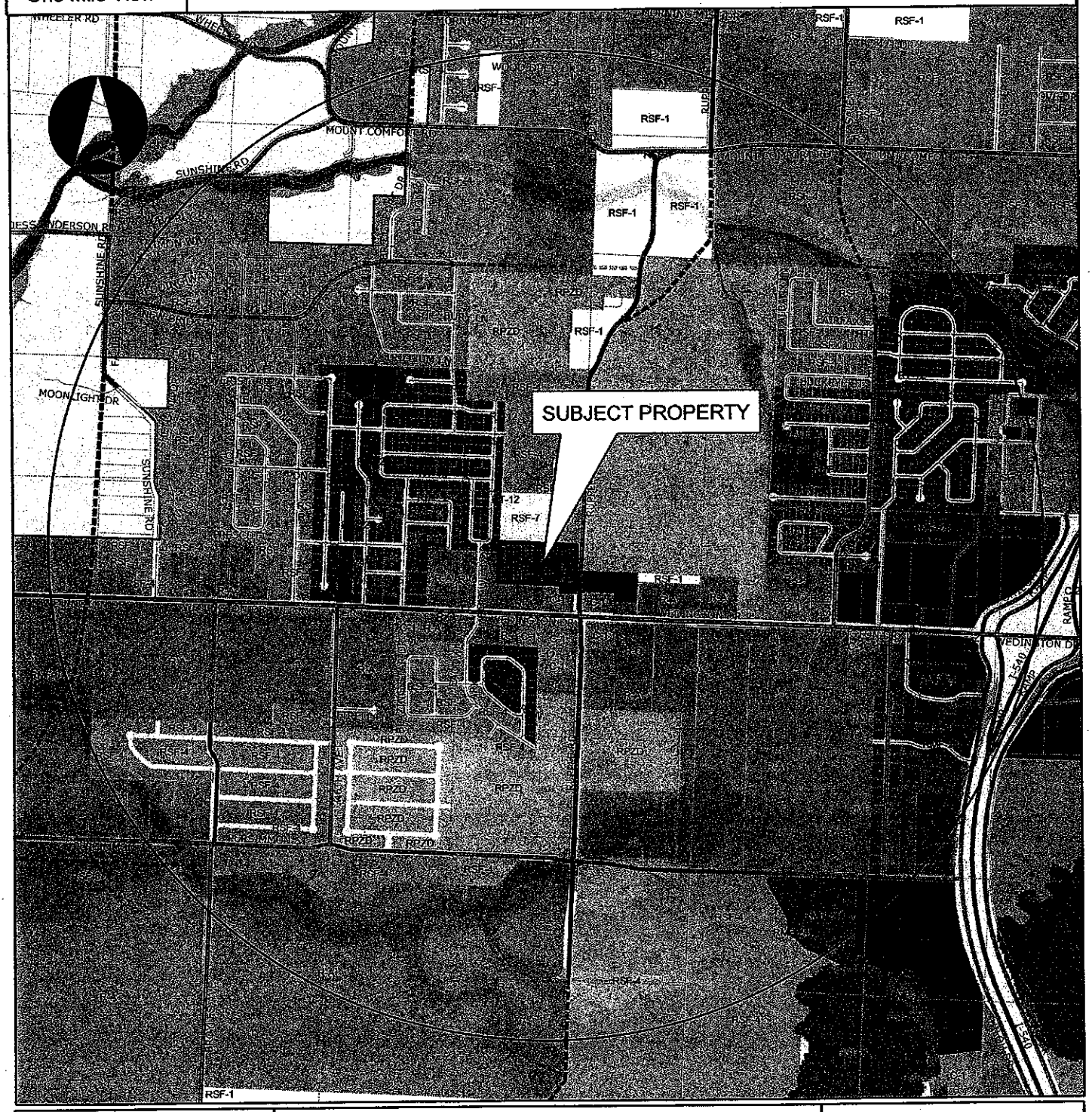
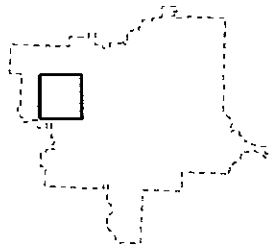
RZN07-2592

One Mile View

BELLWOOD S/D II



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

7-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 07-2578: Bailey Meadows, 2578: Submitted by Rodney R. and Nancy K. Payne for property located west of School Avenue and north of Bailey Drive containing approximately 3.86 acres. The request is for a Residential Planned Zoning District for re-zoning, land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24. 0.39, and 0.28 acres and associated rural residential uses.

$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 7-23-07 Date

City Attorney 7-20-07

Finance and Internal Service Director 7-21-07 Date

Mayor 7/23/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/20/07 LB

Received in Mayor's Office ENTERED 7/20/07 PH

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: July 12, 2007

Subject: Residential Planned Zoning District for Bailey Meadows (R-PZD 07-2578)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Bailey Meadows, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a residential project on approximately 3.86 acres located at 1200 Bailey Drive in south Fayetteville. The proposal is for rezoning, land use, and lot split approval to create a total of four single family lots and associated rural residential uses.

BACKGROUND

The applicant requests rezoning land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses. The existing house would be on the 0.39-acre tract, the applicant desires to construct two new residences on the 0.24 and 0.28-acre tracts, and the remaining 2.94 acres would likely be used for a horse/hay pasture, with the potential for one additional single family residence. The intent on the 2.94 acres is to allow for low impact agricultural uses adjacent to single family residences. A total of four residences on the 3.86-acre property would result in a maximum density of 1.04 units per acre.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on July 12, 2007. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2578, BAILEY MEADOWS, LOCATED WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE; CONTAINING APPROXIMATELY 3.86 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential-Agricultural to R-PZD 07-2578 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

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

APPROVED: ATTEST:

By: _____ By: _____

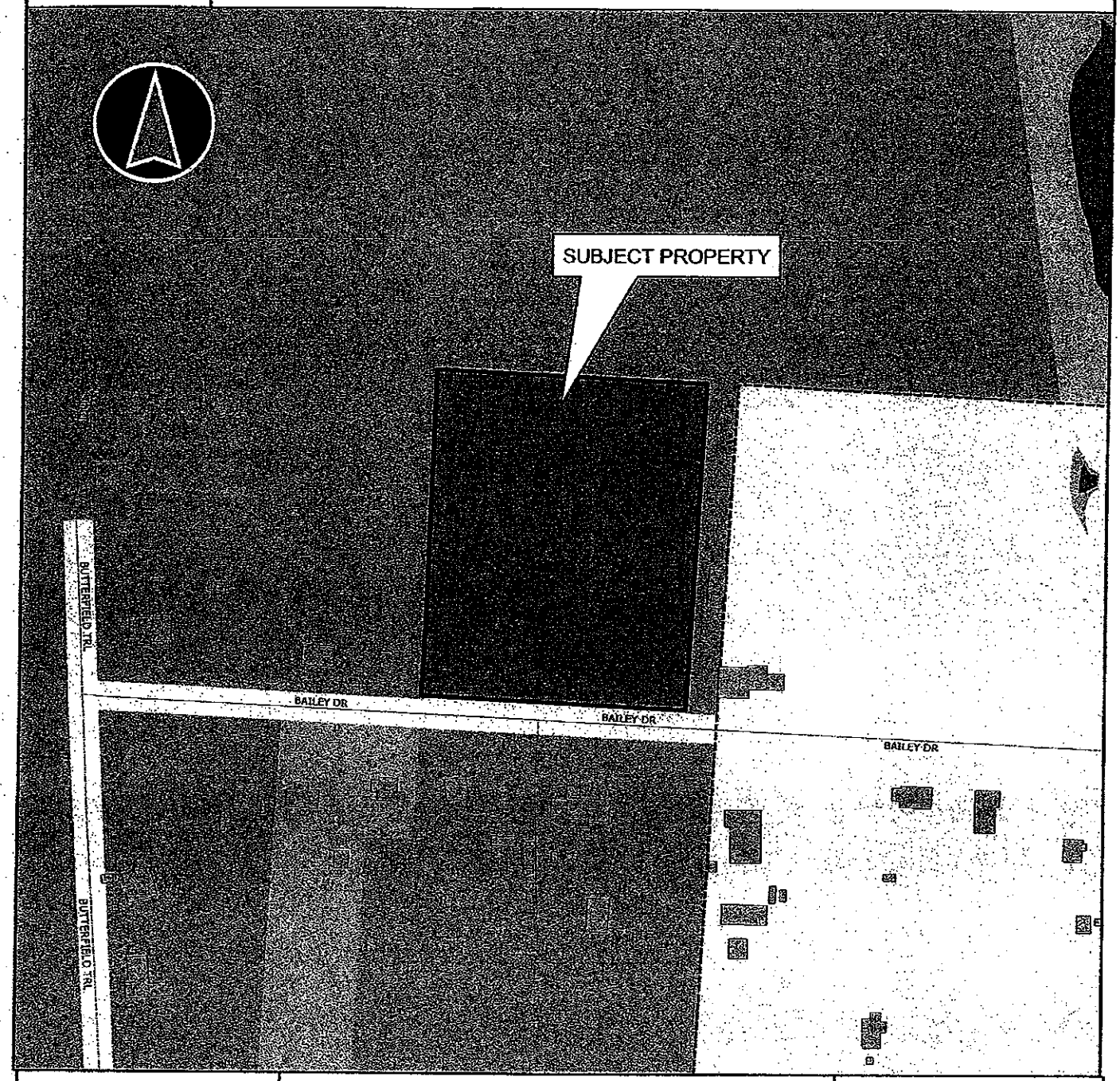
DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

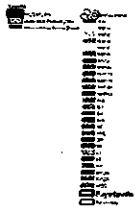
RPZD07-2578

Close Up View

BAILEY MEADOWS



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
R-PZD 07-2578

SURVEY DESCRIPTION - ENTIRE TRACT

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY-TWO (32), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE LAND SURVEY MONUMENT; THENCE N00°47'33"W 858.21 FEET ALONG THE EAST LINE OF SAID 40 ACRE TRACT; THENCE S89°08'21"W 43.30 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF BAILEY DRIVE; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N00°47'33"W 456.64 FEET TO AN EXISTING IRON ON THE NORTH LINE OF SAID 40 ACRE TRACT; THENCE S89°02'19"W 372.54 FEET (DEED=361.50 FEET) ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO AN EXISTING FENCE AS REFERENCED IN LAND DOCUMENT 96-60514, SAID FENCE ALSO BEING N89°02'19"E 900.83 FEET (RECORD 920.85 FEET) FROM THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE LEAVING THE NORTH LINE OF SAID 40 ACRE TRACT, S01°49'40"E ALONG SAID FENCE 241.60 FEET TO A FENCE CORNER POST; THENCE S02°11'49"E ALONG SAID FENCE 99.80 FEET TO A FENCE CORNER POST; THENCE S01°01'19"E 114.66 FEET TO A SET 1/2" IRON REBAR AT THE NORTH RIGHT-OF-WAY LINE OF BAILEY DRIVE; THENCE N89°08'21"E 365.27 FEET TO THE POINT OF BEGINNING, CONTAINING 3.86 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 3.86 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2578

Page 1 of 1

Staff recommends the following conditions of approval associated with R-PZD 07-2578 (Bailey Meadows).

1. Parks fees are due in the amount of $960.00 for each additional single family residential unit, due prior to building permit approval for each unit.

2. Residences shall be constructed to be consistent with the concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

4. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

5. Provide a CD containing the finalized lot split in AutoCAD or similar format.

6. Each single family home shall be required to submit and obtain a grading permit at the time of development of that lot.

Fayetteville
ARKANSAS

Planning Commission Meeting
July 9, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Andrew Garner, Senior Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 3, 2007~~ *Updated July 12, 2007*

R-PZD 07-2578: Planned Zoning District (BAILEY MEADOWS, 755): Submitted by RODNEY R. & NANCY K. PAYNE for property located WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.86 acres. The request is for a Residential Planned Zoning District for re-zoning, land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses.

Property Owner: Ron Payne
Planner: Andrew Garner

Findings:

Property Description: The subject property consists of approximately 3.86 acres located at 1200 Bailey Drive in south Fayetteville, approximately 0.25 mile west of Drake Field Airport. The property is zoned R-A, and is currently developed for one single family residence with pasture. Surrounding zoning and land uses are depicted in *Table 1*.

Table 1
Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Undeveloped/agricultural	R-A
South	Single Family Rural Residential	R-A
East	Single Family Rural Residential	R-A
West	Single Family Rural Residential	R-A

Background: The applicant applied to have the property re-zoned to RSF-4 on June 13, 2005 RZN 05-1449 (Payne) and was denied by the Fayetteville Planning Commission. The applicant has recently discussed with Planning staff a desire to build two additional single family residences on the property, and to leave the remainder of the property open for agriculture/horse pasture. Based on the existing zoning and amount of frontage, staff recommended that these uses and lot configuration would not fit into any existing zoning district, and that a customized

Planned Zoning District would be the best fit.

Proposal: The applicant requests rezoning land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses. The existing house would be on the 0.39-acre tract, the applicant desires to construct two new residences on the 0.24 and 0.28-acre tracts, and the remaining 2.94 acres would likely be used for a horse/hay pasture, with the potential for one additional single family residence. The intent on the 2.94 acres is to allow for low impact agricultural uses adjacent to single family residences. A total of four residences on the 3.86-acre property would result in a maximum density of 1.04 units per acre.

Access: Access to the site is provided directly to Bailey Drive, with each lot having a minimum of 70' of frontage. Bailey Drive has access directly to State Highway 71, next to Fayetteville Municipal Airport, though a portion of the street is within the City of Greenland. No new streets are proposed. The applicant discussed at the June 28, 2007 Subdivision Committee meeting that the low railroad crossing on Bailey Drive and associated drainage issues in the City of Greenland have been improved since the previous rezoning request, and that the electric transmission service poles are scheduled to be either removed or relocated further away from the railroad crossing in the near future.

Phasing: The applicant proposes to construct two new houses on the property within two years, although with this PZD granting lot split approval, as long as the lot split is recorded within one year there are not time limits for construction of the individual homes.

Water & Sewer: Water and sewer lines are available to the property.

Adjacent Master Street Plan Streets: Bailey Drive (Local Street)

Parks: A lot split fee of $960.00 for each single family residential unit that is constructed will be required to be paid prior to issuance of a building permit.

Tree Preservation: This PZD does not propose development besides that of 2-3 single family homes that would be allowed as part of the lot split. No trees are affected with this PZD request.

Public Comment: Staff has received comments from surrounding property owners stating support for the low density of the project.

Police and Fire Service: The Fayetteville Police and Fire Departments reviewed this rezoning request and concluded that adverse impacts to provision of service would not occur.

Recommendation: Staff recommends forwarding **R-PZD 07-2578** to the full City Council with a recommendation for approval with the following conditions:

Issues/Conditions to Discuss:

1. Parks fees are due in the amount of $960.00 for each additional single family residential

unit, due prior to building permit approval for each unit.

PLANNING COMMISSION MODIFIED THIS CONDITION (JULY 9, 2007)

2. Residences shall be constructed to be consistent with the concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

4. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

5. Provide a CD containing the finalized lot split in AutoCAD or similar format.

6. *Each single family home would be required to submit and obtain a grading permit at the time of development of that lot.*

PLANNING COMMISSION ADDED THIS CONDITION (JULY 9, 2007)

Planning Commission Action: ☐ Denied ☐ Tabled X Forwarded to C.C.

Motion: Graves
Second: Winston
Vote: 8-0-0
Meeting Date: **July 9, 2007**

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature Date

Findings associated with MDP R-PZD 07-2578 (Bailey Meadows)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) *Approval or Rejection Criteria for Planned Zoning Districts*

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

(1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Future Land Use Plan adopted as part of City Plan 2025 designates this vicinity Rural Area. Rezoning this property to R-PZD 07-2578 with a maximum of four dwelling units and density of 1.04 units per acre is consistent with the land use plan and compatible with surrounding land uses and density surrounding single family residences and rural residential uses. The form of development is consistent with the Rural Area policies for an alternative development pattern to achieve compatibility with surrounding rural areas. The proposed lot splits to create three single family lots on Bailey Drive, and retaining the remainder of the site for open pasture/rural residential use is compatible with the surrounding single family residences on Bailey Drive, and the open pasture and other rural uses in the surrounding areas. The existing infrastructure and public services are adequate to support three additional residences on this property, and this area of Fayetteville is less than 0.25 mile from Drake Field Airport, and other industrial uses on State Highway 71.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. As stated in Finding No. 1, public services are adequate to serve three new residences on the property as proposed. There are existing water and sewer lines on Bailey Drive, and the Police and Fire Department currently provide service to the residences on this street.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow a maximum of four residences on the property in a configuration that would be

compatible with surrounding land uses. Three single family lots would be created on Bailey Drive, and the remainder of the property would be left for open pasture and rural residential uses. Bailey Drive currently has single family residences generally surrounded by rural residential uses. The proposed PZD would provide compatibility and transition with those uses.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is developed for one single family residence, and a mobile home was in existence on the property and has been removed within the past few years. A large portion of the property is undeveloped grassland, with trees along the fence rows. The historical rural residential use of the pasture would be retained with project. The natural environment is suitable for the type of development proposed.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land use, rural residential, will create minimal impact the existing traffic conditions. The existing street infrastructure (Bailey Drive) is an unimproved two-lane paved road; however, due to the minimal amount of traffic generated by this PZD traffic congestion or burden to the existing road network would not occur.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all

applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Bailey Meadows PZD provides for two-three additional residences in an area in the immediate vicinity of the Drake Field Airport and industrial development in south Fayetteville. Access would be provided for the residences and pasture with driveways onto Bailey Drive for each of the lots. Adequate frontage and spacing between the driveways would be provided as each lot would have a minimum of 70' of frontage. The lot split layout leaves a majority of the property, 2.5 acres, into Planning Area 2 for rural residential uses. The lot split configuration and zoning criteria proposed under this PZD promote the health, safety, and welfare of the community.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening and landscaping will not be required for these rural residential uses.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and

interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: As stated in Finding B.1, access to the residential lots will be provided directly to Bailey Drive in accordance with Fayetteville Unified Development Code requirements.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking will be provided for the new residences in accordance with City ordinance.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalk requirements will be met in accordance with Fayetteville Unified Development Code Section 171.12 requiring construction or contribution of money in lieu for the sidewalk, as determined by the Sidewalk Administrator at the time of development.

(7) *Street Lights.* As required by §166.03.

FINDING: This PZD/lot split is not subject to the street light requirements as it is not considered a subdivision.

(8) *Water.* As required by §166.03.

FINDING: Public water lines are available along Bailey Drive

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available along Bailey Drive.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii)All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant does not propose public or private streets.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: Not applicable. The applicant is not proposing nonresidential facilities.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A Tree Preservation Plan is not required for the three lot splits proposed.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The single family residences are not subject to commercial design standards.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed is consistent with that allowed in surrounding RSF-4 and R-A zoning districts.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those

portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above ten criteria, including compatibility and transition of land

use, and flexibility to mix small lot residential with historic rural residential use. The following guiding policies within Rural Areas are applicable to this development, and help to achieve the primary goals of the City Plan 2025:

Rural Area Guiding Policies:

a. ***Conserve open space and protect areas of significant riparian benefit, tree canopy and other environmental resources through cluster development provisions, density controls, protective easements and/or other development tools.***

b. ***Allow and encourage historical agricultural and related uses to continue and to occur as permanent land uses within planned developments.***

c. ***If developed, encourage alternative development patterns to achieve compatibility with surrounding rural areas.***

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The majority of uses are principally residential, with rural-residential and agricultural uses allowed in Planning Area 2.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is similar in density to that proposed with the existing single family residences along Bailey Drive and rural residential uses in the vicinity. The proposed density and land uses are consistent with the rural residential development goals in the City Plan 2025 as this area is designated as Rural Area. The relatively flat topography and open pasture is suitable for the proposed single family residences adjacent to Bailey Drive, and the remainder of the property left for rural residential uses. Impacts to surrounding properties will be beneficial in terms of compatibility. Environmental impacts to the site will be minimal due to the low density and intensity of the uses proposed. Density and zoning criteria under the current zoning (R-A) would not allow for the proposed lot split for single family residences.

(2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Building setbacks proposed are typical of the surrounding RSF-4 and R-A zoning. Planning Area 1 contains three single family lots adjacent to Bailey Drive and would have the same building setbacks as RSF-4 with a minimum lot area of 9,000 square feet, when RSF-4 requires 8,000 square feet. Planning Area 2 contains the large rural residential lot and would have the same building setbacks as R-A zoning, and would require a minimum of 2.5 acre lot area when R-A zoning requires 2 acres.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single family and rural residential development in the area. Planning Area 1 has a height limit identical to RSF-4 zoning, and Planning Area 2 has a height limit identical to R-A zoning.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area on this project is typical of lot coverages in a standard residential and rural development, where there is a 40% maximum building area for Planning Area 1 and no maximum for Planning Area 2.

***Required Findings for Rezoning Request.**

Land Use Plan: ***The City Plan 2025 Future Land Use Plan designates this site as Rural Area. Rezoning this property to R-PZD 07-2578, with the associated Master Development Plan, meets this designation, as the principal use on the property (2.5 acres out of 3.86, or 65%) will be rural residential in Planning Area 2, and single family residential in Planning Area 1, with the existing pasture and historic rural residential uses preserved on a majority of the property. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.***

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Rural Area this proposal meets. Rezoning the property will accommodate residential uses in this area near industry and flexibility to allow for a mix of standard residential and agricultural uses in the rural residential area.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: At this time the property is zoned R-A, which would not allow for the lot splits as proposed. Staff finds that splitting the property into three relatively standard sized residential lots adjacent to Bailey Drive and retaining a majority of the property for rural residential use is more appropriate in this location than the uses allowed under the current R-A zoning. Rezoning of this property as proposed is advisable.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, as discussed in Finding No. E.6.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that in evaluating this proposal, the population density would

increase slightly from that which currently exists. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact.

Engineering: **Public water is located adjacent to the site. There is a 6" waterline along Bailey Drive. Water service may need to be extended through the property at the time of development.**

Sanitary sewer is located adjacent to the site. There is a 6" sewer main along Bailey Drive. 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 Bailey Drive. Bailey Drive is an unimproved narrow roadway in this location.

Standard improvements and requirements for drainage will be required for the development.

Police: **It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.**

Fire: **The subject property is located 4.1 miles from the Engine 6 located at 900 South Hollywood, with an estimated response time of 7 minutes. No adverse impacts on call volume or response time are anticipated.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Date 5/30/07

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 07-2578: Planned Zoning District (BAILEY MEADOWS, 755):** Submitted by RODNEY R. & NANCY K. PAYNE for property located WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department that this 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.

Sincerely,

Captain William Brown
Fayetteville Police Department

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: May 24, 2007

Re: May 23, Zoning Review -- Fire Department Comments

R-PZD 07-2578 (Bailey Meadows)
These 4.73 acres are covered by Engine 6 located at 900 S. Hollywood.
It is 4.1 miles from the station with an anticipated response time of 7 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred.
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume to this development.

RZN 07-2602 (Armac Engineering)
This .18 acres is covered by Engine 1 and Ladder 1 located at 303 W Center.
It is .6 miles from the station with an anticipated response time of 2.25 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume or response time to this development.

RZN 07-2603 (Kooshesh)
These 1.59 acres are covered by Engine 7 located at 835 N Rupple Road.
It is .7 miles from the station with an anticipated response time of 2.75 minutes.
The Fire Department anticipates 9(6 EMS & 3 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 1520 gallon/minute.
There should be no adverse effects on our call volume or response time to this development

Station 6
Bailey Meadows
RPZD07-2578

Station 1
Armac Engineering
RZN07-2602

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701
ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Andrew Garner, Planner Date: June 27, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 28, 2007 Subdivision Committee Meeting)

Development: **Meadows – PZD – 07-2578**

Engineer: **Alan Reid & Associates**

1. Show the location of the existing water mains adjacent to the property. Provide a Utility Easement 10 ft from the existing utility main, if applicable.
2. Show the location of the existing water and sewer service. Services cannot cross private property.

SC Meeting of July 28, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Subdivision Commitee

From: Sarah K. Patterson, Urban Forester

Date: June 26, 2007

ITEM #: PZD 07-2578: Planned Zoning District (Bailey Meadows)

TREE PRESERVATION PLAN

- This PZD does not propose any development besides that of two single family homes. These lots are not found within the Hillside Hilltop Overlay District so are therefore exempt from Tree Preservation and Landscape requirements. No trees will be removed with this PZD request.

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Associate Planner

FROM: Kay Curry, Park Planner

DATE: June 26, 2007

SUBJECT: Parks & Recreation Subdivision Committee Review Comments

****

Meeting Date: June 28, 2007
Item: R-PZD 07-2578 (Bailey Meadows, 755)
Park District: SW
Zoned: R-A
Billing Name & Address: Rodney & Nancy Payne
1200 Bailey Drive
Fayetteville, AR 72701

	Current Land Dedication Requirement	***Money in Lieu***
Single Family	_____@ .024 acre per unit = _____ acres	_____@ $960 per unit = $_____
Multi Family	_____@ .017 acre per unit = _____ acres	_____@ $680 per unit = $_____

Lot Split Fee $960 per single family unit = $2,880
$680 per multi-family unit = _____

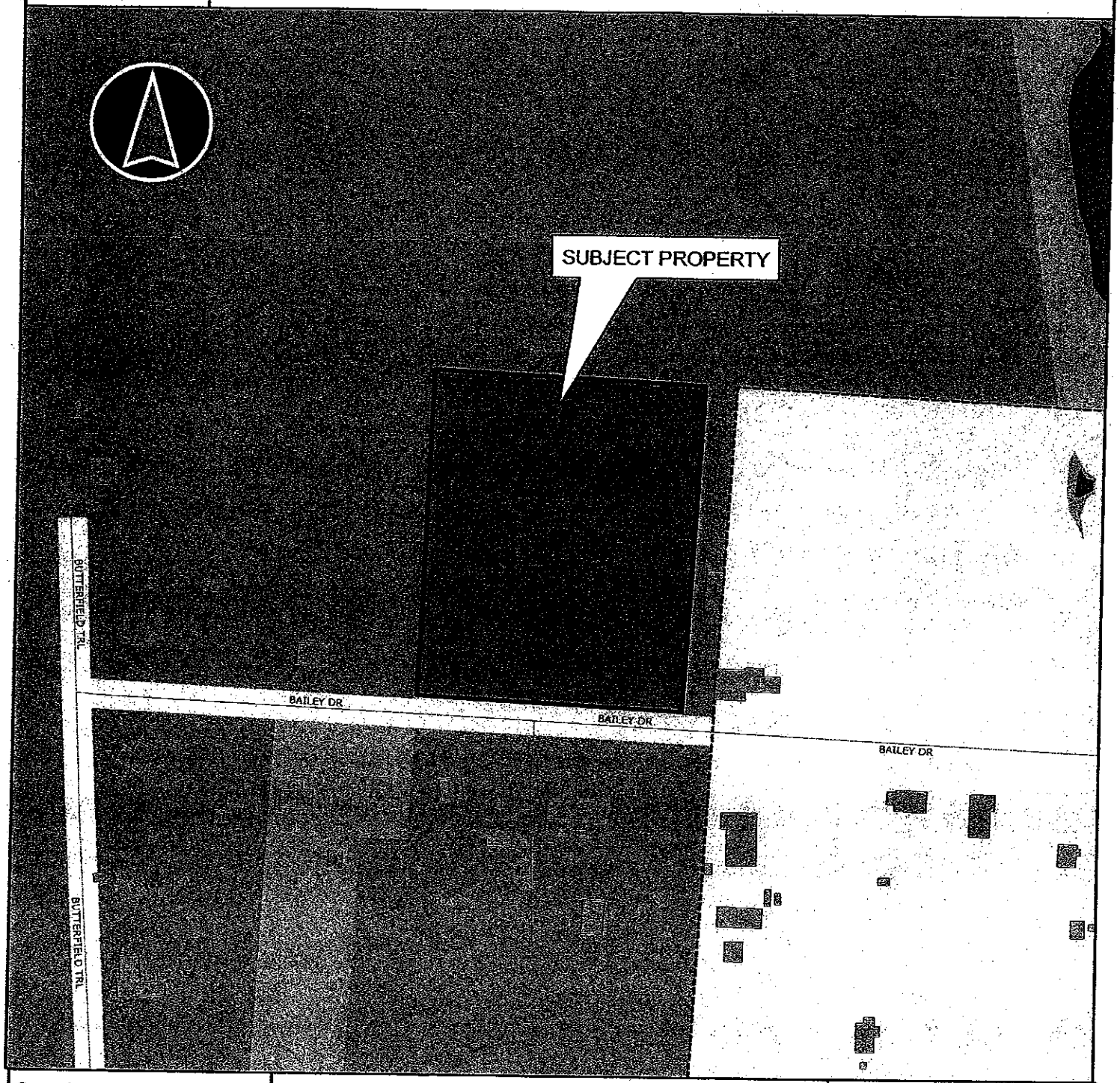
COMMENTS:

- A lot split fee of $960 (single family) will be assessed for each single family residential unit that is constructed on the additional lots. The actual amount of the fee will be based on the type and number of units $960 (single family) or $680 (multi-family). Fee is due at time of building permit.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation System. The money collected as part of this lot split will be used to fund future park acquisitions and improvements for this park quadrant.

RPZD07-2578

Close Up View

BAILEY MEADOWS



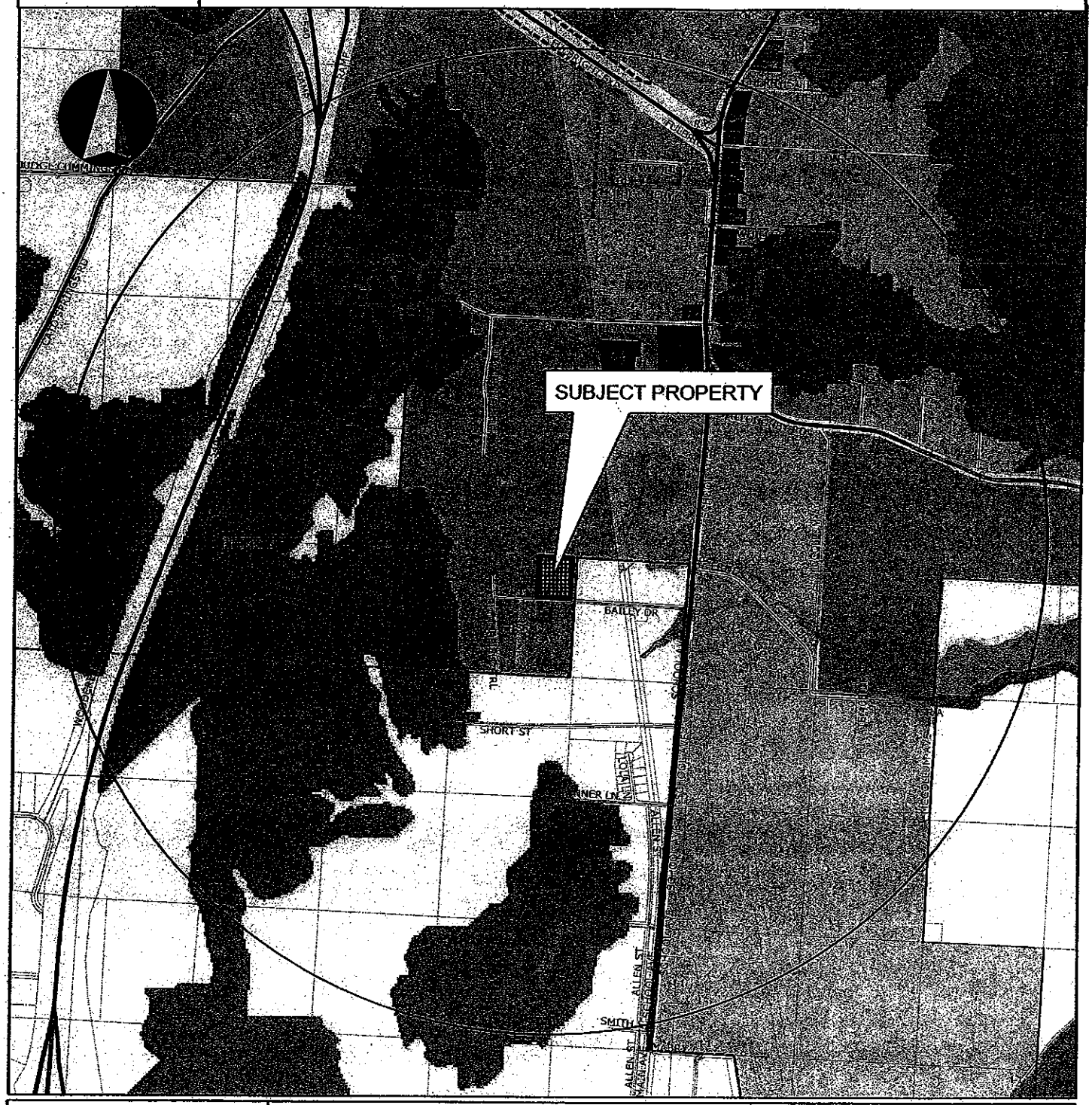
Overview

0 75 150 300 450 600 Feet

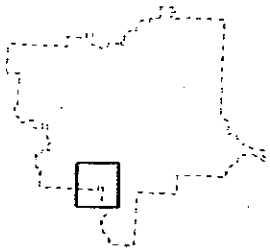
RPZD07-2578

One Mile View

BAILEY MEADOWS



Overview



Legend

Subject Property

RPZD07-2578

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 07-2613: Holcomb Heights Ph II, 245: Submitted by Appian Centre for Design for property located east of Rupple Road, west of Phase I containing approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District containing 36 single-family residential dwelling units.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	$ - Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 7-19-07 Date

City Attorney 7-19-07

Finance and Internal Service Director 7-19-07 Date

Mayor 7/19/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/19/07

Received in Mayor's Office ENTERED 7/19/07

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: July 09, 2007

Subject: Residential Planned Zoning District for Holcomb Heights Phase II (R-PZD 07-2613)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Holcomb Heights Phase II, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 5.77acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. The proposal is for a residential development consisting of 36 single-family residential dwelling units.

BACKGROUND

The subject property consists of approximately 5.77 acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. Holcomb Heights Phase I was approved by the City Council on April 3, 2007. The property is zoned R-A, Residential Agricultural and is currently undeveloped pasture. Access to the site is by way of a stub-out provided from Phase I. The development shall also connect to Rupple Road once extended from the south. The project proposes a traditional neighborhood design with rear alley access and an interior neighborhood greenspace.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on July 09, 2007. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2613, HOLCOMB HEIGHTS PHASE II, LOCATED EAST OF RUPPLE ROAD, WEST OF PHASE I; CONTAINING APPROXIMATELY 5.77 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to R-PZD 07-2613 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

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

APPROVED: ATTEST:

By: _____ By: _____

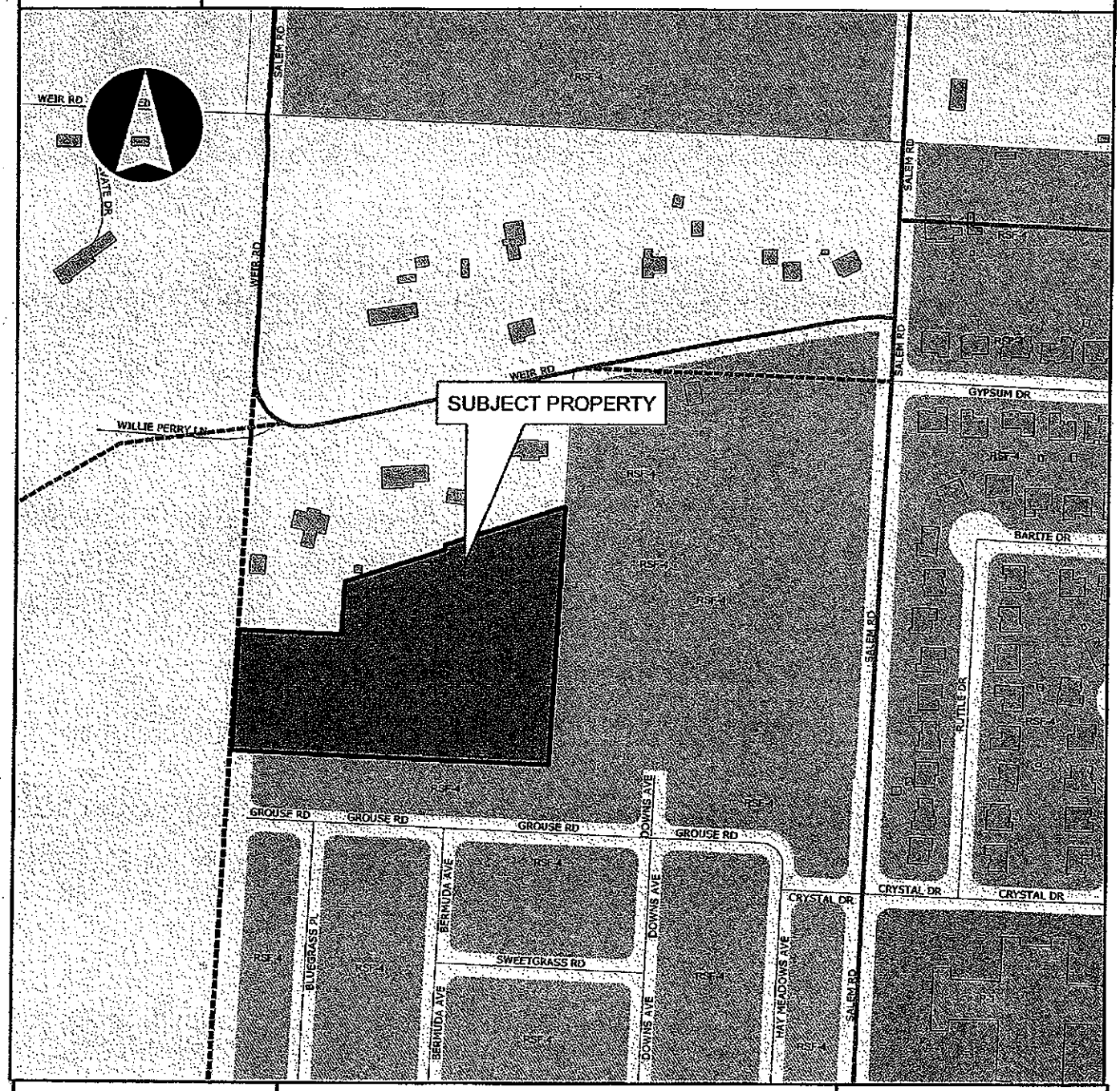
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

EXHIBIT "A"

RPZD07-2613

Close Up View

HOLCOMB HEIGHTS PHASE II



Overview

0 125 250 500 750 1,000 Feet

EXHIBIT "B"
R-PZD 07-2613

COMBINED TRACTS 2, 3 & 4

A part of the NW1/4 of the NW1/4 of Section 32, Township 17 North, Range 30 West, being more particularly described as follows: Beginning at the Southwest Corner of the NW1/4 of the NW1/4 of said Section 32 and running thence N 02°50'27" E 250.00 feet; thence S 87%%D45'11" E 215.44 feet; thence N 03°14'38" E 110.31 feet; thence N 71°59'20" E 214.93 feet; thence N 03°17'00" E 10.73 feet; thence N 71°59'20" E 256.69 feet; thence S 03%%D10'10" W 536.39 feet, thence N 87%%D34'37" W 240.26 feet, thence N 87%%D34'37" W 200.03 feet, thence N 87%%D34'37" W 213.67 feet to the point of beginning, containing 5.77 acres, more or less, Washington County Arkansas.

Subject to any easements and/or right-of-ways of record.

Fayetteville
ARKANSAS

Planning Commission Meeting
July 9, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Jesse Fulcher, Current Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 3, 2007~~ *Updated July 10, 2007*

R-PZD 07-2613: Planned Zoning District (HOLCOMB HEIGHTS PHASE II, 245): Submitted by APPIAN CENTRE FOR DESIGN for property located at E OF RUPPLE ROAD, W OF PHASE I. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District containing 36 single-family lots proposed.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property consists of approximately 5.77 acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. Holcomb Heights Phase I was approved by the City Council on April 3, 2007. The property is zoned R-A, Residential Agricultural and is currently undeveloped pasture. Access to the site is by way of a stub-out provided from Phase I. The development shall also connect to Rupple Road once extended from the south.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single Family	Planning Area
South	Single Family	RSF-4, Residential Single Family, 4 Units/Acre
East	Single Family	R-PZD 06-2281 Holcomb Heights Phase I
West	Rural Agricultural	Planning Area

June 29, 2007 Subdivision Committee: Meeting minutes are within the staff report.

Proposal: The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The proposed use of the site is for 36 single-family units for a maximum density of 6.23 units per acre. All of the residential units will be located in Planning Areas 1-3 and Planning Area 4 will be utilized for community green space. This proposal does subdivide the property and will require final plat approval.

Access: Access to the site is provided from a street stub-out from Holcomb Heights Phase I, which has not been constructed. An assessment for the construction of Rupple Road along the property's western boundary is required prior to final plat approval.

Street Width: 23' wide streets with 16' rear alleys are proposed interior to the project. The proposed street section provides for 10' lane widths and one-side on-street parking, due to the reduced gutter width.

Fire and Solid Waste Service: The Fire Department has stated that the street and alley sections proposed with the latest revisions are sufficient to allow fire apparatus access to all lots within the subject development. In its review of this latest plan, the Solid Waste Division has discussed that solid waste service may be provided from rear alleys with the following requirements that will be included as notes on the final plat and construction documents. It is anticipated that alley service to the rear of structures can be provided as long as 20' clear and unencumbered is maintained to allow room for the truck and arm to pick up the carts. If the 20' is ever encumbered, it is at the discretion of the Solid Waste Division to provide service to the front and parking may be required to be removed along the street. If the design does not function as intended it shall be at the discretion of Solid Waste, pursuant to City ordinance, to require front service and the subsequent removal of parking.

Phasing: The applicant proposes to develop the 36 dwelling units within Phase II over the next 1-2 years. Preliminary Plat approval shall be valid one year from the date of the City Council approval.

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

Adjacent Master Street Plan Streets: Rupple Road (Principal Arterial)

Street Improvements: Staff recommends an assessment for improvements to Rupple Road, including 14' from centerline, curb and gutter, storm drainage and sidewalks. Additionally, an assessment shall be required for the unconstructed section of Street 2 that will end in a temporary cul-de-sac. These funds shall be utilized for the future construction of Rupple Road.

Parks: On May 7, 2007 the Park and Recreation Advisory Board recommended accepting money in-lieu to satisfy Park Land Dedication Ordinance requirements. The decision was based on the proximity of the land to Salem Meadows Subdivision park land, Gary Hampton Softball Complex and park land located in Clabber Creek Subdivision. Fees are due in the amount of $34,560.00 prior to issuance of building permits.

Tree Preservation:	Existing Canopy:	1.60%
	Preserved Canopy:	0.80%
	Required Canopy:	1.60%
	Mitigation:	Required in the amount of 7 (2)-inch caliper trees.

Public Comment: Staff has not received any comments.

Recommendation: Staff recommends forwarding **R-PZD 07-2613** to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following improvements:*
   a. *An assessment for improvements to Rupple Road, including 14' from centerline, curb and gutter, storm drainage and sidewalks in the amount of $35,093.00;*
   b. *An assessment for the unconstructed section of Street 2 that will end in a temporary cul-de-sac in the amount of $7,150.75.*
   c. *All interior streets and alleys shall be constructed to City design standards, inspected and approved by the Engineering Department.*

7-9-07 THE PLANNING COMMISSION FOUND IN FAVOR OF THE COST ESTIMATES AS SUBMITTED BY THE APPLICANT AND APPROVED BY STAFF.

2. Planning Commission determination of waivers from minimum street design standards of the Unified Development Code.
   a. *Street width waivers. The applicant proposes 23' interior street widths. Staff recommends in favor of the requested 23' street sections, finding that the street sections provide 10' lane widths, one-side on-street parking and are capable of handling the expected design service volume. Staff will review detailed construction plans at the time of development.*
   b. *Construct a centerline radius less than 150'. This occurs at lot 89 and 90 and at Lot 82 (detention lot). Staff finds in favor of this waiver request, finding it not will diminish public safety.*
   c. *Construct curb radii of 20' on minor residential street and alley intersections where 30' is required for minor streets and 25' is required for alleys. Staff recommends in favor of the curb radii of 20'. Finding that 20' curb radii on the more narrow streets and alleys proposed allows for adequate vehicular turning movements for passenger vehicles.*
   d. *Construct curb radius of 30' at the intersection of a collector street where 50' is required for the intersection of Street 2 and Rupple Road extension. Staff finds in favor of this waiver request.*
   e. *Waiver of standard 2' curb and gutter section (1.5' proposed). Staff recommends in favor of this request.*

7-9-07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE REQUESTED WAIVERS.

3. As indicated on the plats, shared drives shall be utilized to minimize the number of curb-cuts onto the public streets. Driveway cuts onto public streets shall not exceed 16' in width.

4. The final plat for Holcomb Heights Phase II shall not be recorded until the final plat for Holcomb Heights Phase I has been recorded.

5. All street designs are subject to approval by the Fire Department and Solid Waste Department and shall be reviewed at the time of construction.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

7. Parks fees are due in the amount of $34,560.00 for 36 single-family dwelling units, prior to building permit approval.

8. One (1) large species tree shall be planted for each lot as depicted on the landscape plan.

9. Mitigation will be required in the amount of 7 (2)-inch caliper large species trees, which will be planted on site. The trees shall be planted prior to signing the final plat, unless the timing is not conducive with the planting season, in which case the Urban Forester may permit a delay in the plantings.

10. A 3-year bond, letter of credit, or check in the amount of $1,750.00 shall be submitted prior to signing the final plat.

11. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.

11. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

12. See attached comments from the Engineering Division. Revisions requested by the Engineering Division, to be completed with revision submittal for Planning Commission.

13. Street lights are required at every intersection and at a maximum separation of one per 300' on all streets and shall be installed prior to signing the final plat.

14. Plat/booklet revisions to be completed prior to City Council submittal:

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

17. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

18. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

19. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Approved ☐ Tabled √ Forwarded to C.C.
Motion: **Ostner**
Second: **Trumbo**
Vote: **8-0-0**
Meeting Date: **July 9, 2007**
Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature Date

Findings associated with R-PZD 07-2613 (Holcomb Heights Phase II)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) *Approval or Rejection Criteria for Planned Zoning Districts*

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

(1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan

Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to R-PZD 07-2613 with single-family dwelling units is consistent with the land use plan and the surrounding land use. Although the proposed lot sizes are smaller than the lot sizes found within the standard RSF-4 developments in the area, staff finds the development to be relatively compatible with these developments and more in keeping with the City's adopted goal of encouraging traditional neighborhood development patterns. The development will also support the goal of providing density (6.23 units/acre) nearby to public services, i.e. schools, sports complexes, a major principal arterial in the future, etc.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The proposed development will yield a higher density than Salem Meadows Subdivision immediately to the south, however the overall density of 6.23 units/acres is compatible with surrounding developments including Salem Village P.U.D and Holcomb Heights Phase I (5.04 units/acre). A harmonious relationship with surrounding developments is achieved by utilizing detached single-family dwelling units throughout the development and providing a rear setback from the southern property line that is equal to or greater than that required in the RSF-4 zoning district.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The site slopes from the north to the south and is comprised of undeveloped pasture land with a small percentage of existing tree canopy. A 0.37 acre greenspace will be reserved for recreational use and a significant number of trees will be planted throughout the development, creating a healthy urban canopy.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets, however the overall density should not create an appreciable amount of traffic over that allowed under the current R-A zoning. As part Holcomb Heights Phase I, significant improvements to Weir Road and Salem Road are required, which will ultimately help facilitate safer traffic movements and improve service levels. Additionally, an assessment is required for the construction of Rupple Road which is adjacent to the west boundary of the property. Extension of Rupple Road from the south will create a principal arterial connection from Wedington Drive to Weir Road.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the project once constructed.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: This development is a compact, complete development pattern, all connected with a system of sidewalks, pedestrian walkways, and narrow streets. Rather than turning the rear of the houses to the surrounding streets, as is common in most developments, the homes will either face onto the surrounding streets, or onto a 0.37-acre village green located in the center of the development. Narrower street sections and on-street parking will provide adequate vehicular circulation and connectivity, while also reducing vehicle speeds and increase pedestrian safety. Common open space and smaller "pocket parks" throughout the development will add further to the health, safety and welfare of the community.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: All lots will be rear loaded from alley ways interior to the site, except Lots 91 to 101. Staff suggested continuing Alley "F" to Rupple Road; however, it was determined that another curb-cut onto Rupple Road in close proximity to Street "2" and an existing street stub-out from Salem Meadows was not appropriate. No curb-cuts are allowed onto Rupple Road.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

(6) *Sidewalks.* As required by §166.03.

FINDING: 5' public sidewalks will be constructed along all public rights-of-way interior to the development. An assessment will be required for sidewalk construction along Rupple Road.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided at all intersections and adjacent to all public and private streets at a separation of no greater than 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be extended in accordance with city codes.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic, provide on-street parking and encourage pedestrian activity. Staff is recommending in favor of the waivers for street and alley design. No private streets are proposed.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. Preliminary Plat and Planned Zoning District approval shall be valid for one year from the date of City Council approval.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to maximize preservation of existing canopy; however there are two trees on the property. Due to the removal of one tree, on-site mitigation is required, which will ultimately benefit the site and surrounding area.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed are not uncommon for the area.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.
Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements. A condition to this effect is included in the staff report.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under

conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, common open spaces, and enhancement of existing natural features. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, lot arrangements, lot dimensions and building setbacks.

The following guiding policies within Residential Neighborhood Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Neighborhood Areas:

12.1.2 Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.

12.1.2 Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

12.1.2 Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.

12.1.2 Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.

12.1.2 Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the

City Council an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above. The requested R-PZD provides an effective relationship between similar land uses and activities on abutting parcels, while also providing a compact, complete and connected neighborhood.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%)

of the gross floor area within the development.

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is mixed in density and use, from traditional neighborhoods developed under the RSF-4 zoning district, large undeveloped agricultural properties, Holcomb Elementary School and Salem Village, which was developed as a Planned Unit Development. The density proposed for this development is appropriate given that the site is clear pasture land adjacent to an elementary school and existing infrastructure, meets the urban development goal of the City's City Plan 2025, and will not have a detrimental impact on the site and adjoining properties.

(2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums and setbacks are varied on this project with structures oriented to the street and minimal front setbacks. Due to the unique nature of this traditional neighborhood development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single-family development in the surrounding area.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages

which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area on this project is relatively high in comparison to a RSF-4 zoning district; however, the lot coverage is appropriate given the environment proposed. Additionally, the site plan provides common open space to be shared by all residents.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to **R-PZD 07-2613**, with the associated Master Development Plan, allows the use on the property to remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Neighborhood Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The rezoning is needed to allow for the creation of a traditional neighborhood development that is also sensitive to the surrounding developed community.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion on surrounding streets. The street improvements required with the development of Holcomb Heights Phase I will increase pedestrian safety and create safer traffic movements in the vicinity of Weir Road and Salem Road with the addition of turn lanes and sidewalks. Additionally, an assessment is required for future improvements to Rupple Road once it is extended from the south.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: **The proposed subdivision has been reviewed for access to public utilities, including water and sewer. Improvements to the water system and sewer system are required to serve all of the proposed lots.**

Police: **Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

***Fire*:** **Fire station #7, approximately 3.1 miles away, serves this site. Fire response time to the site is approximately 7.5 minutes, with an anticipated 8 (5 EMS – 3 Fire/Other) calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Fayetteville
ARKANSAS

PC Meeting of July 9, 2008

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: July 2, 2007

ITEM # R-PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II)

Requirements Submitted:

	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	5.77
square feet	245,341
Existing Tree Canopy	
acres	0.09
square feet	3,920
percent of site area	1.60%
Existing Tree Canopy Preserved	
acres	0.045
square feet	1,960
percent of total site area	0.8
Percent Minimum Canopy Required	**1.60%**

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site is adjacent to the already approved Holcomb Heights Phase I. This project site has little to no canopy on the site. The only two**

trees on this phase are elms found in good shape. One elm is proposed for preservation while the other is found in the alignment of the proposed road.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation should not occur on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties should not be affected by the removal of tree canopy.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the does not reduce flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees was determined to be good.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **One tree will be removed for infrastructure while the other is found on the back of a proposed lot in a space that could be preserved even with future development of the single family home.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **The elm preserved will be affected by a proposed utility easement but removal would not be required..**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **The elm removed is found directly in the middle of the proposed right of way. The ability to move the road around this tree is prohibited by the property boundary and proposed lot sizes.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on this site to replace 1,960 square feet of canopy removed. New canopy will be very beneficial to this site and**

the urban forest as a whole.

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. Mitigation will be required on the site to replace 1,960 square feet of canopy removed. This is equivalent to 7(2) inch caliper large species trees. The developer has requested and been approved to plant the trees on-site.
2. The mitigation trees will be located on lot 110, a common greenspace. Staff recommends planting all 7 trees before signature of Final Plat. These trees can not be located within any easements. If the timing of final plat is not conducive with the planting season, a delay can be approved by the Urban Forester.
3. A 3-year bond, letter of credit, or check in the amount of $1,750 must be submitted before signature of final plat to ensure the continued maintenance of these mitigation trees. At the end of the 3-year period, the Urban Forester will inspect the trees, finding 90% healthy, release the amount.

Fayetteville
ARKANSAS

PC Meeting of July 9, 2007

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

LANDSCAPE REVIEW FORM

To: **Fayetteville Planning Commission**

From: **Sarah K. Patterson, Urban Forester**

Date: **July 2, 2007**

ITEM #: PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II)

Applicable Requirements:

NA	Site Development & Parking Lot Standards
NA	I-540 Design Overlay
Y	Street Tree Planting Standards
NA	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
N	*Y*	**Irrigation** *notes either automatic or hose bib*
Y	*Y*	**Species of plant material identified**
Y	*Y*	**Size of plant material at time of installation indicated**
N	*Y*	**Soil amendments** *notes include that soil is amended and sod removed*
N	*Y*	**Mulch** *notes indicate organic mulching around trees and within landscape beds*
N	*N*	**Plans stamped by a licensed Landscape Architect**
Y	*Y*	**Planting details according to Fayetteville's Landscape Manual**
		Site Development & Parking Lot Standards
NA		**Wheel stops/ curbs**
NA		**Interior landscaping** *Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces)* *Tree island (8' min. width/1 tree per 12 spaces)*

Preliminary Submittal	Final Submittal	
NA		**Perimeter landscaping** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		Overlay District Requirements
NA		**Greenspace adjacent to street R.O.W. (25' wide)**
NA		**Large street trees planted every 30' L.F. along R.O.W.**
NA		**25% of total site area left in greenspace (80% landscape)**
NA		**Parking lots and outdoor storage screened with landscaping**
		Street Tree Planting Standards *(time of F.P. or permit)*
Y	Y	**Residential Subdivisions- 1 large species shade tree/ lot** *tree planted within R.O.W. if possible*
NA		**Nonresidential Subdivision- 1 large species shade tree/30 L.F.** *tree planted within 15-25' greenspace*
NA		**Urban Tree Wells-***urban streetscape only-10foot sidewalk*
NA		**Structural Soil-***if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan*
N	Y	**Timing of planting indicated on plans (subdivisions only)**
N	Y	**Written description of the method for tracking plantings**
		Stormwater Facilities *(time of F.P. or permit)*
NA		**1 deciduous or evergreen tree/ 3000 square feet**
NA		**4 large shrubs (3 gal) or small trees / 3000 square feet**
NA		**6 shrubs or grasses (1 gal) / 3000 square feet**
NA		**Ground cover unless seed or sod is specified**
NA		**50% of facility planted with grass or grass like plants**

Conditions of Approval:

1. **The Landscape Plan will be required to be stamped by a licensed Landscape Architect within the state of Arkansas before construction documents will be approved.**
2. **Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Jesse Fulcher, Planner June 27, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 28, 2007 Subdivision Committee Meeting)

Development: **PZD 07-2613 Holcomb Heights Phase II**

Engineer: **Appian Centre for Design**

Site Plan:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. We have received an estimate for Rupple Road and the Connection to Rupple Road by Street 2. The estimate will be reviewed before Planning Commission Meeting.
3. We are in support of the following waivers requested by the applicant in the June 20th letter to Mr. Pate. (Attached)
4. Revise the cross slope of the public roadway so that the centerline and the top of curb match.

Grading Plan:

5. All grading shall be set back a minimum of 5' from the property lines unless written permission is submitted from the adjacent property owner or a joint grading plan is submitted. Specifically south of the detention pond.

Drainage Report:

6. This project is dependant on the resolution of the Phase I detention pond size and downstream capacity as approved by the Planning Commission.

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner

FROM: Alison Jumper, Park Planner

DATE: June 26, 2007

SUBJECT: Parks & Recreation Planning Commission Review Comments

****

Meeting Date: July 9, 2007
Item: R-PZD 07-2613 Holcomb Heights Ph. II 245
Park District: NW
Zoned: R-PZD
Billing Name & Address: Nock / Broyles Development 4921 Clear Creek Blvd. Fayetteville, AR 72704

	Land Dedication Requirement	***Money in Lieu***
Single Family	____@ .024 acre/ unit =___acres	36 @ $960 per unit = $ 34,560
Multi Family	___@ .017 acre/ unit =___acres	_____@ $680 per unit = $_____

COMMENTS:

- Parks and Recreation Advisory Board made a recommendation of accepting money in lieu of land for the park land dedication requirement for this development on May 7, 2007. This decision was based on the proximity of existing park land. Additionally the developer is providing POA owned and maintained greenspace within the development.
- Fees are due prior to building permits.

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew
Date: 6/22/07 10:02AM
Subject: Subdivision Committee 6-28-07

FPL 07-2631(Westbrook PZD) - Solid Waste requests houses to have addresses and street names identified on the back of the homes and in the alleys to avoid confusion with residential carts as currently occurs in Clabber Creek.

LSD 07-2633 (WalGreen's 6th & One Mile Rd) - Compactor location okay, but no dimensions for the enclosure are shown. Please show dimensions. Also Wal Greens usually has a 6yd cardboard dumpster but no location for an enclosure for cardboard is shown on the plans.

R-PZD (Holcomb Heights) Alley collection is at the discretion of Solid Waste Director. If at anytime Solid Waste feels service is not being provided in a efficient manner due to alleys being encumbered, front side collection or modified collection points will be required of the residents resulting in a loss of parking spaces. No parking allowed in alleys.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

Fayetteville Fire Department

MEMO

To: Andrew Garner and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 8, 2007
Re: Re-zoning review comments – Holcomb Heights. Phase II

R-PZD 07-2613 (Holcomb Heights, Phase II)

These 5.77 acres are covered by Engine 7 at 835 N Rupple.
It is 3.1 miles from the station with an anticipated response time of 7.5 minutes. This long response time is due to Rupple Road being narrow and curvy. The improvements to Rupple Road should reduce the response times somewhat be we cannot estimate this at this time without the upgrades to the street.
The Fire Department anticipates 8(5 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
There should be no adverse effects on our call volume to this development

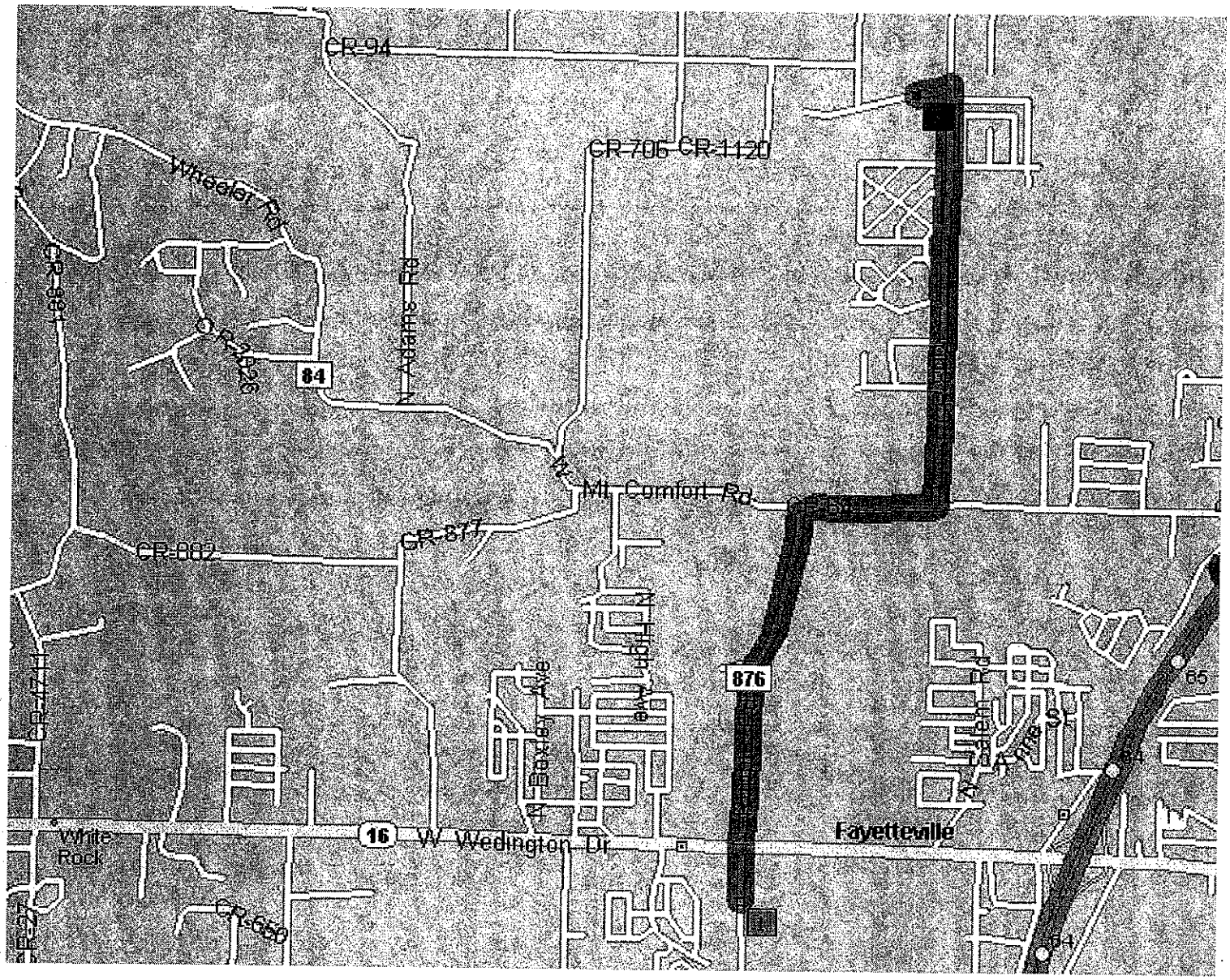
Please feel free to contact me if you have any questions.

Dale Riggins

Dale Riggins
Captain
Fayetteville Fire Department

Holcomb Heights, Phase II

Fayetteville Fire Department



Date 6/4/2007

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 **PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II, 245):** Submitted by **Todd Jacobs Appian Center for Design** for property located at **E of Rupple Road, W of Phase I,** would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department that this PZD **will not** substantially alter the population density and **will not** create an appreciable or undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

PZD 07-2613: Planned Zoning District (HOLCOMB HEIGHTS PHASE II, 245): Submitted by TODD JACOBS APPIAN CENTER FOR DESIGN for property located at E OF RUPPLE ROAD, W OF PHASE I. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District with 36 single family lots proposed.

Planner: Jesse Fulcher

Public water is located adjacent to the site. There is an 8" waterline stubbed out from the subdivision to the south. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" stubbed out from the subdivision to the south. Sewer service may need to be extended through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Salem Road and Weir Road. Salem is currently an mostly improved two lane paved roadway. Weir Road is an unimproved two lane highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development.

ACD
PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING
APPIAN CENTRE FOR DESIGN

June 20th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Holcomb Heights, Phase II

CC: Glen Newman P.E. Staff Engineer
Jesse Fulcher Planner
Matt Casey P.E. Assistant City Engineer

RECEIVED
JUN 20 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

Mr. Pate,

Appian Centre for Design is writing to request waivers granting permission to:

1. Construction curb return radii (CRR) of 20' on all interior street and alley intersections
2. Implement street cross sections different than those required by the current Master Street Plan standard with regards to street width, greenspace, and sidewalk width.
3. Construct a centerline radius of 70' at the curve of Public Street 2 at lot 89 and 90, and a centerline radius of 100' at the curve of Public Street 2 at lot 82
4. The option to use 18" curb versus the standard 24" curb
5. Construct curb return radii (CRR) of 30' (instead of 50' radius for collector streets) at the intersection of Public Street 2 and Rupple Road extension.

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all interior street intersections and alleys in order to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe for pedestrians. A 20' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

   No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted with in fifteen feet (15') of an intersection of streets. Reinforced curbs and no parking zones will allow emergency apparatus to utilize curbs for their turning needs if the roadway is other wise restricted.

2. The request is for a waiver granting permission to design street cross sections differently than are required by the current Master Street Plan standard with regards to Holcomb

Heights. Our proposed street cross sections are intended to create the backbone of what we hope will be a successful development. We hope our proposed street cross sections promote a strong connection within the community. We feel that the typical street cross sections meet the City Plan 2025 vision for Fayetteville and Holcomb Heights. Our ideal is that the community should be pedestrian-friendly and have strong community character and identity. We intended for Holcomb Heights streets to define this project, creating a sense of place and providing a safe environment for pedestrians. The proposed 23' street section is intended to allow for on-street parking. On-street parallel parking is designed to provide a safe environment for pedestrians on the sidewalk from moving vehicles in the traveled lanes and provide street activity while developing a sense of neighborhood and sense of place.

3. Due to site constraints, we are proposing a 70' centerline radius on Public Street 2 at lot 89 and 90 and also a 100' centerline radius at lot 82. These radii will prove adequate for the small amount of residential traffic on the street along with any service or emergency vehicles that may require access into this part of Holcomb Heights.

4. An 18" curb versus a standard 24" curb uses less concrete and is consistent with traditional neighborhood design in which aesthetics play a large role.

5. We are requesting a 30' CRR at the intersection of Holcomb Heights Public Street 2 and the future Rupple Road extension to match conditions proposed in Phase I of Holcomb Heights,instead of the city requirement of a 50' CRR for a collector street.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050

Appian Centre for Design
One East Center Street, Suite 212
Fayetteville, AR 72701
Office: (479) 445-6009
Fax: (479) 445-6010

Fayetteville, AR - Holcomb Heights-Phase II
Project Number 6070
July 5th, 2007

Opinion of Probable Cost - Rupple Road Improvement

Half of 28' typ. street section (14') - Assessment #1 - Due to City at time of Final Platting of Phase II

	Quantity	Unit	Unit Cost	Total
Rupple Road @ 6"/3"/2"	389	S.Y.	$21.50	$8,363.50
2' Undercut and install hillside	389	C.Y.	$12.00	$4,668.00
6' Concrete Sidewalk	1500	S.F.	$3.00	$4,500.00
Curb and gutter	167	L.F.	$9.50	$1,586.50
24" RCP	250	L.F.	$45.90	$11,475.00
Curb Inlets	1	EACH	$3,500.00	$3,500.00
Handicap Ramps w/ Trunkated Domes	2	EACH	$500.00	$1,000.00
Final dress up and seeding	850	S.Y.	$0.30	$255.00
Total				$35,093.00

Opinion of Probable Cost - Connection to Rupple Road from Public Street 2

Street section from cul-de-sac to Rupple Road - Assessment #2 - Due to City at time of Final Platting of Phase II

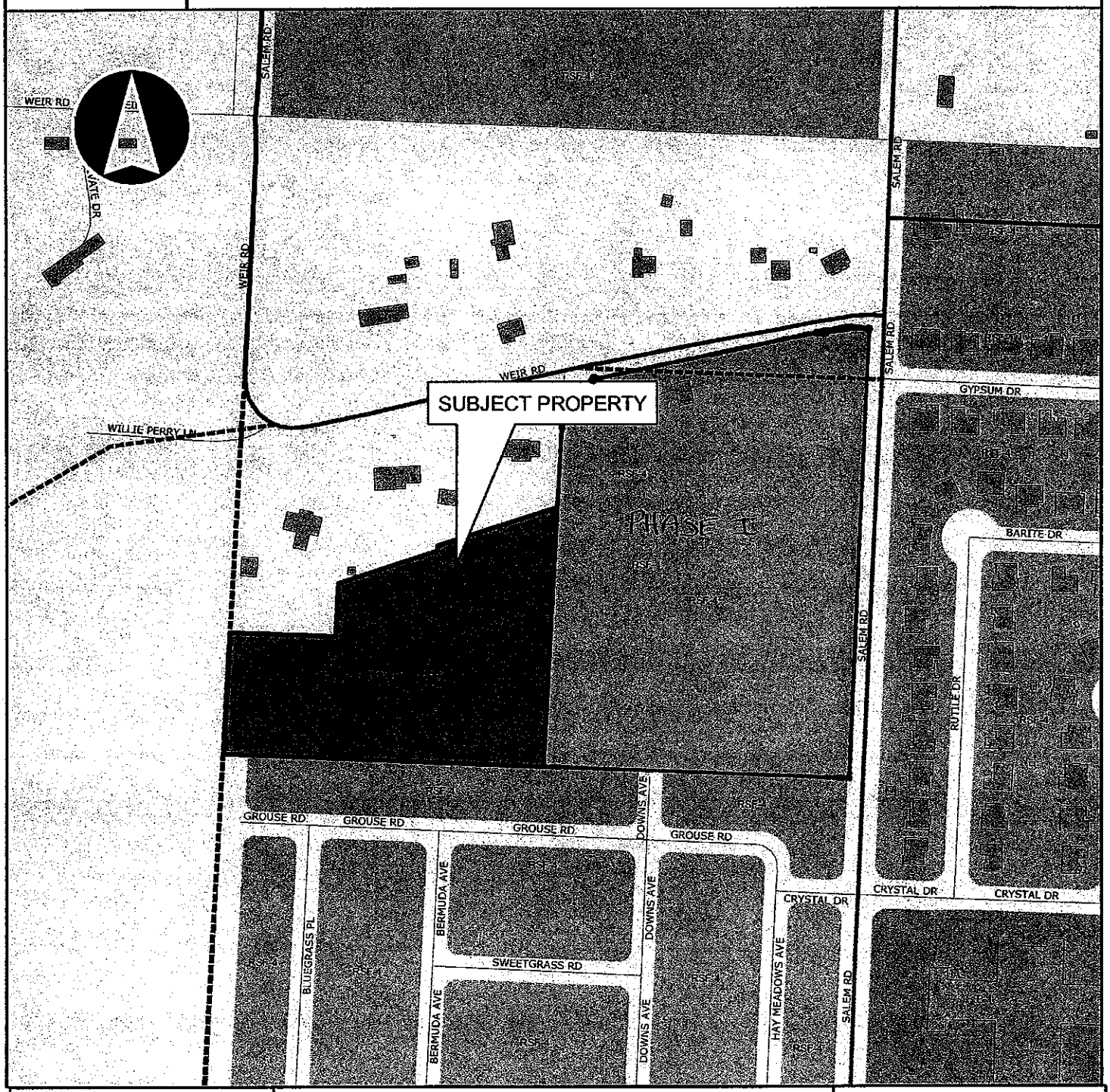
	Quantity	Unit	Unit Cost	Total
Public Street 2 @ 8"/3"	169	S.Y.	$16.75	$2,830.75
2' Undercut and install hillside	169	C.Y.	$12.00	$2,028.00
Curb and gutter	136	L.F.	$9.50	$1,292.00
Handicap Ramps w/ Trunkated Domes	2	EACH	$500.00	$1,000.00
Total				$7,150.75

Note: This estimate is based on local contractors bids in the area for several current Appian Centre for Design projects.

RPZD07-2613

Close Up View

HOLCOMB HEIGHTS PHASE II



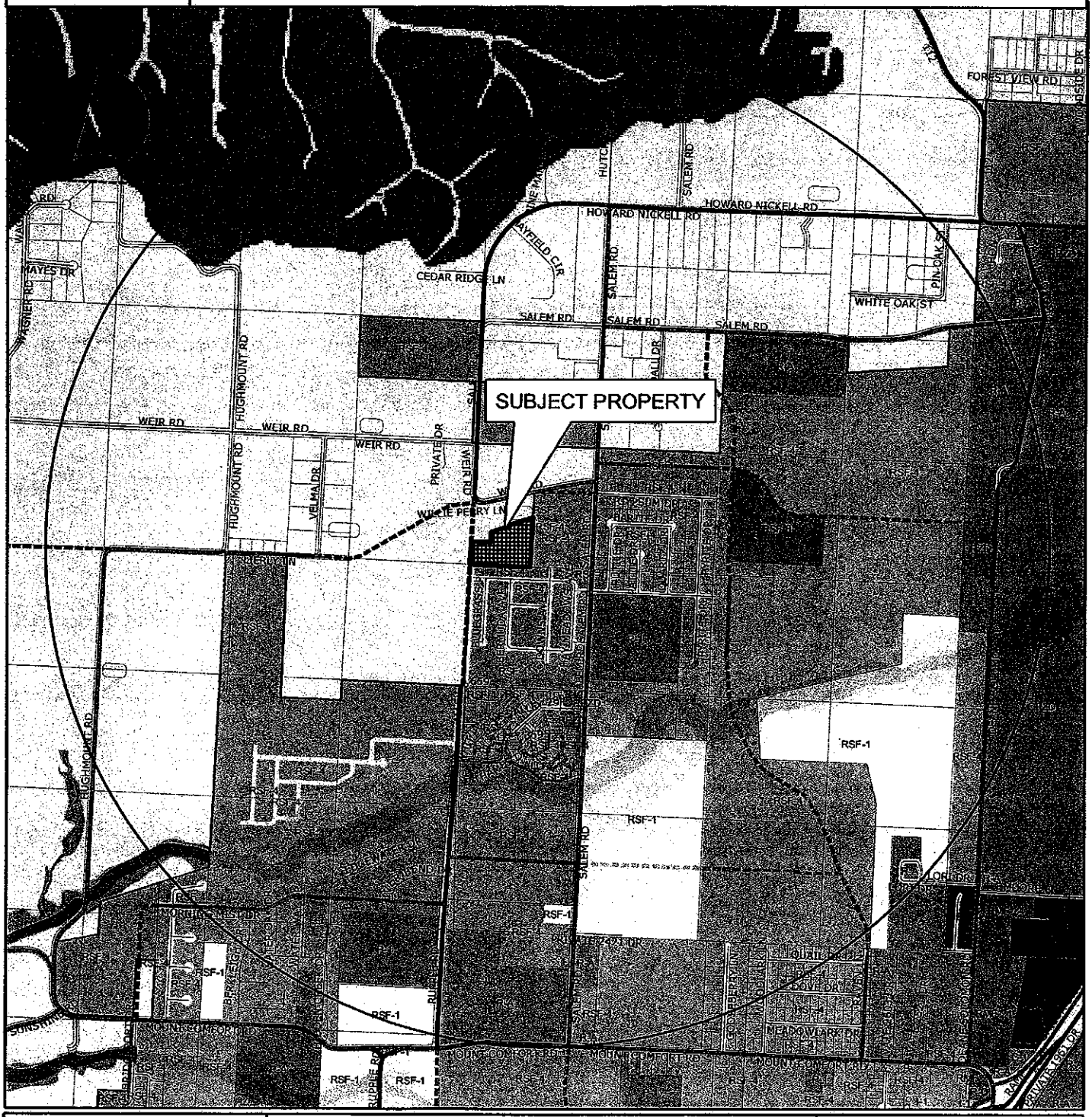
Overview

0 125 250 500 750 1,000 Feet

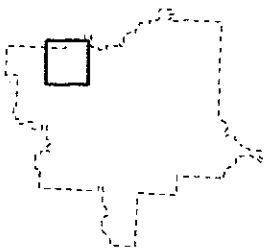
RPZD07-2613

One Mile View

HOLCOMB HEIGHTS PHASE II



Overview



Legend

Subject Property

RPZD07-2613

Boundary

Planning Area

Overlay District

Outside City

Legend

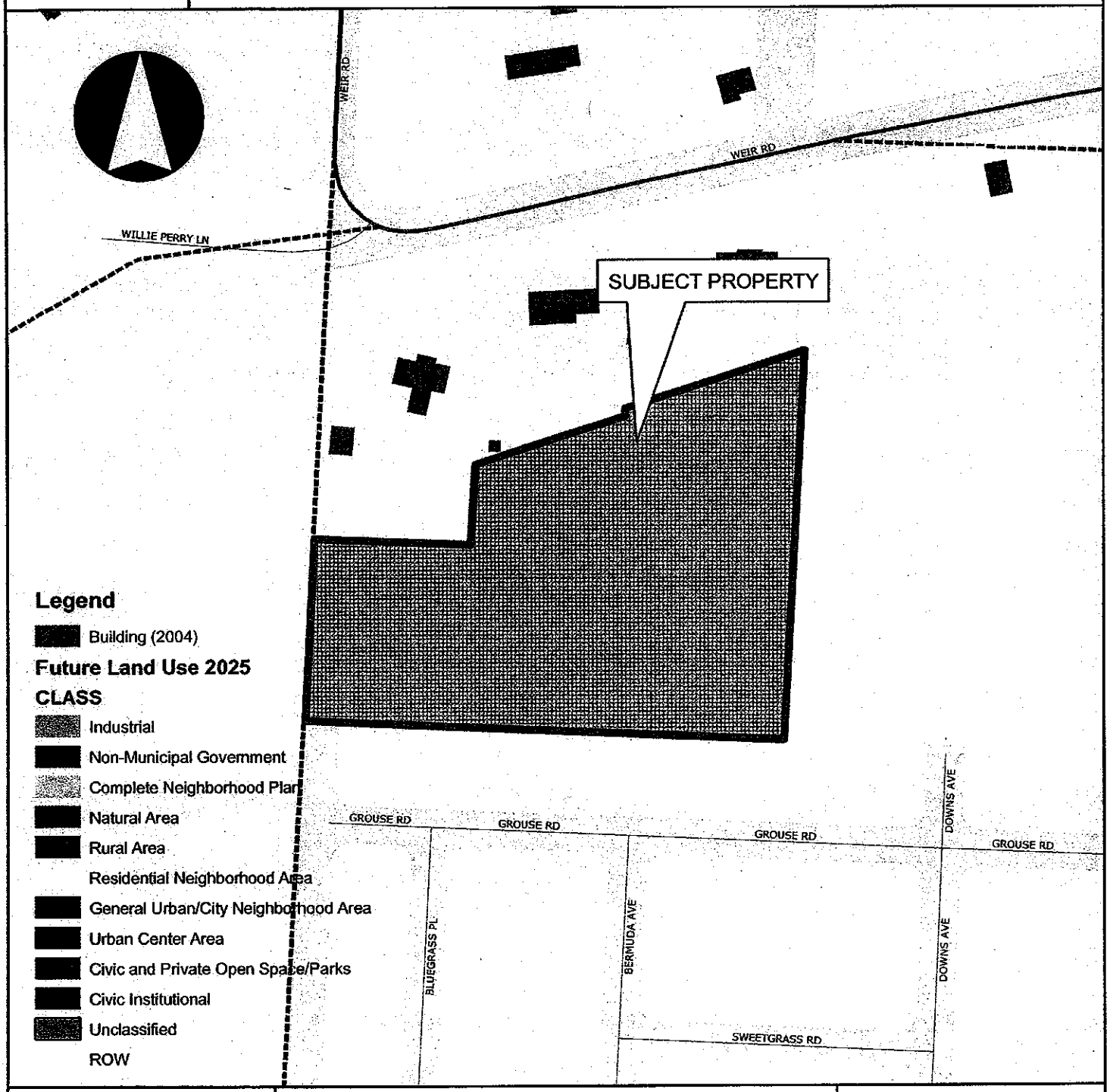
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

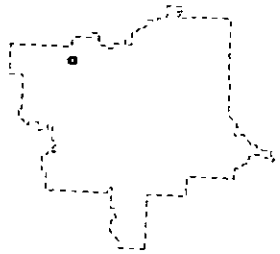
RPZD07-2613

Future Land Use

HOLCOMB HEIGHTS PHASE II



Overview



Legend

Subject Property

RPZD07-2613

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 75 150 300 450 600 Feet

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

7-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

VAC 07-2638: (Estes, 332): Submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive. The request is to vacate a portion of a drainage 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 — Date: 7-19-07

City Attorney — Date: 7-19-07

Finance and Internal Service Director — Date: 7-19-07

Mayor — Date: 7/20/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office — ENTERED 7/19/07

Received in Mayor's Office — ENTERED 7/19/07

Comments:

City Council Meeting of August 07, 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: July 10, 2007

Subject: Easement Vacation for Estes (VAC 07-2638)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a drainage easement located at 2350 Big Oaks Drive.

BACKGROUND

The subject property is located at 2350 Big Oaks Drive and is zoned RSF-4. The property was platted as part of East Oaks Addition Phase II with a 55' drainage easement along the east property line.

The applicant requests vacating a portion of the 55' drainage easement to allow for an expansion to the east side of the residence.

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 July 9, 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 07-2638 SUBMITTED BY PETER (TRIPP) AND BRANDY ESTES FOR PROPERTY LOCATED AT 2350 BIG OAKS DRIVE TO VACATE A PORTION OF A DRAINAGE 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 drainage easement is not required for corporate purposes;

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

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

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

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

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

1. The proposed easement vacation shall apply to the drainage easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

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

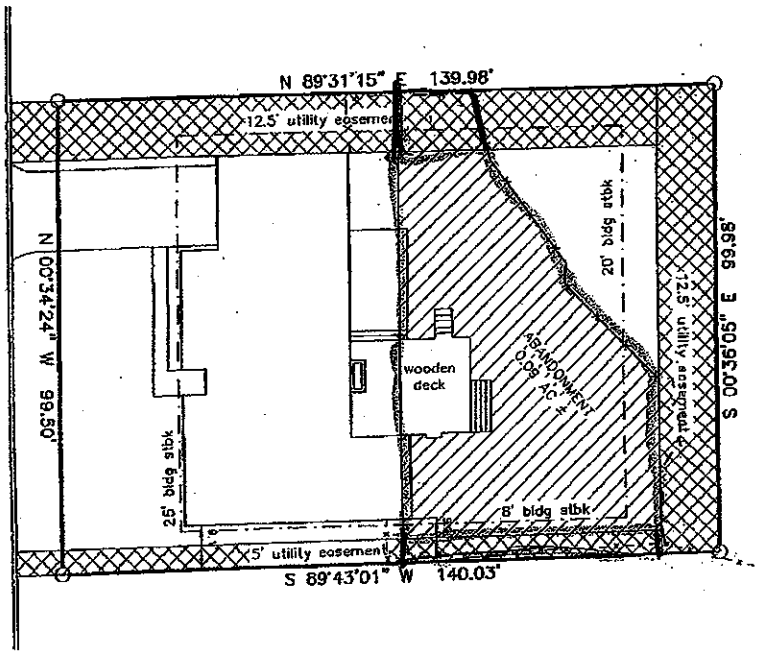
APPROVED: ATTEST:

By: _____ By: _____

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

EXHIBIT "A"

DRAINAGE EASEMENT
ABANDONMENT
for
TRIPP & BRANDY ESTES



Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

JENKINS SURVEYING, INC. 125 E. TOWNSHIP STE. 8 FAYETTEVILLE, AR 72703 PHONE (479) 445-6907 FAX (479) 445-6908	DATE: 5/27/07
	DRAWN BY: dwj
	SCALE: 1" = 30'
	LOCATION: EAST OAKS SUB.
	JOB NO: 07-092

EXHIBIT "B"
VAC 07-2638

A PART OF LOT 6 IN BLOCK 10 OF THE EAST OAKS SUBDIVISION, PHASE II, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT THAT IS S89°43'01"W 12.50 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 6, AND RUNNING THENCE S89°43'01"W 55.00 FEET ALONG THE SOUTH LINE OF THE SAID LOT ; THENCE LEAVING SAID SOUTH LINE AND RUNNING N00°36'05"W 99.75 FEET TO THE NORTH LINE OF SAID LOT; THENCE N89°31'15"E 15.74 FEET ALONG SAID NORTH LINE; THENCE LEAVING SAID NORTH LINE AND RUNNING TO AND ALONG A WOODEN FENCE LINE THE FOLLOWING: S14°29'16"E 15.25 FEET, S35°36'54"E 27.58 FEET, S01°28'25"W 4.56 FEET, S44°37'16"E 28.70 FEET TO THE WEST LINE OF A 12.5 FOOT WIDE CITY OF FAYETTEVILLE UTILITY EASEMENT; THENCE LEAVING SAID FENCE LINE AND RUNNING S00°36'05"E 37.43 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING, CONTAINING 0.09 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS,

Fayetteville
ARKANSAS

PC Meeting of July 09, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 2, 2007~~ *Updated July 10, 2007*

VAC 07-2638: (ESTES, 332): Submitted by PETER (TRIPP) AND BRANDY ESTES for property located at 2350 BIG OAKS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.32 acres. The request is to vacate a portion of a drainage easement on the subject property.

Planner: JESSE FULCHER

Findings:

Property Description: The subject property is located at 2350 Big Oaks Drive and is zoned RSF-4. The property was platted as part of East Oaks Addition Phase II with a 55' drainage easement along the east property line.

Request: The applicant requests vacating a portion of the 55' drainage easement to allow for an expansion to the east side of the residence.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections.
Cox Communications	No Objections.
Southwestern Electric Power Company	Not applicable. All other existing utility easements shall remain.
Arkansas Western Gas	No Objections. All other existing utility easements shall remain.
Southwestern Bell Telephone	No Objections. All other existing utility easements shall remain.

	Relocation of any existing facilities shall be at the owner/developers expense.
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections. The 12.5' sewer easement shall remain.
Transportation	No Objections.
Solid Waste	No Objections.
Engineering	No Objections.

Public Comment: The adjacent property owners have indicated no objections to the proposed drainage easement vacation.

Recommendation: Staff recommends forwarding **(VAC 07-2638)** to the City Council with a recommendation for approval with the following conditions.

Conditions of Approval:

1. The proposed easement vacation shall apply to the drainage easement only. All other existing easements shall remain in force.

2. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: √ **Forwarded** ☐ **Denied** ☐ **Tabled**

Date: July 09, 2007

Motion: Graves
Second: Ostner
Vote: 8-0-0 (forwarded from consent agenda)

Comments:_____

ESTES, GRAMLING & ESTES, PLC

Attorneys at Law

P.O. DRAWER 3883
19 EAST DICKSON STREET
FAYETTEVILLE, ARKANSAS 72702-3883

PETER G. ESTES, SR. (1916-1990)
PETER G. ESTES, JR.
J. DOUGLAS GRAMLING†
PETER G. ESTES III
AMY ESTES TURNER*

*ALSO ADMITTED IN WASHINGTON
†ALSO ADMITTED IN MISSOURI

WRITER'S DIRECT EMAIL: TESTES@NWARK.COM

TELEPHONE: (479)521-4444
FAX: (479) 521-6730
E-MAIL:eeg@nwark.com

OFFICE MANAGER:
LAURA G. HOBBS

May 22, 2007

Re: Description of Request for Vacation of Easement

Recently it has come to our attention that a drainage easement extends Fifty-Five (55) feet from the back property line of our residential lot in Phase Two (2) of East Oaks Subdivision. During the process of looking into building onto our house at 2350 Big Oaks in Fayetteville, we have run into a snag in that our proposed build would cross over into this easement. we have talked to Jesse Fulcher in the Planning Department and he referred us to Perry at Transportation, who has stated that he had no problem vacating this easement to the back fence line of our property.

We request at this time that the drainage easement recorded on the Plat of Phase Two (2) East Oaks Subdivsion be vacated to the back fence line of the property. Legal Description for the area to be vacated is as follows:

> A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
> Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

Thank you for your consideration.

Sincerely,

Tripp and Brandy Estes

PETITION TO VACATE DRAINAGE EASEMENT LOCATED IN LOT 6, BLOCK 10, EAST OAKS SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

To: The Fayetteville City Planning Commission and the Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 6, Block 10, Phase II, East Oaks Subdivision, Fayetteville, Arkansas, a Municipal Corporation, petition to vacate an easement which is described as follows:

A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

That the abutting real estate affected by said abandonment of the Drainage easement is as follows:

Lot 2, Block 8, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 3, Block 8, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 7, Block 10, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 5, Block 10, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 1, Block 12, East Oaks Subdivision, City of Fayetteville, Arkansas.

The City of Fayetteville declared a 55 foot easement for drainage purposes on said real property; however, neither the City of Fayetteville nor its citizens would be adversely affected by the abandonment of the portion of the above described easement. The petitioners request this vacation for the purpose of completing additional improvements on the real property that would encroach on the current easement.

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

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

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

Dated this 31 day of May, 2007.

Peter G. Estes, III

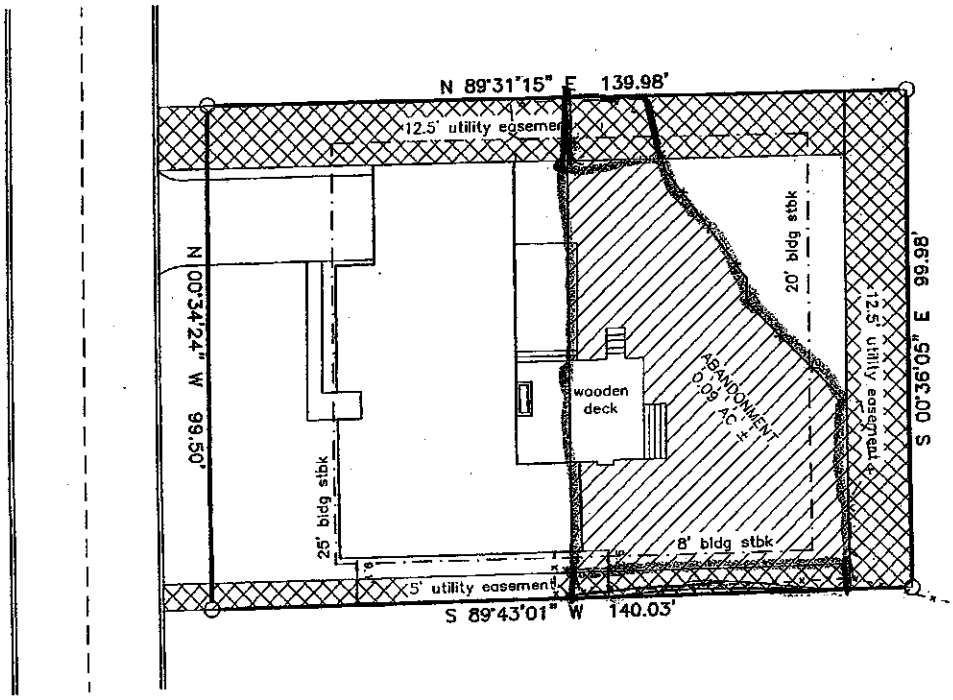
Brandy Estes

EXHIBIT "A"

DRAINAGE EASEMENT DESCRIPTION FOR ABANDONMENT

A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

DRAINAGE EASEMENT ABANDONMENT for TRIPP & BRANDY ESTES



Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

JENKINS SURVEYING, INC.
125 E. TOWNSHIP STE. 8
FAYETTEVILLE, AR 72703
PHONE (479) 445-6907
FAX (479) 445-6908

DATE:	5/27/07
DRAWN BY:	dwj
SCALE:	1" = 30'
LOCATION:	EAST OAKS SUB.
JOB NO:	07-092

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: Ozark Electric

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

OZARKS ELECTRIC

Signature of Utility Company Representative

Lead Staking Tech

Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached documents must be completed**)

** 2350 Big Oaks, Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Michael Smith
Signature of Utility Company Representative

Survey of
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: AEP/ SWEPCO

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444
REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 3350 Big Oaks Fayetteville AR 72703

(ATTACH Legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

The Existing 5' Utility Easement Along the South Property Line and the 12.5' Utility Easement Along the North Property Line Shall be Maintained

- No objections provided the following conditions are met:

Signature of Utility Company Representative

Engineer I
Title

Arkansas Western Gas Company
A subsidiary of Southwestern Energy Company

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

DATE: Monday, June 4, 2007

UTILITY COMPANY: Arkansas Western Gas

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION:

- [ ] Street
- [X] 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 Utility Easement (Please see list above)

Description described as follows:

See attached drainage easement description for abandonment for a part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

UTILITY COMPANY COMMENTS:

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

Utility easements along the Northern and Eastern portion of Lot 6 will be retained due to the fact Arkansas Western Gas has an existing distribution line located in these areas.

Signature of Utility Company Representative

Fayetteville Assistant Operating Manager
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: South Western Bell Telephone Company

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444
REQUESTED VACATION (***applicant must check all that apply***):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks, Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

12.5' U.E ALONG NORTH AND EAST PROPERTY LINES AND 5' U.E. ALONG SOUTH PROPERTY LINE - RELOCATION OF ANY EXISTING FACILITIES WILL BE @ THE OWNER'S EXPENSE

- No objections provided the following conditions are met:

Susan A Clinser
Signature of Utility Company Representative

MANAGER-ENG. DESIGN
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Water and Sewer Division

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

12.5 ft Sewer easement is kept. This appears to not be part of what the customer wants to abandon.

Signature of Utility Company Representative

Water and Sewer OPS Mgr.

Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Transportation Division

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

5/30/07

Signature of Utility Company Representative

Transportation Supt.

Title

Transportation Division
Operations Department
City of Fayetteville

575 8228

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Solid Waste (Sanitation)

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

_____

_____

- No objections provided the following conditions are met:

_____

_____

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: 7/3/07

UTILITY COMPANY: City of Fayetteville Engineering Department

APPLICANT NAME: _--Estes------ __ APPLICANT PHONE: _----------

REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Drive

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

_____

_____

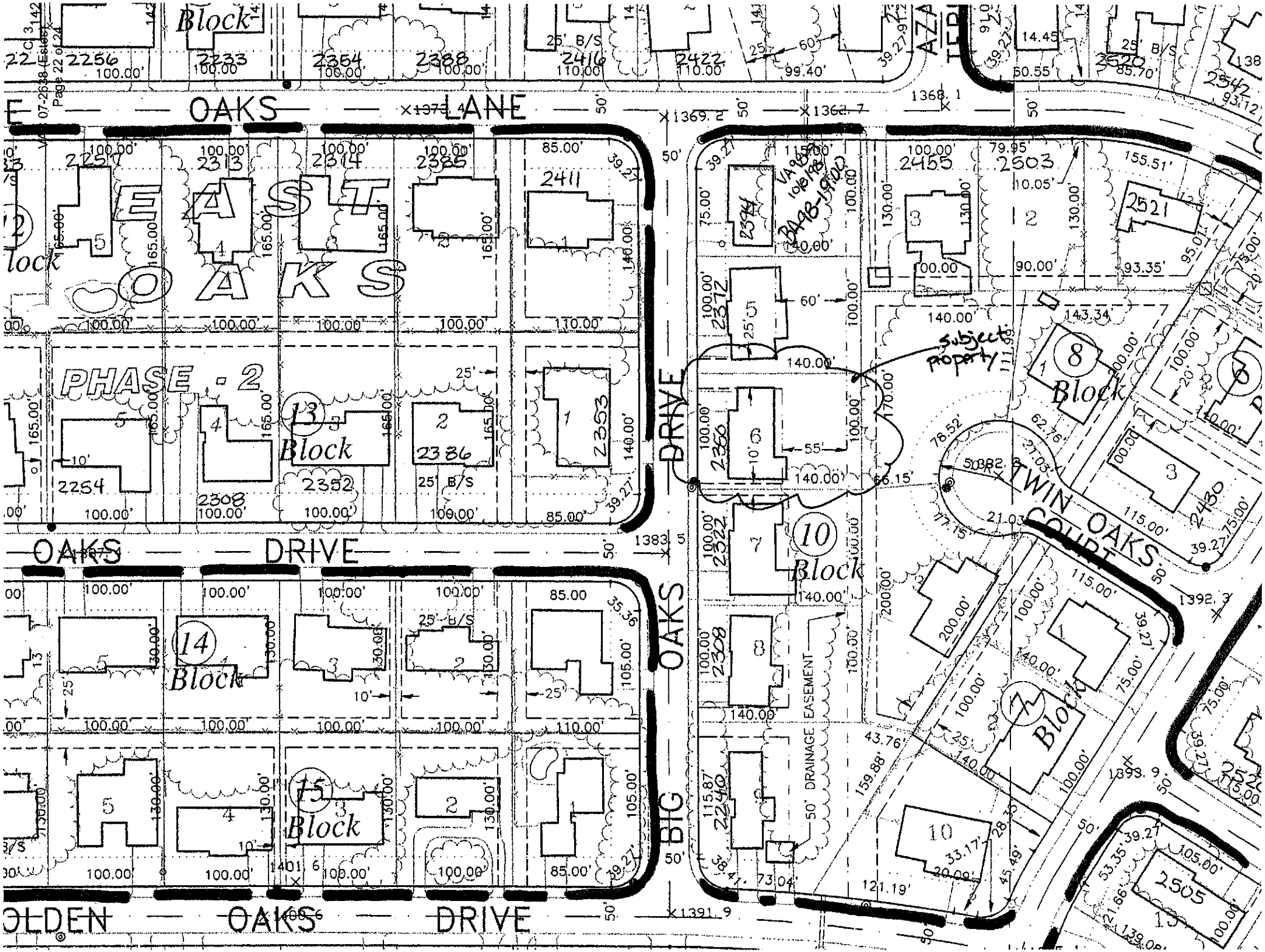
- No objections provided the following conditions are met:

_____

_____

_____
Signature of Utility Company Representative

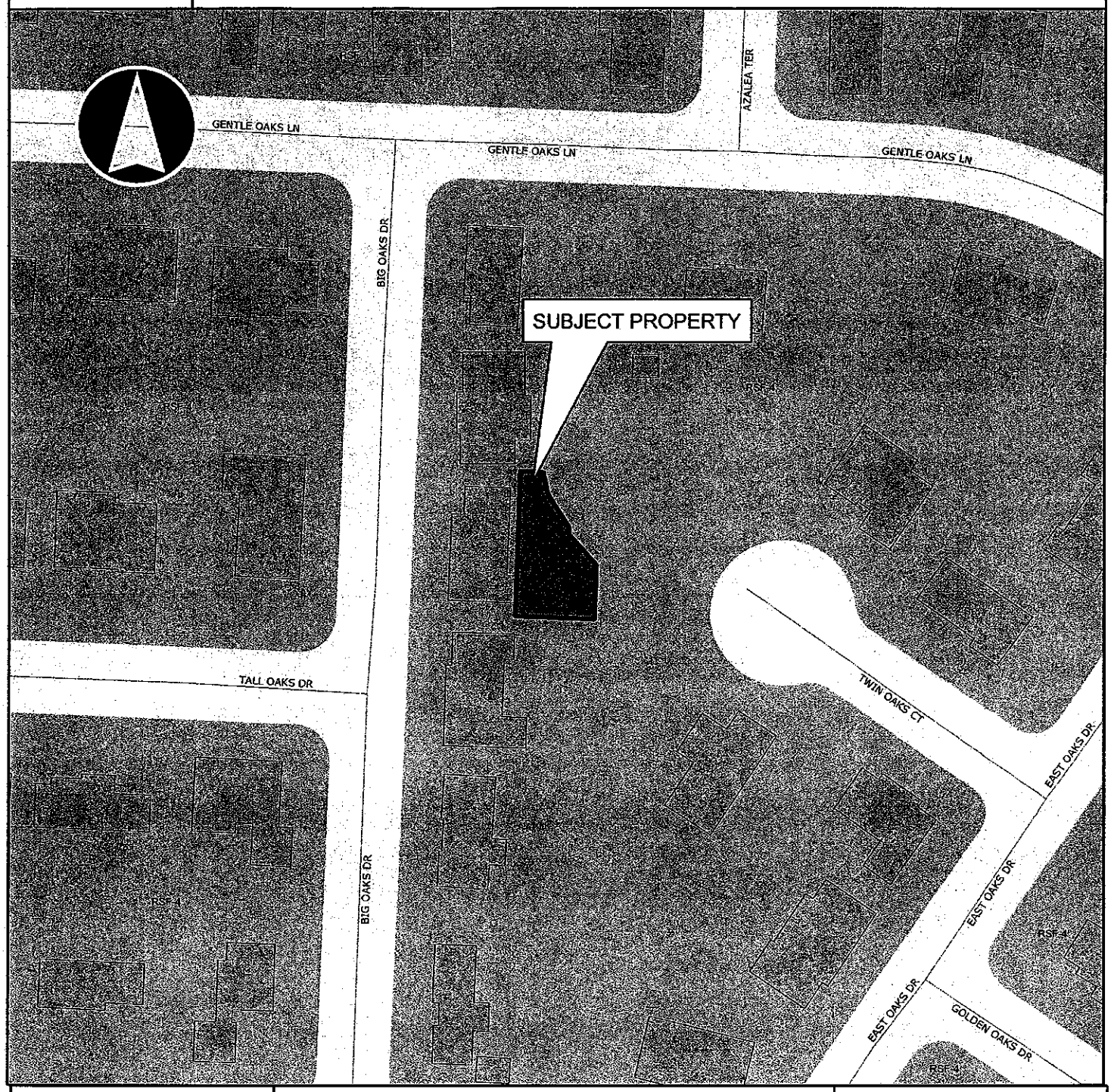
_____
Title


OAKS LANE
EAST OAKS
PHASE - 2
OAKS DRIVE
BIG OAKS DRIVE
TWIN OAKS COURT
GOLDEN OAKS DRIVE
Block
subject property
50' DRAINAGE EASEMENT
VA 98-106 BA 98-1910

VAC07-2638

Close Up View

ESTES



Overview

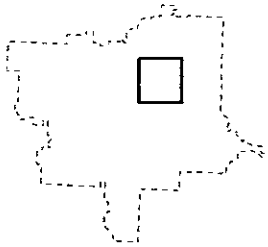
0 37.5 75 150 225 300 Feet

VAC07-2638

One Mile View

ESTES

Overview



Legend

Subject Property

VAC07-2638

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

VAC 07-2639: (Four Seasons Sunrooms/Boss, 397): Submitted by Bill Boss for property located at 5608 Reliance. 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 — Date 7-23-07

City Attorney — Date 7-20-07

Finance and Internal Service Director — Date 1-23-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

City Council Meeting of August 07, 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: July 12, 2007

Subject: Easement Vacation for Four Seasons Sunrooms (VAC 07-2639)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a utility easement located at 5608 Reliance Street.

BACKGROUND

The subject property is located at 5608 Reliance Street and is zoned RT-12. The property was platted as part of Heritage Village Subdivision with a 20' general utility easement along the rear (east) property line.

The applicant requests vacating a portion of the 20' utility easement to allow for an expansion to the east side of the residence.

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 July 9, 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 07-2639 SUBMITTED BY BILL BOSS FOR PROPERTY LOCATED AT 5608 RELIANCE 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. Relocation of any existing utilities shall be at the owner/developer's expense.
2. A variance must be obtained by the Fayetteville Board of Adjustment to allow for the approximately five-foot encroachment into the rear building setback.

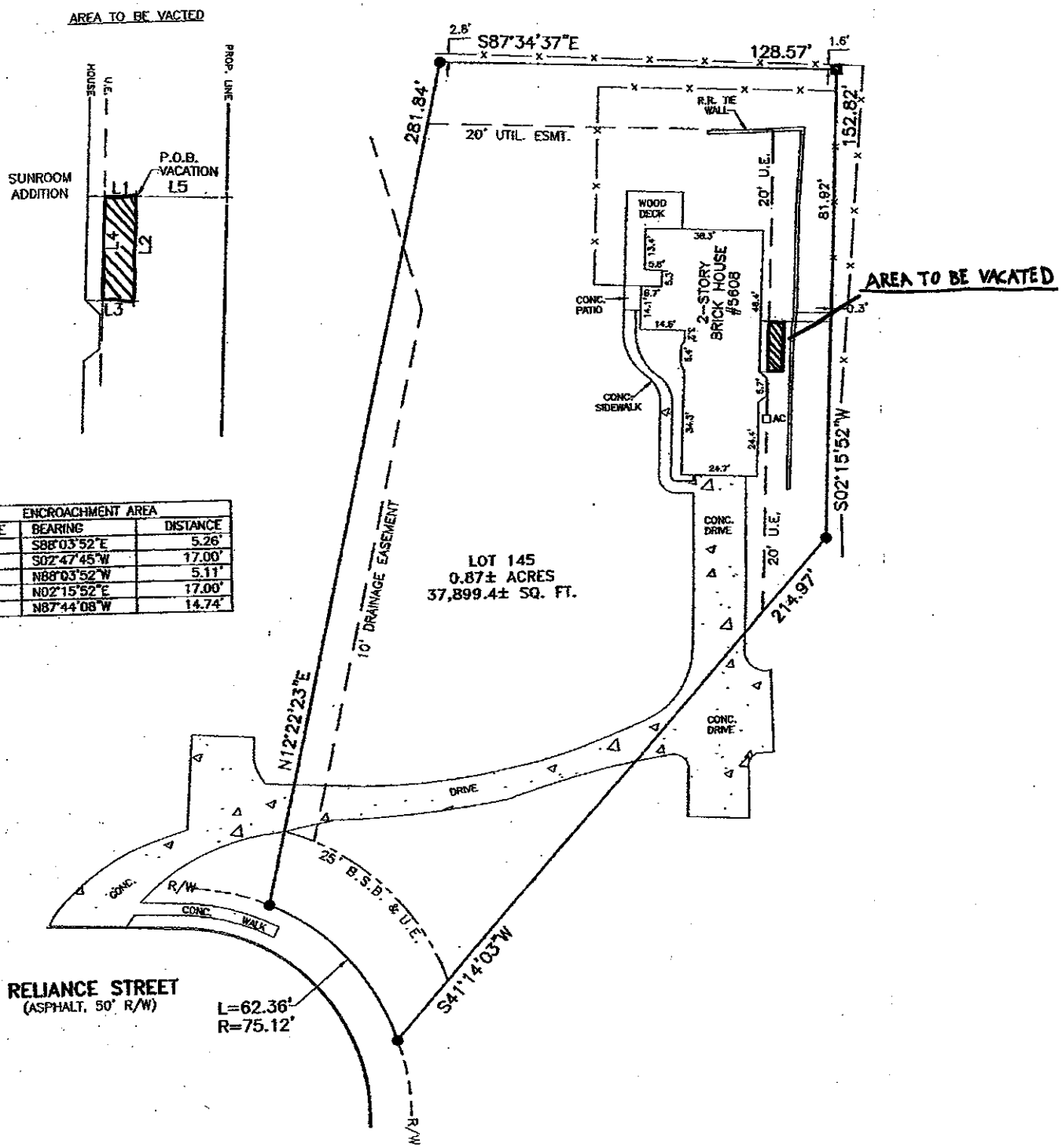
PASSED and **APPROVED** this day of , 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

EXHIBIT "A"



ENCROACHMENT AREA		
LINE	BEARING	DISTANCE
L1	S88°03'52"E	5.26'
L2	S02°47'45"W	17.00'
L3	N88°03'52"W	5.11'
L4	N02°15'52"E	17.00'
L5	N87°44'08"W	14.74'

EXHIBIT "B"
VAC 07-2639

A PART OF LOT NUMBERED ONE HUNDRED FORTY-FIVE (145), HERITAGE VILLAGE SUBDIVISION, PHASE 11, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN TH EOFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT ONE HUNDRED FORTY-FIVE (145), SAID POINT BEING AN EXISTING CONCRETE MONUMENT; THENCE S02°15'52"W 81.92 FEET ALONG THE EAST LINE OF SAID LOT TO A POINT; THENCE N87°44'08"W 14.74 FEET TO THE TRUE POINT OF BEGINNING; THENCE S02°47'45"W 17.00 FEET; THENCE N88°03'52"W 5.11 FEET TO A POINT ON THE WEST BOUNDARY OF A TWENTY (20) FOOT WIDE UTILITY EASEMENT; THENCE N02°15'52"E 17.00 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT; THENCE S88°03'52"E 5.26 FEET TO THE POINT OF BEGINNING, CONTAINING 88.2 SQUARE FEET, MORE OR LESS.

Fayetteville
ARKANSAS

PC Meeting of July 9, 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:	~~July 3, 2007~~ *Updated July 17, 2007*

VAC 07-2639: VACATION (FOUR SEASONS SUNROOMS/BOSS, 397): Submitted by BILL BOSS/ FOUR SEASONS SUNROOMS for property located at 5608 RELIANCE. The property is zoned RT-12, RESIDENTIAL TWO & THREE FAMILY and contains approximately 0.87 acres. The request is to vacate a portion of a utility easement on the subject property.

Property Owner: Jamie and Jennifer Beaver
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 is located at 5608 Reliance Street, which is identified as Lot 145 of the Heritage Village Subdivision. There is a 20' general utility easement along the rear (east) property line. The applicant would like to construct a sunroom on the back of their house. The sunroom would encroach approximately five feet into the easement and rear building setback. Utility representatives have no objections to the requested vacation.

Request: The request is to vacate 88.2 square feet of the existing utility easement.

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	No Objections.
Cox Communications	No Objections.
AEP/SWEPCO	No Objections.
SBC Southwestern Bell/AT&T	No Objections.
Arkansas Western Gas	No Objections.

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections.
Transportation	No Objections.
Solid Waste	No Objections.
Engineering	No Objections.

Recommendation: Staff recommends approval of the proposed utility easement vacation **06-2639** with the following condition:

1. Relocation of any existing utilities shall be at the owner/developer's expense.
2. A variance must be obtained by the Fayetteville Board of Adjustment to allow for the approximately five-foot encroachment into the rear building setback.

PLANNING COMMISSION ACTION: __yes__Required
__X__Forwarded to City Council recommendation for approval _____Denied

Motion: Graves
Second: Ostner
Vote: 8-0-0
Date: July 9, 2007

Comments: Approved on the consent agenda.

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: August 7, 2007

PETITION TO PARTIALLY VACATE AN EASEMENT

PETITION TO PARTIALLY VACATE AN EASEMENT LOCATED IN Lot 145 of Heritage Village Subdivision, City of Fayetteville, Arkansas

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

We, the undersigned, being the owners of the real estate abutting the easement hereinafter seek to partially vacate an easement lying in Lot 145 of Heritage Village Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to partially vacate an easement which is described as follows:

> A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

That the abutting real estate affected by said abandonment of the easement are Lot 145, Heritage Village Subdivision, City of Fayetteville used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

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

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

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

Dated this 20th day of April, 2007

Jamie Beaver

Jamie Beaver

Signature

Jennifer-Joe Beaver

Jennifer-Joe Beaver

Signature

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR A PARTIAL EASEMENT VACATION REQUEST

Date: April 23, 2007

Address / Location of vacation: 5608 Reliance

Adjacent property address: Stephen Heim, 5632 W. Reliance Street, Fayetteville, AR 72704

Lot: 144 Subdivision: 06063 Heritage Village, Phase II

REQUESTED VACATION:

I have been notified of the petition for a partial easement vacation described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

ADJACENT PROPERTY OWNERS COMMENTS:

- I have been notified of the requested partial vacation and decline to comment
- I do not object to the partial vacation described above.
- I do object to the requested vacation because:

Please commence with construction.
Thank You

Stephen Gregory Heim
Name of Property Owner (printed)

Signature of Property Owner

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Greg McGee, Ozarks Electric, 684-4634

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

All other easement must Remain (F

[signature] - Ozarks Electric
Signature of Utility Company Representative

Lead Staking Tech
Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Mike Moore, Cox Communications, 717-3765

APPLICANT NAME: Jamie & Jennifer-Joe Beaver
479-200-0478

APPLICANT PHONE:

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Michael Smith
Signature of Utility Company Representative

Surveyor
Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Kenny Sullivan, AEP/SWEPCO, 973-2303

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Ozarks Electric Territory

Signature of Utility Company Representative

Engineer III

Title

Arkansas Western Gas Company
A subsidiary of Southwestern Energy Company

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

DATE: Tuesday, May 08, 2007

UTILITY COMPANY: Arkansas Western Gas Company

APPLICANT NAME: Jamie and Jennifer-Joe Beaver

REQUESTED VACATION:

- [ ] Street
- [X] 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 Utility Easement (Please see list above)

Description described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

- [X] 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

COPY

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

DATE: 05/18/07

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 part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20 foot wide utility easement; Thence N02°15'52"E17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, 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

Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

at&t

Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

T: 501.373.5255
F: 501.373.0229
lynda.palmer@att.com

COPY

May 18, 2007

Jamie and Jennifer-Joe Beaver
5608 Reliance St.
Fayetteville, AR 72704

Dear Mr. and Mrs. Beaver:

RE: Easement release – Heritage Village S/D-Fayetteville

Please find enclosed AT&T's concurrence in your request to the above mentioned easement 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

COPY

at&t

CONCURRENCE TO VACATE A DEDICATED UTILITY EASEMENT

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

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20 foot wide utility easement; Thence N02°15'52"E17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

Signed and executed this 16th day of May, 2007.

By: F. Jean Davis
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the ____ day of May, 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.

LYNDA E. SOMMERFELDT PALMER
NOTARY PUBLIC
COMM. EXP. 2011
AR

This instrument prepared by AT&T
1011 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

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: April 23, 2007

UTILITY COMPANY: Fayetteville Transportation Administrator, 444-3491

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

_____

_____

_____

Signature of Utility Company Representative

Transportation Mgr

Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Fayetteville Water & Sewer Administrator, 575-8387

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

_____

_____

_____

Signature of Utility Company Representative

Water + Sewer Ops Mgr

Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Fayetteville Solid Waste Administrator, 444-3499

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

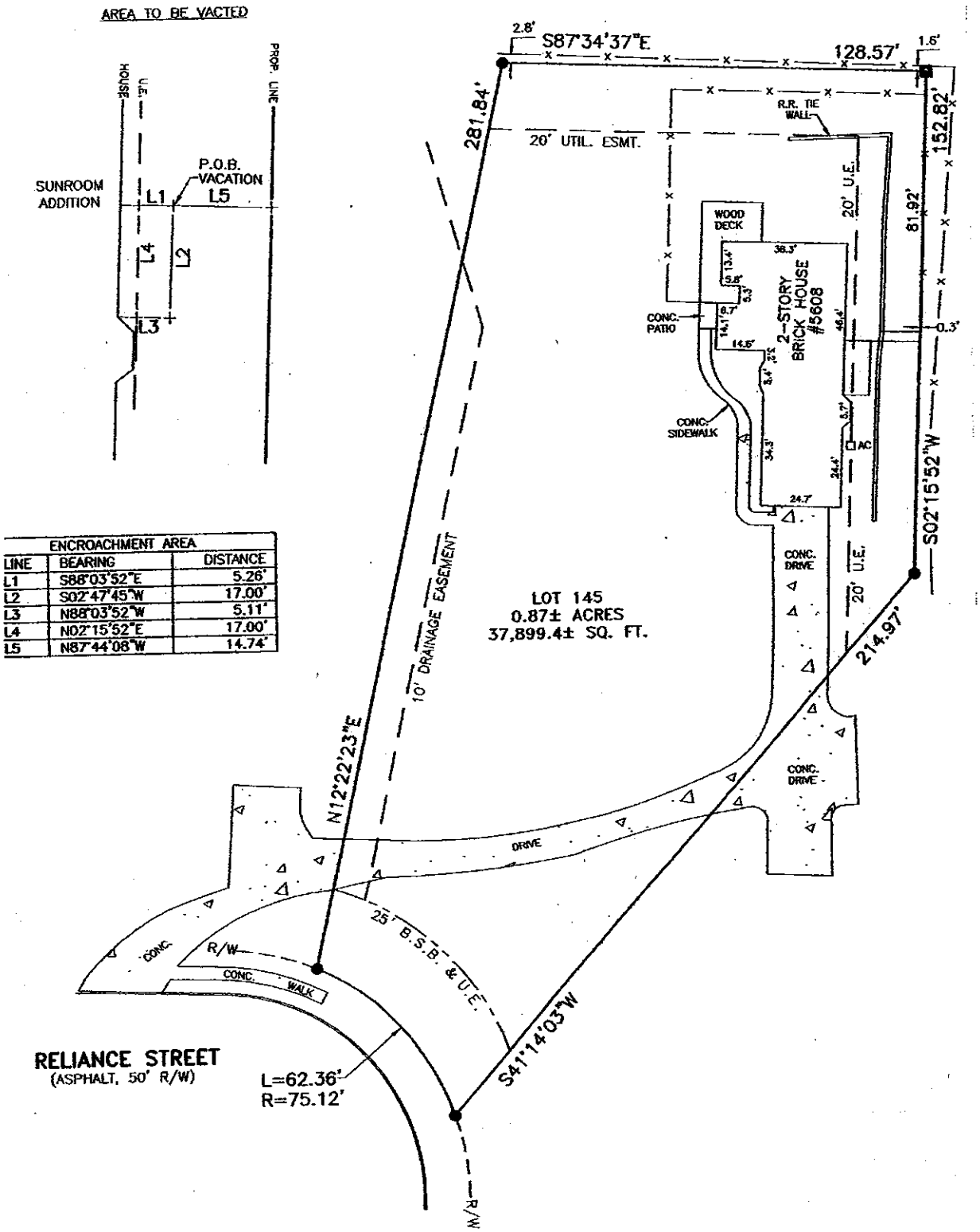
A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Signature of Utility Company Representative

Waste Reduction Coordinator
Title

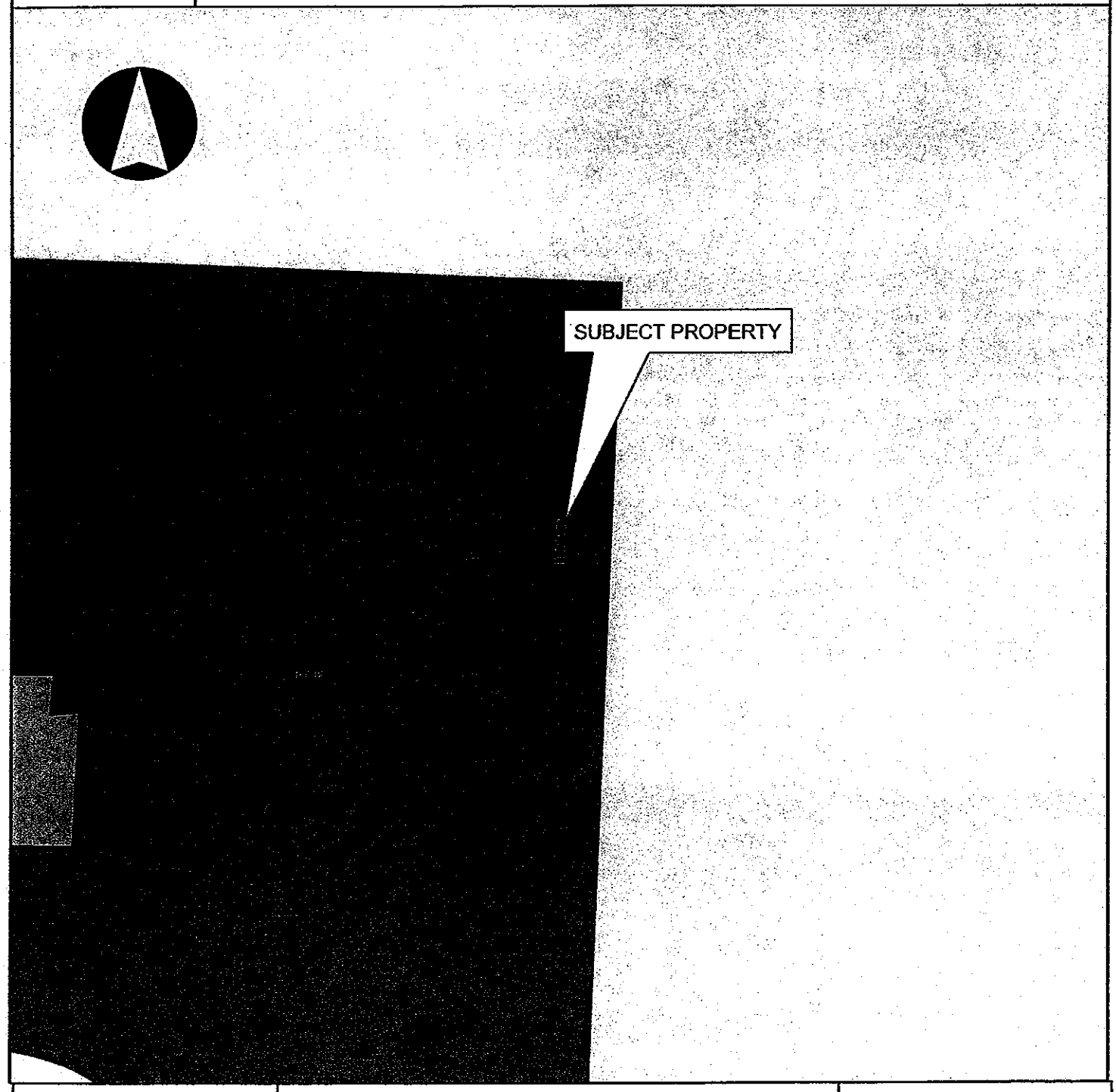


ENCROACHMENT AREA		
LINE	BEARING	DISTANCE
L1	S86°03'52"E	5.26'
L2	S02°47'45"W	17.00'
L3	N88°03'52"W	5.11'
L4	N02°15'52"E	17.00'
L5	N87°44'08"W	14.74'

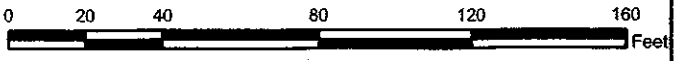
VAC07-2639

Close Up View

FOUR SEASONS SUNROOM/BOSS



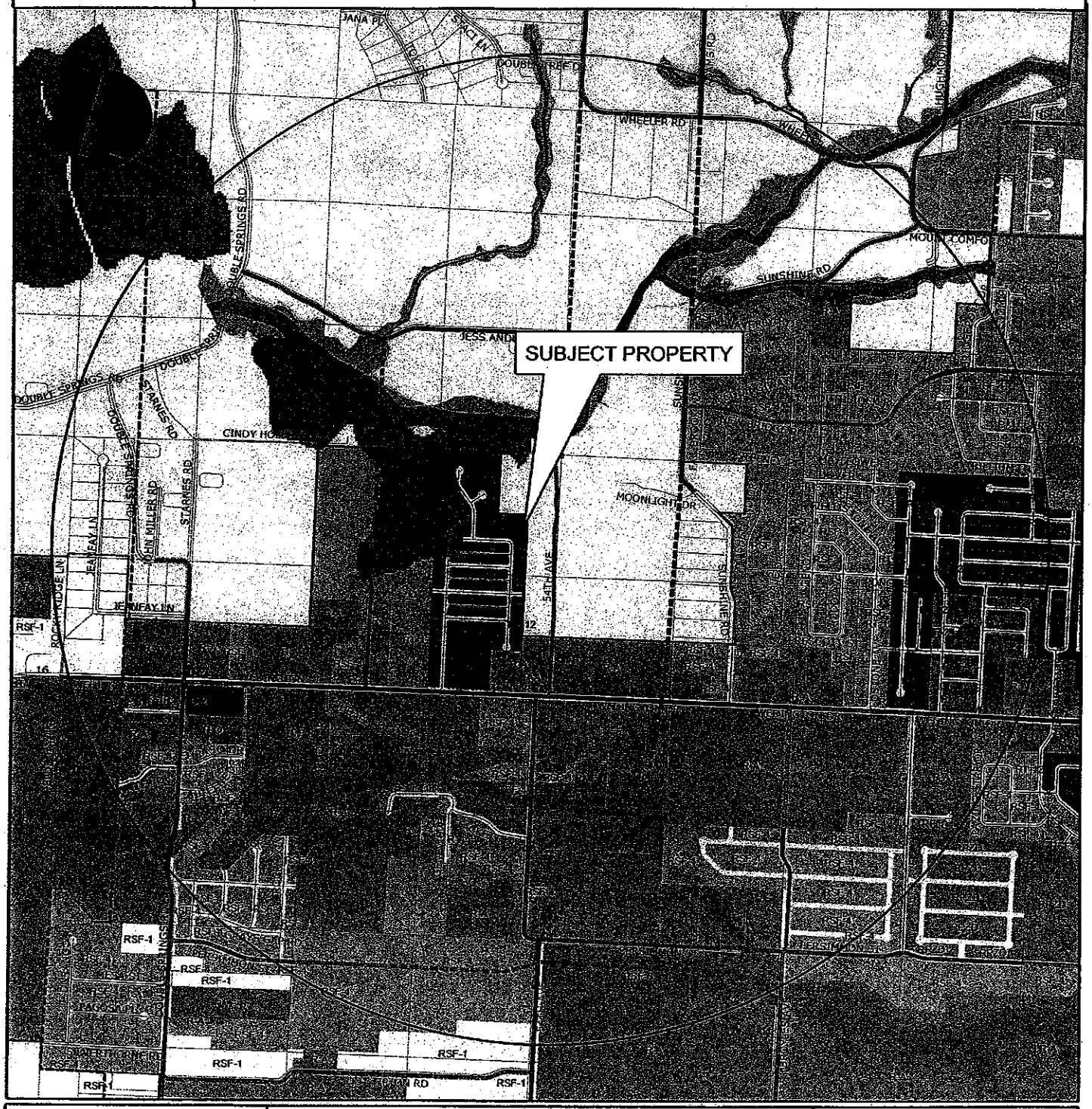
Overview



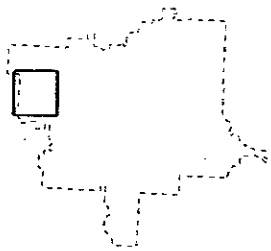
VAC07-2639

One Mile View

FOUR SEASONS SUNROOM/BOSS



Overview



Legend

Subject Property

VAC07-2639

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extension for the Aspen Ridge Planned Zoning District until June 29, 2008.

$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 — Date: 7-23-07

City Attorney — Date: 7-20-07

Finance and Internal Service Director — Date: 7-20-07

Mayor — Date: 7-23-07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 7/20/07

Received in Mayor's Office
ENTERED 7/23/07

Comments:

Town Creek Construction & Development

RE: Aspen Ridge Townhomes

June 28, 200~~6~~ 7

113 W. Mountain
Fayetteville, AR

Dear Mr. Pate,

On December 28th of last year we requested an extension on the requirement for obtaining our building permits at Aspen Ridge. Following this request we completed the installation of the city streets and sidewalks in Phase I of our project. During this period we also have been working to settle the situation with our prior general contractor, who had allowed the project to fall several months behind schedule before their termination. This has unfortunately caused us to be unable to meet our obligation on the building permit extension time.

As you may remember from when we first took this project through city council. We had spent several years purchasing and cleaning up the 29 separate parcels of land that made up this project. This development has helped promote one of the cities top priorities of revitalizing the south Fayetteville area. As Mayor Dan Coody mentioned during our opening ceremony, this project has provided the city with an upgraded sewer system, along with a re-development of the site and the surrounding area.

With the current market conditions and the delay by the prior contractor, we would like to request an extension of 12 months to complete the building permit requirement. The difficulties that have arisen during this process have been reflected in several other projects in town and throughout the nation.

We would again like to thank you for your consideration of this matter and we will be working very hard to resolve the current issues, so we can proceed with this project in a timely manner.

Sincerely,

Hal Forsyth
President
Town Creek Construction & Development, LLC

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 17, 2007

Subject: Aspen Ridge Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordinance repealing and replacing Ordinance No. 4971, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Aspen Ridge R-PZD and extending the expiration date for R-PZD 04-1307 (Aspen Ridge), with the condition that all building permits be obtained by the applicant prior to June 29, 2008 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property contains approximately 27.929 acres, located in south Fayetteville, near the intersection of Hill Avenue and 6th Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 04-1307) on the site on January 18, 2005. The combination zoning and development action allowed for the development of 220 condominium units in two phases, along with dedication of 0.86 acres for parkland and 0.36 acres of land for construction of a public trail through an old railroad corridor. A large tree preservation and deed-restricted wetland area along the floodplain of the on-site creek is also integrated with the project.

The subject Planned Zoning District was approved in January of 2005, prior to the adoption of the current Planned Zoning District Ordinance that allows for larger projects to request a more reasonable period of time in which to obtain building permits. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. The one-year time frame expired in January of 2006; the City Council approved an ordinance permitting an extension of that time frame for all building permits to be obtained by December 31, 2006. In January of 2007 the City Council waived UDC 166.20 to allow for a 180-day extension for building permits to be obtained by June 29, 2007 (Ordinance No. 4971). On June 28, 2007 the applicant submitted a letter to the Planning Division requesting an additional one year extension within which to obtain all building permits, otherwise the project (and PZD zoning) will be null and void.

The applicant has installed a great deal of the required public infrastructure for this project, including most streets, sidewalks, curb and gutter, storm drainage, etc. All of the city streets and sidewalks for Phase I of the project have been installed. However, in order for the applicant to obtain building permits for the project, all public improvements have to be installed or guaranteed. The resulting guarantee in the form of a letter of credit, cash, or bond approaches $500,000. All other requirements to obtain building permits for this project have been met. The applicant has indicated several issues with contractors and current market conditions have created delays in the past year.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately one year to expire on June 29, 2008. All building permits for Aspen Ridge PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4971, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2008.

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4971 that extended the approved plans to June 29, 2007.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2008.

PASSED and **APPROVED** this___day of ___, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

ORDINANCE NO. 4971

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2007

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4848 that extended the approved plans to December 31, 2006.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2007.

PASSED and **APPROVED** this 2nd day of January, 2007.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk/Treasurer

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

Added at Agenda Session 12/28/06

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF January 02, 2007

FROM: Brenda Thiel

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
Aspen Ridge Planned Zoning District – Project Extension
AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE)

APPROVED FOR AGENDA:

Brenda Thiel
Alderman — Date: 12/28/06

Jeremy C. Pate
Jeremy Pate
Director of Current Planning — Date: 12-28-06

CITY COUNCIL APPROVED

DATE: 01.02.07

Town Creek Construction & Development

RE: Aspen Ridge Townhomes

December 28, 2006

113 W. Mountain
Fayetteville, AR

Dear Alderwoman Thiel,

We would like to request an extension on the requirement for obtaining our building permits at our Aspen Ridge Project, located at 6th & Hill Ave in Fayetteville. We are currently completing the sidewalks on Phase I and we are working on the entrance area for Phase II.

The contractor that was formally employed by us has delayed the project. The site work subcontractor and the general contractor was unable to complete the work on time, due to poor performance and other delays from their lack of management on the project. Both of these companies have been terminated and we are currently working with new contractors for the remaining work.

We are requesting an extension of 180 days to complete all of the remaining civil work required. The landscaping around the buildings will be finished as the buildings are completed. We will also pave each of the alleyways as we complete each building section.

We appreciate your consideration in this matter and we are very excited about the future of this project. The continued improvements in the southern corridor of Fayetteville will greatly enhance all of the citizens of this area.

Sincerely,

Hal Forsyth
President
Town Creek Construction & Development, LLC

City Council Meeting of January 02, 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 JP

Date: December 28, 2006

Subject: Aspen Ridge Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordianance repealing and replacing Ordinance No. 4848, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Aspen Ridge R-PZD and extending the expiration date for R-PZD 04-1307 (Aspen Ridge), with the condition that all building permits be obtained by the applicant prior to June 29, 2007 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property contains approximately 27.929 acres, located in south Fayetteville, near the intersection of Hill Avenue and 6th Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 04-1307) on the site on January 18, 2005. The combination zoning and development action allowed for the development of 220 condominium units in two phases, along with dedication of 0.86 acres for parkland and 0.36 acres of land for construction of a public trail through an old railroad corridor. A large tree preservation and deed-restricted wetland area along the floodplain of the on-site creek is also integrated with the project.

The subject Planned Zoning District was approved in January of 2005, prior to the adoption of the current Planned Zoning District Ordinance that allows for larger projects to request a more reasonable period of time in which to obtain building permits. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. The one-year time frame expired in January of 2006; the City Council approved an ordinance permitting an extension of that time frame for all building permits to be obtained by December 31, 2006, thus if all building permits are not obtained by this date, the project (and PZD zoning) will be null and void.

The applicant has installed a great deal of the required public infrastructure for this project, including most streets, sidewalks, curb and gutter, storm drainage, etc. However, in order for the applicant to obtain building permits for the project, all public

improvements have to be installed or guaranteed. The resulting guarantee in the form of a letter of credit, cash, or bond approaches $500,000. All other requirements to obtain building permits for this project have been met. The applicant has indicated several issues with contractors have created delays in the past year.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately 180 days to expire on June 29, 2007. All building permits for Aspen Ridge PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2007.

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4848 that extended the approved plans to December 31, 2006.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2007.

PASSED and **APPROVED** this___day of ___, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

DRAFT

ORDINANCE NO. 4848

AN ORDINANCE TO WAIVE § 166.20 EXPIRATION OF APPROVED PLANS AND PERMITS FOR R-PZD 04-1307 (ASPEN RIDGE)

WHEREAS, after the Aspen Ridge R-PZD was approved the City Council amended §166.20 to allow a greater period of time before an approved PZD must have all building permits issued; and

WHEREAS, Aspen Ridge is such a large R-PZD that construction of the streets, water mains, sewer mains, sidewalks, trail and other infrastructure improvements could not be accomplished so that all building permits could be obtained within one year of approval.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the one year time limitation of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 to obtain all building permits and extends that period to December 31, 2006.

PASSED and **APPROVED** this 21st day of March, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

3/21/06
4848
Waive 166.20/
R-PZD 04-1307

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

21-Mar-06
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extention for the Aspen Ridge Planned Zoning District until December 31, 2006.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	$ - Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 3-2-06 Date

City Attorney 3-6-06

Finance and Internal Service Director 3-6-06 Date

Mayor 3/13/06 Date

Previous Ordinance or Resolution # n/a
Original Contract Date: n/a
Original Contract Number: n/a

Received in City Clerk's Office ENTERED 3/21/06

Received in Mayor's Office ENTERED 3/6/06

Comments:

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

March 2, 2006

Mr. Jeremy Pate
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: PZD Expiration
Aspen Ridge
CTA Job No. 021111-00

Dear Mr. Pate:

On behalf of Mr. Hal Forsyth (a.k.a. Town Creek Construction & Development LLC), we request the city council's consideration to allow the construction of the Aspen Ridge project to continue. The approval for this project was conditioned on the PZD only being valid for one calendar year, and the approval was granted by the city council on January 18, 2005. The city staff approved the infrastructure construction plans on May 2, 2005 and construction proceeded shortly after that. Construction has continued steadily since that time, with the infrastructure on Phase I now nearing completion and work on the Phase II earthwork, drainage, utilities and streets on-going.

As you know, Aspen Ridge is a large and very complex project. Due to the size and complexity, completion of the project within a year of the PZD approval was not possible. Mr. Forsyth intends to obtain building permits for all of the buildings no later than December 31, 2006.

We appreciate your assistance with this project and ask that the city council look favorably on this request. When completed, we believe Aspen Ridge will be one of the premier housing developments in the region, aiding the city in its goal to revitalize south Fayetteville and setting a high standard for quality in the city.

Sincerely,

Crafton, Tull & Associates, Inc.

Matt Crafton, P.E.
Chief Operating Officer

ORDINANCE NO. 4672

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-1307, ASPEN RIDGE LOCATED SOUTH OF 6TH STREET, WEST OF HILL AVENUE, NORTHEAST OF 11TH STREET ALONG TOWN BRANCH CREEK CONTAINING APPROXIMATELY 27.969 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

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-24, Residential Multi Family, 24 units per acre, to R-PZD 04-1307 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on December 13, 2004.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this 18th day of January, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

EXHIBIT "A"
R-PZD 04-1307

PART OF THE SOUTH ½ OF THE SW ¼ OF SECTION 16, AND A PART OF THE NORTH ½ OF THE NW ¼ OF SECTION 21, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING A THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°04'09"E ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21 A DISTANCE OF 5.92 FEET TO THE POINT OF BEGINNING; THENCE S87°04'09"E 418.49 FEET; THENCE S02°49'04"W 514.14 FEET; THENCE N87°04'09"W 424.40 FEET TO A SET ½" REBAR; THENCE S02°49'04"W 204.82 FEET; THENCE SOUTH 87°04'09"E 139.00 FEET; THENCE S02°48'48"W 293.00 FEET TO A SET ½" IRON REBAR; THENCE N87°05'54"W 183.58 FEET TO AN EXISTING IRON; THENCE S02°48'00"W 181.27 FEET; THENCE S8704'02"E 84.31 FEET, THENCE S02°40'05"W 79.86 FEET; THENCE S37°07'40"E 39.06 FEET THENCE S07°40'05"W 15.00 FEET; THENCE N87°18'29"W 65.13 FEET THENCE S02°40'17"W 13.01 FEET; THENCE N87°13'13"W 222.57 FEET; THENCE N02°39'07"E 98.08 FEET; THENCE N87°11'50"W 222.77 FEET; THENCE N87°13'26"W 514.88 FEET TO AN EXISTING IRON ON THE EAST RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD N35°29'31"E 52.81 FEET; THENCE N32°17'21"E 103.24 FEET; THENCE N28°25'22"E 103.51 FEET; THENCE N24°16'00"E 103.08 FEET; THENCE N21°19'30"E 102.24 FEET; THENCE N18°44'44"E 102.31 FEET; THENCE N17°42'23"E 150.90 FEET; THENCE N19°09'44"E 46.21 FEET; THENCE N19°55'12"E 130.59 FEET; THENCE N24°20'10"E 111.27 FEET; THENCE N28°56'24"E 112.03 FEET; THENCE N33°22'01E 78.14 FEET; THENCE N36°27'09"E 61.08 FEET; THENCE N40°40'51"E 107.01 FEET; THENCE S86°14'53"E 62.45 FEET TO AN EXISTING IRON ON A 1381.79 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY AND CURVE 417.54 FEET, THE CHORD FOR WHICH BEING N51°38'45"E 415.96 FEET, TO AN EXISTING ARKANSAS HIGHWAY COMMISSION RIGHT OF WAY MONUMENT ON THE SOUTH LINE OF ARKANSAS HIGHWAY 180 (WEST 6TH STREET); THENCE ALONG THE SOUTH RIGHT OF WAY LINE OF SAID HIGHWAY S87°41'42"E 40.98 FEET TO AN EXISTING AHC MONUMENT; THENCE S87°40'49"E 26.16 FEET TO AN EXISTING AHC MONUMENT; THENCE S88°18'0"E 3.15 FEET; THENCE LEAVING SAID RIGHT OF WAY S01°44'50"W 153.30 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 315.50 FEET AND A DISTANCE OF 81.06 FEET; THENCE S16°28'1"W 8.54 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 215.50 FEET A DISTANCE OF 40.68 FEET TO THE POINT OF BEGINNING, CONTAINING 27.969 ACRES, MORE OR LESS, FAYETTEVILLE, ARKANSAS. THE ABOVE DESCRIBED 27.969 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF DUNCAN AVENUE, ANDERSON PLACE, HILL AVENUE AND ALL EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
January 18, 2005

A meeting of the Fayetteville City Council was held on January 18, 2005 at 6:00 p.m. 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 Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

State of the City Address:

Mayor Dan Coody gave the State of the City Address. A copy of the address is attached.

Election of the Vice Mayor:

Alderman Lucas moved to appoint Alderman Jordan to serve as Vice Mayor. Alderman Marr seconded the motion. Upon roll call the City Council unanimously voted for Alderman Jordan to become Vice Mayor.

Board Appointments by the Fayetteville Housing Authority Board: Robin Ross & Deborah Olsen:

Alderman Marr moved to approve the Housing Authority Board appointments. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the Minutes: Approval of the December 7, 2004, December 28, 2004, January 4, 2005, and January 6, 2005 City Council meeting minutes.

The January 4, 2005 and the January 6, 2005 meeting minutes were pulled from the agenda.

ESRI, Inc. Annual Maintenance Agreement: A resolution approving the annual maintenance agreement in the amount of $28,124.72 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 09-05 as Recorded in the Office of the City Clerk.

Hansen Technology, Inc. Purchase Request: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of $55,086.88 for 2005 service and maintenance fees.

Resolution 10-05 as Recorded in the Office of the City Clerk.

Pumping Unit Purchase: A resolution approving the purchase of one (1) portable, hydraulic-powered centrifugal pumping unit from Thompson Pump and Manufacturing Co., Inc. in the amount of $24,431.50.

Resolution 11-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Wedington Drive): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $54,000.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Wedington Drive.

Resolution 12-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Razorback Road): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $22,800.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Razorback Road.

Resolution 13-05 as Recorded in the Office of the City Clerk.

Police Vehicle Purchase: A resolution authorizing the purchase of thirteen (13) Ford Crown Victoria Police Interceptors from the North Point Ford of Little Rock at a total cost of $261,989.00.

Resolution 14-05 as Recorded in the Office of the City Clerk.

Insituform Technologies, Inc. Contract Renewal: A resolution approving a contract renewal with Insituform Technologies, Inc.; and authorizing the expenditure of an amount not to exceed $338,250.00 for sanitary sewer lining services.

Resolution 15-05 as Recorded in the Office of the City Clerk.

South Fayetteville Community Development Corporation Fee Waiver: A resolution to waive the building permit fee and other developmental fees for homes to be constructed by the South Fayetteville Community Development Corporation.

Resolution 16-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the January 4 and January 6 meeting minutes removed. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

RZN 04-1330 (Dunnerstock): An ordinance rezoning that property described in Rezoning Petition RZN 04-1330 for property located on the west side of Rupple Road containing approximately 19.84 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

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

Mr. Williams read the ordinance.

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

Ordinance 4671 as Recorded in the Office of the City Clerk.

R-PZD 04-1307 (Aspen Ridge): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1307, Aspen Ridge located south of 6th Street, west of Hill Avenue, northeast of 11th Street along Town Branch Creek containing approximately 27.969 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and Development Plan as approved by the Planning Commission. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

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

Mr. Williams read the ordinance.

Alderman Cook stated he would have to recuse from this vote.

Alderman Thiel: I would like to compliment Mr. Broyles, the owners and the other developers of this project. They have gone out of their way; I think Mr. Broyles has inparticularity, visiting with the neighborhood and addressing the impact of the stream. They have also worked with the Audubon representatives on ways they can protect and enhance the water way. I have had and the neighborhood has had a lot of concerns about potential flooding at this project. The more I have visited with Mr. Broyles and looked at this project, we have to depend upon the engineers that they will design this properly. The city has a good staff of engineers that will oversee this project. They have to guarantee that they will not increase the problem; they can't guarantee that they will make it better but they have to guarantee that their project will not increase it. One thing that has been pointed out is that the water way will probably, through this project, stay much cleaner than it has over the past few years. Some of the debris and so forth that gets in this water way contributes to some of the flooding downstream. I think that in itself is valuable that the stream will be kept cleaner. I at this point will probably support this project. I think it will certainly enhance that neighborhood. I am really glad that most of the project is going to be owner occupied; I think that complements that neighborhood.

Mitch Woody: I am all for this project. Most of the residents that live around there feel like it is a lot better to have beautiful town homes than to have what was there before. The Planning Commission, Mayor and city officials have done a lot of hard work to make this project go through. As a former real estate broker from Texas I can appreciate that hard work.

He handed out a packet to the City Council that showed the extension of Brooks Avenue from Phase 2 of Aspen Subdivision. It shows that Brooks Avenue will be built and tie in with Twelfth Street. He said there are 12 families living on Twelfth Street and that they are very happy with the way it is now but progress has to go on. It is a dead end street right now. He is concerned with the possibility of in the future extending Brooks Street all the way to Fifteen Street. Originally when the subdivision was platted to show the street, Brooks Avenue was going all the way to Fifteenth Street, it was vacated back to the property owner in 1993. He said as it stands right now the only options that we have would be to tie it in with Twelfth Street which wouldn't be that bad.

Mr. Woody explained the map that he presented to the City Council and the different routes around this area. He also discussed the traffic study that was completed in this area. He stated he did not feel the numbers were accurate. He stated the engineers are from Little Rock and it is difficult for them to tell what the traffic flow actually is. He stated he is concerned about their numbers.

I am not here to try to put a halt to this. I believe the project should go through rapidly. I just wanted to let everyone know how we feel around the neighborhood. Mayor Coody indicated

today that Mr. Dumas and Mr. Pate were going to try to put together a package for the Mayor so the Mayor could contact Pinnacle at some future date and see if they wouldn't agree to donate a strip of land through there for the street. Of course we couldn't ask the developer to come back and put a street in after everything is already done. Mr. Dumas suggested that the City might later put in a street through a street improvement project. It is really needed. I would like to thank the Mayor for working with us and talking to Pinnacle.

Mayor Coody: I did hear from Pinnacle this afternoon and they said the immediate answer was no but they were going to kick it up the chain of command.

Mitch Woody: Whatever you can do in the future. I would hope that the City Council would agree that that street is needed. Thank you so much. I know it is a lot of hard work and this is a great project.

Aubrey Sheppard a resident of the neighborhood: I agree with most everything everybody said. I was asked the last time I was here who has problems with this. I said a lot of people feel that if they take the trouble to come down they do not think they will be listened to. That is a fact. I talked to one lady and she stated if she comes here and tells people how close that water came to her house three different times last year and she decides to move and sell, she might not be able to sell her home because the water goes almost out to the street without getting in her house. Just a little bit of change in the floodplain up stream could make that difference that is something hard to guarantee. It is close to being dangerous anytime you live in a floodplain or very near one. When these houses were built it wasn't a dangerous situation because we didn't have all the paving on the University campus or a lot of things built up there. Each project that is done from now on and as it has been for years will increase, as it has, the potential of flooding downstream. That is why we spoke with Mr. Broyles many times and with this Council about the significance of being sure that we don't increase it at all if possible. We can't keep a 10 inch rain from coming and we can't guarantee it won't get up a little higher than it ever has even now. It is sort of like the global warming argument even if mankind's acts are not causing it then maybe we still need to be sure that what we do choose to do doesn't aggravate it, if it is occurring naturally. We know it is occurring for come reason.

He showed the Council some photographs of the property and the water that floods the property.

Alderman Rhoads: Are these the same photographs that are on your website?

Aubrey Sheppard: One of these is on the website the other one isn't.

Alderman Rhoads: Mr. Sheppard are you contending that you are very certain that because of this development that all these things are going to happen. That people's homes are going to be flooded or that it is just a possibility.

Aubrey Sheppard: Three times last year the water got very near property.

Alderman Rhoads: Are you contenting it is just a possibility or are you fairly certain that it is going to happen?

Aubrey Sheppard: Well, I don't make it rain so I am not going to make it happen but rain comes and if it should come as it did three times last year and get out of the banks then it's basically a slew parallel to the town branch.

Alderman Rhoads: Have you talked to the developers about this issue?

Aubrey Shepperd: Sure. We talked about it first last April as I recall.

Alderman Rhoads: What did they say?

Aubrey Shepperd: They are hoping their engineers get it right so that it can't happen. What I was pointing out, that I am not sure the engineers concluded, was that the over flow when the creek gets up as it did last year, then the water gets out there. If that doesn't occur, water goes down stream faster.

Mayor Coody: Mr. Shepperd what is your recommendation to the City Council? Are you asking the Council to deny the development?

Aubrey Shepperd: Not at all. I am not sure I am doing anything but maybe talking about the future. When you look at developments and when your engineers get plans in, in a water shed area that may not be identified on a map as an over flow or flood plain area it may not say wet land. The Corp of Engineers and the Department of Environmental Quality get their information from what the engineers give them from the site. I think they are hoping that it will not cause any problems. I don't think that they would willingly create that problem. I would ask them to adjust those plans a little bit to see that as much of the flood plain is there to allow the water to flow as it does now. That could possibility help the situation.

Mayor Coody: I know this development has been in the works for about two years and they have done a lot of changing to the plans. They have worked with our storm water engineers and the neighborhood extensively to make something that would be palatable to pretty much everyone.

Aubrey Shepperd: Some of us in the neighborhood have tried to be available every chance we had to visit with them and look at things with them and they have been very good about that, this is not a complaint about that at all. Planning Commission when this was finally announced put one sign on Sixth Street, that didn't show the people that there was development coming anywhere else down the street or anywhere connected to it. So, people didn't know they should come to comment except when they were told it would affect them. There was one story in one of the newspapers that actually mentioned the limits of this development site. I would say we need to notify more people not just adjacent property owners. Thank you.

Mary Bassett, owner of Bassett Mix Real Estate Company stated she appreciated the opportunity to speak. She said she is very familiar with this property and what it looked like before the developers bought it. She stated none of this property was listed. She represented the developers in acquiring it; they went to each tract of land individually and approached them about selling their property. The majority of them got more financial gain by these developers.

buying their property. They gave more than the appraised value for many of these properties to accumulate the property to make it a whole 30 acres that they could develop in a feasible way and to help in the redefining of south Fayetteville. She stated it is going to be a beautiful project and she is very proud to represent them.

Melissa Terry with Audubon Arkansas: The developers have been very good about working with us. Audubon has tried to be a third party to help broker some of this discussion. I think a lot of the tension that has come up is a natural consequence of some of these downtown areas getting infilled. The reason they weren't in the first place is because they were problematic environmentally. Audubon has over the past year and a half worked with the developer and the neighborhood association. We have invested approximately $200,000 in grant funds along this drainage. We see this as an investment in green infrastructure, a piece of infrastructure that's just as important as the city sewer or cable. This infrastructure has vital long term economic consequences for our community. We will do everything we can to keep working with the parties and I ask for your support as we go along.

Alderman Lucas: You had originally recommended 28 feet for that street with the idea that it would be going on to Fifteenth. Should we go back to 28 feet, does that allow a turn lane or why were you recommending 28 feet?

Jeremy Pate: The initial recommendation for 28 feet would allow on street parking. We were looking initially at the number of traffic that would be generated and the potential for it to get to Fifteenth Street. That would probably become much more of a through connection south to Fifteenth Street. The Planning Commission voted to recommend that go to 24 feet; it is just connecting to Twelfth. As the traffic study indicates only about 4% of the traffic will leave Phase 2 along Brooks and then Twelfth Street to go south. I feel comfortable recommending the 24 foot wide street as the Planning Commission has also indicated.

Alderman Lucas: Does that allow a turn lane later?

Jeremy Pate: It does not.

Larry Smith voiced his concern about the traffic.

Alderman Thiel: We should be very cautious whenever we vacate streets and alleys. This is a good example of no one foreseeing this project. I hope everyone understands that this is not something that we can do without condemning that property and paying money for it. I hope everyone understands that our hands are kind of tied in trying to make this extension.

Alderman Reynolds: Brenda and I have spent a lot of time in this area, we have done a lot of extra clean ups, we have taken tons of trash out of this area. When I heard Mr. Broyles was going to come in and take out these eyesores, which was the worst nightmare this city has ever had, those two parks, I thought it was a blessing for us and for our neighborhoods. For him to take on a project this size, you are not always lucky enough to get a home town guy to do a job like this. I know he is going to do a good job and he is going to do it right. I am going to support the project and I hope the neighbors do too at this point.

Alderman Marr: I want to thank the Audubon, the neighborhood association and the developer for working together because I do believe we need to push infill development in our city. I think it keeps us from annexing and putting in infrastructure outside of the core that cost us a lot more than continuing to invest in areas that are already there. I do realize we are going to have some difficult situations in doing that. I think it takes creativity to get through that, I appreciate the people who have done that. I am thrilled that we are having an infill project in south Fayetteville.

Alderman Jordan: I want to be sure that a 24 foot wide street is going to work. I am a big proponent of planning and what might occur. In your expert opinion we do not need a 28 foot street?

Jeremy Pate: A 28 foot wide street is considered a local street it handles 3,000 to 5,000 vehicle trips per day. That is not something we anticipate in this area. The 24 foot wide street in our Master Street Plan is considered a residential street and is probably more appropriate in this area. Most of the streets are actually a little wider and Twelfth Street is approximately 31 feet wide. It was developed like that to meet our ordinances in the past. The amount of traffic will probably never get to that point. We feel it is an adequate number at this point. It will allow for on street parking. Many of the streets downtown that handle much the same amount of traffic are the same width or narrower.

Alderman Lucas: If we do get the street through to Fifteenth Street will there be room for a turn lane?

Jeremy Pate: Yes that could be accommodated.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook recused.

Ordinance 4672 as Recorded in the Office of the City Clerk.

Downtown Master Plan Redevelopment District Number Two Adoption: An ordinance forming the Downtown Master Plan Redevelopment District Number Two pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. ***This ordinance was left on the first reading at the January 4, 2005 City Council Meeting.***

Mayor Coody: I suspect this will be tabled at this meeting?

Kit Williams: Mr. Mayor I think you are correct on that, at this point until we have some resolution from the legislative or more likely from the courts I think that the TIF Districts, all of them in the State are kind of up in the air. My recommendation would be that you simply move to table this district indefinitely and then if something changes in the future we can bring it back.

Fayetteville
ARKANSAS

PC Meeting of December 13, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Senior Planner
	Brent O'Neal, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	~~December 08, 2004~~ *Revised 12-16-04*

R-PZD 04-1307: Planned Zoning District (ASPEN RIDGE, 522/561): Submitted by MATT CRAFTON CRAFTON, TULL & ASSOC. for property located at THE SW CORNER OF HWY 62, S ON HILL AVENUE AND BORDERED BY 11TH STREET AND THE BURLINGTON NORTHERN RR. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 27.969 acres. The request is to approve a Residential Planned Zoning District with 220 condominiums in two phases proposed.

Property Owner: HANK BROYLES Planner: JEREMY PATE

PLANNING COMMISSION ACTION:	Required YES	
Date: December 13, 2004	☑ Approved 8-0-0	☐ Denied
CITY COUNCIL ACTION:	Required YES	
Date: January 04, 2005 (1st reading if recommended)	☐ Approved	☐ Denied

Findings:

Property Description: The property consists of a total of 27.969 acres located in south Fayetteville, south of Hwy 62 (6th Street), west of Hill Avenue, east of the Railroad, along Town Branch Creek. The property previously was inhabited by a mobile home park, which was recently removed by the applicant. Several tons of trash, debris, tires, etc. were separated and removed from this property, beginning the cleaning up process. A total of 49 mobile homes and 6 single family homes were removed in an effort to combine the property for development. The applicant has contributed much time and money in an effort to clean this particular site, which is not readily recognized in the development review process. Approximately half of the site is underneath tree canopy, the majority of which is located along College Branch Creek, a stream

that bisects the site north and south. This stream, and associated runoff from surrounding development, has been the source of many neighborhood concerns in past years, due to high water, flooding and debris being washed into and down the creek during heavy rainfalls. There are existing wetlands in the area, as well, much of which the developer is proposing to retain or enhance.

Existing Development: The site is currently vacant, with remnants of the previous mobile home park development evident.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Hwy 62 – 6th Street, busy arterial	RMF-24, C-2
South	Pinnacle Foods, Single Family homes, approved MF development	I-2, RMF-24
East	SF homes, Coors, Brenda's Burgers	RMF-24, I-1
West	Burlington-Northern Railroad	RMF-24

Proposal: The applicant requests a rezoning and large scale development approval for a residential development within a unique R-PZD zoning district. The proposed use of the site is for a condominium-style development consisting of 220 attached residential dwelling units. Two separate phases are identified. Phase I consists of 113 units on the east side of College Branch Creek, and Phase II consists of 107 units on the west side of the creek. A future Phase III consisting of mixed-use office/retail/commercial is indicated on the site plans at the corner of 6th Street and Hill Avenue, but is not the subject of this request.

Process: Currently, the project proposal is submitted as one large tract of land, consisting of 27.969 acres. There are several independent parcels that create this tract, all of which are being combined into one for the purposes of development. Plans consist of all proposed buildings, parking, driveways, public and private streets, landscaping, tree preservation and mitigation, wetland mitigation, parkland dedication, trail construction, public utility extensions, etc., typically reviewed with a Large Scale Development. The developer intends to construct the project much as a typical multi-family development, with all structures, public infrastructure and utilities being constructed simultaneously. Though the process by which the request is being reviewed is a Large Scale Development consisting of 220 *condominiums*, the intent is to sell each of the 220 *townhomes* as a single-family residence and plat each townhome as a separate lot once the infrastructure has been constructed and the exact locations of the buildings are set in the field.

To clarify, a condominium and townhome are distinct from one another: **Condo unit owners own the inside of their units. Townhouse owners own the complete unit, including exterior surfaces and the land on which the unit is built.**

Condominium: a multiple-unit complex, the units of which are individually owned, with each owner receiving a deed to the unit purchased . . . and sharing in joint ownership of any common grounds, passageways, etc. (through an established POA/HOA) *(paraphrased from Webster's*

College Dictionary, 1991).This type of dwelling unit typically does not have land attached to its deed, it is merely the unit alone, inside the walls of the structure.

Townhome: a row house on a small lot, which has exterior limits common to other similar units. Title to the unit and its lot is vested in the individual owner with a fractional interest in common areas, if any. *(Source: mortgagewarehousemb.com)* A **townhouse** is a home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own (if you don't own the land, it is a **condominium**).

In order to plat individual lots for the townhomes in the future, an amended Planned Zoning District plat will have to be processed and approved by the Planning Commission and City Council, at that time. This will likely take the form of a Concurrent Plat, if it meets the appropriate criteria. Otherwise, a Preliminary and Final Plat process will be required.

Proposed Land Uses:

- Use Unit 1: City-wide Uses by Right
- Use Unit 8: Single Family Dwellings
- Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

The total proposed number dwelling units on the 27.969-acre site is 220, therefore the proposed density for the R-PZD is **7.87 DU/acre.** The project site is currently zoned RMF-24, allowing for a much higher density of development as a traditional multi-family complex. The potential for a townhouse-style division of land, the inclusion of the public trail system, a public park, a large Tree Preservation and riparian corridor protection area, the challenges presented by existing natural conditions (drainage, slope and railway); all of these contribute to the need to process a Planned Zoning District in order for the best project to result for both the applicant and the city.

Building Setbacks: Building setbacks are proposed as indicated on the plat. Most setbacks are 8' or 10', with an exception at the 6th Street frontage (20 feet) and Duncan/11th Street frontage (25 feet).

Building Height: Maximum building height shall be 40 feet.

Greenspace: 51.6% Impervious (greenspace), 48.4% pervious (streets, buildings, trail, parking)

Wetlands: A small percentage of wetlands on the property are being filled and mitigated for in the riparian corridor along Town Branch Creek. As part of the Corps of Engineers permit to do so, a buffer area is to be deed-restricted for protection from future development. A portion of this area will also serve as the Tree Preservation and mitigation area.

Water & Sewer: Water and sewer lines are being extended to serve the development. The applicant is extending public lines to service each unit individually, in order to legally subdivide the property in the future.

Access: Access is from several streets in the area:

North: 6th Street (one-way entrance and exit, with a right-turn only allowed when exiting)

South: Phase I has no access across the creek.

Phase II : 11th and Duncan

: Brooks Avenue and 12th Street. This separate access point is recommended to provide a safe means of access into Phase II and alleviate potential congestion at the intersection of 11th and Duncan.

East: Phase I access east to Hill Avenue.

Phase II access south and east onto Duncan/11th/12th Streets.

West: No access is available over the railroad.

The ingress/egress to the proposed 113 units in Phase I is from 6th Street and Hill Avenue. Based on a traffic study prepared for this project, a turn lane and widening of the intersection is warranted at Hill and 6th Street due to the increase in number of vehicle trips per day, and plans by the developer have been prepared accordingly. Ingress and egress to Phase II is more difficult, due to the lack of frontage for this particular parcel. Staff has recommended, and the developer consented, to constructing an additional means of access within platted right-of-way known as Brooks Avenue, to connect to the portion of 12th Street that is constructed. The other entrance to this phase is at the corner of 11th and Duncan, which has been reviewed and determined to be satisfactory by the Engineering Division.

Interior to the project, public streets are being provided within a varying right-of-way, with sidewalks on both sides in most cases. Staff recommends that where possible, the sidewalk be located at the right-of-way line, with a minimum distance of six feet from the curb, to meet Master Street Plan requirements.

Adjacent Master Street Plan Streets: 6th Street (Principal Arterial), Hill Avenue, 11th Street, Duncan Avenue (Historic Collector)

Street Improvements: Staff recommends street improvements to surrounding streets to bring them to a safe and adequate level of service for the additional units proposed in this area. A significant number of units are being added to this area, and much of the property being developed has no direct frontage onto adjacent right-of-way. The following are staff's street improvement recommendations for the developer to meet ordinance requirements for this development's proportionate share:

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this stretch of street.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing

signal system. (Recommended in traffic study)

- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. The Master Street Plan calls for a 28-foot wide street in this location, based on the platted right-of-way and number of vehicle trips per day to be generated. The applicant disagrees with this recommendation, stating the Traffic Study indicates only 4% of all traffic from Phase II will utilize Brooks Avenue. Based on this same report, the following is applicable:
    - Phase II will generate approximately 627 vehicle trips per day.
    - Figure 3 of the Traffic Report indicates slightly more vehicles will travel south from Phase II than north (358 vs. 303) in a 24 hour period.

A 24-foot wide Residential Street is designed to serve a range of 300-500 vehicles per day, maximum. Should ½ of the traffic within Phase II of the development travel south, many of them will utilize the Brooks Avenue access. Typical traffic calculations by the City of Fayetteville, when two access points are provided, are based on ½ of the traffic potentially traveling in either direction. This would result in approximately 313 vehicles trips per day accessing the Brooks Avenue access. Additionally, the street to be constructed to provide the only secondary means of access to this site also fronts onto other properties that are vacant and have the potential to develop in the future, thereby increasing their volume. A Local Street, by contrast, is developed with a 28-foot width and can support up to 4,000 vehicles per day, per the Master Street Plan. Staff recommends a 28-foot wide street be constructed, to transition to the existing 31-foot wide 12th Street. This is based on providing a safe and adequate means of access to the proposed development, planning for this development along with potential other developments in the area that may access the street, and Master Street Plan requirements.

Tree Preservation:	Existing:	52.5%
	Preserved:	15.1%
	Mitigation:	On-site mitigation, to 25% minimum

Parks: The Parks and Recreation board recommends a combination of money, land and services to meet park land dedication requirements. This will include 0.36 acres of land on which a 12-foot public trail is to be constructed by the developer, per the City of Fayetteville specifications. In addition, approximately 0.86 acres of land on the southern edge of the property is to be dedicated as a public park. *Credit will be applied to the developer to account for 55 existing inhabited homes that were removed from the property.* If remaining fees are due above and beyond the requirements herein, they will be applied to amenities for the park.

Temporary Office Space: The applicant proposes to operate one (1) temporary office within the development specifically for the purpose of selling townhomes for Aspen Ridge. One of the constructed units in the Phase I area will be used as the location of the sales office, with office hours of Monday through Friday, 8 am to 8 pm, Saturday and Sunday 10:00 am to 6:00 pm.

Once all of the units in the development are sold, the sales office will be closed and sold as a single-family residence.

Neighborhood Involvement: The applicant has met several times with adjoining property owners and neighbors on Duncan, both in groups and individually. Much concern has been voiced regarding the drainage and flooding problems associated with the Town Branch Creek. Many of the homes that are adjacent to this creek are within the 100-year floodplain or floodway. The developer has been involved with his engineers from the beginning of the process to best address these concerns, and others voiced by the neighborhood. Though not all are pleased with all aspects of the proposal, staff has received numerous calls from residents in this area pleased with the clean-up effort, removal of the mobile home park and the efforts to better the drainage situation, along with the proposal for single family attached units, rather than typical multi-family units that are allowed by right on the property.

A draft of the future plat of lots, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report.

Recommendation: Staff recommends the Planning Commission forward **R-PZD 04-1307** to the City Council with a recommendation of approval for the requested rezoning and associated development plans, with the following conditions of approval:

Conditions of Approval:

1. Allowed uses in this R-PZD shall be restricted to Use Unit 1: City-wide Uses by Right, Use Unit 8: Single Family Dwellings and Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

2. Planning Commission recommendation for future vacation of portions of existing Duncan Avenue and Anderson Place rights-of-way to facilitate the proposed development. *Staff recommends approval of the vacation of these platted rights-of-way, due to the changes in circulation proposed with the submitted site plans. The connection these two streets make will be in an improved configuration, with a boulevard section that enters into this neighborhood.* PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED FUTURE VACATIONS.

3. No structure shall be permitted that falls into existing platted right-of-way. Formal vacation requests for Duncan Avenue and Anderson Place shall be submitted prior to permitting of affected buildings.

4. Planning Commission determination of the applicant's request for a temporary sales office. *Staff recommends approval, with the following conditions: One (1) dwelling unit shall be permitted to house a temporary sales office for the sole purpose of selling dwelling units within the Aspen Ridge Planned Zoning District. The sales office shall appear in all manners as a dwelling unit, and shall cease operation and revert to its intended use as a single family residence once the remaining units have been sold.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE REQUESTED OFFICE.

5. Planning Commission determination of appropriate off-site street improvements. *Staff recommends the following improvements for this development:*

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this street being utilized for primary ingress and egress, to the satisfaction of the Engineering Division.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing signal system. (Recommended in traffic study)
- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; *The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. Staff recommends a 28-foot street to meet Master Street Plan requirements for the vehicle trips per day generated by this development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS, WITH A 24-FOOT WIDE STREET FOR BROOKS AVENUE.

6. Atypical interior street widths, sidewalk location, etc. shall be reviewed and approved by the Engineering Division at the time of more detailed construction plan review, to ensure emergency service vehicles, public service providers, solid waste, etc. is able to access the proposed development.

7. A combination of land, money and services shall be contributed by the developer to meet parkland dedication requirements, including 0.36 acres for a public trail, construction of said 12-foot wide trail, 0.86 acres land dedication for a park and all remaining fees due in excess of the above requirements for 220 units to be utilized for park amenities. ***Credit in the amount of $30,525 (55 units * $555/unit) will be applied to the developer to account for 55 existing homes that were removed from the property prior to development.*** All fees and deeds for land shall be submitted prior to building permit.

8. The developer shall mitigate for the removal of 115,440 sf of tree canopy to meet Tree

Preservation ordinance requirements. On-site mitigation shall consist of a minimum of 420 trees. If all trees can not be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Landscape Administrator.

9. Specific location of the on-site mitigation trees shall be coordinated with the Landscape Administrator for approval. Several sites exist on the property where mitigation trees could benefit the overall development and enhance the creek corridor, currently not indicated on the plans.

10. The property line adjustments to create the described 27.969-acre parcel shall be processed, approved and recorded prior to this item appearing before the City Council for consideration.

11. Staff recommends a second pedestrian path be constructed from approximately between buildings 35 and 36 in Phase II to connect to the public trail through an existing creek crossing (see plat). A hard-surface (concrete or asphalt) path is desired. However, at minimum, the path shall be constructed of a 4" minimum depth shredded mulch (or equal) with appropriate edging on both sides. Trail slope, width, location through existing tree canopy and specifications shall be approved by the City prior to construction.

12. Signage for the development shall be limited to one (1) monument sign at each of the three primary entrances to the development. Sign size, location, height, etc. shall be limited to the monument sign restrictions in an RMF zoning district, per city code. (Maximum 16 square feet display surface area, six feet in height, 10 feet from the property line).

13. All dumpsters shall be enclosed on a minimum of three sides with access not visible from the street. Landscape screening as shown shall be required.

14. No structures shall be constructed over public utility easements, per city ordinance (including, but not limited to, trash enclosures).

15. Should the applicant desire to subdivide the land to create townhomes, an amended Planned Zoning District will be required. The development review process will likely be a Concurrent Plat, if all criteria are met. If not, a standard Preliminary and Final Plat will be required to subdivide the property.

16. All comments as itemized in the attached memo from the City Floodplain Administrator shall be addressed at the appropriate time and are considered, by reference, a part of the official Conditions of Approval (see attached).

17. The maximum separation for fire hydrants shall be 500 feet in distance.

18. Entrances into the subject property shall utilize a minimum width of 20 feet clear, to allow for the passage of emergency vehicles.

19. Maximum spacing for public street lights shall be 300 feet, along the proposed and existing public streets.

Standard Conditions of Approval:

20. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

21. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

22. Planned Zoning District approval shall be valid for one calendar year, per city ordinance.

23. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

24. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: yes **Required**

Date: December 13, 2004 — √ **Approved** ____ **Denied**

8-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____ **Date** _____

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City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Tim Conklin	Planning and Development	Operations
Submitted By	**Division**	**Department**

Action Required:

An ordinance amending Title XV: Unified Development Code of The Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

	$ -	
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 — 7-23-07 Date

City Attorney — 7-23-07 Date

Paul A. Beck — 7-23-07
Finance and Internal Service Director — Date

Mayor — 7/23/07 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/20/07

Received in Mayor's Office — ENTERED 7/23/07 BEP

Comments:

City Council Meeting of August 7, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: July 20, 2007

Subject: **An ordinance amending Title XV: Unified Development Code of The Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.**

RECOMMENDATION

The Ordinance Review Committee voted to send the proposed ordinance without a recommendation to the full Council to amend the Unified Development Code to reduce the required curb radius and driveway widths for parking lots containing 8 or fewer parking spaces and regulating parking in the front yard area of a residential dwelling.

BACKGROUND

Existing UDC regulations concerning driveway curb radius and driveway widths are primarily designed to facilitate unrestricted traffic movements into parking areas without regard to the size of the parking lot or the amount of traffic volume likely to be generated by the development. Planning Staff has determined that this requirement in some instances is unnecessary and counterproductive to creating compact, complete and connected development patterns and locating parking behind existing buildings. Staff has drafted amendments that would create new standards for parking lots with 8 or less off-street parking spaces.

The City also receives numerous complaints related to the parking of several vehicles in the front yards of residences. Planning Staff proposes adding a new section to Chapter 172: Parking and Loading to regulate the number (4 spaces maximum) and location of vehicles parking in the front yard area of residential dwellings.

BUDGET IMPACT

None

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 171: STREETS AND SIDEWALKS AND CHAPTER 172: PARKING AND LOADING IN ORDER TO REDUCE THE REQUIRED DRIVEWAY WIDTHS AND REGULATE PARKING IN THE FRONT YARD AREA OF RESIDENTIAL DWELLING UNITS.

WHEREAS, the City of Fayetteville recognizes that currently required driveway widths are often excessive, especially in areas of the City with compact and connected development patterns; and

WHEREAS, the City of Fayetteville has determined that the public safety will not be adversely impacted by reducing the required width of driveways serving small parking lots with low traffic volume; and

WHEREAS, the City of Fayetteville has determined that when public service vehicles do not need access to small parking lots, reduced driveway widths can accommodate typical vehicular traffic; and

WHEREAS, City Plan 2025 encourages complete, compact and connected development patterns; and

WHEREAS, narrow pavement width reduces impervious surface and storm water run-off, which is environmentally sensitive; and

WHEREAS, parking in the front yard area of residential dwelling units can be appropriate with adequate regulations.

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

Section 1. That Chapter 171 Streets and Sidewalks is amended by repealing §171.13(B)(6) with following sections to be renumbered as necessary.

Section 2. That Chapter 172 Parking and Loading is amended by repealing §172.04(D)(2), and enacting a replacement § 172.04(D)(2) a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 3. That Chapter 172 Parking and Loading is amended by enacting a new subsection titled 172.11 Driveway Design, Location and Construction Standards for Four (4) or Less Parking Spaces within the Front Yard Area, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

EXHIBIT "A" Proposed Amendments

172.04 Parking Lot Design Standards

(D) Parking Lot Circulation

(2) *Entrances and internal aisle design for parking lots containing 8 parking spaces or less.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

(i) *One-way access to parking lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 16 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. Commercial solid waste service is required.

(ii) *Two-way access to parking lots.* For two way access, the driveway width shall be a minimum of 12 feet and a maximum of 24 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. This standard shall only apply when a 2 yard dumpster is allowed.

(iii) *Driveway width requirements for parking lots located 100 feet or more from the street right-of-way.* Two drive lanes a minimum width of 10 feet each, up to a maximum combined width of 24 feet, shall be required for adequate parking lot access.

(iv) *Curb radius.* All driveway entrances serving 8 or less parking spaces shall have a minimum curb radius of 10 feet and a maximum of 20 feet.

Parking Lots With 8 Spaces or Less	
	Driveway Dimensional Requirement
One Way Access <100'	12' Minimum – 16' Maximum
Two Way Access <100'	12' Minimum - 24' Maximum
>100' Driveway Length	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Curb Radius	10' Minimum – 20' Maximum

(b) *Internal aisle design.*

(i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.

(ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands, and shall meet the requirements of Chapter 177: Landscape Regulations.

(iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Waivers.* Development proposals which do not meet these standards may apply for a waiver from these requirements subject to Planning Commission approval.

(3) *Entrances and internal aisle design for parking lots containing 9 or more parking spaces.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

(i) *One-way access to parking lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 24 feet.

(ii) *Two-way access to parking lots.* For two way access, the driveway width shall be a minimum 20 feet and a maximum width of 24 feet, unless otherwise required by the Fire Department.

(iii) *Collector and Arterial Streets.* Driveways that enter collector and arterial streets may be required to have two outbound lanes (one for each turning direction) and one inbound lane for a maximum total driveway width of 39 feet.

(iv) *Curb radius.* All driveways serving 9 or more parking spaces shall have a curb radius of 15 feet for curb cuts on local streets and a curb cut radius of 20 feet for collector, minor arterial and arterial streets.

Parking Lots With 9 Spaces or More	
	Driveway Dimensional Requirement
One Way Access	12' Minimum – 16' Maximum
Two Way Access	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Collector/Arterial Streets	3 Drive Lanes - Maximum of 39'
Curb Radius - Local	15'
Curb Radius - Collector/ Arterial	20'

(b) *Internal aisle design.*

(i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.

(ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands, and shall meet the requirements of Chapter 177: Landscape Regulations.

(iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Waivers.* Development proposals which do not meet these standards may apply for waiver from these requirements subject to Planning Commission approval.

EXHIBIT "B"

172.11 Driveway Design, Location, and Construction Standards for Four (4) or Less Spaces Parking Spaces within the Front Yard Area

(A) *Minimum Distance of Driveway and Parking from Street and into Property.*

(1) *Driveway Approach to Property Line.* The driveway approach shall extend to the property line and/or master street plan right-of-way from the paved street and shall be designed, permitted, and paved with concrete in accordance with Chapter 171.13 Sidewalk and Driveway Specifications.

(2) *Driveways Beyond the Property Line.* Driveways shall be paved from the property line and/or master street plan right-of-way with asphalt, concrete, brick or stone pavers, or other solid surface and shall extend 18 feet (length) into the property unless no parking is provided between the property line and structure.

(3) *Driveways Beyond 18 Feet into the Property.* Driveways beyond 18 feet into the property may be paved or unpaved and shall be clearly defined by landscaping or edging.

(B) *Front Yard Area.* Front yard area shall mean the area between the plane of the front elevation of the principal façade(s) of the principal structure extending to the side property lines and the front property line abutting the street, including the driveway. A front shall be any plane of a building which abuts to a public street right of way.

(C) *Maximum Percent of Front Yard Area Used for a Driveway and Off-street Parking and Maximum Number of Parked Vehicles Allowed.* Driveways and off-street parking shall be limited to a maximum of four (4) vehicles and a maximum of 40% of the front yard area and shall meet the paving requirements as identified by this chapter.

(D) *Parking in Front Yard Area.* Parking of motor vehicles *recreational vehicles, trailers, and boats* in the front yard area of a property shall be prohibited, except in designated driveways or in a parking space as required by this chapter.

(E) *Off-street Parking on City Street Right-of-Way.* The off-street parking of any motor vehicle, boat, or trailer on a sidewalk or on city right-of-way and/or green space between the curb and property line shall be prohibited.

(F) *Unpaved Driveway Maintenance Requirements.* If an unpaved driveway is not maintained with adequate gravel, grasses, or other plants and/or landscaping materials to keep the area from becoming rutted, muddy and/or soil from being blown or washed away and is identified as a violation of this provision, such driveway shall be immediately remedied by the property owner.

(G) *Driveway Grading and Drainage.* The driveway shall be graded in such a way to dispose of surface water into appropriate structures.

(H) *Maximum Width.* Maximum Driveway width shall be limited to:

Lot Width	Maximum Driveway Width
70 feet or more	24 feet
50 feet to 69 feet	20 feet
Less than 50 feet	18 feet

(I) *Loop or Circle Driveways.* Loop or circle driveways shall be allowed with a 50 foot separation as measured from the driveway edge between curb cuts, subject to other restrictions for driveway separations in the UDC.

(J) Exemptions to Parking in Front Yard Areas.

(1) University of Arkansas Events. Parking in the front yard area shall be allowed for a period of 12 hours before and 12 hours after a University of Arkansas event for persons attending said event

on days when events are occurring at Bud Walton Arena or Donald W. Reynolds Stadium on the University Arkansas Campus.

(2) *Construction Vehicles.* Parking of vehicles for new construction and additions shall be allowed during the duration of the project.

(3) *Temporary Parking.* Temporary driveways or parking lots approved by the Planning Commission.

(4) *Existing Driveways.* All existing driveways constructed prior to adoption of these standards.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Chief Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Council approve moving the effective date of City Ordinance 92.32 from October 17, 2007 to October 1, 2007.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 7-18-07

City Attorney — Date 7-23-07

Finance and Internal Service Director — Date 7-23-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in Clerk's Office — ENTERED 7/23/07

Received in Mayor's Office — ENTERED 7/23/07

Comments:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor

DATE: July 19, 2007

SUBJECT: City Ordinance 92.32 (Animals at Special Events Prohibited)

Recommendation:

City Council approve Fayetteville City Ordinance 92.32 to become effective October 1, 2007.

Background:

The Fayetteville City Council approved the addition of section 92.32 to Chapter 92 of the Fayetteville City Ordinance Code. The addition of section 92.32 authorizes the Chief of Police to prohibit the bringing of animals to Special Events, if in his or her judgment; their presence would constitute an unreasonable hazard to public safety or health.

Discussion:

The Fayetteville Police Department would like section 92.32 to become effective October 1, 2007. Currently this section is not effective until October 17, 2007. Changing the effective date to October 1, 2007 would allow the ordinance to be in effect for the 2007 Bikes, Blues and BBQ event.

Budget Impact:

There would be no budget impact in this approval.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 5002 IN ORDER TO MAKE THE NEWLY ENACTED §92.32 OF THE FAYETTEVILLE CODE EFFECTIVE EARLIER

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 Ordinance No. 5002 to change the effective date of the newly enacted §92.32 (which was a portion of Exhibit A to Ordinance No. 5002) of the Fayetteville Code from October 1, 2007, to the normally effective date of this ordinance.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

(E) All dangerous animals shall be sterilized and micro-chipped at the owner's expense at the time the animal has been determined to be dangerous.

(F) The owner shall be notified of the ability to appeal within 10 days upon issuance of such requirements to the Animal Services Superintendent.

(G) Any owner or harborer violating the requirements of this section shall be issued a citation to court for violation of this section.

92.32 Animals at Special Events Prohibited

(A) The Chief of Police may prohibit the bringing of animals to Special Events as defined herein, if in his or her judgment, their presence would constitute an unreasonable hazard to public safety or health.

(B) Service animals, recognized performing animals and police dogs shall be exempt from the provisions of this section.

92.33 Annual Hobbyist Permit

(A) Levy and amount of permit. There is hereby levied and there shall be collected an annual permit fee in the amount hereinafter provided on each dog or cat owned or kept within the city for the purposes of breeding, competing, or hunting. Said permit fee shall be paid to the city animal services division along with a $25 non-refundable application fee. For each unneutered male or unspayed female over six months of age the levied fee shall be in the amount of $25.00 annually.

(B) Issuance of permit and tag. The city animal services division to whom the fee levied by subsection (A) above is paid shall issue a permit after the following requirements have been documented and a successful inspection of the hobbyist's premises is complete.

(1) Hobbyist permit application is filed with the animal services division stating hobbyist's intent with said dog or cat.

(2) Documentation for breeding purposes testifying that said animal is registered with the AKC, UKC, CFA, or TICA as a purebred. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club; provides a signed copy of the Code of Ethics for the breed club of which the hobbyist belongs; provides documentation of all necessary health clearances for breeding specific type of breed and health records for litter.

(3) Documentation for competing purposes testifying that said animal has competed in at least one dog show or sporting competition sanctioned by a national or regional registry within the past 12 months. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club.

(4) For hunting purposes hobbyist holds a current state hunting license with the Arkansas Fish and Game Commission and the hobbyist can successfully perform obedience commands with said animal.

(C) License period. A license, if not revoked, shall be valid for one year from the date of issue. A new permit shall be obtained each year by every hobbyist and a new fee paid. An owner shall have 30 days from the date the license expires to obtain a new license without penalty. Any hobbyist failing to obtain a license within such period shall be required to pay an additional fee of $10.00.

(D) Revocation of Permit. A permit may be revoked if the animal services division determines that any of the following conditions exist.

(1) The hobbyist has been convicted of or pleads guilty to cruelty to animals;

(2) The hobbyist has failed to comply with the conditions of the permit;

(3) The hobbyist has violated the provisions of this Chapter twice in one permit year;

(E) Nothing in this section shall be construed to apply to any dog or cat under the age of three months, or to dogs or cats brought to the city on a temporary basis for show or exhibition.

ARTICLE II ENFORCEMENT

92.40 Animal Control Officer

(A) There is hereby created the office of animal control officer. The animal control officer shall be appointed by the mayor and shall perform the duties and exercise the powers prescribed by this chapter. In addition, the animal control officer shall perform such duties as may be delegated to him by the mayor or the City Council.

(B) The city's animal control officers are authorized to issue a citation to any person

AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
GREG TABOR, POLICE CHIEF

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance To Amend §96.05 Motor Vehicle And Motorcycle Sound Limit By Adding A New Subsection (E) To Prohibit Excessive Engine Revving

APPROVED FOR AGENDA:

Police Chief — Date: 7-23-07

City Attorney — Date: 7-20-07

Mayor — Date: 7/23/07

ENTERED 7/20/07

ENTERED 7-20-07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor

DATE: July 11, 2007

SUBJECT: Amendment of Noise Ordinance Chapter 96

Recommendation:

City Council amends Noise Ordinance Chapter 96 to simplify enforcement in relation to excessive noise from motor vehicles and motorcycles.

Background:

Currently, Ordinance 96.05 requires officers to obtain noise level readings to determine if the noise is in violation as listed in Ordinance 96.05 Table II. This section does not specifically address excessive noise created by rapid throttle advancement (revving an engine).

Discussion:

The Fayetteville Police Department would like the amendment made to this ordinance to become more efficient in enforcement. The current noise ordinance does not specifically address rapid engine advancement (revving) which has become a complaint with citizens in recent years. In summary this amendment would make violation determination and enforcement much simpler.

Budget Impact:

There would be no budget impact in this amendment.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Kit Williams

FROM: Capt. K Yates
Captain Kenny Yates

DATE: July 19, 2007

SUBJECT: City Noise Ordinance Chapter 96

The Fayetteville Police Department would like to request an amendment be made to Fayetteville City Ordinance Chapter 96 concerning noise from motor vehicles. Noise from motor vehicles and motorcycles is currently addressed in Fayetteville City Ordinance 96.05 Table II. The current ordinance does not specifically address rapid throttle advancement, which has become a complaint in recent years.

We would like to see the following terminology or similar added to some portion of Chapter 96: "It shall be prohibited to permit or cause excessive noise by rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine".

Thank you for your consideration in helping us make this amendment.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
City Council
Chief Tabor
Captain Yates

FROM: **Kit Williams**, City Attorney

DATE: **July 20, 2007**

RE: **Proposed Noise Ordinance amendment to prohibit loudly revving an engine**

The police have requested that we simplify enforcement of the Noise Ordinance by permitting the arrest and prosecution of persons loudly revving their cars or motorcycles without having to prove a decibel level by use of a noise meter. I, therefore, have crafted subsection (E) to §96.05 **Motor Vehicle And Motorcycle Sound Limit**.

My proposal uses existing definitions within the Code of "noise disturbance" to describe the conduct which the police seek to prohibit. "Stationary Run-up" above 78 dB measured 25 feet from the motor vehicle is already banned by §96.05. Unfortunately, this requires an officer trained for and using one of our noise meters at the right distance for the right length of time which is very difficult to achieve in the real world.

This new subsection is more subjective, but mirrors the current prohibition in §96.02 against a "noise disturbance" which is defined in §96.01. I will leave it to Captain Kenny Yates (his memo is attached) or Chief Tabor to explain why the Police Department asked for this change in the law.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §96.05 MOTOR VEHICLE AND MOTORCYCLE SOUND LIMIT BY ADDING A NEW SUBSECTION (E) TO PROHIBIT EXCESSIVE ENGINE REVVING

WHEREAS, unnecessary rapid throttle advance (revving) of a car or motorcycle engine can annoy or disturb a reasonable person of normal sensitivity.

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 §96.05 **Motor Vehicle and Motorcycle Sound Limit** by enacting a new subsection (E) as follows:

> "(E) No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs."

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

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

7-Aug-07
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

Approval of a cost-share and bid waiver in the amount of $69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

$69,674.00	$ 579,566.00	Other Drainage Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5817.00	$ -	Bridge and Drainage Improvements
	Funds Used to Date	Program / Project Category Name
02108	$ 579,566.00	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 7.19.07 Date

City Attorney 7/23/07

Finance and Internal Service Director 7-23-07 Date

Mayor 7/23/07 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/30/07

Received in Mayor's Office ENTERED 7/25/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, P.E., City Engineer

Date: July 18, 2007

Subject: Proposed Cost Share and bid waiver in the amount of $69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

RECOMMENDATION

Staff recommends approval of the proposed cost-share with the Boardwalk Subdivision POA for the dredging of the pond that is contained on the common property of the Boardwalk Property Owners Association.

BACKGROUND

The Boardwalk Subdivision was developed in 1992 around an existing 5 acre pond that is estimated to have built in the early 1980's. This 83 home subdivision is located to the west of Crossover Road approximately one-half mile south of Mission Boulevard. The pond and the property surrounding the pond were platted as common property that is owned & maintained by the POA. The pond has a drainage basin of approximately 190 acres that drain to the pond through three different drainage systems that are owned and maintained by the City. Since the creation of this pond there have been numerous developments & projects that have occurred within the watershed including the Summersby Subdivision, the Highway 265 Widening, and the actual construction of the Boardwalk Subdivision. All of the developments have over time deposited silt and debris into the pond that has led to numerous complaints from the property owner's within the Boardwalk Subdivision. According to the residents, the depth of the upper end of the pond has decreased from 5-6' to 1-2'.

DISCUSSION

Due to the number of concerns raised by the residents, elected officials and city staff began meeting with the POA approximately 2 years ago to discuss possible solutions to the problem. The Engineering Division originally designed a structure at the main inflow channel to catch the sediment and debris. This design would require on-going maintenance and require a capital investment of approximately $50,000 if done by the Transportation Division. After studying this option and determining that the bulk of the

watershed is now developed, it was decided that we should explore other options. After meeting with numerous contactors onsite, it was determined that it is feasible to lower the pond elevation at a sufficient depth to remove the majority of the sediment that has been deposited in the upper portion of the 5 acre pond. This sediment would need to be placed in dump trucks and removed from the site. On behalf of the Boardwalk POA, the Engineering Division began soliciting proposals to perform the work and we have received a proposal from Wilson Excavating, LLC in the amount of $77,274.00 with the condition that the City lower & maintain the water level within the pond. The Boardwalk POA met on June 12, 2007 and agreed to pay for $7,600.00 of the proposed work.

Below is a summary of the costs as provided by Wilson Excavation, LLC:

Boardwalk POA Offered Share	**$ 7,600.00**
Proposed City's Share	**$ 69,674.00**
Total	**$ 77,274.00**

BUDGET IMPACT

The funds for this drainage cost-share project are proposed to come from "Other Drainage Improvements" project in the Bridge and Drainage Improvements fund. There is currently $579,566 remaining in this project fund.

The final costs to the City will be based upon actual costs as documented by the Boardwalk Subdivision POA subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO.____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE BOARDWALK PROPERTY OWNERS ASSOCIATION (POA) IN AN AMOUNT NOT TO EXCEED $69,674.00 TO DREDGE THE BOARDWALK POA POND.

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 this constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed $56,000.00 to dredge the Boardwalk POA pond.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

Wilson Excavating, LLC.

703 N. Thompson Suite 105
Office: (479) 927-2797 Fax: (479) 927-2438

PROPOSAL

Date: July 18, 2007 **Company:**
Project: Pond Restoration **Attention:** Mat Casey
Location: Fayetteville Ark. **Phone/Fax:** 575-8202

We propose to furnish all material, equipment, and labor necessary to perform and complete the following:

DESCRIPTION:	QUANTITY:	Unit:	Unit Cost:	COST:
Export Material	400.00	lds	$ 85.00	$ 34,000.00
Remove and load material from pond	4720.00	Cu. Yds	$ 7.95	37,524.00
Repair temp road and Seed	1.00	Lump Sum	$ 5,750.00	5,750.00
				0.00
9400 SF @4' = 1392 cu yd				0.00
22320SF @ 3' = 2480 Cu Yd				0.00
10000SF @2' = 740 Cu Yd				0.00
2920 SF @ 1' = 108 Cu Yd				0.00
Total 4720 Cu. YD.				0.00
				0.00
				0.00
				0.00
				0.00
ANY Additional WORK TO BE PAID ON Quantity prices				0.00
NOT Included; Lowering Water Level, Maintaining water level				0.00
				0.00

We propose to furnish all material, equipment, and labor, complete in accordance with the above specifications, for the sum of:

_____ Dollars $77,274.00 **Page 1 Total**

$77,274.00 **Proposal Total**

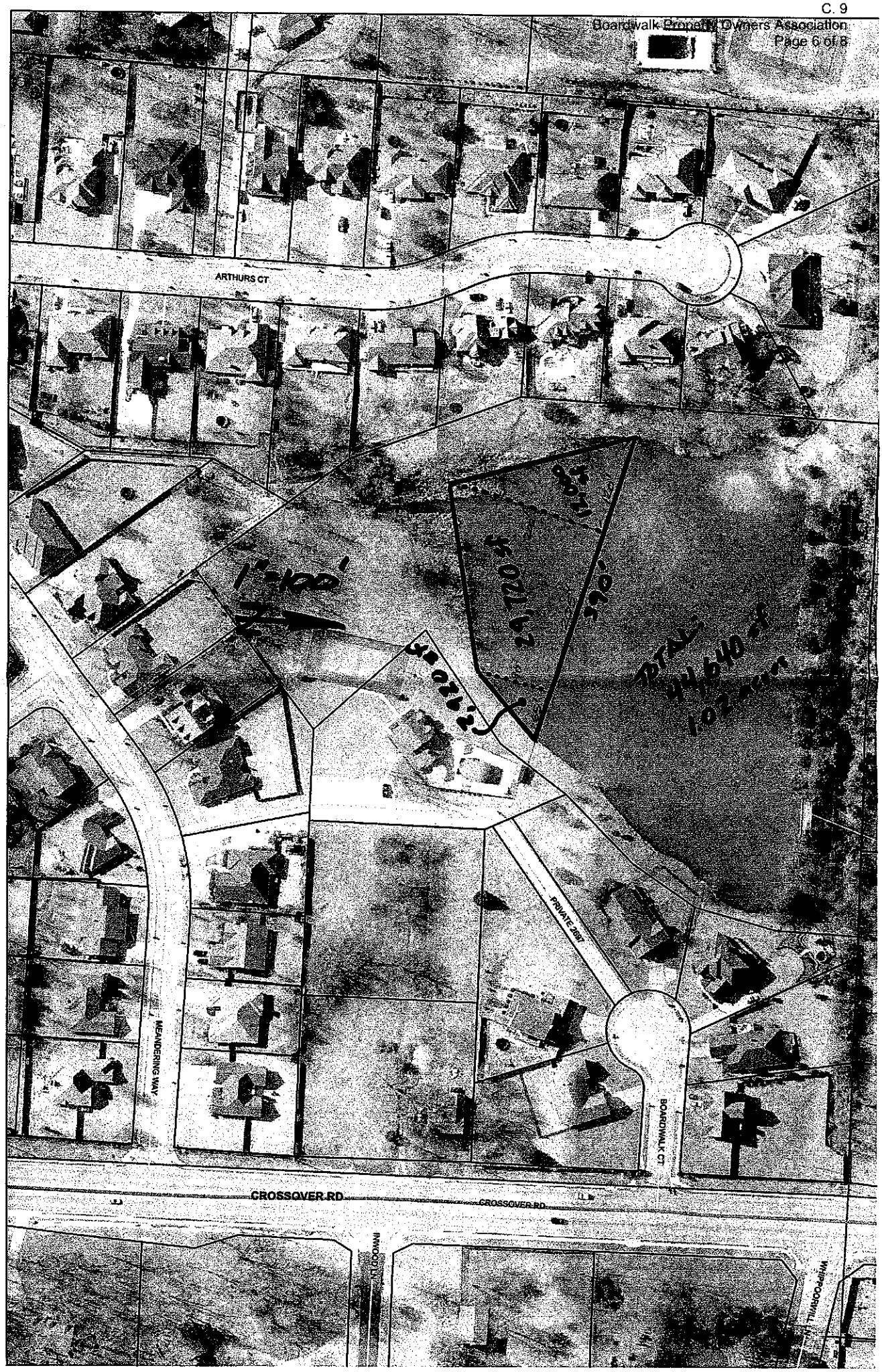
Payments to be made as follows: Monthly Progress Payments for Percentage of Work Complete.

Contractors Signature: H Mel Tyler 7-18-07

Acceptance of proposal - The above pricing, specifications, and conditions are satisfactory and are hereby accepted. Wilson Paving & Excavation, Inc. is authorized to perform the work as specified. Payments to be made as outlined above.

** Above Pricing is guaranteed for 30 Days from date of this document. If Proposal remains unsigned after 30 calendar days from date specified, pricing is subject to change.*

Owner / Agent Signature: _____ **Date Approved:** _____


ARTHURS CT
MEANDERING WAY
PRIVATE 30'
BOARDWALK CT
CROSSOVER RD
CROSSOVER RD
INWOOD LN
WINFOORWILL LN

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and the Boardwalk Subdivision POA Witnesseth:

WHEREAS, Boardwalk Subdivision POA has in their development a 5 acre pond that the development was constructed around; and

WHEREAS, this pond has been affected by the development and highway construction in the area over the past several years; and

WHEREAS, these construction activities have caused silt and debris to be deposited in this pond and reducing the depth and volume of the pond considerably; and

WHEREAS, it would benefit the residents in this development to have this pond dredged to remove the accumulated silt; and

NOW, THEREFORE, the City of Fayetteville and Boardwalk Subdivision POA agree as follows:

1. Upon the City Council and/or the Mayor approving the Cost-Share, the City of Fayetteville agrees to:

   A. Pay a maximum-not-to-exceed cost of $69,674.00 of the $77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.

   B. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the contractor. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

   C. Make all efforts to provide payment to Wilson Excavating, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. Boardwalk Subdivision POA agrees to:

   A. Pay a maximum-not-to-exceed cost of $7,600.00 of the $77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

Boardwalk Subdivision POA

By:_____

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

7-Aug-07
City Council Meeting Date

David Jurgens	Wastewater System Imprv Project	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358

($140,000.00)	$ -	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.0940.6881.02	$ -	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
06032	$ -	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [x]

Department Director — Date: 20 Jul 07

City Attorney — Date: 7/23/07

Finance and Internal Service Director — Date: 7-23-07

Mayor — Date: 7/23/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director

Date: July 18 2007

Subject: Approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358

RECOMMENDATION

City Administration recommends approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358.

BACKGROUND

Ozarks Electric approached the City about purchasing land adjacent to the West Side WWTP for the future installation of an electrical substation several years ago. Collocating the two utility facilities is in the bests interests of both utilities and the public.

DISCUSSION

Selling the property. Staff does not anticipate utilization of this land for wastewater purposes as it is located at the west and north of the existing WWTP site. There is adequate room for expansion of the wastewater treatment plant first to the south for an additional 50% capacity increase (10 mgd to 15 mgd), and then to the west for a full doubling to 30 mgd, all based on using the current technology. It is likely that technology improvements will reduce this future footprint requirement. The property layout is such that the City will keep a 50' strip of land between the Ozarks property and the 54th Avenue right of way for future trail construction and a tree buffer.

Waiving the ordinance. The $35,000 per acre price is higher than both the $29,000 per acre price established by the City Council in resolution 109-05, and $31,850 per acre at which the WWTP site land was sold in 2007. Given the location within and completely surrounded by the City's West Side WWTP property, this land is not eligible for sale for commercial or residential use. Thus, staff feels it would be an unnecessary cost to have a new appraisal, as required in Ordinance 4358. The entire West Side WWTP site is zoned residential-agricultural, as is appropriate for the proposed electrical substation and the WWTP.

BUDGET IMPACT

Funds from this sale will be placed in the WSIP project fund.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF ORDINANCE No. 4358 AND APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND OZARKS ELECTRIC COOPERATIVE CORP. FOR THE SALE OF FOUR (4) ACRES OF UNNEEDED LAND WITH AN ACCESS AND UTILITY EASEMENT FOR SAME AT THE WEST SIDE WASTEWATER TREATMENT PLANT FOR $140,000.00; APPROVING A BUDGET ADJUSTMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of Ordinance No. 4358 and approves an Offer and Acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00;. 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 Ozarks Electric Cooperative Corp.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

Ozarks Electric Cooperative Corp.

A Touchstone Energy® Cooperative

Box 848
Fayetteville, Arkansas 72702-0848
(479) 521-2900

May 15, 2007

Andrea Allen
The City of Fayetteville, Arkansas
113 West Mountain 72701
Phone (479) 718-7670

Andrea Allen,

This letter constitutes a Letter of Intent to purchase the property and acquire the easements that Ozarks Electric Cooperative Corporation and The City of Fayetteville have been in discussion with in regards to and being described as follows:

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set 5/8" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set 5/8" rebar pin with a yellow plastic cap stamped "Gary Denzer 1266"; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less;

In addition to

a part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter

Ozarks Electric Cooperative Corp.

A Touchstone Energy® Cooperative

Box 848
Fayetteville, Arkansas 72702-0848
(479) 521-2900

(NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" being the "True Point of Beginning" of this boundary description of a utility and access easement being contiguous with the existing 50 foot wide overhead electric right of way, the afore mentioned 4.00 acres, and 54th Street; thence leaving said North line of said existing 50 foot right of way North 02°35'16" East a distance of 40 feet; thence North 88°32'18" West a distance of 130.03 feet; thence South 02°35'36" West along the west line of said Northeast Quarter (NE ¼) a distance of 40 feet; thence South 88°32'18" East a distance of 130.03 feet to the Point of Beginning.

The price agreed upon was $140,000.00 for the afore mentioned property being $35,000.00 per acre for four acres with the easements granted for egress and regress of underground and over head utilities in addition to vehicular and pedestrian traffic by OECC personnel and their assigns. The property boundaries have been marked in the field and noted on a plat filed with the Washington County Circuit Clerk on 03/21/2007 which was designated as File 2007-00010234.

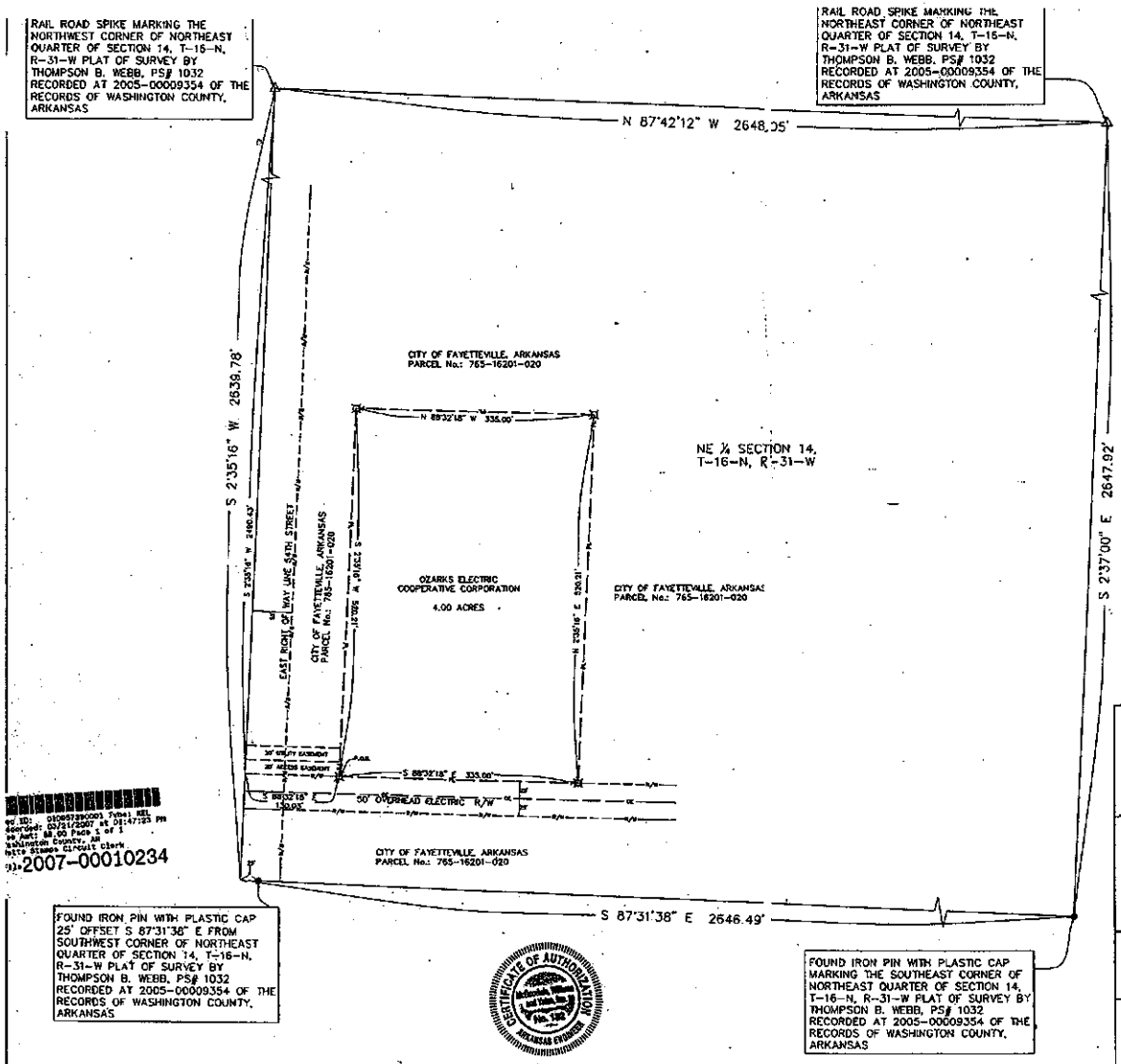
The land is assumed to be free and clear of all encumbrances, free of any issues pertaining to the presence of any Hazardous Substances on, under, or about the Property, and it is assumed that the Property is not contiguous with or classified as a Wet Lands area.

Sincerely,

Robert Erickson

Robert Erickson
Engineer
Ozarks Electric Cooperative Corporation

Cc: Mitchell Johnson
Troy Scarbrough



BOUNDARY DESCRIPTION:

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the Northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set ⅝" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less.

FLOOD DATA
THIS PROPERTY DOES NOT LIE WITHIN A DETERMINED FEMA FLOOD HAZARD ZONE AS DETERMINED FROM F.I.R.M. MAP OF WASHINGTON COUNTY, ARKANSAS AND INCORPORATED AREAS, MAP No. 05143C0091 D, REVISED DATE JULY 21, 1999

BASIS OF BEARINGS
PLAT OF SURVEY BY THOMPSON B. WEBB, PS 1032 RECORDED AT 2005-00009354 OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS

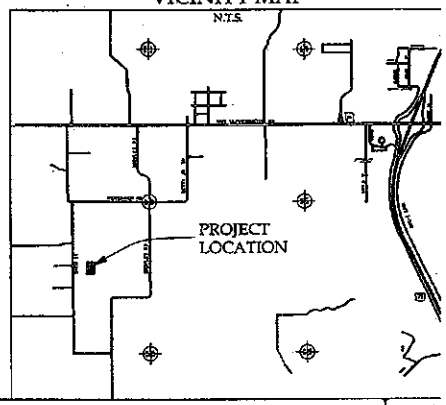
N

0' 100' 200' 300' 400'

SCALE 1" = 100'

LEGEND
- FOUND RAILROAD SPIKE
- FOUND IRON PIN WITH PLASTIC CAP
- SET ⅝" REBAR PIN WITH YELLOW PLASTIC CAP STAMPED GARY DENZER 1266
- PROPERTY LINE
- RIGHT OF WAY LINE
- EASEMENT LINE
- OVERHEAD ELECTRIC LINE
- SECTION LINE

VICINITY MAP



CERTIFICATE OF AUTHORIZATION ARKANSAS ENGINEER No. 192

CERTIFICATION: This is to certify that this plat represents a survey conducted by me of the property shown to the best of my ability. I confirmed the correctness of prior monuments and supervised the survey and the setting of two monuments. The survey and plat conform to the Arkansas Minimum Standards for Boundary Surveys and Plats. This plat is for the sole use of Ozarks Electric Cooperative Corporation — any warranties, express or implied are so limited. Third parties shall consult with me before relying on the dimensions shown hereon.

COPYRIGHT MANAGEMENT INFORMATION: This work is copyrighted. It may be copied for fair use as an aid to research, however, ALL RIGHTS TO PRODUCE DERIVATIVE WORKS USING THIS IMAGE OR THE INFORMATION SHOWN HEREON ARE SPECIFICALLY RESERVED.
GARY L. DENZER, PS 1266, MARCH, 2007 McGOODWIN, WILLIAMS, & YATES, CONSULTING ENGINEERS
906 ROLLING HILLS DR., FAYETTEVILLE, AR 72703
MWY CODE: FY-337, 141631, 0307 GD
SURVEYORS CODE: 500-16N-31W-0-14-400-72-1266

REGISTERED PROFESSIONAL LAND SURVEYOR — STATE OF ARKANSAS — GARY LEE DENZER — 3-17-07

DESIGNED	DRAWN
GLD	JDF
CHECKED	
GLD	
PLANS NO.	
FY-337	

McGoodwin Williams & Yates
Engineering Confidence
© 2007 Fayetteville, Arkansas

PLAT OF SURVEY
OZARKS ELECTRIC COOPERATIVE CORPORTION
FAYETTEVILLE, ARKANSAS

NEW SUB-STATION SITE
PART OF THE NORTHEAST QUARTER
SECTION 14, T-16-N, R-31-W

STRUCTURE I

SHEET NO 1/1

OFFER AND ACCEPTANCE CONTRACT

1. **Ozarks Electric Cooperative Corp.** an Arkansas Corporation, hereinafter referred to as the "Buyer", 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, Ozarks Electric Cooperative shall pay for the property at closing, the total and cash payment of **$ 140,000.**

3. **Contingent Earnest Money Deposit**: Ozarks Electric Cooperative herewith tenders a check for **$ 100.00** 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 Ozarks Electric Cooperative 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 Ozarks Electric Cooperative. If Ozarks Electric Cooperative fails to fulfill their obligations under this contract or, after all conditions have been met, Ozarks Electric Cooperative 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 Ozarks Electric Cooperative 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. Ozarks Electric Cooperative and the City of Fayetteville shall share equally in the cost of the title insurance.

6. The City of Fayetteville agrees to allow Ozarks Electric Cooperative, if Ozarks Electric Cooperative so desires, at Ozarks Electric Cooperative'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 **Sixty (60)** 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 Ozarks Electric Cooperative on the date of closing.

10. The City of Fayetteville hereby grant(s) permission for Ozarks Electric Cooperative 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 Ozarks Electric Cooperative any and all environmental hazards of which the City of Fayetteville has actual knowledge.

OFFER AND ACCEPTANCE CONTRACT

14. This agreement shall be governed by the laws of the State of Arkansas.

15. This agreement, when executed by both Ozarks Electric Cooperative 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 agreement is contingent upon approval of a lot split by the City of Fayetteville Planning Commission.

17. This contract expires, if not accepted by the City of Fayetteville on or before the 31st day of December, 2007.

18. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within one hundred twenty (120) days of acceptance by the City of Fayetteville.

19. **NOTICE:** **THE Ozarks Electric Cooperative 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 Ozarks Electric Cooperative OF THE $ 100.00 EARNEST MONEY DEPOSIT.**

_____ Date:_____

_____ Date:_____

AGENT OR WITNESS:

_____ Date:_____

City of Fayetteville, Arkansas,
A municipal corporation

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

EXHIBIT "A"
PROPERTY DESCRIPTION

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set 5/8" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" ; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less.

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Recorded at 2007-00010234 of the Records of Washington County, Arkansas.

SIGNED FOR IDENTIFICATION:

_____ Date:_____

_____ Date:_____

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, 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 _____ day of _____, 2007.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

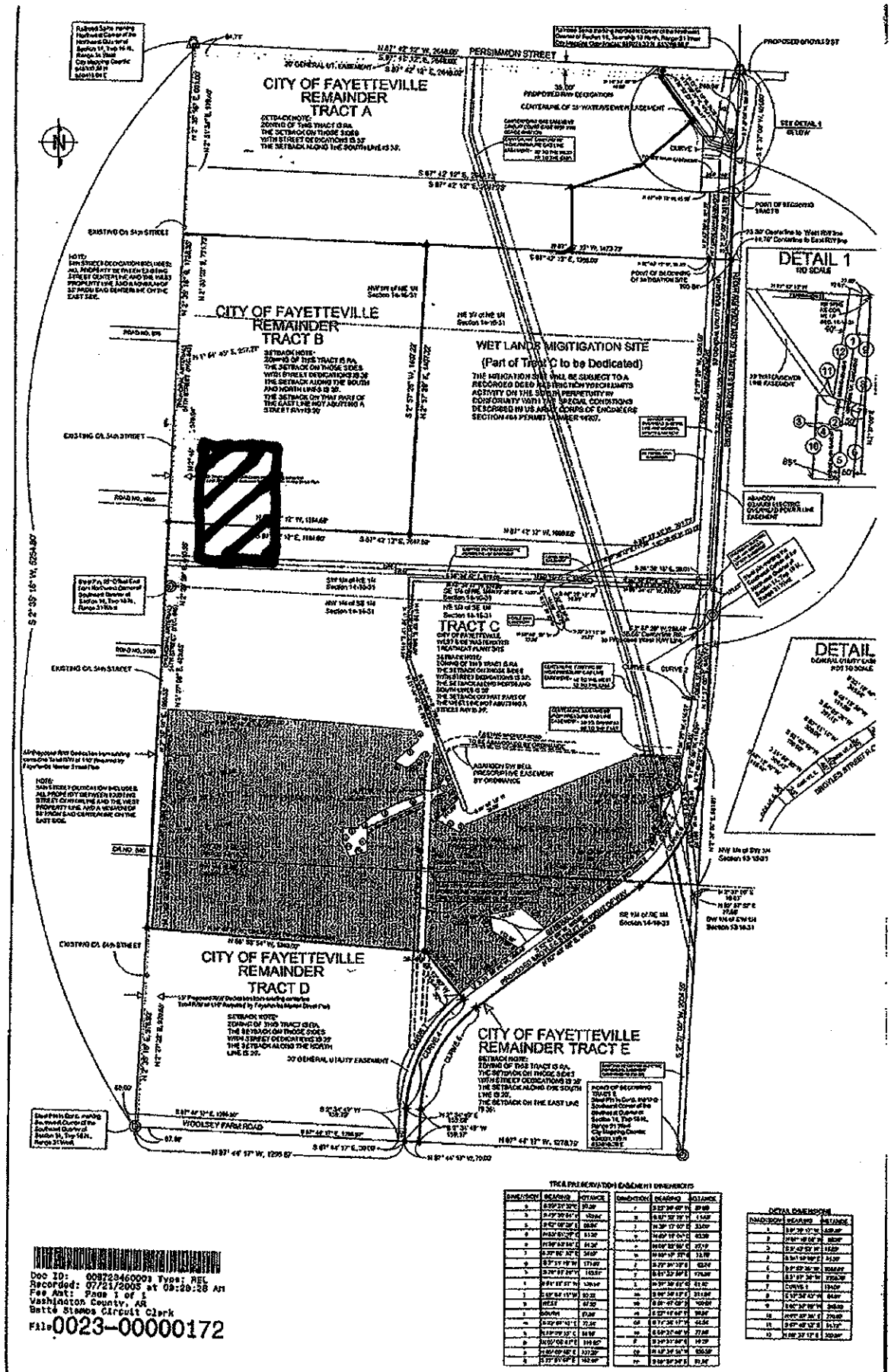
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged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

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

_____
Notary Public

MY COMMISSION EXPIRES:

_____



Doc ID: 008720460003 Type: REL
Recorded: 07/21/2005 at 09:20:28 AM
Fee Amt: Page 1 of 1
Washington County, AR
Bette Simmons Circuit Clerk
File 0023-00000172

CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance To Repeal Article 17, Youth Activities Committee, Chapter 33 Of The Fayetteville Code

APPROVED FOR AGENDA:

City Attorney — Date: 7-20-07

Mayor — Date: 7/23/07

ENTERED 7/20/07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

FROM: **Kit Williams**, City Attorney

DATE: **July 20, 2007**

RE: **Repeal of Youth Activities Committee**

During the June 19, 2007, City Council meeting, I was instructed to prepare an ordinance to end the Youth Activities Committee because sufficient citizens were not applying to serve on that committee. Attached is page 3 of the approved City Council meeting minutes of June 19, 2007, referencing this discussion.

I have obeyed the City Council's instruction and prepared an ordinance to repeal that title in the Fayetteville Code of Ordinances that created the Youth Activities Committee.

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 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.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL ARTICLE 17, YOUTH ACTIVITIES COMMITTEE, 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 repeals Article 17, **Youth Activities Committee**, of Chapter 33 of the Fayetteville Code in its entirety.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

POPS OLD TIME BAR-B-QUE

WILLARD AND KAREN STARKS OWNERS
504 E. 15TH STREET
FAYETTEVILLE, AR 72701

FAYETTEVILLE CITY CLERKS OFFICE, JULY,16,2007

THIS NOTICE IS TO INFORM YOUR OFFICE OF OUR INTENTION TO \ APPEAL RZN 07-2637 . THIS REQUEST WAS DENIED AT THE PLANNING COMMISSIONS MEETING OF JULY 9, 2007. FROM THE CONVERSATIONS I'VE HAD WITH THE STAFF, PLANNING COMMISSION MEMBERS AND THE CITY ATTORNEY. IF I HAD GIVEN ASSURANCES THAT THE PROPERTY WOULD NEVER BE USED FOR PURPOSES DETRIMENTAL TO A RESIDENTIAL NEIGHBORHOOD . THESE NEGATIVE VOTES COULD HAVE BEEN AVOIDED.. WE WILL COMPLETE THE DOCUMENT REQUIRED AND HOPE THAT WILL AID OUR REQUEST.

THANK YOU
Willard Starks
Karen Starks
WILLARD AND KAREN STARKS

RECEIVED
JUL 16 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

CONTACT INFORMATION
5009 BOULDER LANE
FAYETTEVILLE,AR

PHONES
POPS OLD TIME BAR BBQ
442-9966
FARMS "N HOMES
582-2828
WILLARDS CELL
445-7014

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, developer, or buyer of this property, (hereinafter "Petitioner") WILLARD STARKS AND KAREN STARKS, hereby voluntarily offers 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 Petitioner or Petitioner's 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 **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to RESTAURANTS OFFICES OR NEIGHBORHOOD SHOPPING

2. Other restrictions including number and type of structures upon the property are limited to TWO (WE MAY, IN THE FUTURE ADD A SMOKEHOUSE FOR OUR BBQ OR A SMALL OFFICE

3. Specific activities will not be allowed upon petitioner's property include GAS STATIONS LIQUOR STORES OR DRIVE IN RESTAURANTS

4. (Any other terms or conditions) _____

5. 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 Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, WILLARD STARKS & KAREN STARKS as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

7/17/07
Date

WILLARD STARKS
KAREN STARKS
Printed Name

5009 BOULDER LANE
Address
FAYETTEVILLE, AR 72701

Willard Starks
Karen Starks
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 17th day of July, 2007 appeared before me, Willard Starks and Karen Starks and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Courtney Cline
NOTARY PUBLIC

My Commission Expires:
8-10-2016

COURTNEY CLINE
Commission No. 12344
NOTARY PUBLIC
My Commission Expires Aug. 10, 2016
WASHINGTON CO., ARKANSAS

City Council Meeting of August 7, 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 JP

Date: July 17, 2007

Subject: Rezoning for Starks (RZN 07-2637)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted to deny rezoning the subject property from R-O, Residential Office to C-1, Neighborhood Commercial for approximately 0.64 acres located at 504 East 15th Street. The applicant has appealed the Planning Commission's decision to the City Council.

BACKGROUND

The subject property contains one parcel of property containing 0.64 acres. The property is located at 504 East 15th Street. There is one building on the property and associated parking that is currently being used for Pops Old Time Barbeque restaurant. According to the applicant this structure and the property has been used for a restaurant since its construction in 1968, which is consistent with staff's research and records of the property. The property is bordered by industrial and non-profit uses to the south, and multi-family, undeveloped pasture, and church uses to the north, west, and east, respectively.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 9, 2007. The Planning Commission voted 5-2-1 to recommend denial of this rezoning request with Commissioners Winston and Anthes voting 'No', and Commissioner Trumbo recusing. The main issues discussed included the historic nature of restaurant use at this property and the potential for incompatible uses under the proposed C-1 zoning. The request for commercial zoning on this property has been denied on several occasions since the property was developed in the 1960s.

BUDGET IMPACT

None.

Fayetteville
ARKANSAS

PC Meeting of July 9, 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:	~~July 3, 2007~~ *Updated July 17, 2007*

RZN 07-2637: REZONING (STARKS, 563): Submitted by WILLARD AND KAREN STARKS for property located at 504 E. 15TH STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.64 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

Property Owner: Willard and Karen Starks
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends denial of the requested rezoning request from R-O to C-1 based on the findings herein.

PLANNING COMMISSION ACTION: Required YES
☐ Forward to City Council (recommend approval) ☐ Denied
Date: July 9, 2007
Motion: Graves
Second: Ostner
Vote: 5-2-1 (Commissioners Winston and Anthes voting no, Commissioner Trumbo recused.)

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied
Date: August 7, 2007 (1st reading if recommended)

BACKGROUND:

Property description: The subject property contains one parcel of property containing 0.64 acres. The property is located at 504 East 15th Street. There is one building on the property and associated parking that is currently being used for Pops Old Time Barbeque restaurant. According to the applicant this structure and the property has been used for a restaurant since its construction in 1968, which is consistent with staff's research and records of the property.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Multi-family residential	RMF-24
South	Foundation for Human Development/ Hiland Dairy	I-1
East	First Assembly of God Church	RMF-24
West	Undeveloped pasture	RMF-24

Proposal: The applicant proposes to rezone the 0.64 acre property from R-O to C-1 to bring a historic nonconforming use into compliance. The applicant discussed with staff that they do not want to apply for a conditional use permit for the restaurant, though it is permitted by Conditional Use Permit in the R-O zoning district. The zoning criteria for R-O and C-1 are attached to this report.

Background: Based on staff's research of hardcopy files, there have been three previous requests to rezone the subject property to C-1 and C-2 in the 1970's that were denied by the Planning Commission. Concerns at that time centered on the fact that the General Plan did not want to encourage strip commercial uses along 15th Street, and that the desired uses in this area were mainly residential. The current R-O designation was assigned in 1979 after the denial of an application to rezone the property to C-2. While staff generally supports bringing non-conforming uses into compliance, a rezoning to C-1 has the potential to bring other higher impact uses into the area. Additionally, being an existing nonconforming use that has been in existence for almost 40 years, the use may continue as is, or may become conforming with a conditional use permit.

INFRASTRUCTURE:

Streets: The site has access to 15th Street. 15th Street is a two lane paved State Highway in this location. Improvements to the adjacent streets will be evaluated at the time of development and subject to approval from AHTD.

Water: Public water is located adjacent to the site. There is a 12" water main that runs along 15th Street and along Wood Avenue.

Sewer: Sanitary sewer is not available on the site. There is an 8" main located on the property to the north that will need to be extended to the site. Improvements to the

sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: These 0.63 acres are covered by Engine 1 and Ladder 1 located at 303 W Center. It is 1.5 miles from the station with an anticipated response time of 4.25 minutes. Once Station #3 is built the response time will be reduced to 2.45 minutes. The measured hydrant flow recorded in this area is 1510 gallon/minute. We do not figure calls for service for developments rezoning to C-1, Neighborhood Commercial, but typically this type of development does not result in any increase in our calls for service.

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 **City Neighborhood Area**. Rezoning this one specific property to C-1 would not encourage complete, compact, and connected communities along this stretch of 15th Street, and could encourage strip-center type development, in contrast to the currently adopted land use plan policies. Rezoning the property to C-1 is not consistent with the land use plan, and long-range planning objectives for this area of the City.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is not consistent with future land use planning objectives, principles, and policies for City Neighborhood Areas. The Future Land Use plan identifies these areas to:**

"...encourage complete, compact, and connected neighborhoods."

"Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas..."

Commercial uses as allowed in the proposed C-1 zoning district are a vital piece in a complete, compact, connected community. However, rezoning the property to C-1 does not assure the City that this property would be integrated into a compatible development pattern. The City Neighborhood Area also encourages nonresidential uses at corner locations, and this property is currently mid-block.

The proposed C-1 zoning does not provide the City the assurance that the development would be compatible with the surrounding 15th Street corridor

with a mix of residential, church, park, and industrial uses. Staff finds that while the potential to support non-residential uses along 15th Street is evident, allowing a C-1, Neighborhood Commercial zoning district along the north side of 15th Street adjacent to residences is not consistent with the Future Land Use Plan guiding policies and strategies. As the City Plan 2025 indicates, corner locations should be first considered for non-residential 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 not justified. The applicant's stated intent is to rezone the property to bring the non-conforming use into compliance and to recognize the historic commercial use on the property. While staff does not find that a restaurant in this location is incompatible with surrounding land uses, and the existing restaurant use is an established land use along 15th Street, staff would recommend a Conditional Use Permit to allow for expansion of the restaurant use if desired. A C-1 zoning allows several intense uses that are more appropriate in corner locations, and may be objectionable to surrounding residential uses.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 0.64 acres. However, traffic volumes in this area are high, and increasing. Planning of any future commercial development on this site must address safe access concerns. At the time of development, improvement to this street may be required; and ingress/egress evaluated carefully.**

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 not increase population density.**

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

161.16 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) Land area per dwelling unit.

Manufactured home	3,000 sq. ft.
Townhouses & apartments: No bedroom One bedroom Two or more bedrooms	 1,000 sq. ft. 1,000 sq. ft. 1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06)

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

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: July 5, 2007

Re: Zoning Review – Fire Department Comments

RZN 07-2637 (Starks)
These 0.63 acres are covered by Engine 1and Ladder 1 located at 303 W Center.
It is 1.5 miles from the station with an anticipated response time of 4.25 minutes.
Once Station #3 is built the response time will be reduced to 2.45 minutes.
The measured hydrant flow recorded in this area is 1510 gallon/minute.
We do not figure calls for service for developments rezoning to C-1, Neighborhood Commercial, but typically this type of development does not result in any increase in our calls for service.

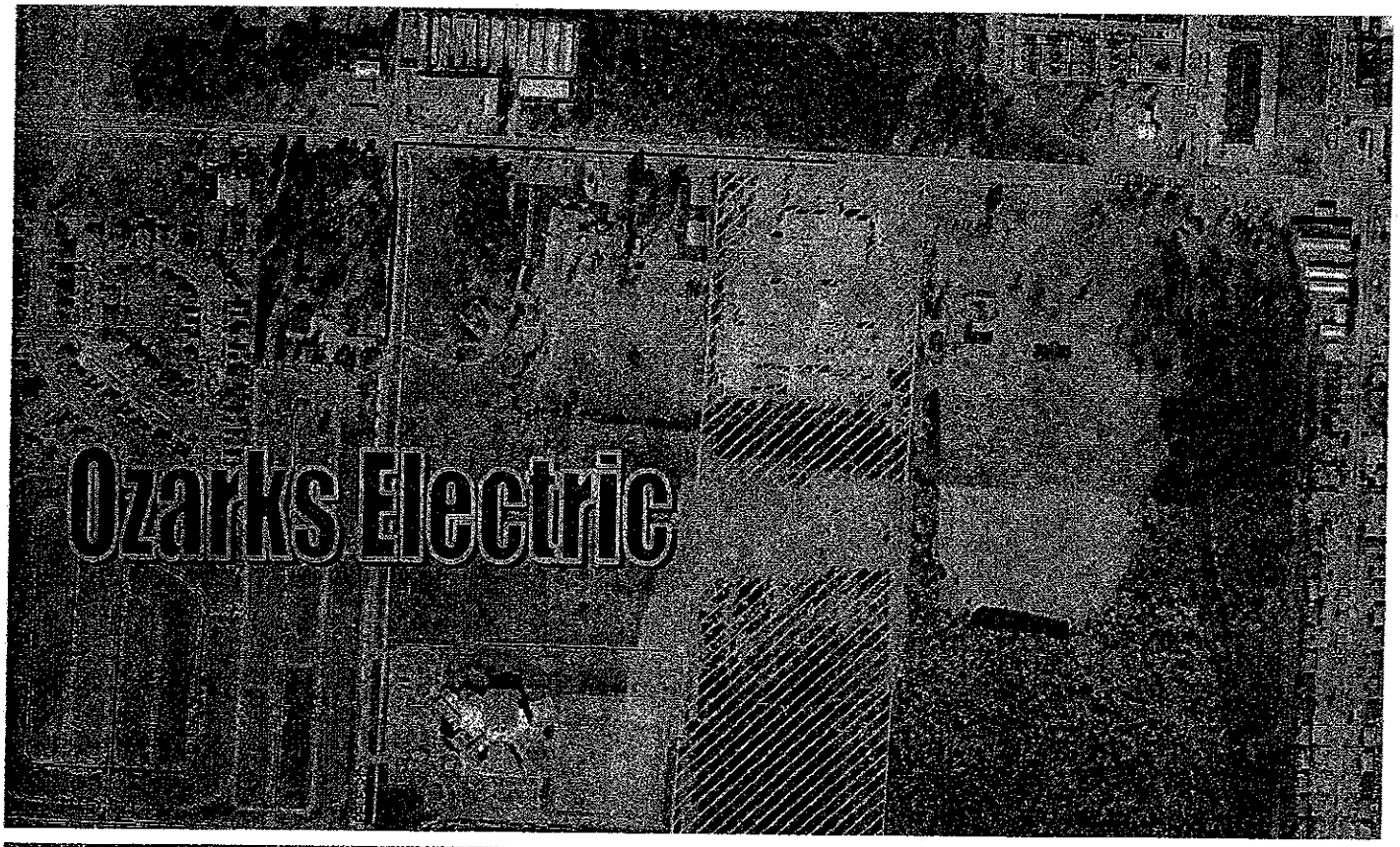
RZN 07-2636 (Ozarks Electric)
These 44.36 acres are covered by Engine 7 located at 835 Rupple Road.
It is .5 miles from the station with an anticipated response time of 2 minutes.
The measured hydrant flow recorded in this area is 1575 gallon/minute.
We do not figure calls for service for developments rezoning to I-1, Heavy Commercial/Light Industrial, but typically this type of development does not result in any increase in our calls for service.

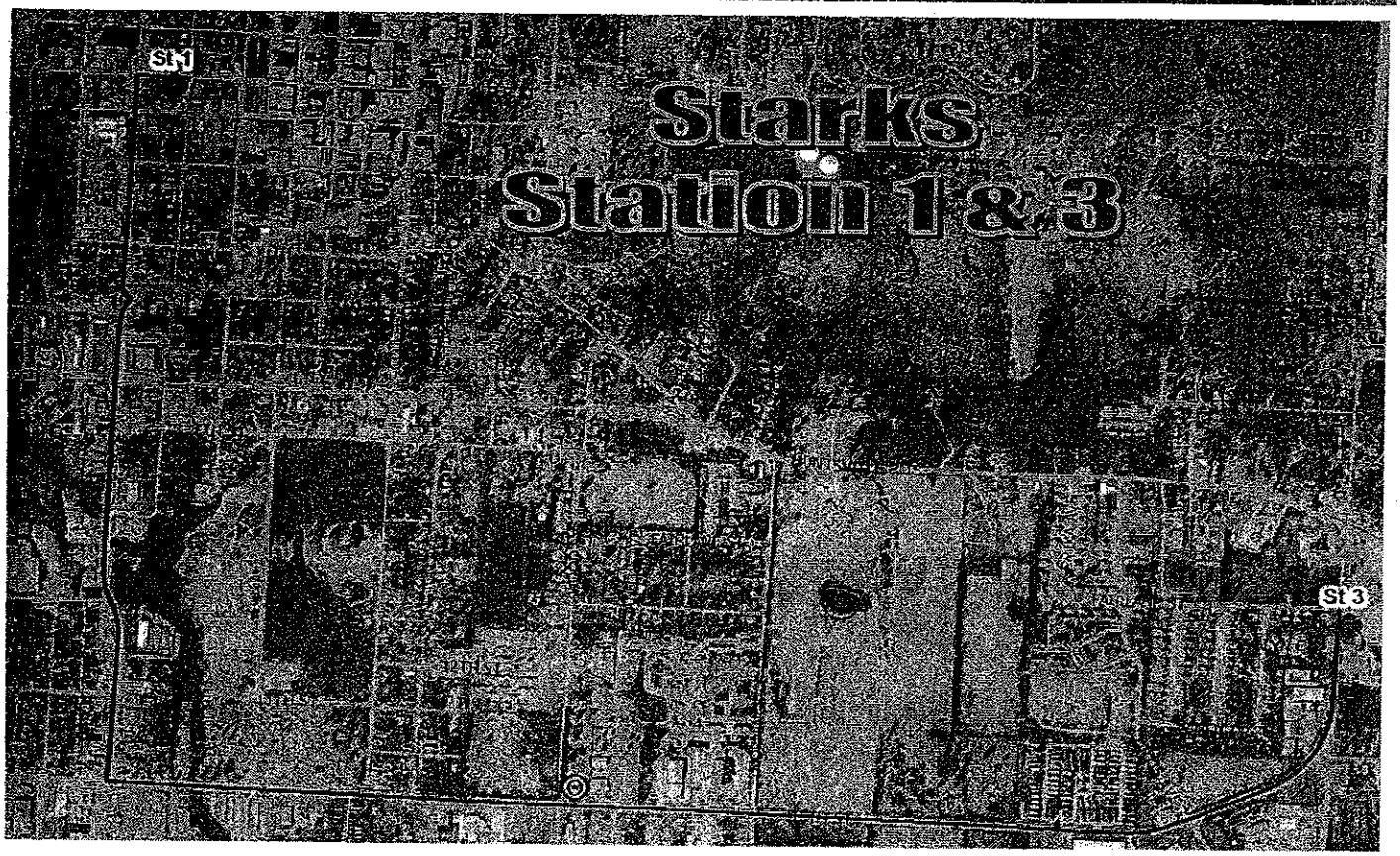
Please feel free to contact me if you have any questions concerning these comments.

Dale Riggins

Dale Riggins

Fayetteville Fire Department


Ozarks Electric


St1
Starks
Station 1 & 3
St3

Police Department Comment

From: William Brown
To: Andrew Garner
Date: 7/5/07 10:01AM
Subject: Re: Rezoning Items Due Tomorrow

I have been working on some high priority things for the Chief. I will send something more formal, but I see no issues with 15th Street, Wedington, or the College Avenue Townhomes. I will get you a letter ASAP.

Starks RZN 07-2637

William Brown
Administrative Captain
Fayetteville Police Department
FBINA 222
(479) 587-3500 - Office
(479) 587-3522 - FAX

RZN 07-2637: (STARKS, 563): Submitted by WILLARD AND KAREN STARKS for property located at 504 E. 15TH STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.63 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

Andrew Garner, Senior Planner, gave the staff report. Garner described the history of the project, along with previous requests to rezone the property in a similar manner to commercial districts, all of which were denied. The structure on the property has historically been utilized for a café since the 1960s. While the requested rezoning would bring it into compliance as it pertains to its use, a conditional use permit in the existing R-O zoning would accomplish the same. Additionally, as the structure has been used constantly for a café, it is an existing nonconforming use that may continue as it is as long as the use does not cease. Staff finds that in this particular location, the commercial zoning could introduce potential objectionable uses that are not compatible to properties on the north side of 15th Street. Commercial uses are more appropriate, in general, at corner locations, and this is mid-block. Based on the findings within the staff report, staff recommends denial of the rezoning request, and recommends the applicant apply for a conditional use permit if he wants to bring the use into compliance.

Commissioner Trumbo stated he must recuse from this item, and left the chambers.

No public comment was received.

Willard Starks (applicant), owner of the property, stated this has been a restaurant for 39 years. It just about constitutes a landmark. He stated he does not agree with staff's recommendation, and the staff report was drawn from old information. Mr. Starks passed out an old zoning map copy from 1984. He stated the uses along 15th Street have changed a lot since then. This is not a residential area, thus staff's argument is non-existent. He doesn't intend on changing anything, and thinks he deserves to be brought into compliance.

Commissioner Anthes asked if Wood Avenue, which shows up on the maps, exists.

Jeremy Pate, Director of Current Planning, explained that Wood Avenue right-of-way does not exist, and discussed the Nantucket project the Planning Commission reviewed and approved to the north that dealt with Wood Avenue being extended south to 15th Street. This did not occur because the right-of-way to extend the street does not exist. As it stands today, the right-of-way for Wood Avenue does not exist to the west of this property.

Commissioner Ostner discussed the project to the north and the extension of Wood Avenue.

Starks discussed his concerns with Wood Avenue coming south, and his objections because of the traffic danger.

Commissioner Winston and Pate discussed the differences in the zoning and future land use map.

Commissioner Graves asked where the C-1 zoning district would fit within the Future Land Use Map designations.

Pate stated that C-1 could work in this Future Land Use Map designation, if appropriate for area, given the timing of the request. However, with the potential incompatibilities of the commercial zoning in the area, staff recommends the Conditional Use Permit as a better option of achieving the same goal of the applicant, to bring the restaurant into compliance. Pate discussed the options of bringing the property into compliance.

Commissioner Graves stated that right now this seems to be a spot zone. He tends to support staff and would like to see this property come into compliance by a Conditional Use Request instead of a C-1 zoning surrounded by RMF-24.

Motion:

Commissioner Graves made a motion to deny the request, based on the findings of staff. **Commissioner Ostner** seconded the motion.

Commissioner Winston asked if it would be more or less difficult to improve the property if zoned C-1.

Pate stated no, the requested zoning would actually increase setbacks from that of R-O. The development standards for the two zoning districts are virtually the same, in terms of parking lots and greenspace. However, as the use has existed for many years, if the applicant requested a conditional use permit, he would not see much reason for improvements with the conditional use or the rezoning, unless the property was being expanded or redeveloped for something else.

Commissioner Ostner stated the rezoning was a matter of timing, it may not be out of line in a few years.

Commissioner Anthes asked the applicant if the stated intent was to leave the restaurant in place, and leave the property as it has been used historically.

Starks stated the biggest difference is that with the R-O zoning, he could not put up a sign. He stated he had been over several options with staff members, but could not find a way to advertise his business. The two choices given to him were to leave it as it is or rezone the property to allow a sign.

Staff and the Planning Commission discussed signage in the different zoning districts, including size limitations and setbacks.

Commissioner Graves stated he understands that signage is the issue, but that doesn't change the justification for the motion to deny the rezoning.

Upon roll call, the motion to deny passed 5-2-1, with Commissioners Winston and Anthes voting no, Commissioner Trumbo recusing.

CITY OF FAYETTEVILLE
PLANNING COMMISSION

May 22, 2007

WILLARD & KAREN
STARKS
5009 BOULDER LANE
FAYETTEVILLE, AR
72701

DEAR SIRS,

THIS REQUEST CONCERNS THE PROPERTY AT 504 E. 15TH STREET. THE PROPERTY, BUILDING AND BUISNESS LOCATED THERE BELONG TO MYSELF AND MY WIFE KAREN. THIS PROPERTY HAS BEEN FIVE OR SIX ASSORTED RESTAURANTS. FOR FORTY YEARS.....CURRENTLY WE ARE DOING BUISNESS AS POPS OLD TIME BAR B QUE. THERE ARE NO PROPOSED OR PENDING PROPERTY SALES. THE REASON FOR REQUESTING THIS ZONING CHANGE IS. .

THIS RESTAURANT HAS BEEN OPERATING UNDER A NON CONFORMING USE PERMIT. AFTER FORTY YEARS OF THE SAME USE. WE FEEL A C-1 ZONING DESIGNATION IS PROPER.

THERE WILL BE NO CHANGES IN THE NEIGHBORHOOD IN ANY RESPECT. BUISNESS HAS BEEN HERE FOR A LONG TIME.

SINCERILY,

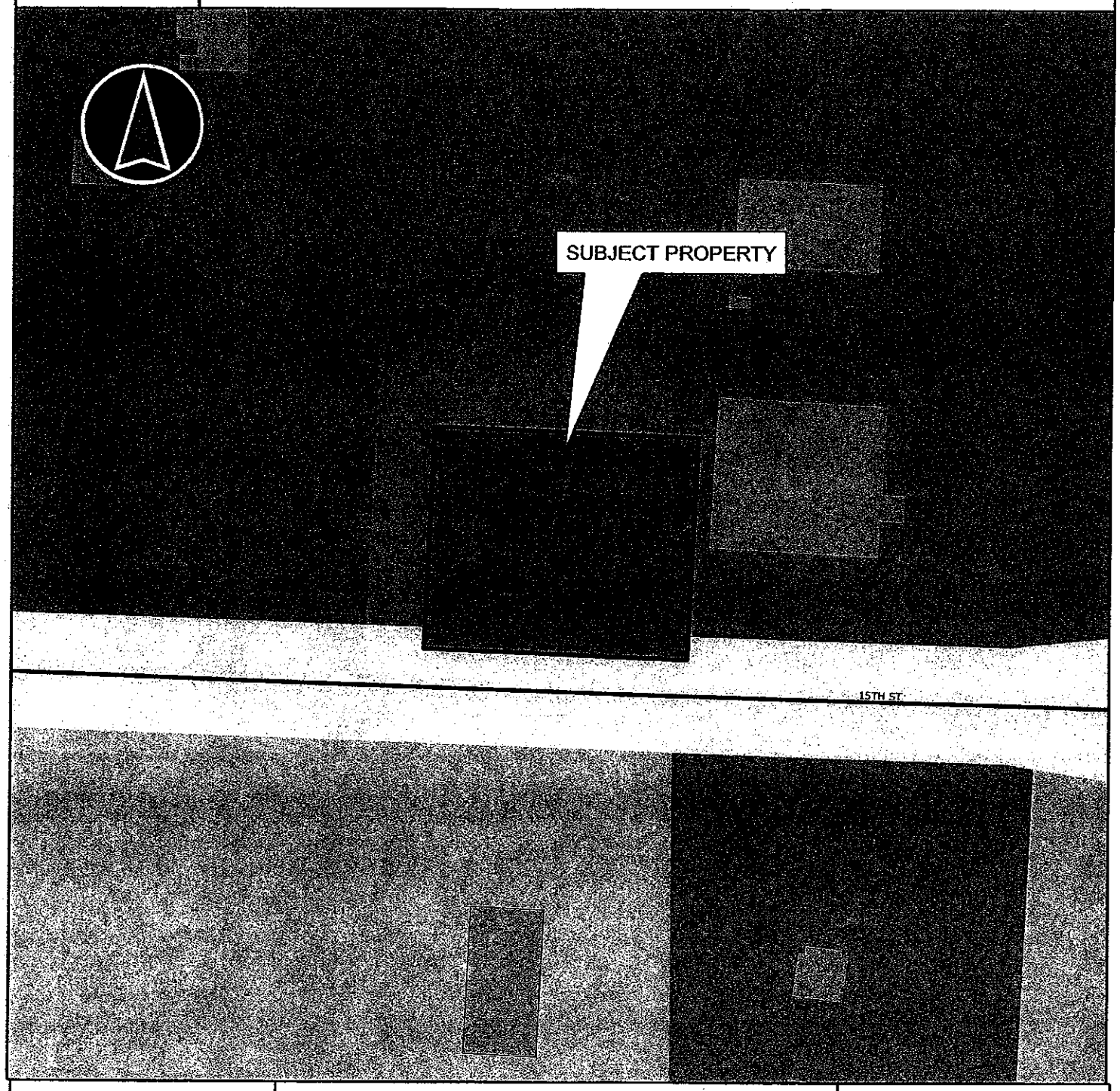
WILLARD & KAREN
STARKS

BUIS: 442-9966
CELL 445-7014
HOME 442-3738

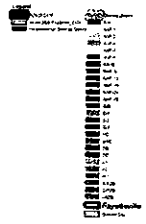
RZN07-2637

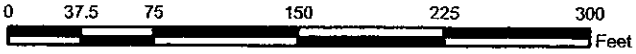
Close Up View

STARKS



Overview



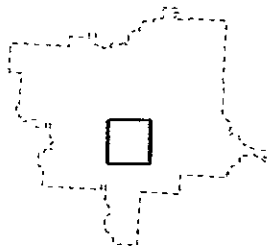


RZN07-2637

One Mile View

STARKS

Overview



Legend

Subject Property

RZN07-2637

Boundary

Planning Area

Overlay District

Outside City

Legend

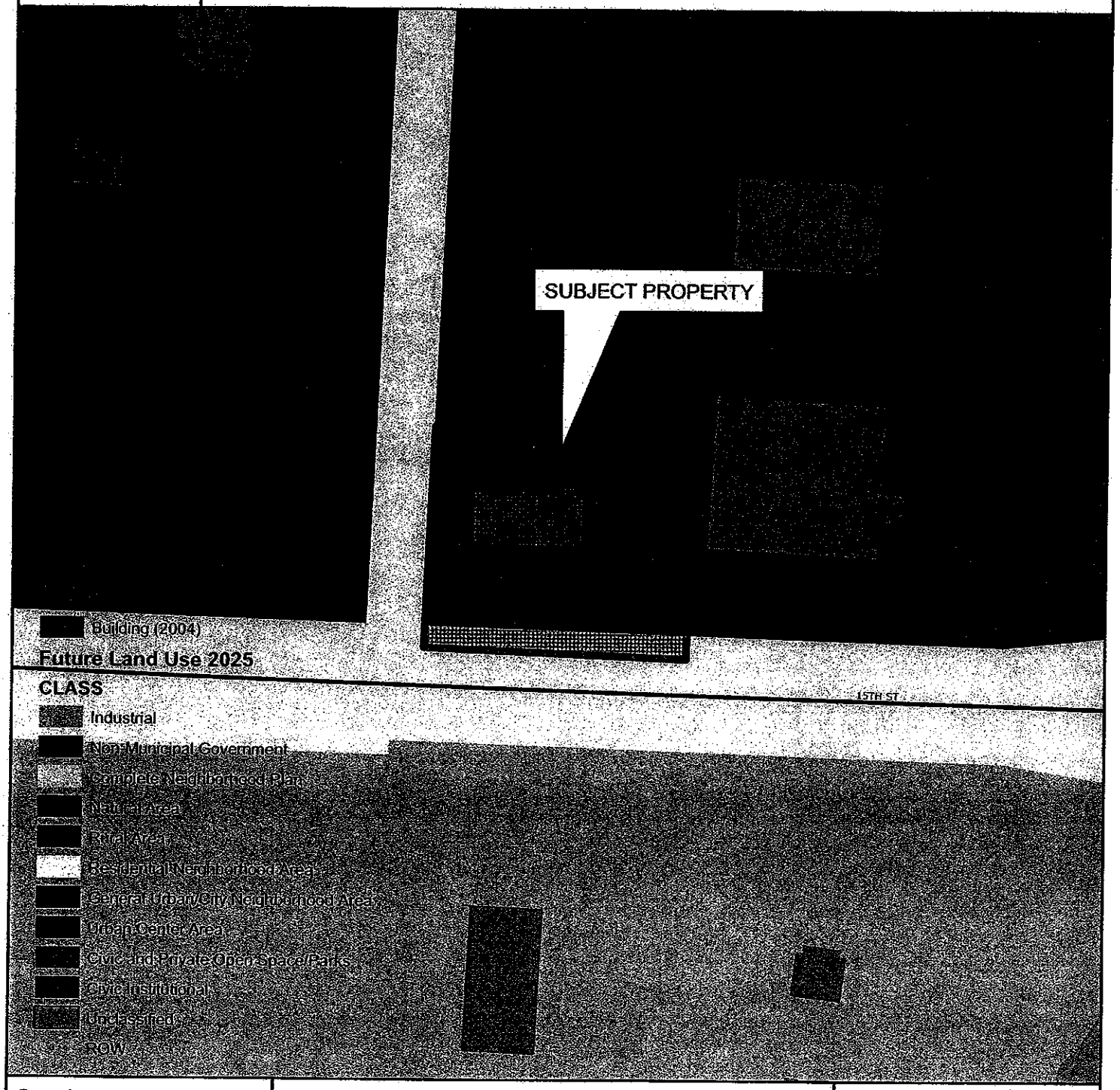
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

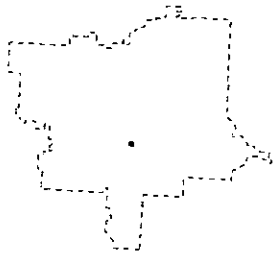
RZN07-2637

Future Land Use

STARKS



Overview



Legend

Subject Property

RZN07-2637

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 37.5 75 150 225 300 Feet

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 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

Human Resource Project Updates – HR Staff – Agenda Session Only

2006 Comprehensive Annual Financial Report given by Bill Golbuff – Agenda Session Only

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

7. **GeoSyntec Consultants, Inc:** A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

3. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

4. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

5. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

6. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

7. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

8. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

9. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

10. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

11. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

12. **Pops Old Time Bar-B-Que Appeal:** An appeal of the Planning Commission's decision to deny RZN 07-2637.

D. INFORMATIONAL:

City Council Tour: August 06, 2007

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

7-Aug-07
City Council Meeting Date

David Bragg	Fleet Operations	Operations
Submitted By	Division	Department

Action Required:

A resolution awarding Bid #07-46 to Littlefield Oil Company for a contract to purchase gasoline and diesel fuel for a period of one year with an option to renew for four additional one year periods.

$1,228,023.00	$ 1,182,000.00	Gasoline and Diesel
Cost of this request	Category/Project Budget	Program Category / Project Name
9700.1910.5213.00 and 5213.01	$ 475,967.00	Fleet Operations
Account Number	Funds Used to Date	Program / Project Category Name
	$ 706,033.00	Shop Fund
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] Budget Adjustment Attached [ ]

Department Director — Date 7/12/07

City Attorney — Date 7-13-07

Finance and Internal Service Director — Date 7-17-07

Mayor — Date 7/17/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/12/07

Received in Mayor's Office ENTERED 7/16/07

Comments:

Fayetteville
ARKANSAS

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

Interdepartmental Correspondence

To: **Mayor/City Council**

Thru: **Gary Dumas, Director of Operations**

From: **David Bragg, Fleet Operations Superintendent**

Date: **July 10, 2007**

Subject: **Award of Annual Automotive Fuel Contract**

RECOMMENDATION: That City Council approve a contract with Littlefield Oil Company for purchase of gasoline and diesel fuel for a period of one year with an option to renew for four additional one year periods.

BACKGROUND: **Bid #07-46** was opened on June 21, 2007 for an annual contract to supply the gasoline and diesel fuel requirements of the Fleet Operations Division and other divisions of the City government. Five bid responses were received. A detailed tabulation sheet is attached.

A thorough review and analysis of the bids was conducted by staff of Purchasing and Fleet Operations divisions. Staff determined that the lowest bid from Littlefield Oil Company meets all specifications and satisfied all requirements of responsiveness and ability to perform.

I recommend acceptance of the bid from Littlefield Oil Company in the amount of $1,228,022.90. This is the estimated amount for fuel over a 12 month period; however, the contract will run from August 15, 2007 to August 14, 2008. Estimated purchases in fiscal 2007 are $460,508.63.

Funds are available for this purchase in Fleet Operations operating budget for the balance of this year. The 2008 budget will have sufficient funds available for fuel purchases in 2008.

Award to the lowest responsive bidder as determined by Purchasing and Fleet staff was approved by the Equipment Committee at the meeting of June 26, 2007.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE AN ANNUALLY RENEWABLE CONTRACT WITH LITTLEFIELD OIL COMPANY PURSUANT TO BID #07-46 IN THE APPROXIMATE ANNUAL AMOUNT OF $1,228,023.00

WHEREAS, the City Fleet Division bid out its annual fuel needs and received four qualified bids; and

WHEREAS, the Littlefield Oil Company was the lowest qualified bidder with a total bid of $1,228,022.90.

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 awarding Bid #07-46 to Littlefield Oil Company and approves the Contract (attached as Exhibit A) with Littlefield Oil Company in the approximate amount of $1,228,023.00 for fuel supplies from September 2007 through August 2008. The budget impact is estimated to be $460,509.00 in fiscal 2007 and $767,514.00 in fiscal 2008.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Ref: Bid 07-46, Fuel
Contract

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Littlefield Oil Company and

WHEREAS, City of Fayetteville at its _____, 2007 public meeting awarded the project for **Fuel** and;

WHEREAS, Littlefield Oil Company and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Littlefield Oil Company 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 **Bid 07-46**, hereinafter set forth, whose program services together with the Bid Submittal, 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. LITTLEFIELD OIL COMPANY AGREES TO PROVIDE PRODUCTS TO THE CITY OF FAYETTEVILLE AT THE LOWEST DELIVERED PRICE AVAILABLE CALCULATED BY THE LOWEST RACK PRICE AVAILABLE FROM ALL CONTRACTED SUPPLIERS AS OUTLINED IN PAR 6.2, b OF BID -07-46 PLUS FREIGHT AND MARKUP ALSO AS SPECIFIED IN SUBJECT BID.

Littlefield Oil Company agrees to commence the project included in this Contract on a date to be specified in a written Notice to Proceed and shall be fully completed within a period of _____ (____) consecutive calendar days after the effective commencement date. AND CONTINUE FOR A PERIOD OF ONE YEAR FROM SAID DATE. CONTRACT MAY BE EXTENDED FOR FOUR ADDITIONAL ONE YEAR PERIODS UPON WRITTEN MUTUAL AGREEMENT OF THE PARTIES – SUCH AGREEMENT NO LESS THAN 30 DAYS NOR MORE THAN 60 DAYS PRIOR TO EXPIRATION OF EXISTING CONTRACT PERIOD.

City of Fayetteville agrees to pay Littlefield Oil Company in current funds, for the performance of this Contract in accordance with the **Bid 07-46 Submittal**, attached.

City of Fayetteville and Littlefield Oil Company agree that **Bid #07-46** , hereinafter set forth, whose services together with the Bid Submittal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto annexed, form the Contract and are as fully a part of the Contract as if attached or herein repeated.

City of Fayetteville shall have two weeks from receipt of invoice approval by the Project Manager in which to pay Littlefield Oil Company subject to any documentation requests by City of Fayetteville as necessary to allow City of Fayetteville to evaluate the completeness and accuracy of monies due.

To the fullest extent permitted by laws, statutes, rules and regulations, Littlefield Oil Company 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 engineers, architects, 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 Littlefield Oil Company 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.

Littlefield Oil Company agrees to comply with the laws of the State of Arkansas. Notwithstanding statutory exemptions or exclusions, Littlefield Oil Company 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. Littlefield Oil Company 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.

Littlefield Oil Company 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.

Littlefield Oil Company assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Littlefield Oil Company 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 Littlefield Oil Company without prior written approval by City of Fayetteville.

No assignment or transfer of this Agreement or any right accruing here under shall be made in whole or in part by Littlefield Oil Company 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.

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.

Littlefield Oil Company 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 Brad Arterbury VP
PRINTED NAME AND TITLE

ATTEST: CONSULTANT FIRM'S SECRETARY

_____

3403 Cavanaugh Fort Smith, AR 72908
BUSINESS ADDRESS

		Tanker	Wagon	Tanker	Wagon	
1	**Frost Oil Company**	$398,879.50	$62,951.25	$604,623.25	$172,719.75	**$1,239,173.75**
2	**Fuels & Supplies**	$405,516.30	$64,034.75	$610,060.00	$179,880.00	**$1,259,491.05**
3	**Littlefield Oil Company**	$397,986.15	$59,108.75	$603,042.00	$167,886.00	**$1,228,022.90**
4	**Mid-South Sales**	$398,456.20	$60,346.50	$602,604.75	$169,596.75	**$1,231,004.20**
5	**Petroleum Traders Corporation**	$397,964.90	No Bid	$611,026.63	No Bid	**$1,008,991.53** (tankers only)

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

CERTIFIED: P Vice — **P. VICE PURCH MGR**

A Fowler — **WITNESS**

6/26/07 — **DATE**

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

August 7, 2007
City Council Meeting Date
Agenda Items Only

Tony Johnson	Fire	Fire
Submitted By	**Division**	**Department**

Action Required:

Sunbelt Fire, Inc. 49 pts

Council approval to accept a bid from ~~Sunbelt~~/Emergency One for $886,843 in response to Bid 07-~~50~~ for a 114' articulated aerial platform truck. An equipment purchase for ancillary equipment is also necessary not to exceed $25,000 as part of this purchase.

$ 911,843.00	$ 925,000.00	Fire Apparatus - ~~100~~ 114' Aerial Truck
Cost of this request	Category / Project Budget	Program Category / Project Name
4470.9470.5802.00	$ -	Vehicle and Equipment
Account Number	Funds Used to Date	Program / Project Category Name
07013.1	$ 925,000.00	Sales Tax Improvement
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Department Director — Date: 7.12.07

City Attorney — Date: 7/19/2007

Finance and Internal Service Director — Date: 7-19-2007

Mayor — Date: 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/19/07

Received in Mayor's Office — ENTERED 7/19/07

Comments:

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

Project Request

Date: July 18, 2007

To: Mayor Coody, and
The Fayetteville City Council

From: Tony Johnson, Fire Chief

Subject: Recommendation for Awarding Bid 07-49, 114' Articulated Aerial Platform

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Recommendation

I recommend that you accept and approve alternate bid No. 1 submitted by Sunbelt/Emergency-One for a 114' articulating boom aerial fire apparatus in the Amount of $886,843. In addition to their bid amount, I am requesting that you approve $25,000 for a project contingency that will also include ancillary equipment. This will bring the grand total for the project to $911,843. The initial projection for the purchase was estimated at $925,000. After reviewing all of the bid submissions and their respective specification with the staff of the fire department, I believe the Sunbelt/Emergency-One bid to be the most responsive and responsible of all the submittals. The three bids submitted by Sunbelt/Emergency-One was for $1,033,524, alternate bid #1 $886,843, and alternate bid #2 in the amount of $923,999. Alternate bid #1 is for a demonstrator unit that has never been titled. After several operational and safety modifications by the manufacturer and the dealership, the vehicle and all components will have the full warranty of a new truck.

Background

The fire department is in need of adding an additional aerial apparatus to its fire fighting fleet. The need for this apparatus has been evident for some time, and the need is more apparent with the approved plans for the mid and high-rise buildings that contain mixed occupancies. In addition to the height of the buildings, we will also have to deal with the set-back requirements that add to the emergency accessibility and egress issues. The primary function of an aerial truck is gaining access and providing a pathway for emergency egress from a structure.

Justification

The purchase of this aerial truck for the fire department is an active response to the proposed development of several medium and high-rise structures in the immediate downtown area and those proposed for the far north side of the city. The acquisition of this type of emergency vehicle will enhance and strengthen the department's overall response capability to the University of Arkansas campus on the near west side, as well as the other existing structures in our jurisdiction. The 114-foot reach of this proposed aerial device will provide for an uninterrupted emergency path of egress. In addition, it will also provide a vertical path for our firefighters to gain access to areas that are unattainable from the current apparatus in service.

Conclusion

The purchase of this apparatus will synchronize the department's goal with the City's guiding principle of: *Having a Reputation as a Safe Community,* and from a public safety standpoint; it's the right thing to do.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-49 TO SUNBELT FIRE, INC.(EMERGENCY ONE) FOR THE PURCHASE OF ONE (1) 114' ARTICULATED AERIAL PLATFORM TRUCK IN THE AMOUNT OF $886,843.00 FOR USE BY THE FAYETTEVILLE FIRE DEPARTMENT; AND APPROVING THE PURCHASE OF ANCILLARY EQUIPMENT IN AN AMOUNT NOT TO EXCEED $25,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-49 to Sunbelt Fire, Inc.(Emergency One). for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of ancillary equipment in an amount not to exceed $25,000.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

Fayetteville
ARKANSAS

FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425

Interdepartmental Correspondence

TO: TONY JOHNSON, FIRE CHIEF

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT

DATE: JULY 18, 2007

SUBJECT: AWARD OF BID 07-49, 114' ARTICULATED AERIAL PLATFORM

Thanks to you, Chief Thompson, and the rest of your staff for including Fleet Operations in the specification and evaluation process for your new aerial purchase. We were pleased with the inspection and test drive of the demonstrator apparatus yesterday. The performance characteristics observed on the hills and back streets of Fayetteville seemed completely acceptable for an apparatus of this size.

Reviewing the bids submitted on both the standard platform (07-50) and the articulated platform (07-49), I concur with your decision to recommend acceptance of the low bid on the articulated platform.

There is certainly merit to negotiating a better deal on the demonstrator truck, however, aside from tire and brake wear, the amount of predominately highway miles on this unit does have some benefit in proper light load break-in and initial shake down of minor assembly issues which will be corrected in the pre-delivery inspection. This could potentially make the first year service more dependable than a new off the line truck.

SunbeltFire
Serving you is our calling.™
8050 McGowin Drive • Fairhope, AL 36532 • Office: 800.642.8484 • Fax: 251.928.9933 • www.sunbeltfire.com

FIRE APPARATUS PROPOSAL

Fayetteville Fire Department
303 West Center Street
Fayetteville, AR 72701

June 6, 2007

We are pleased to submit our bid for your consideration on the following, complete in strict accordance with the attached proposal for:

One (1) or more Articulating Aerial Fire Apparatus mounted on a Full Custom Chassis

Main Bid Price $ 1,033,524.00 .
Alternate Bid #1 Price $ 886,843.00 .
Alternate Bid #2 Price $ 923,999.00 .

A factory trained instructor shall deliver the unit and familiarize department personnel unless factory acceptance and familiarization is preferred. Proper manuals and third party test approval certificate where applicable shall be furnished.

Delivery on the above shall be within 330 calendar days for the main bid unit, 60 – 90 calendar days on the two alternate bids, F.O.B. Fayetteville, Arkansas.

Delivery is subject to delays due to war, fire, labor disputes, strikes, acts of God, government regulations, failure of suppliers to deliver, chassis shortage in the case of commercial chassis, accidents, and other causes beyond our control.

This quotation is good for 30 days. The pricing provided is exclusive of all Federal, State and Local taxes and any other fees which may apply unless specifically noted herein. A 100% performance bond will be provided if requested.

The vehicle proposed will be constructed at Emergency One, Inc. of Ocala, Florida. Sunbelt Fire, Inc. is the authorized dealer for Emergency One in this area. Service and parts are available through Sunbelt Fire, Inc., in Fairhope, Alabama, and from the Emergency One factory in Ocala, Florida. Service is available from locations in Hattiesburg, Long Beach, Lexington and Jackson, Mississippi. Sunbelt Fire will soon have a mobile service technician residing in the State of Arkansas.

Respectfully submitted,

By: Donald M. Rhodes Apparatus Sales Manager

City of Fayetteville
Bid 07-49, Articulating Aerial Fire Apparatus
Bid Form

DATE REQUIRED AS A COMPLETE UNIT: 330 days or less from Date of Order

***GUARANTEED DELIVERY DATE:** 60-90 days after receipt of order

ITEM:	DESCRIPTION:	QUANTITY:	*PRICE EACH:	*TOTAL PRICE
Alternate Bid No. 1				
1.	Diesel powered 114' Telescoping / Articulating Aerial Fire Apparatus			
	SO 130184	1	$ 886,843.00	$ 886,843.00

Please Specify for Unit(s) Bid:

***MANUFACTURER:** E-One, Inc. **MODEL:** F114RLP

TOTAL BID PRICE: $886,843.00

EXECUTION OF BID -
Bidders are requested to provide a vehicle which complies with each item listed in the Technical Specifications. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. **He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.**
2. **Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.**
3. **The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.**

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

***NAME OF FIRM:** Sunbelt Fire, Inc.

***BUSINESS ADDRESS:** 8050 McGowin Drive

***CITY:** Fairhope ***STATE:** AL ***ZIP:** 36532

***PHONE:** (800) 642-8484 **FAX:** (251) 928-9933

***E-MAIL:** mweaver@sunbeltfire.com

***BY: (PRINTED NAME):** Donald M. Rhodes

***AUTHORIZED SIGNATURE:**

***TITLE:** Truck Sales Manager

BID: 07-49
6/6/2007
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 07-49, Articulating Aerial Fire Apparatus

	BIDDER	Manufacturer	Model	Total Base Bid
1	Pro-Fire Equipment, LLC			No Bid
2	Sunbelt Fire			
	Option 1	E-One, Inc	F114RLP	$1,033,524.00
	Option 2	E-One, Inc	F114RLP	$886,843.00
	Option 3	E-One, Inc	F114RLP	$923,999.00

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

CERTIFIED: P Vice — P. VICE PURCH MGR

A Foren — WITNESS

6/11/07 — DATE

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

August 7th, 2007
City Council Meeting Date
Agenda Items Only

Brian Pugh	Solid Waste and Recycling	Operations
Submitted By	**Division**	**Department**

Action Required:

A resolution awarding Bid # 07-56 in the amount of $211,393.00 plus any applicable taxes for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

$ 230,069.08	$ 240,000.00	Recycling Baler
Cost of this request	Category / Project Budget	Program Category / Project Name
5500.5060.5816.00	$ -	Solid Waste Improvements
Account Number	Funds Used to Date	Program / Project Category Name
07017	$ 240,000.00	Solid Waste
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] **Budget Adjustment Attached** [ ]

Department Director — Date: 7-11-07

City Attorney — Date: 7/20/07

Finance and Internal Service Director — Date: 7-19-07

Mayor — Date: 7/20/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/17/07

Received in Mayor's Office — ENTERED 7/19/07

Comments: Project contengency for $5,500 is included due to additional option of securing baler to steel plate during installation.

City Council Agenda Item

To: **Mayor and City Council**

From: Brian Pugh

Thru: Gary Dumas

Date: July 9, 2007

Subject: A resolution awarding Bid # 07-56 in the amount of $211,393.00 to Downing Sales and Service for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

Recommendation:

Staff requests approving a resolution awarding Bid # 07-56 to Downing Sales and Service in the amount of $211,393.00 plus any applicable taxes for the purchase and installation of a new recycling baler for the recycling program; and approving a project contingency in the amount of $5,500 to cover installation costs of a steel plate for the baler.

Background:

On April 17th, 2007 resolution No. 70-07 authorized the Solid Waste and Recycling Division to accept a recycling grant from the Boston Mountain Solid Waste District in the amount of $81,605 to partially fund the purchase of a new baler for the recycling center. Project number 07017 was budgeted in the 2007 CIP for $240,000, including the recycling grant funds mentioned here, to completely fund the purchase and installation of a new recycling baler.

Discussion:

Bid 07-56 was opened on June 22nd, 2007 with the low bidder being Downing Sales and Service with a bid of $211,393. In addition to the bid, Downing recommends the addition of a ¾" steel plate to be positioned between the floor and the baler to minimize the impact baling activities will have on the floor, protecting it from cracking. The cost of this steel plate and installation is an additional $5,500. The request for a project contingency in that amount is included with this request.

Budget Impact:

The purchase of the recycling baler was anticipated and budgeted into Solid Waste's 2007 CIP. The account number is 5500.5060.5816.00. The budget for 2007 for this purchase is $240,000.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-56 TO DOWNING SALES AND SERVICE, INC. FOR THE PURCHASE AND INSTALLATION OF ONE (1) RECYCLING BALER IN THE AMOUNT OF $211,393.00 PLUS APPLICABLE TAXES; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF $5,500.00 .

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 #07-56 to Downing Sales And Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of $5,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

A. 4
Bid# 07-56 Downing Sales and Service
Page 4 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date: 7/9/2007	
P.O Number:		Expected Delivery Date: 12/12/2007	
Vendor #: 3842	Vendor Name: Downing Sales and Service	Mail Yes:__ No: x	
Address:	Fob Point:	Taxable Yes: x No:__	Quotes Attached Yes:__ No: x
City:	State:	Zip Code:	Ship to code: 170
Divison Head Approval:			
Requester: Brian Pugh	Requester's Employee #: 2133	Extension: 685	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2 Ram baler Marathon/Nexgen Model 2R-190N-70-75 Bid 07-56	1	lot	211,393.00	$211,393.00	5500.5060.5816.00	07017		
2	Project Contengency to install 3/4" think steel plate between baler and floor	1	lot	5,500.00	$5,500.00		07017		
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	Included in bid award			

Special Instructions:

Subtotal:	$216,893.00
Tax:	$13,176.08
Total:	$230,069.08

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

BID: 07-56
6/22/2007
2:00 PM
CITY OF FAYETTEVILLE

Fayetteville
ARKANSAS

Bid 07-56, Recycling Baler

	BIDDER	Manufacturer	Model	Year	TOTAL PRICE
1	American Baler Company	American Baler	4016-100T4	2007	$215,850.00
2	Downing Sales & Service, Inc.	Marathon/Nexgen	2R-190N-70-75	2007	$211,393.00
3	Marck Industries, Inc.	Max-Pak	MP2R7510	2007	$243,500.00
4	Peterbilt of Fort Smith				No Bid
5	United Recycling Equipment, Inc.	Harris	Badger "L"	2007	$228,483.00

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

CERTIFIED: P Vice — **P. VICE PURCH MGR**

A Foren — **WITNESS**

6/26/07 — **DATE**

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Accept contract to purchase a IBM AS400 model 9406-515. This machine will allow continued operation of the Central Dispatch Center in the event the primary AS400 becomes unavailable as a result of failure or for scheduled maintenance. The cost of this purchase is not to exceed $43,700.00.

$ 43,698.94	$ 225,368.00	Police Technology Improvements
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5801.00	$ 130,669.00	Fixed Assets
Account Number	Funds Used to Date	Program / Project Category Name
06002-1	$ 94,699.00	Sales Tax Capital Improvemnts
Project Number	Remaining Balance	Fund Name

Budgeted Item [X] **Budget Adjustment Attached** [ ]

Tracy Risley — 7/20/07
Department Director — Date

D. P. Whit — 7/23/07
City Attorney — Date

Paul A. Becker — 7-23-07
Finance and Internal Service Director — Date

Dan Coody — 7/23/07
Mayor — Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

Fayetteville
ARKANSAS

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

Departmental Correspondence

TO: Mayor Coody
Members of City Council

FROM: Greg Tabor, Police Chief GT/TR

DATE: July 20, 2007

SUBJECT: Computer Aided Dispatch AS/400 Redundancy

Recommendation
Staff recommends purchase approval of the AS/400 back up system from IBM Corporation in an amount not to exceed $43,700.00. This system is available through the State of Arkansas's purchasing contract.

Background
The Fayetteville Police Department provides dispatching for Police, Fire and after hours city services. In 2007 the scheduled replacement of our AS/400 computer system was initiated with the purchase of an IBM AS/400 model 9406-520. The second step to this upgrade is the purchase of a smaller AS/400 model 9406-515 to allow redundant operations for our Dispatch Center.

Discussion:
Redundancy is important to the Dispatch Center to allow continuous operations. The Dispatch center must be operational even when the main computer is down due to failure or scheduled maintenance, which may take up to 24 hours to complete. Approximately 52,000 calls for service are processed through the Dispatch Center annually. This software records the time and location of the call, which service was dispatched, when we arrived and when the call was completed. This call then becomes the incident to add all information to create a case file or fire records and ultimately report our crime and fire statistics. The software that runs on this system provides Dispatchers with critical information such as previous incidents at a location i.e. disturbances, armed persons, criminal activity, street directions to reach the call and hydrant information for fire calls. The proposed AS/400 provides a seamless transition between the primary AS/400 and the redundancy software stored on the back-up system.

Budget Impact:
Funding for this purchase is budgeted in the adopted 2006-2010 Capital Improvements Program in Sales Tax Capital Improvement Fund under the Police Technology Improvements Project. Additionally, annual maintenance expenses of $816 will be included in future operating budgets.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF AN IBM AS400, MODEL 9406-515 THROUGH THE STATE PURCHASING CONTRACT IN AN AMOUNT NOT TO EXCEED $43,700.00 FOR USE BY THE FAYETTEVILLE POLICE DEPARTMENT .

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

07/20/2007
11:25:07

2_1781753561B --> City of Fayetteville
515 Express/2G Mem/Qty 4 70G Disk/Rack Mnt/25 OS Users

Configuration Summary

Hardware Section Totals

Initial orders	
Purchase	31,440.00
Monthly Maint	73.00
Annual Maint	816.00

Overall hardware order (Net Charges)

Purchase	USD 31,440.00
Monthly Maint	73.00
Annual Maint	USD 816.00

Software Section Totals

Initial orders	
OTC	9,709.00

Overall software order (Net Charges)

OTC	USD 9,709.00

Service Section Totals

Overall System Order (Net Grand Totals)

OTC	41,149.00
Monthly	73.00
Annual	816.00

Notes:
1) All hardware and software list prices are effective as of 07/13/2007, and are subject to change without notice. Prices do not include any applicable recycling fees.
2) Maintenance prices shown are reference prices (ESA - US Only) and are standard level of service.
3) All removed parts belong to IBM on any upgrade or Return Parts transaction.
4) Informational totals are calculated based upon current list and/or reference price and do not reflect the prices actually paid by the customer. Base starting-point prices show only the recurring charges.

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date: 7/20/2007
P.O Number:	Expected Delivery Date:

Vendor #: 5710	Vendor Name: IBM Corp	Mail Yes:__ No:____	
Address: 1605 LBJ Freeeway		Fob Point:	Taxable Yes:_ No:____
Quotes Attached Yes:_____ No:_____			
City: Dallas	State: TX	Zip Code: 75234	Ship to code: 21
Divison Head Approval: Tracey Kirkley			
Requester:		Requester's Employee #:	Extension:

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	AS/400 mosel 9406-515	1	EA	31,440.00	$31,440.00	4470-9470-5801.00	06002/1		
2	Software	1	EA	9,709.00	$9,709.00	4470-9470-5209.00	06002/1		
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:	$41,149.00
Tax:	$2,549.94
Total:	$43,698.94

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/27/06

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
ALDERMAN SHIRLEY LUCAS and ALDERMAN BRENDA THIEL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Approve A Budget Adjustment In The Amount Of $16,000.00 From Economic Development Funds To The Airport Museum To Finish The Cabinets For Display Of Historic Documents

APPROVED FOR AGENDA:

Shirley Lucas — 7/10/07 Date
Alderman

Brenda Thiel — 7/10/07 Date
Alderman

Kit Williams — 7-10-07 Date
City Attorney (as to form)

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF $16,000.00 FROM ECONOMIC DEVELOPMENT FUNDS TO THE AIRPORT MUSEUM TO FINISH THE CABINETS FOR DISPLAY OF HISTORIC DOCUMENTS

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year	Department:	Date Requested	Adjustment Number
2007	Division: Program:	7/12/2007	

Project or Item Added/Increased:
$16,000 in the Transfer to Arkansas Air Museum account.

Project or Item Deleted/Reduced:
$16,000 from the Use of Designated Fund Balance account.

Justification of this Increase:
Funds will be used to finish the cabinets for display of historic documents at the Arkansas Air Museum.

Justification of this Decrease:
Sufficient funding remains to comply with City policy.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Transf to Ar Air Museum	1010	6600	5733	00	16,000		

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of Designated Fnd Bal	1010	0001	4999	98	16,000		

Approval Signatures

Requested By — Date

Budget Manager — Date 7-12-07

Department Director — Date

Paul A. Becker — Finance & Internal Services Director — Date 7-12-07

Mayor — Date

Budget Office Use Only

Type: A B C (D) E

Posted to General Ledger — Initial — Date

Posted to Project Accounting — Initial — Date

Entered in Category Log — Initial — Date

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

7-Aug-07
City Council Meeting Date

Sarah Wrede	Wastewater System Imprv Project	Engr and Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of a contract to GeoSyntec Consultants in the amount of $199,883.00 to develop a Nutrient Reduction Plan for the City in accordance with the Beaver Water District agreement, WSIP Subproject BWD-1, RFP 06-17.

$199,883.00	$ 99,013,095	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5314.00	$ 76,213,235	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133-0316	$ 22,799,860	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item XX Budget Adjustment Attached

Department Director — Date 16 Jul 07

City Attorney — Date 7/19/07

Finance and Internal Service Director — Date 7-20-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # 59-06

Original Contract Date: N/A

Original Contract Number: N/A

Received in City Clerk's Office ENTERED 7/16/07

Received in Mayor's Office ENTERED 7/19/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: David Jurgens, Water and Wastewater Director
Ron Petrie, City Engineer

From: Sarah Wrede, Staff Engineer

Date: July 12, 2007

Subject: Resolution to award a contract to GeoSyntec Consultants in the amount of $199,883.00 to develop a Nutrient Reduction Plan for the City in accordance with the Beaver Water District agreement.

RECOMMENDATION

Staff recommends approval of a resolution authorizing the development of a Nutrient Reduction Plan for the City of Fayetteville by GeoSyntec Consultants to achieve a net reduction of the load of Total Phosphorus into Beaver Lake.

BACKGROUND

On March 27, 2006, the City Council approved a resolution "Protection of the Beaver Lake Watershed" approving an agreement with Beaver Water District to achieve a net reduction of the load of Total Phosphorus (TP) into Beaver Lake. This agreement is a result of modifications to the Noland Wastewater Treatment Plant that will result in a doubling over time of the permitted discharge of treated effluent into the White River. The Arkansas Department of Environmental Quality approved a new discharge limit for total phosphorus on the City's NPDES Permit. The City has a track record of maintaining the concentration of treated effluent below 0.5 mg/l. The City has been permitted to maintain its current NPDES discharge limit of 1 mg/l TP in exchange for the City conducting a program to reduce nonpoint source loadings of TP within the watershed. The reductions of TP from nonpoint sources should be sufficient to offset the increased loading from the treatment plant allowed by the new NPDES limit.

DISCUSSION:

The City requested proposals from consultants to provide the City with a Nutrient Reduction Plan. Three firms where interviewed by a selection committee and GeoSyntec was selected. GeoSyntec Consultants has developed a scope of work for the Nutrient Reduction Plan which consists of six tasks as follows:

1. Draft Final Work Plan and Budget
2. Compile Existing Water Quality and Watershed Data
3. Inventory Existing State and Local Regulations and Programs
4. Facilitate a Stakeholder Review Group
5. Nutrient Reduction Plan Development
6. Develop a Public Outreach Brochure and Education Plan

The project is proposed to take a year.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION AWARDING A CONTRACT TO GEOSYNTEC CONSULTANTS, INC. IN THE AMOUNT OF $199,883.00 TO DEVELOP A NUTRIENT REDUCTION PLAN IN ACCORDANCE WITH THE BEAVER WATER DISTRICT AGREEMENT, WSIP SUBPROJECT BWD-1, RFP 06-17.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby awards a contract to Geosyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

AGREEMENT
For
PROFESSIONAL ENGINEERING SERVICES
Between
CITY OF FAYETTEVILLE, ARKANSAS
And
GEOSYNTEC CONSULTANTS, INC.

THIS AGREEMENT is made as of _____, 20__, by and between City of Fayetteville, Arkansas, acting by and through its Mayor (hereinafter called CITY OF FAYETTEVILLE) and Geosyntec Consultants, Inc. with offices located in Chicago, IL (hereinafter called Geosyntec).

CITY OF FAYETTEVILLE from time to time requires professional engineering services in connection with the planning, design, permitting, construction, operation, maintenance, management, and financing of the Fayetteville Wastewater System Improvement Project and in particular a Nutrient Reduction Plan (The "Project"). Therefore, CITY OF FAYETTEVILLE and Geosyntec in consideration of their mutual covenants agree as follows:

Geosyntec shall serve as CITY OF FAYETTEVILLE's professional consultant in those assignments to which this Agreement applies, and shall give consultation and advice to CITY OF FAYETTEVILLE during the performance of Geosyntec's services.

AUTHORIZATION OF SERVICES

1.1 Services on any assignment shall be undertaken only upon written Authorization of CITY OF FAYETTEVILLE and agreement of Geosyntec.

1.2 Assignments may include services described hereafter as Basic Services or as Additional Services of Geosyntec.

1.3 Changes, modifications or amendments in scope, price or fees to this contract shall **not** be allowed without a formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, costs, fees, or delivery schedule.

SECTION 1 - BASIC SERVICES OF GEOSYNTEC

2.1 General

2.1.1 Perform professional Nutrient Reduction Plan services as described in the scope of work in Appendix A.

2.1.2 Develop and include in Appendix B of this Agreement, a project schedule in which Geosyntec shall include, in an acceptable level of detail, the steps and milestone dates to be undertaken by Geosyntec in the completion of this nutrient reduction plan. Nonconformance with this schedule by Geosyntec and its subconsultants may result in the assessment of damages payable by Geosyntec to the CITY OF FAYETTEVILLE for costs incurred including, but not limited to, interest rate increases, impacts from delay, and inflationary cost increases. The maximum cost liability of Geosyntec shall be limited to the total gross amount payable to or through the Consultant authorized under this agreement, including amendments thereto.

2.1.2.1 The progress schedule shall consist of a bar chart schedule depicting the duration of each sub-project and the discrete milestone activities which make up the sub-projects.

2.1.2.2 Render monthly Work progress reports to CITY OF FAYETTEVILLE.

SECTION 2 - ADDITIONAL SERVICES OF GEOSYNTEC

3.0 General

If authorized in writing by the CITY OF FAYETTEVILLE Mayor and the City Council and agreed to in writing by Geosyntec, Geosyntec shall furnish or obtain from others Additional Services of the following types that are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1 Grant and Loan Assistance

Prepare applications and supporting documents for governmental grants, loans, or advances.

3.2 Financial Consultation

Consult with CITY OF FAYETTEVILLE's fiscal agents and bond attorneys and provide such engineering data as required for any bond prospectus or other financing requirements.

3.3 Administrative Assistance

Provide Contract and Project administration to the degree authorized by CITY OF FAYETTEVILLE.

3.4 Furnishing renderings or models of the Project for CITY OF FAYETTEVILLE's use.

3.5 Miscellaneous Studies

Investigations involving detailed consideration of operations, maintenance, and overhead expenses, and the preparation of rate schedules, earnings, and expense statements; feasibility studies; appraisals and valuations; detailed quantity surveys of material, equipment, and labor; and audits or inventories required in connection with construction performed by CITY OF FAYETTEVILLE.

3.6 Preparing to serve or serving as a witness for CITY OF FAYETTEVILLE in any litigation or other proceeding involving the Project.

3.7 Extra Services

3.7.1 Services not specifically defined heretofore that may be authorized by CITY OF FAYETTEVILLE.

3.7.2 Contingent Additional Services

3.7.2.1 If services described under Contingent Additional Services in Paragraphs 3.1 through 3.6 are required due to circumstances beyond Geosyntec's control, Geosyntec shall notify CITY OF FAYETTEVILLE and request a formal contract amendment approved by the Mayor and the City Council prior to commencing such services. If CITY OF FAYETTEVILLE deems that such services described above are not required, CITY OF FAYETTEVILLE shall give prompt written notice to Geosyntec. If CITY OF FAYETTEVILLE indicates in writing that all or parts of such Contingent Additional Services are not required, Geosyntec shall have no obligation to provide those services.

SECTION 3 - RESPONSIBILITIES OF CITY OF FAYETTEVILLE

CITY OF FAYETTEVILLE shall, within a reasonable time, so as not to delay the services of Geosyntec:

3.1 Provide full information as to CITY OF FAYETTEVILLE's requirements for the Project.

3.2 Assist Geosyntec by placing at Geosyntec's disposal all available information pertinent to the assignment including previous reports and any other data relative thereto.

3.3 Guarantee access to and make all provisions for Geosyntec to enter upon public and private property as required for Geosyntec to perform his services under this Agreement.

3.4 Examine all studies, reports, sketches, cost opinions, Bid Documents, Drawings, proposals, and other documents presented by Geosyntec and render in writing decisions pertaining thereto.

3.5 Provide such professional legal, accounting, financial, and insurance counseling services as may be required for the Project.

3.6 Designate in writing a person to act as CITY OF FAYETTEVILLE's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY OF FAYETTEVILLE's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.

3.7 Give prompt written notice to Geosyntec whenever CITY OF FAYETTEVILLE observes or otherwise becomes aware of any defect in the Project.

3.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project. Pay directly to the governmental authorities the actual filing and permit fees.

3.9 Pay for placement of legal notices and advertisements in newspapers or other publications required by program requirements of the Wastewater System Improvement Project.

3.10 Furnish, or direct Geosyntec to provide, necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

3.11 CITY OF FAYETTEVILLE and/or its representative will review all documents and provide written comments to Geosyntec in a timely manner.

SECTION 4 - PERIOD OF SERVICE

4.1 This Agreement will become effective upon the first written notice by CITY OF FAYETTEVILLE authorizing services hereunder.

4.2 The provisions of this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion of the services stated in the Agreement. Geosyntec will proceed with providing the authorized services immediately upon receipt of written authorization from CITY OF FAYETTEVILLE. Said authorization shall include the scope of the services authorized and the time in which the services are to be completed.

SECTION 5 - PAYMENTS TO GEOSYNTEC

5.1 Compensation

5.1.1 Nutrient Reduction Plan Services

For the Scope of Services described in Attachment A, CITY OF FAYETTEVILLE shall pay monthly invoices not to exceed United States Dollars (US $ 199,883).

5.1.1.1 Subject to the City Council approval, adjustment of the not to exceed amount may be made should Geosyntec establish and CITY OF FAYETTEVILLE agree that there has been or is to be a significant change in scope, complexity or character of the services to be performed; or if CITY OF FAYETTEVILLE decides to shorten the duration of work from the time period specified in the Agreement for completion of work and such modification warrants such adjustment. Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

5.1.1.2 Monthly statements for each calendar month shall be submitted to CITY OF FAYETTEVILLE or such parties as CITY OF FAYETTEVILLE may designate for services consistent with Geosyntec's normal billing schedule. Once established, the billing schedule shall be maintained throughout the duration of the Project. Applications for payment shall be made in accordance with a format to be developed by Geosyntec and approved by CITY OF FAYETTEVILLE. Applications for payment shall be accompanied each month by the updated project schedule as the basis for determining the value earned as the work is accomplished. Final payment for services shall be made upon CITY OF FAYETTEVILLE's approval and acceptance with the satisfactory completion of the Project.

5.1.2 Additional Services

For authorized Additional engineering services under Section 3, "Additional Services", compensation to Geosyntec shall be negotiated at the time Additional services are authorized.

5.2 Statements

Statements and updated progress schedule for each calendar month will be submitted in electronic format simultaneously to CITY OF FAYETTEVILLE and Program Manager, followed by signed original document to CITY OF FAYETTEVILLE. Statements will be based on Geosyntec's estimated percent of services completed at the end of the preceding month, and justified by the updated progress schedule. Program Manager shall review the statement and forward them to CITY OF FAYETTEVILLE with his recommendations.

5.3 Payments

All statements are payable upon receipt and due within thirty (30) days. If a portion of Geosyntec's statement is disputed by CITY OF FAYETTEVILLE, the undisputed portion shall be paid by CITY OF FAYETTEVILLE by the due date. CITY OF FAYETTEVILLE shall advise Geosyntec in writing of the basis for any disputed portion of any statement. CITY OF FAYETTEVILLE will make reasonable effort to pay invoices within 30 days of date the invoice is approved, however, payment within 30 days is not guaranteed.

5.4 Final Payment

Upon satisfactory completion of the work performed under this Agreement, as a condition before final payment under this Agreement, or as a termination settlement under this Agreement, Geosyntec shall execute and deliver to CITY OF FAYETTEVILLE a release of all claims against CITY OF FAYETTEVILLE arising under or by virtue of this Agreement, except claims which are specifically exempted by Geosyntec to be set forth therein. Unless otherwise provided in this Agreement or by State law or otherwise expressly agreed to by the parties to this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of CITY OF FAYETTEVILLE's claims against Geosyntec or his sureties under this Agreement or applicable performance and payment bonds, if any.

SECTION 6 - GENERAL CONSIDERATIONS

6.1 Insurance

6.1.1 During the course of performance of these services, Geosyntec will maintain (in United States Dollars) the following minimum insurance coverages:

Type of Coverage	Limits of Liability
Workers' Compensation	Statutory
Employers' Liability	$500,000 Each Accident
Commercial General Liability Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Automobile Liability: Bodily Injury and Property Damage	$1,000,000 Combined Single Limit
Professional Liability Insurance	$1,000,000 Each Claim

Geosyntec will provide to CITY OF FAYETTEVILLE certificates as evidence of the specified insurance within ten days of the date of this Agreement and upon each renewal of coverage.

6.1.2 CITY OF FAYETTEVILLE and Geosyntec waive all rights against each other and their officers, directors, agents, or employees for damage covered by property insurance during and after the completion of Geosyntec's services. If the services result in a Construction Phase, a provision similar to this shall be incorporated into all Construction Contracts entered into by CITY OF FAYETTEVILLE, and all construction Contractors shall be required to

provide waivers of subrogation in favor of CITY OF FAYETTEVILLE and Geosyntec for damage or liability covered by any construction Contractor's policy of insurance.

6.2 Professional Responsibility

6.2.1 Geosyntec will exercise reasonable skill, care, and diligence in the performance of Geosyntec's services and will carry out its responsibilities in accordance with customarily accepted professional engineering practices. Geosyntec agrees not to seek or accept any compensation or reimbursements from the City of Fayetteville for engineering work it performs to correct any errors, omissions or other deficiencies caused by Geosyntec 's failure to meet customarily accepted professional engineering practices. CITY OF FAYETTEVILLE retains all other remedies to recover for its damages caused by any negligence of Geosyntec.

6.2.2 In addition Geosyntec will be responsible to CITY OF FAYETTEVILLE for damages caused by its negligent conduct during its activities at the Project Site to the extent covered by Geosyntec's Commercial General Liability and Automobile Liability Insurance policies as specified in Paragraph 6.1.1.

6.3 Cost Opinions and Projections

Cost opinions and projections prepared by Geosyntec relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on Geosyntec's experience, qualifications, and judgment as a design professional. Since Geosyntec has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction Contractors' procedures and methods, unavoidable delays, construction Contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, Geosyntec does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost opinions and projections prepared by Geosyntec.

6.4 Changes

CITY OF FAYETTEVILLE shall have the right to make changes within the general scope of Geosyntec's services, with an appropriate change in compensation and schedule only after Fayetteville City Council approval of such proposed changes and, upon execution of a mutually acceptable

amendment or change order signed by the Mayor of the CITY OF FAYETTEVILLE and the President, Vice President, or any Principal of Geosyntec.

6.5 Termination

6.5.1 This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given:

6.5.1.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.1.2 An opportunity for consultation with the terminating party prior to termination.

6.5.2 This Agreement may be terminated in whole or in part in writing by CITY OF FAYETTEVILLE for its convenience, provided that Geosyntec is given:

6.5.2.1 Not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate,

6.5.2.2 An opportunity for consultation with the terminating party prior to termination.

6.5.3 If termination for default is effected by CITY OF FAYETTEVILLE, an equitable adjustment in the price provided for in this Agreement shall be made, but

6.5.3.1 No amount shall be allowed for anticipated profit on unperformed services or other work,

6.5.3.2 Any payment due to Geosyntec at the time of termination may be adjusted to cover any additional costs to CITY OF FAYETTEVILLE because of Geosyntec's default.

6.5.4 If termination for default is effected by Geosyntec, or if termination for convenience is effected by CITY OF FAYETTEVILLE, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to Geosyntec for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Geosyntec relating to commitments which had become firm prior to the termination.

6.5.5 Upon receipt of a termination action under Paragraphs 7.5.1 or 7.5.2 above, Geosyntec shall:

6.5.5.1 Promptly discontinue all affected work (unless the notice directs otherwise),

6.5.5.2 Deliver or otherwise make available to CITY OF FAYETTEVILLE all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Geosyntec in performing this Agreement, whether completed or in process.

6.5.6 Upon termination under Paragraphs 7.5.1 or 7.5.2 above CITY OF FAYETTEVILLE may take over the work and may award another party an agreement to complete the work under this Agreement.

6.5.7 If, after termination for failure of Geosyntec to fulfill contractual obligations, it is determined that Geosyntec had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of CITY OF FAYETTEVILLE. In such event, adjustments of the agreement price shall be made as provided in Paragraph 7.5.4 of this clause.

6.6 Delays

In the event the services of Geosyntec are suspended or delayed by CITY OF FAYETTEVILLE or by other events beyond GeoSyntec's reasonable control, Geosyntec shall be entitled to additional compensation and time for reasonable costs incurred by Geosyntec in temporarily closing down or delaying the Project.

6.7 Rights and Benefits

Geosyntec's services will be performed solely for the benefit of CITY OF FAYETTEVILLE and not for the benefit of any other persons or entities.

6.8 Dispute Resolution

6.8.1 Scope of Paragraph: The procedures of this Paragraph shall apply to any and all disputes between CITY OF FAYETTEVILLE and Geosyntec which arise from, or in any way are related to, this Agreement, including, but not limited to the interpretation of this Agreement, the enforcement of its terms, any acts, errors, or omissions of CITY OF FAYETTEVILLE or Geosyntec in the performance of this Agreement, and disputes concerning payment.

6.8.2 Exhaustion of Remedies Required: No action may be filed unless the parties first negotiate. If timely Notice is given under Paragraph 7.8.3, but an action is initiated prior to exhaustion of these procedures, such action shall be stayed, upon application by either party to a court of proper jurisdiction, until the procedures in Paragraphs 7.8.3 and 7.8.4 have been complied with.

6.8.3 Notice of Dispute

6.8.3.1 For disputes arising prior to the making of final payment promptly after the occurrence of any incident, action, or failure to act upon which a claim is based, the party seeking relief shall serve the other party with a written Notice;

6.8.3.2 For disputes arising within one year after the making of final payment, CITY OF FAYETTEVILLE shall give Geosyntec written Notice at the address listed in Paragraph 7.14 within thirty (30) days after occurrence of any incident, accident, or first observance of defect or damage. In both instances, the Notice shall specify the nature and amount of relief sought, the reason relief should be granted, and the appropriate portions of this Agreement that authorize the relief requested.

6.8.4 Negotiation: Within seven days of receipt of the Notice, the Project Managers for CITY OF FAYETTEVILLE and Geosyntec shall confer in an effort to resolve the dispute. If the dispute cannot be resolved at that level, then, upon written request of either side, the matter shall be referred to the President of Geosyntec and the Mayor of CITY OF FAYETTEVILLE or his designee. These officers shall meet at the Project Site or such other location as is agreed upon within 30 days of the written request to resolve the dispute.

6.9 CITY OF FAYETTEVILLE represents that it has sufficient funds or the means of obtaining funds to remit payment to Geosyntec for services rendered by Geosyntec.

6.10 Publications

Recognizing the importance of professional development on the part of Geosyntec's employees and the importance of Geosyntec's public relations, Geosyntec may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to Geosyntec's services for the Project. Such publications will be provided to CITY OF FAYETTEVILLE in draft form for CITY OF FAYETTEVILLE's advance review. CITY OF FAYETTEVILLE shall review such drafts promptly and provide CITY OF FAYETTEVILLE's comments to Geosyntec. CITY OF FAYETTEVILLE may require

deletion of proprietary data or confidential information from such publications, but otherwise CITY OF FAYETTEVILLE will not unreasonably withhold approval. The cost of Geosyntec's activities pertaining to any such publication shall be for Geosyntec's account.

6.11 Indemnification

6.11.1 CITY OF FAYETTEVILLE agrees that it will require all construction Contractors to indemnify, defend, and hold harmless CITY OF FAYETTEVILLE and Geosyntec from and against any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of the Contractors, or their employees, agents, Subcontractors, and Suppliers.

6.12 Computer Models

Geosyntec may use or modify Geosyntec's proprietary computer models in service of CITY OF FAYETTEVILLE under this Agreement, or Geosyntec may develop computer models during Geosyntec's service to CITY OF FAYETTEVILLE under this Agreement. Such use, modification, or development by Geosyntec does not constitute a license to CITY OF FAYETTEVILLE to use or modify Geosyntec's computer models. Said proprietary computer models shall remain the sole property of Geosyntec. CITY OF FAYETTEVILLE and Geosyntec will enter into a separate license agreement if CITY OF FAYETTEVILLE wishes to use Geosyntec's computer models.

6.13 Ownership of Documents

All documents provided by CITY OF FAYETTEVILLE including original drawings, disks of CADD drawings and cross sections, estimates, specification field notes, and data are and remain the property of CITY OF FAYETTEVILLE. Geosyntec may retain reproduced copies of drawings and copies of other documents.

Engineering documents, drawings, and specifications prepared by Geosyntec as part of the Services shall become the property of CITY OF FAYETTEVILLE when Geosyntec has been compensated for all Services rendered, provided, however, that Geosyntec shall have the unrestricted right to their use. Geosyntec shall, however, retain its rights in its standard drawings details, specifications, databases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of Geosyntec.

Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced. Geosyntec makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

6.14 Notices

Any Notice required under this Agreement will be in writing, addressed to the appropriate party at the following addresses:

CITY OF FAYETTEVILLE's address:

_____

_____

_____

Geosyntec's address:

55 W. Wacker Dr..
Suite 1100
Chicago, IL 60601

6.15 Successor and Assigns

CITY OF FAYETTEVILLE and Geosyntec each binds himself and his successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither CITY OF FAYETTEVILLE nor Geosyntec shall assign, sublet, or transfer his interest in the Agreement without the written consent of the other.

6.16 Controlling Law

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Arkansas without regard to any conflicts of law provisions.

6.17 Entire Agreement

This Agreement represents the entire Agreement between Geosyntec and CITY OF FAYETTEVILLE relative to the Scope of Services herein. Since terms contained in purchase orders do not generally apply to professional services, in the event CITY OF FAYETTEVILLE issues to Geosyntec a purchase order,

no preprinted terms thereon shall become a part of this Agreement. Said purchase order document, whether or not signed by Geosyntec, shall be considered as a document for CITY OF FAYETTEVILLE's internal management of its operations.

SECTION 7 - SPECIAL CONDITIONS

7.1 Additional Responsibilities of Geosyntec:

7.1.1 CITY OF FAYETTEVILLE's or Arkansas Soil and Water Conservation Commission's (ASWCC's) review, approval, or acceptance of design drawings, specifications, reports and other services furnished hereunder shall not in any way relieve Geosyntec of responsibility for the technical adequacy of the work. Neither CITY OF FAYETTEVILLE's nor ASWCC's review, approval or acceptance of, nor payment for any of the services shall be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

7.1.2 Geosyntec shall be and shall remain liable, in accordance with applicable law, for all damages to CITY OF FAYETTEVILLE caused by Geosyntec's negligent performance of any of the services furnished under this Agreement except for errors, omissions or other deficiencies to the extent attributable to CITY OF FAYETTEVILLE or CITY OF FAYETTEVILLE-furnished data.

7.1.3 Geosyntec's obligations under this clause are in addition to Geosyntec's other express or implied assurances under this Agreement or State law and in no way diminish any other rights that CITY OF FAYETTEVILLE may have against Geosyntec for faulty materials, equipment, or work.

7.2 Remedies

Except as may be otherwise provided in this Agreement, all claims, counter-claims, disputes and other matters in question between CITY OF FAYETTEVILLE and Geosyntec arising out of or relating to this Agreement or the breach thereof will be decided in a court of competent jurisdiction within Arkansas.

7.3 Audit: Access to Records

7.3.1 Geosyntec shall maintain books, records, documents and other evidence directly pertinent to performance on work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied in effect on the date of execution of

this Agreement. Geosyntec shall also maintain the financial information and data used by Geosyntec in the preparation of support of the cost submission required for any negotiated agreement or change order and send to CITY OF FAYETTEVILLE a copy of the cost summary submitted. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, CITY OF FAYETTEVILLE, the State or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. Geosyntec will provide proper facilities for such access and inspection.

7.3.2 Records under Paragraph 8.3.1 above, shall be maintained and made available during performance on assisted work under this Agreement and until three years from the date of final payment for the project. In addition, those records which relate to any controversy arising out of such performance, or to costs or items to which an audit exception has been taken, shall be maintained and made available until three years after the date of resolution of such appeal, litigation, claim or exception.

7.3.3 This right of access clause (with respect to financial records) applies to:

7.3.3.1 Negotiated prime agreements:

7.3.3.2 Negotiated change orders or agreement amendments in excess of $10,000 affecting the price of any formally advertised, competitively awarded, fixed price agreement:

7.3.3.3 Agreements or purchase orders under any agreement other than a formally advertised, competitively awarded, fixed price agreement. However, this right of access does not apply to a prime agreement, lower tier subagreement or purchase order awarded after effective price competition, except:

7.3.3.3.1 With respect to record pertaining directly to subagreement performance, excluding any financial records of Geosyntec;

7.3.3.3.2 If there is any indication that fraud, gross abuse or corrupt practices may be involved;

7.3.3.3.3 If the subagreement is terminated for default or for convenience.

7.4 Covenant Against Contingent Fees

Geosyntec warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement of understanding for a commission, percentage, brokerage or continent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Geosyntec for the purpose of securing business. For breach or violation of this warranty, CITY OF FAYETTEVILLE shall have the right to annul this Agreement without liability or at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

7.5 Gratuities

7.5.1 If CITY OF FAYETTEVILLE finds after a notice and hearing that Geosyntec or any of Geosyntec's agents or representatives, offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of CITY OF FAYETTEVILLE, the State or EPA in an attempt to secure an agreement or favorable treatment in awarding, amending or making any determinations related to the performance of this Agreement, CITY OF FAYETTEVILLE may, by written notice to Geosyntec terminate this Agreement. CITY OF FAYETTEVILLE may also pursue other rights and remedies that the law or this Agreement provides. However, the existence of the facts on which CITY OF FAYETTEVILLE bases such finding shall be in issue and may be reviewed in proceedings under the Remedies clause of this Agreement.

7.5.2 In the event this Agreement is terminated as provided in Paragraph 8.5.1, CITY OF FAYETTEVILLE may pursue the same remedies against Geosyntec as it could pursue in the event of a breach of the Agreement by Geosyntec. As a penalty, in addition to any other damages to which it may be entitled by law, CITY OF FAYETTEVILLE may pursue exemplary damages in an amount (as determined by CITY OF FAYETTEVILLE) which shall be not less than three nor more than ten times the costs Geosyntec incurs in providing any such gratuities to any such officer or employee.

7.6 Arkansas Freedom of Information Act

City contracts and documents, including internal documents and documents of subcontractors and sub-consultants, prepared while performing City contractual work are subject to the Arkansas Freedom of Information Act (FOIA). If a Freedom of Information Act request is presented to the CITY OF

FAYETTEVILLE, Geosyntec will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

8.7 Debarment And Suspension

I certify that to the best of my knowledge and belief that the company that I represent and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification regarding debarment and suspension may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both. I further certify that I will obtain a similar certification for each subcontract awarded in excess of $25,000.

DEBARMENT CERTIFICATION
AUTHORIZED REPRESENTATIVE

COMPANY NAME: Geosyntec Consultants, Inc.

SIGNATURE: [signature] DATE: 6-29-07

PRINTED NAME: William D. Ward TITLE: Associate

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE, ARKANSAS by and through its Mayor, and Geosyntec, by its authorized officer have made and executed this Agreement as of the day and year first above written.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Geosyntec Consultants, Inc.

By: [illegible]

Title: ASSOCIATE

By: Susan K. Hill, P.E.

Title: PRINCIPAL

Changes, modifications or amendments in scope, price or fees to this Contract shall **not** be allowed without formal contract amendment approved by the Mayor and the City Council **in advance** of the change in scope, cost, fees, or delivery schedule.

END OF AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City of Fayetteville Nutrient Reduction Plan
Scope of Work

GeoSyntec Consultants will develop a Nutrient Reduction Plan for the City of Fayetteville to implement its agreement with the Beaver Water District. The Nutrient Reduction Plan will focus on controlling nonpoint sources of total phosphorus (TP). Achieving reductions in TP load to Beaver Lake is critical to maintaining the quality of the region's principle source of drinking water. GeoSyntec has assembled a consultant team with an exceptional record of prior watershed management and source water protection experience. GeoSyntec will enter into subcontracts with the project team after reaching agreement with the City of Fayetteville with regard to this scope of work.

The GeoSyntec Team will complete this scope of work in the following six tasks. The technical approach and schedule for each task are provided below. The proposed schedule is expressed in terms of months from project initiation and will be revised in consultation with the Fayetteville Project Manager.

Task 1. Draft Final Work Plan and Budget

GeoSyntec will work with the Fayetteville Project Manager to develop the final scope of work and associated budget. GeoSyntec will not proceed with the project until final work plan approval and contract initiation is completed with the city.

Project Month: 0 - 1

Task 2. Compile Existing Water Quality and Watershed Data

The GeoSyntec Team will collect all available data to support the Nutrient Reduction Plan. Data will include any water quality monitoring conducted within the watershed. For example, in consultation with the Beaver Water District's Manager of Environmental Quality, GeoSyntec will review previous water quality data summaries including the July 2005 Beaver Lake Water Quality Report and the April 2006 Analysis of Water Quality Trends in Beaver Lake. GeoSyntec will contact FTN Associates to discuss the data summaries and issues with regard to data quality.

In addition, GeoSyntec will contact Dr. Kati White Migliaccio to discuss the applicability of the existing CE-QUAL-W2 to support the pollutant loading analysis.

GeoSyntec will also independently review water quality data sources to ensure that all available sources have been identified. GeoSyntec will collect other information and data for the watershed management strategy, including regional demographic trends and anticipated water demands.

GeoSyntec will assemble the most up-to-date land use information and key sources of TP. GeoSyntec anticipates that a key component of the Nutrient Reduction Plan will be a thorough analysis of TP sources related to specific land uses.

GeoSyntec will also collect other critical information sources, including current and draft stormwater, drainage, and erosion control specifications and ordinances; the city's Drainage Criteria Manual; the city's Subdivision and Large Scale Development ordinance; the city's NPDES permits; and historical data and information for the Noland wastewater treatment plant.

GeoSyntec will prepare a memorandum for the Fayetteville Project Manager summarizing the available data and any critical data gaps that may hinder the ability to prepare the Nutrient

Reduction Plan. At the request of the Fayetteville Project Manager, GeoSyntec will prepare a work plan and cost estimate for any additional data collection.

Project Months: 1 - 3

Task 3. Inventory Existing State and Local Regulations and Programs

Understanding the political and regulatory climate within Benton and Washington counties will be critical to the development of appropriate management controls for the Nutrient Reduction Plan. In addition to the City of Fayetteville ordinances, GeoSyntec will inventory all applicable State, county, and local land management statutes, regulations, and ordinances. GeoSyntec will also review the status of other NPDES permitted point source discharges in the watershed and other local stormwater management programs. GeoSyntec will also assess the status of 303(d) listed water bodies in the watershed, and we will contact Arkansas DEQ to document current and anticipated TMDL development and additional impaired water body listings in the watershed.

GeoSyntec will document the circumstances leading to the unsuccessful passage of the Benton County Buffer Ordinance and provide recommendations for revising the ordinance or taking a different approach to secure its passage.

GeoSyntec will prepare a memorandum summarizing the available statutes and regulations governing point and nonpoint sources in Benton and Washington Counties. GeoSyntec will also provide recommendations for regulatory changes to better address potential pollutant sources.

Project Months: 1 - 3

Task 4. Facilitate a Stakeholder Review Group

The GeoSyntec Team will provide all needed research, facilitation, and logistical support for the successful deliberations of a Stakeholder Review Group in the following three subtasks.

4.1 Assist in the Formation of a Stakeholder Review Group

In consultation with the Fayetteville Project Manager, GeoSyntec will review a list of potential stakeholders and compile a final list to be invited to participate on a Stakeholder Review Group (SRG). GeoSyntec will draft an invitation letter for the stakeholders, including background information on the project goals and schedule, and revise it as directed. GeoSyntec will complete the mailing and conduct follow up phone contacts as needed. GeoSyntec will maintain a list of the SRG participants throughout the project.

Project Months: 1 - 3

4.2 Support the SRG Deliberation Process

Geosyntec will lead the facilitation support. The Geosyntec Team will develop meeting agendas in consultation with the Fayetteville Project Manager. They will compile and distribute background information, including data reports, ordinance summaries, draft watershed strategy chapters and other background information to support the deliberations. Members of the GeoSyntec Team will also present create and deliver presentations on key findings and options for addressing watershed management issues. Geosyntec will set clear goals for each of the meetings, including key questions to be addressed and decision points to be reached. The objective of the facilitation will be to reach group consensus, although dissenting opinions will be openly aired and considered. When necessary, more focused consultations with stakeholders may be considered to resolve difficult issues and formulate new options to bring to the SRG. GeoSyntec will document

the key discussion points in the meetings and conclusions reached. Meeting summaries will be distributed to the participants within one week of each meeting.

GeoSyntec anticipates that the first SRG meeting will be held in Month 3 of the project and will be held bi-monthly throughout the duration of the project.

Project Months: 3 - 12

4.3 Maintain SRG Records and establish a web site to support the SRG deliberation process

GeoSyntec will establish a web site to support the SRG deliberation process. All project deliverables, meeting agendas, meeting summaries, and other supporting documentation will be maintained on the site. The site will also provide for a central repository to collect SRG comments and to post watershed strategy chapters as they are drafted and reviewed.

Project Months: 3 - 12

Task 5. Nutrient Reduction Plan Development

The GeoSyntec Team will work directly with the Fayetteville Project Manager and the SRG to develop a Nutrient Reduction Plan that addresses the following key objectives:

- Identifies the key characteristics of the watershed, including land use trends, hydrology, point and non-point pollutant sources, and water quality stressors.
- Establishes quantifiable water quality management goals in compliance with the Beaver Water District agreement, nutrient criteria, or other measures critical to water quality and the pollutant load reductions needed to achieve those goals.
- Inventories the regulatory and non-regulatory tools available to manage water quality stressors.
- Identifies specific best management practices (BMP) suitable to control pollutant loads.
- Estimates the pollutant load reductions resulting from the implementation of regulatory and non-regulatory controls.
- Identifies the parties implementing the controls and the funding sources needed to support them.
- Establishes a clear schedule for control project implementation, including interim milestones to ensure progress is being made on project implementation.
- Creates a monitoring program to ensure that the water quality goals are being met.
- Provides for adaptive management of the watershed to ensure that the control projects are being reviewed and updated over time to provide for ongoing protection of Beaver Lake.
- Implements a public education and outreach program to promote public support for the control measures and to help landowners understand how they impact the lake.

The Plan will acknowledge other programs addressing impaired waters within the watershed, such as the Arkansas DEQ TMDL program, and will ensure that unimpaired waters continue to meet or exceed existing standards or designated uses.

The GeoSyntec Team will support the Strategy development in the following five subtasks.

5.1 Develop Nutrient Reduction Plan Goals and Strategy

The GeoSyntec Team will work with the City of Fayetteville and SRG to establish a written Watershed Strategy. The Strategy will clearly present the mission and goals of the Nutrient Reduction. It is anticipated that several draft documents will be distributed via the project website for comment and input from all stakeholders.

Project Months: 3 - 4

5.2 Develop a Nutrient Reduction Plan Outline: Nine Minimum Elements

The GeoSyntec Team will work with the District, Technical Advisory Group and Policy Advisory Group to establish a written Nutrient Reduction Plan. The Plan will clearly present the mission and goals of the Watershed Management Plan. It is anticipated that several draft documents will be distributed via the project website (See task 2.3). The nine minimum elements will include the following:

A. Identify Pollution Sources	GeoSyntec will assemble information from (1) baseline reference documents, (2) NPDES permits and (3) reports from previous studies. As a default, land use data will be used to identify categories of potential NPS pollution sources.
B: Estimated Pollutant Load Reductions	GeoSyntec will assemble information from (1) baseline reference documents, (2) any results from the selected district or volunteer monitoring data. As a default, land use data will be used to estimate pollutant contribution from categories of potential sources such as land development, forestry, or agriculture.
C: NPS Management Measures Needed	GeoSyntec will assemble information from (1) baseline reference documents and (2) identified management measures from stakeholders.
D: Estimated Technical and Financial Assistance	GeoSyntec will assemble information about proposed and/or undertaken management measures in the watershed/subwatershed, and analyze the financial/technical resources that were necessary to implement them. Based on this exercise, GeoSyntec will estimate values for those technical and financial resources on a per-unit basis. Using the results of C., we will extrapolate the technical/financial resources necessary for watershed-wide implementation. Where no project-specific information is available, we will use either values from a similar watershed and/or basin, and/or use EPA default values from GRTS reporting.
E: Public Information /Education	The public information component of this project will address this element.
F: NPS Management Implementation Schedule	GeoSyntec will assemble (1) implementation schedules included in the baseline reference documents[1], and (2) action strategies developed by watershed stakeholders. We will then develop a default timeline (i.e., "within xx years") consistent across all management measures.
G: Interim Milestones for NPS Measures	GeoSyntec will discuss how regular updates of the Source Management Plan will satisfy this element.
H: Evaluation Criteria	To satisfy the requirements of categories H. and I., GeoSyntec will discuss

I: Monitoring Effectiveness of NPS Measures	how the ongoing assessment and monitoring activities of the city will satisfy the requirements for these categories.

Project Months: 4 - 5

5.3 Identify and Document TP Load Sources

Based on the data and land use review, the GeoSyntec Team will identify the most significant sources of TP load in the watershed. These sources may include animal feeding operations, fertilizer applications, wastewater discharges, septic or other on-site disposal systems, pet waste, or other waste disposal. The GeoSyntec Team will estimate the TP load from the multiple sources to begin setting priorities for the management practices.

Several alternate approaches are available for estimating reductions in TP loads from different management scenarios. These range from simple spreadsheet models to complex, hydraulic models. GeoSyntec will work with the Fayetteville Project Manager to identify the approach most suitable for this project following the data analysis. We believe strongly that the selection of the modeling approach is best done following the data analysis and the determination of the Nutrient Reduction Plan goals. The approaches include the following:

Spreadsheet Model – This approach involves estimating the TP load from specific sources based on export coefficients derived from literature values.

Runoff Curve Models – The Long-Term Hydrologic Impact Assessment (L-THIA) Model was developed by Purdue University to estimate changes in surface runoff and pollutants loads, including TP, resulting from land use changes.

Annualized Loading Models – The Generalized Watershed Loading Function (GWLF) Model is promoted by U.S. EPA for TMDL and other watershed modeling applications. GWLF is a moderate cost approach for assessing annual pollutant loads and the impact of BMPs.

The GeoSyntec Team will document the rationale for the selected modeling approach and develop the modeling application. The application will be suitable for assessing the pollutant load reduction impact of the best management practices (BMP) and other management measures identified under subtask 5.4.

Project Months: 5 – 8

5.4 Identify BMPs and Predicted TP Load Reductions, including city ordinance revisions

The GeoSyntec Team will develop a set of recommended BMPs and other management measures to achieve the required TP load reduction. The management measures will be selected in consultation with the city and the SRG based on the TP load reduction achieved, cost, and feasibility of implementation.

Management measures may include structural BMPs such as buffer strips, conservation easements, biofilters, and stormwater retention basins. Other non-structural BMPs may include public education to reduce fertilizer applications and encourage pet waste clean up and economic incentives to farmers and animal feeding operators to improve fertilizer and manure management. Ordinance and zoning revisions to steer development from sensitive areas and improve erosion and stormwater management will also be considered.

The GeoSyntec Team will document the set of selected management measures in preparation for completing the Nutrient Reduction Plan.

Project Months: 8 -10

5.5 Develop Monitoring Plan

GeoSyntec recommends that the Nutrient Reduction Plan include monitoring activities to assess the achievement of the TP load reduction goals. The plan will identify monitoring locations, establish a monitoring schedule, and outline recommended analytical methods. The plan will also identify parties responsible for the sample collection, the analytical laboratories to be used, and chain of custody procedures. GeoSyntec will present the draft plan to the city and SRG for review and revise the plan as necessary.

Project Months: 8 - 10

5.6 Draft Nutrient Reduction Plan including Monitoring Plan and Facilitate SRG Review

The GeoSyntec Team will draft the Nutrient Management Plan following this general outline:

1.0 Nutrient Reduction Goals
2.0 Watershed Characterization
3.0 Total Phosphorus Sources
4.0 Nutrient Management Measures and Load Reductions
5.0 Implementation Plan and Schedule
6.0 Funding and Information Sources
7.0 Monitoring Plan
8.0 Reporting Schedule

The GeoSyntec Team will present the draft to the city and the SRG for review. The GeoSyntec will facilitate plan review and revise the plan as needed. GeoSyntec will deliver a Final Nutrient Reduction Plan, including the implementation schedule, funding sources, and monitoring plan.

Project Months: 10 - 12

Task 6. Develop a Public Outreach Brochure and Education Plan

To facilitate successful implementation of residential and commercial site BMPs, GeoSyntec will draft a public outreach brochure and education plan for watershed residents and users of watershed lands.

Project Month: 12

Project Deliverables

GeoSyntec will deliver a final report documenting the collaborative process and the resulting watershed management strategy. GeoSyntec will also develop a brochure for public distribution outlining the key elements of the watershed management strategy, as described above. The final report and brochure will be provided in both hard copy and electronic format.

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date:
P.O Number:	Expected Delivery Date:

Vendor #:	Vendor Name: GeoSyntec Consultants	Mail Yes:__ No:____	
Address: 55 West Wacker Drive, Suite 1100	Fob Point:	Taxable Yes:__ No:____	Quotes Attached Yes:____ No:____
City: Chicago	State: IL	Zip Code: 60601	Ship to code:
Divison Head Approval:			
Requester: WSIP- Andrea Allen, Engineering- Sarah Wrede	Requester's Employee #:	Extension:	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	WSIP BWD-1 Beaver Watershed Nutrient Reduction	1			$199,883.00	4520.9520.5314.00	2133-0316		
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:

Bid 07-38

Subtotal:	$199,883.00
Tax:	
Total:	$199,883.00

Approvals:

Mayor: _____

Department Director: _____

Purchasing Manager: _____

Finance & Internal Services Director: _____

Budget Manager: _____

IT Manager: _____

Dispatch Manager: _____

Utilities Manager: _____

Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

$236,225.00	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

Department Director	20 Jul 07 Date	Previous Ordinance or Resolution #	204-06, 94-94
City Attorney	7/24/2007 Date	Original Contract Date:	12/06, 07/94
Finance and Internal Service Director	7-24-07 Date	Original Contract Number:	412
Mayor	7/25/07 Date		

Received in City Clerk's Office ENTERED 7/24/07

Received in Mayor's Office ENTERED 7/24/07

Comments:

City Council Meeting of August 7, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

RECOMMENDATION

City Administration recommend approval of an out-of-scope agreement with OMI, for the upgrades of Lift Station 13 (Stone Bridge), WSIP subproject EL-4 LS 13, in the amount of $236,225, and approve a 2% EL-4 project contingency of $7000.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	**$302,495**	**$236,225**	**$66,270**
LS 14- Industrial Park	$86,960	$74,942	$12,018
LS 16- McCollum	$98,560	$74,931	$23,629
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $236,225.00 FOR THE UPGRADE OF LIFT STATION 13 (STONE BRIDGE), WSIP SUBPROJECT EL-4 LS-13; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $7,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an Out-Of-Scope Agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-14. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 2% EL-4 Project Contingency in the amount of $7,000.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 878 South Stone Bridge Road as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Material and labor required to modify the existing lift station, Lift Station #13 at 878 S. Stone Bridge Rd, from a dry well-wet well configuration to a submersible station. Provide and install two submersible pumps, controls, wiring and conduit as needed. Install discharge piping, valves and a new 12" force main with provisions to facilitate discharge into either the existing 36" main or to the proposed 42" main.*
- *Labor to purchase materials and install a generator that is provided by the owner.*
- *Material and labor to purchase and install concrete pad, transfer switch, main disconnect, generator disconnect, wiring and conduit associated with the generator.*
- *Material and labor to provide temporary, bypass, pumping around the station while construction activities are underway.*
- *Material and labor to raise station site elevation above the 100 year flood plain (approximately 4' 6" on the top with a 4 to 1 slope on the sides to the existing soils) and to construct a hard surface access road to serve the station.*
- *Material and labor to install new fence and gates around the station.*

- *Remove all construction debris associated with this modification and site work under this scope from the construction site and provide for its proper disposal.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $236,225*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger B. Quayle

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/19/2007

Authorized *City of Fayetteville, Arkansas*:

Dan Coody
Mayor

Date: _____

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date:	
P.O Number:		Expected Delivery Date: ASAP	
Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Division Head Approval:			
Requester: WSIP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

$74,942.00	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

Department Director	20 Jul 07 Date	Previous Ordinance or Resolution #	204-06, 94-94
City Attorney	7/24/2007 Date	Original Contract Date:	12/06, 07/94
Finance and Internal Service Director	7-24-07 Date	Original Contract Number:	412
Mayor	7/25/07 Date		

Received in City Clerk's Office ENTERED 7/24/07

Received in Mayor's Office ENTERED 7/24/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

RECOMMENDATION

City Administration recommend approval of an out-of-scope agreement with OMI, for the upgrade of Lift Station 14 (Industrial Park), WSIP subproject EL-4 LS-14, in the amount of $74,942, and approve a 2% EL-4 project contingency of $1500.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	$302,495	$236,225	$66,270
LS 14- Industrial Park	**$86,960**	**$74,942**	**$12,018**
LS 16- McCollum	$98,560	$74,931	$23,629
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $74,942.00 FOR THE UPGRADE OF LIFT STATION 14 (INDUSTRIAL PARK), WSIP SUBPROJECT EL-4 LS-14; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $1,500.00.

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 an Out-Of-Scope Agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a% EL-4 Project Contingency in the amount of $1,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 1820 South Armstrong as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Labor to install a new generator that is provided by the owner.*
- *Material and labor to purchase and install transfer switch, main disconnect, generator disconnect and wiring associated with the generator for Lift Station #14 at 1820 S. Armstrong.*
- *Material and labor to excavate existing lift station site and backfill with appropriate material for generator pad.*
- *Material and labor to form and pour generator pad per engineer's specifications.*
- *Material and labor to purchase and install replacement wetwell hatch covers.*
- *Material and labor to cap or plug existing overflow line.*
- *Material and labor to install a security fence.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $74,942*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/18/2007

Authorized *City of Fayetteville, Arkansas*:

_____

Dan Coody
Mayor

Date: _____

A. 9
Park Lift Station Upgrade
Page 6 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:	Date:
P.O Number:	Expected Delivery Date: ASAP

Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Divison Head Approval:			
Requester: WSP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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				

COPY

Special Instructions:

Subtotal:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

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

7-Aug-07
City Council Meeting Date

David Jurgens	Water/Wastewater	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

$236,225.00 ?	$ 99,013,095.00	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
4520-9520-5315.00	$ 75,871,623.00	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
02133.0341	$ 23,141,472.00	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [ ]

D. Jurgens	26 Jul 07	Previous Ordinance or Resolution #	204-06, 94-94
Department Director	Date	Original Contract Date:	12/06, 07/94
D. J. Whit	7/24/07	Original Contract Number:	412
City Attorney	Date		
Paul A. Becker	7-24-07	Received in City Clerk's Office ENTERED 7/24/07	
Finance and Internal Service Director	Date		
Dan Coody	7/25/07	Received in Mayor's Office ENTERED 7/24/07	
Mayor	Date		

Comments:

City Council Meeting of August 7, 2007

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee

Date: 12 July 2007

Subject: Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

RECOMMENDATION

Approval of an out-of-scope agreements with OMI, for the upgrade of Lift Station 16 (McCollum Road), WSIP subproject EL-4 LS-16, in the amount of $74,931, and approve a 2% EL-4 project contingency of $1500.

BACKGROUND

Lift stations in the White River Watershed portion of our wastewater collection system are being upgraded for capacity, odor control, and backup power as defined in subproject EL-4 of the WSIP. Garver Engineers has performed the design work for these upgrades to conform to other WSIP improvements.

DISCUSSION

Staff and Garver have independently estimated the costs of this work. Staff's estimate is for OMI to execute the work; Garver's is for the project to be bid out to contractors. Because the work is renovation and modification to existing lift stations, OMI will have to be heavily involved in these lift station upgrades whether they take the lead on the projects or if they are performed under contract. Having OMI execute the work, inspected and supervised by both the Engineer and the City, offers significant cost savings and provides a higher level of protection against sewer overflows from the work. The estimated cost savings are shown below.

EL-4 Cost Estimates			
Lift Station	**Garver**	**OMI**	**Estimated Savings**
LS 13- Stonebridge	$302,495	$236,225	$66,270
LS 14- Industrial Park	$86,960	$74,942	$12,018
LS 16- McCollum	**$98,560**	**$74,931**	**$23,629**
Bid Subtotal	$488,015	$386,098	$101,917
Other Savings (combined for all three lift stations)			
Engineering Const Phase Work including Inspection			$10,200
Bidding			$5,000
OMI Basic Costs Est 250 Hours @ $30/hr			$7,500
Subtotal Other Savings			$22,700
Grand Total Estimated Savings:			**$124,617**

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN OUT-OF-SCOPE AGREEMENT WITH OMI IN THE AMOUNT OF $74,931.00 FOR THE UPGRADE OF LIFT STATION 16 (McCOLLUM ROAD), WSIP SUBPROJECT EL-4 LS-16; AND APPROVING A 2% EL-4 PROJECT CONTINGENCY IN THE AMOUNT OF $1,500.00.

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 an Out-Of-Scope Agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16. A copy of the Agreement, marked Exhibit "A" is attached hereto and made a part hereof.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 2% EL-4 Project Contingency in the amount of $1,500.00.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

1 June 2007

David Jurgens
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Subject: Out of Scope Letter Agreement

Dear David:

Operations Management International, Inc. (OMI) will provide the following Out of Scope services at the sewer lift station located at 3917 South McCollum Road as per the Operations, Maintenance, and Management Agreement executed between the parties:

What is being provided:

- *Labor to install a new generator that is provided by the owner.*
- *Material and labor to purchase and install transfer switch, main disconnect, generator disconnect and wiring associated with the generator for Lift Station #16 at 3917 S. McCollum Rd.*
- *Material and labor to excavate existing lift station site and backfill with appropriate material for generator pad.*
- *Material and labor to form and pour generator pad per engineer's specifications.*
- *Material and labor to purchase and install replacement wetwell hatch covers.*
- *Material and labor to cap or plug existing overflow line.*

The work to be performed on this Lift Station will be according to the specification and plans provided to OMI by Garver Engineers. Any change or deviation from their specification or plans will be presented to the City's staff for approval before any work is done.

When it is being provided:

- *Services shall be coordinated with City staff and design engineers and are expected to be completed within 180 days of OMI receiving signed authorization from the City to proceed.*

Price of services:

- *To be billed at OMI's cost plus 18% as per article 2.26 of our Agreement upon completion of the services.*

Estimate of costs:

- *Estimated at approximately $74,931*

Payment terms:

- *Due upon receipt of OMI's invoice and payable within 30 days as per Article 5.2 of our Agreement.*

Additional terms:

- *OMI shall not be liable for any fines or penalties incurred by City of Fayetteville as it relates to the services provided in this Out of Scope Letter Agreement.*

All other terms and conditions of the Agreement dated August 16, 1994 between OMI and *The City of Fayetteville* remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

OMI appreciates the opportunity to provide these additional services to the *City of Fayetteville.*

Sincerely,

Roger

Roger B. Quayle

Both parties indicate their approval of the above-described services by their signature below.

Authorized OMI:

Roger B. Quayle

Roger B. Quayle
Senior Vice President

Date: 07/18/2007

Authorized *City of Fayetteville, Arkansas*:

Dan Coody
Mayor

Date: _____

A. 10
Wood Lift Station Upgrade
Page 6 of 6

City Of Fayetteville

(Not a Purchase Order)

Requisition No.:		Date:	
P.O Number:		Expected Delivery Date: ASAP	
Vendor #: 61490	Vendor Name: OMI	Mail Yes: x No:	
Address: 1500 N Fox Hunter Rd	Fob Point:	Taxable Yes: x No:	Quotes Attached Yes: x
City: Fayetteville	State: AR	Zip Code: 72701	Ship to code:
Divison Head Approval:			
Requester: WSP	Requester's Employee #: 2737	Extension: 670	

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	EL-4 Lift Station 13 (Stone Bridge)	1	1	236,225.00	$236,225.00	4520-9520-5315.00	2133.0341		
2	EL-4 Lift Station 14 (Industrial Park)	1	1	74,942.00	$74,942.00	4520-9520-5315.00	2133.0341		
3	EL-4 Lift Station 16 (McCollum Rd)	1	1	74,931.00	$74,931.00	4520-9520-5315.00	2133.0341		
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				

COPY

Special Instructions:

Subtotal:	$386,098.00
Tax:	
Total:	$386,098.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

Revised 6/17/03

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Yolanda Fields	Community Resources	Operations
Submitted By	**Division**	**Department**

Action Required:

An Ordinance imposing a lien for the costs associated with the clean-up at 509 E. Huntsville Rd.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date

City Attorney — 7/24/07 Date

Finance and Internal Service Director — 7-24-07 Date

Mayor — 7/25/07 Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/24/07

Comments: See Memo

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: July 18, 2007

Subject: An Ordinance imposing a lien for clean-up cost at 509 E. Huntsville Rd.

RECOMMENDATION

Staff recommends imposting a lien against the real property for the amount of $3,797.09 pursuant to A.C.A. 14-54-904 and 95-02.

BACKGROUND

Case #5345: Code Compliance sent a Notice of Violation for Unsightly Unsanitary Conditions on Real Property owned by Globe CEO, LLC c/o Houssein Kouchehbagh. The Notice of Violation was signed on September 19, 2006. Clean-up began on 12/11/06 and was concluded on 12/13/06.

DISCUSSION

An Accounts Receivable Request was sent to the Accounting Division on 01/23/2007 for the amount of $3,797.09. The Accounting Division has yet to receive the payment for these services.

BUDGET IMPACT

This $3,797.09 will be imposed as a lien on the property. Once paid, the money will return to General Fund.

RESOLUTION NO. _____

A RESOLUTION CERTIFYING TO THE TAX COLLECTOR OF WASHINGTON COUNTY THE COSTS OF ABATING UNSIGHTLY AND UNSANITARY CONDITIONS UPON THE PROPERTY LOCATED AT 509 E. HUNTSVILLE RD. IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, pursuant to the provisions of §§ 95.01-95.03, Code of Fayetteville, as authorized by A.C.A. §14-54-901 et seq., the City of Fayetteville directed the owner of the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000) to correct unsightly or unsanitary conditions on the property; and,

WHEREAS, Globe CEO, LLC, record owner of the property, through its Registered Agent, Hossein Kouchehbagh, failed to correct the unsightly or unsanitary conditions on the property within the ten (10) days allotted; and,

WHEREAS, the City of Fayetteville, in accordance with the above-cited ordinances and statutes, entered upon the property and corrected the unsightly or unsanitary conditions; and,

WHEREAS, by operation of law, the City is given a lien against this real property for the costs of correcting the unsightly or unsanitary conditions; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas, is required to determine the appropriate amount of the lien, and certify this amount to the Tax Collector of Washington County, Arkansas to be placed on the tax books as delinquent taxes.

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

Section 1. That, by the authority granted pursuant to §14-54-901 et seq., and in accordance with the provisions of §§ 95.01-95.03, Code of Fayetteville, the City Council of the City of Fayetteville, Arkansas, hereby determines the appropriate amount of the lien against the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000) to be $3,797.09.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby certifies this amount to Mr. David Ruff, Tax Collector for Washington County, Arkansas, so that this amount, plus ten percent (10%) penalty for collection, be placed on the tax books as delinquent taxes against the property located at 509 E. Huntsville Rd. (WC Parcel #765-02488-000).

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Fayetteville
ARKANSAS

Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

September 18, 2006

Owner GLOBE CEO, LLC
C/O: HOSSEIN KOUCHEHBAGH
P. O. BOX 8111
FAYETTEVILLE, AR 72703

RE: Property @ 509 E HUNTSVILLE RD, Fayetteville, AR

WC Parcel # 765-02488-000 **Case # 5345**

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. **If you need clarification of this notice or advice on how to correct the problem, please call our office at .**

Suspected Violation That Needs Correction:

§95.01 Unsightly or Unsanitary Conditions on Real Property; order and notice to correct

How This Violation Can Be Voluntarily Corrected

Mow or cut the tall grass and/or weeds on your property, including the right-of-way and utility easement.

Remove the garbage, trash, rubbish, brush, limbs, furniture, appliances, junk and/or debris from your property, including the right-of-way and utility easement.

Penalties:
If this violation is not corrected within ten (10) days from the service of this notice, our office is authorized to enter upon the property and do whatever is necessary to correct or remove the conditions described above. The costs of correcting said conditions shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. You can also be issued a Criminal Citation for the above violation and be summoned to appear in court. If you disagree with our conclusion that your property contains a violation of the ordinance listed above, please contact our office.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

DIANE OUNPRASEUTH
Code Compliance Officer

Cc: file

7004 2510 0000 8368 8004

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com®

OFFICIAL USE

Postage	$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	$

9/18/06

Postmark Here

Sent To: Globe CEO

Street, Apt. No.; or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002 — See Reverse for instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GLOBE CEO, LLC

C/O HOSSEIN KOUCHEHBAGH
PO BOX 8111

FAYETTEVILLE, AR 72703

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Kenneth Sharpe ☐ Agent ☐ Addressee

B. Received by (Printed Name) KENNETH SHARPE 501-903-9990 — C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

SEP 19 2006 NORTHEAST STATION FAYETTEVILLE, AR

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Transfer from service label) 7004 2510 0000 8368 8004

PS Form 3811, February 2004 — Domestic Return Receipt — 102595-02-M-1540

534.00

Fayetteville
ARKANSAS

Code Compliance Program

OFFICER DELIVERY FORM

Document: Notice of Public Hearing

Name and Address to Deliver: GLOBE CEO, LLC C/O Hossein Kouchehbagh
P.O Box 8111
Fayetteville, AR 72703

Owner/Occupant's Signature:

Return of Service

I certify that I provided a true copy of the document described above to:

Name of Recipient: Hossein Kouchehbagh

Officer Name: Ricky Williams

Officer Signature:

Delivery Date: 7-17-07

City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

May 15, 2007

GLOBE CEO, LLC
c/o Hossein Kouchehbagh
P.O. Box 8111
Fayetteville, AR 72703

COPY

RE: Enforcement of Ordinance 95.02, Fayetteville Code of Ordinances
Arkansas Code Ann. 14-54-904

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-54-904 and 95.02 of the Fayetteville Code of Ordinances, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine the amount of the lien for costs of correcting 95.01 of the Fayetteville Code of Ordinances at: **509 E. Huntsville Rd. (Parcel #765-02488-000).**

If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on July 17, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

Chad Ball
Code Compliance Administrator

Cc: file

Record **2** of **2** Last Updated 06/22/07

Parcel Number: **765-02488-000** Prev. Parcel Number: **136377-000-00** Type: **CI**
Location: **509 E HUNTSVILLE RD**
Owner Name: **GLOBE CEO, LLC**
Mailing Address: **PO Box 8111 Fayetteville AR 72703-0002**
Lot: Block: S-T-R: **15-16-30**
Addition: **AUMICKS ADD**
School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
City: **FAYETTEVILLE**
Legal: **PT LOTS 1-2**
Current Year A79 Credit Status: **N**

Last Appraised: **2004**	**Appraised Value**	**Taxable Value**
Land	**65,300**	**11,902**
Improvement	**26,000**	**5,843**
Total	**91,300**	**17,745**

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	**17,745**	**$935.16**	**$0.00**	**$0.00**	**$0.00**		**N**	**$935.16**	**$0.00**	
2005	**16,380**	**$863.23**	**$0.00**	**$0.00**	**$0.00**		**N**	**$863.23**	**$863.23**	**PAID**
2004	**15,015**	**$778.68**	**$0.00**	**$0.00**	**$0.00**		**N**	**$778.68**	**$778.68**	**PAID**
2003	**13,650**	**$722.90**	**$0.00**	**$0.00**	**$0.00**		**N**	**$722.90**	**$722.90**	**PAID**
2002	**12,600**	**$654.70**	**$0.00**	**$0.00**	**$0.00**			**$654.70**	**$654.70**	**PAID**
2001	**11,550**	**$600.14**	**$0.00**	**$0.00**	**$0.00**			**$660.15**	**$660.15**	**PAID**
2000	**10,500**	**$551.25**	**$0.00**	**$0.00**	**$0.00**			**$667.61**	**$667.61**	**PAID**
1999	**10,500**	**$537.60**	**$0.00**	**$0.00**	**$0.00**			**$629.74**	**$629.74**	**PAID**
1998	**10,500**	**$538.65**	**$0.00**	**$0.00**	**$0.00**			**$538.65**	**$538.65**	**PAID**
1997	**10,500**	**$538.65**	**$0.00**	**$0.00**	**$0.00**			**$538.65**	**$538.65**	**PAID**

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	**120334**	**10/10/2006**	**$863.23**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$863.23**
2004	**106637**	**10/11/2005**	**$778.68**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$778.68**
2003	**107667**	**10/12/2004**	**$722.90**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$722.90**
2002	**109381**	**10/10/2003**	**$654.70**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$654.70**
2001	**117615**	**11/8/2002**	**$600.14**	**$0.00**	**$0.00**	**$0.00**	**$60.01**	**$660.15**
2000	**13614**	**11/8/2002**	**$551.25**	**$0.00**	**$0.00**	**$0.00**	**$116.36**	**$667.61**
1999	**3035**	**5/29/2001**	**$537.60**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$629.74**
1998	**13838**	**10/13/1999**	**$538.65**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$538.65**
1997	**6227**	**5/4/1998**	**$538.65**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$538.65**

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/24/2002	**2002**	**171740**	**GLOBE CEO, LLC**		**TD**	**90,000**	**297.00**

0.04A TO #001 CITY OF FAYETTEVILLE AJH 2002-171740 TD REV

	$297.00 (90M)					
8/12/1987	**1238**	**448**	**LUNSFORD, GARY B. & MARTHA C.**	**WD**	**28,000**	**61.60**
	PGS 448-454; 93-41142 RED DEED #90788; 8/88 PER PHONE CONVERSATION WITH EQB.					
1/1/1985	**1142**	**206**	**RIVERS, DIANA**	**WD**	**0**	**0.00**

Structure Number	Business Name	Year Constructed	Heated Area
1	**VACANT**	**1915**	**9804**

Grade	Condition	Story Height	Year Remodeled	Exterior Wall
				14

Sketch:

Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	**FENCE, WOOD**	**6x792**	
1	**PAVING**	**9183**	

Next Item | Previous Item | Ledger Card | Prev. Ledger Card | Parcel Map | Return to Search Results | Modify Search | New Search

ACCOUNTS RECEIVABLE REQUEST

2006-11

RECEIVED
JAN 23 2007
ACCTG. DEPT.

Date 1/23/2007 **Requested By** Anallely **Division** Comm Resources

Customer Number _____ **Customer Type** M12 **Bill Code** _____

Customer or Business Name Globe CEO, LLC

Person Responsible for Payment _____

Social Security or Tax ID Number _____ **Date of Birth** _____

Phone _____ **2nd Phone** _____ **Fax** _____

Customer or Business Address Globe CEO, LLC
Hossein Kouchehbagh
PO Box 8111
Fayetteville AR 72703

☐ **New Customer** ☒ **Existing Customer** ☐ **Please invoice separately**

Rate Code	Item	Quantity	Per Unit Price	Extended Cost	G/L Account Number
1601	Admin Fees	1	43.50	43.50	1010-0001-4460-00
1600	Disposal	1	$1,967.59	1,967.59	1010-0001-4490-07
1600	Labor Charge	89.3	$20.00	1,786.00	1010-0001-4490-07
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	
				0.00	

INVOICE TOTAL **$3,797.09**

Description/Message (optional) 509 Huntsville, Case #5345

Bob's Yardworks

DATE 12-11-06

Lot Leveling • Lot Cleaning • Trash Removal

INVOICE NO. 1145

Robert Evans

479.839.2501
479.601.0025

509 E. Huntsville

QTY.	Description	Unit Price	Amount
10 hrs X 1 man		28 00	280 00
10 hrs X 3 men		16 00	480 00
	Use Front End		
	Loader to Remove		
	Trash - Brush		
	Boards - Concrete		
	Secure Bldg.		

PLEASE PAY FROM THIS INVOICE

SUBTOTAL

TAX

TOTAL 760,00

Bob's Yardworks

DATE 12-12-06

INVOICE NO. 1146

Lot Leveling • Lot Cleaning • Trash Removal

Robert Evans

479.839.2501
479.601.0025

509 E. Huntsville

QTY.	Description	Unit Price	Amount
10 hrs	X 1 man	28.00	280.00
10 hrs	X 3 men	16.00	480.00
	Use Front Loader to Remove & Haul Brush-Cut up. Trees-Haul-Junk		

PLEASE PAY FROM THIS INVOICE

SUBTOTAL	
TAX	
TOTAL	760.00

Bob's Yardworks

DATE 12-13-06

INVOICE NO. 1150

Lot Leveling • Lot Cleaning • Trash Removal

479.839.2501
479.601.0025

Robert Evans

509 - E. Huntsville

QTY.	Description	Unit Price	Amount
3½	hrs X 1 man	28 00	98 00
3½	hrs X 3 men	16 00	~~56 00~~
			168 00 an
	Dump Fee		
	for Tires		45.95

PLEASE PAY FROM THIS INVOICE

SUBTOTAL	
TAX	311 95
TOTAL	~~199.95~~

TRI-COUNTY SOLID WASTE DISTRICT

Collection Center Tire Manifest/Invoice

Tire Generator/Dealer

Name	Robert Evans
Address	
City/State/Zip	
Phone	Waste Tire Reg. No.
Date	12/13/06

Tire Collector/Hauler

Name	
Address	
City/State/Zip	
Phone	Collector Reg. No.
Hauler's Signature	

Tire Collection Center

Name of Center	Washington Co. Envir. Affairs
Location	2615 Brink Dr. Fayetteville AR 72701
Signature	Elizabeth S

TYPES OF TIRES RECEIVED

	TIRE QUANTITY	TIRE FEE	RIM QUANTITY	RIM FEE	TOTAL AMT. DUE
4 or fewer Pass./Lt. Truck from public	4	N/C			
Over 4 Pass./Lt. Truck from public (<19.5" RIM)	29	1.00	11	.35	45.95
Lg. Truck from public (19.5-24.5" RIM)		1.20		.80	
Pass./Lt. Truck from Listed Dealer		N/C			
Lg. Truck from Listed Dealer		N/C			
Large Tires >24.5" RIM		$45.00			
Other					
				TOTAL AMOUNT DUE	$45.95

PAID: ☑ Cash ☐ Check Rec. #

District to Bill: _____

Authorized Dealer: _____

GENERATORS/HAULERS: By signing this form, you agree to pay the applicable fee to the Tri-County Solid Waste District for all tires delivered to a collection center in excess of the number of tires for which the generator has collected a waste tire fee or in excess of four tires from an individual.

General Ledger Transaction Inquiry GL1520S1

G/L Account . . . : **1010.6420.5315.00**
Contract services

Transaction Type(s): ***ALL** Date Range: **1/01/2006 - 12/31/2006**

Type option, press Enter. Reset: _____ +
5=Display 9=Source Information 10=Transactions
24=Documents **More: + >**

Opt	Date	Journal	TT	JT	Source	Description	Amount
__	12/31/06	0607111	JE	JE	12320 GRA	30 yd container chg	1921.64
__	12/19/06	0606837	PO	EA	PurchOrder	Evans, Rob Changing	3250.00-
__	12/14/06	0606758	AP	EA	AcctsPaybl	Evans, Rob a) Clean	2384.29-
__	12/14/06	0606759	AP	JE	AcctsPaybl	Evans, Rob a) Clean	2384.29
__	12/04/06	0606514	AP	EA	AcctsPaybl	Evans, Rob a) Clean	690.82-
__	12/04/06	0606515	AP	JE	AcctsPaybl	Evans, Rob a) Clean	690.82
__	11/16/06	0606227	AP	EA	AcctsPaybl	Evans, Rob a) Clean	648.69-
__	11/16/06	0606228	AP	JE	AcctsPaybl	Evans, Rob a) Clean	648.69
__	10/31/06	0605880	PO	EA	PurchOrder	Barkers Changing P.	4950.00-

More...

F3=Exit F4=Prompt F12=Cancel F19=Left F20=Right F22=More

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Connie Edmonston	Parks and Recreation	Operations
Submitted By	**Division**	**Department**

Action Required:

Resolution approving Parks and Recreation to submit an Outdoor Recreation Grant to the Arkansas Departmnet of Parks and Tourism in the amount of $125,000 for the development of Eagle Park.

$ 125,000.00	$ -	Neighborhood Park Development
Cost of this request	Category / Project Budget	Program Category / Project Name
2250.9255.5806.00	$ -	Neighborhood Park Development Parks Development
Account Number	Funds Used to Date	Program / Project Category Name
n/a	$ -	Parks Development / PLDO (SE)
Project Number	Remaining Balance	Fund Name

Budgeted Item [x] **Budget Adjustment Attached** [ ]

Department Director — Date 7-23-07

City Attorney — Date 7/23/2007

Finance and Internal Service Director — Date 7-24-07

Mayor — Date 7/25/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/23/07

Received in Mayor's Office — ENTERED 7/23/07 BEP

Comments:

Fayetteville
ARKANSAS

PARKS & RECREATION
113 West Mountain
Fayetteville, AR 72701

To: Mayor Dan Coody and City Council

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

From: David Wright, Recreation Superintendent

Date: July 19, 2007

Re: Resolution to apply for Arkansas Outdoor Recreation Grant Program

Background

The Land and Water Conservation Fund (LWCF) is a federal program with funds derived from the sale of federal surplus real estate property, federal motor boat fuel tax, and Outer Continental Shelf mineral receipts. The Natural and Cultural Resources Grant and Trust Fund (NCRGTF) is a state program with funds collected from a tax on the transfer of certain real estate in the State of Arkansas. LWCF and NCRGTF funds are included in the Department of Parks and Tourism's Outdoor Recreation Grants Program for funding outdoor recreation facilities. Only incorporated cities and counties may apply. This is a 50/50 reimbursable matching grant with a $250,000 maximum request on matching funds. Last year, Arkansas Parks and Tourism awarded out City with $100,000 for the renovation of Sweetbriar and Bryce Davis Parks. In 2005, the City of Fayetteville was awarded $115,128 for construction of the Botanical Gardens of the Ozarks at Lake Fayetteville. Other parks funded in part by this grant include Braden Park, Grinders Skate Park at Walker Park, Veterans Memorial Park and Lake Fayetteville at Gulley Park. This year's grand deadline is August 31. A resolution from the City of Fayetteville is required to apply for the grant.

Current Status

On June 25, a public meeting was held at the Eagle Park Property to gather input from the public of their recreation desires and to prioritize an eligible grant program. An outreach to groups such as ethnic minority populations, the elderly and person s with disabilities was attained through group meetings. It was determined after obtaining public input that a grant for improvements to Eagle Park be submitted. Improvements to Eagle Park will include two age appropriate playgrounds, a playground / picnic area with a gazebo and an open area to allow for baseball / wiffle ball. The conceptual design will be presented to the public on August 1 and to the Parks and Recreation Advisory Board on August 6.

The grant application must include detailed budgets, plans, specifications and bid documents that are ready for immediate bid and construction. The planned improvements for Eagle Park are completely ADA Accessible. The grant asks the application to specify how funding meets the needs of the community. These improvements will provide for a safe play area as well as ADA accessible equipment for all citizens, which was a request in the Parks and Recreation Ten Year Master Plan. Developing facilities at this park will help achieve this goal.

This grant contains twelve (12) obligations covering everything from compliance of the Americans for Disabilities Act to property retained in perpetuity for outdoor recreation use. The Eagle Park project meets these obligations.

Section 6(f)(3) of the LWCF Act states "No property acquired or developed with the assistance under this section shall, without the approval of the Secretary of the United States Department of the Interior, be converted to other than public outdoor recreation use. The Secretary shall approve such conversion only if he/she finds it to be in accordance with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only upon such conditions as he/she deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location." If this property must ever be used for anything other than outdoor recreation use, it is possible to covert the park boundary.

Budget Impact

This grant application is for $125,000. The Arkansas Outdoor Recreation Grant is a 50/50 Matching Grant. If the full $125,000 is awarded, the City is responsible for applying $125,000 towards the project, resulting in a $250,000 project. Currently, the Eagle Park project has $100,000 budgeted. If the full $125,000 is awarded, Parks Staff will ask Parks and Recreation Advisory Board to approve $25,000 from $115,496 currently available in the SE Quadrant's Park Land Dedication Ordinance Fund. This would provide the $125,000 from the City of Fayetteville and $125,000 from the State of Arkansas. At that time, this item will be brought back to City Council to approve the project and budget adjustment.

Recommendation

Parks and Recreation requests City Council approval of a resolution to authorize the City to apply $125,000 from the Arkansas Parks and Tourism Outdoor Recreation Grant Program for the development of Eagle Park.

Attachments:
Public Meeting Minutes from June 25, 2007
Conditions of Arkansas Outdoor Recreation Grant
Public Advertisement
Sample Resolution

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AN ARKANSAS PARKS AND TOURISM OUTDOOR RECREATION GRANT IN AN AMOUNT NOT TO EXCEED $125,000.00 FOR IMPROVEMENTS TO EAGLE PARK.

WHEREAS, the City of Fayetteville, Arkansas seeks to improve recreation facilities and wishes to seek grant funding assistance; and,

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and,

WHEREAS, the plans for such recreation areas have been prepared and the price therefore has been established; and,

WHEREAS, the City Council of the City of Fayetteville, Arkansas understands the grantee and grantor will enter into a binding agreement which obligates both parties to the policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following: the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all reasonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased, or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner. The City Council of the City of Fayetteville, Arkansas is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to make application to the Arkansas Department of Parks and Tourism for assistance, in an amount not to exceed $125,000.00, for improvements to Eagle Park. Therefore, such application shall be submitted as expediently as possible.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

Fayetteville Parks and Recreation
Public Meeting

Monday, June 25, 2007

At 5:30, Connie Edmonston, Parks and Recreation Director called the public meeting to order.

Edmonston welcomed 24 citizens (21 adults and 3 children) to the meeting and explained how Parks and Recreation needed their input on improvements scheduled to occur in the City and at Eagle Park. She explained the project currently had a budget of $100,000. However, depending on the types of amenities requested for Eagle Park, this dollar figure may not be sufficient to develop this much needed facility. However, there is a grant available and if Fayetteville citizens deem it appropriate to request grant funding, then Parks and Recreation can do so.

David Wright, Recreation Superintendent explained the Arkansas Outdoor Recreation Grant Program. This grant is funded through the Land Water Conservation Fund (LWCF and a tax on real estate transfers in Arkansas. In the past, Fayetteville parks and Recreation received funding from this grant on such projects as Grinder's Skate Park at Walker Park, Braden Park, the Botanical Gardens of the Ozarks and Gulley Park. One of the grant obligations is the land will be used for outdoor recreation for perpetuity.

The citizens attending the meeting anonymously voted for Parks and Recreation to apply for the grant to develop the Eagle Park Property.

Edmonston asked the citizens the types of amenities they wished to see in the park. The citizens answered with the following:

- **Hiking and Biking Trails** – somewhere where people and families can walk and bike around and feel safe.
- **Playground, Tot Playground and Swings** – Citizens requested 2 playgrounds, each being age appropriate. One of the specific requests were for swings to be included in the playground area.
- **Basketball Court**
- **Pavilion / Picnic Area** – Citizens requested a picnic area with shade where the neighborhood POA may have meetings, opportunities for birthday parties and social gatherings and more.
- **Preserve the current wiffle ball field** – neighbors of this property already have standing Tuesday night wiffle ball game at the park. They requested this area be enhanced to encourage this social activity.

Edmonston asked the citizens to prioritize their wishes.

The group overwhelmingly supported the playgrounds with swings. The other two main priorities requested was the picnic / pavilion area and the waffle ball field.

The meeting adjourned at 6:15pm.

deadline. If the Form 424 is faxed, the entire application containing original signatures must be postmarked on or before the application deadline, August 31, 2007.

Where to Send the Application

Outdoor Recreation Grants Program
Department of Parks and Tourism
Number One Capitol Mall
Little Rock, Arkansas 72201

Who Can Prepare the Application?

- The application can be prepared locally.
- The application can be prepared by consultants. (Grant preparation cannot be paid for with grant funds).
- The application can be prepared by the local areawide Planning or Economic Development Districts or the Regional Planning Commissions.

What Are Our Obligations if We Recieve a Grant?

We are jointly committed! Both the Department of Parks and Tourism's Outdoor Recreation Grants Program and the project sponsor are committed to long term program compliance. After the project is completed and all grant funds have been disbursed, our commitment to the requirements of the Arkansas Matching Grant Program continues. These ongoing commitments include:

1. Once a public park project boundary has been identified by the local project sponsor and provided to the Department of Parks and Tourism, all facilities constructed within that boundary, at any future time, must be in compliance with the rules and regulations of the Outdoor Recreation Grants Program *Project Management Guide*. This also applies to those facilities constructed in whole or in part with local funds.

2. Property acquired or developed with grant funds must be retained in perpetuity for outdoor recreation use and will be subject to inspection by the State at least once every five years. In addition each project will be inspected by the State during construction and before final reimbursement is made.

3. No overhead utility lines are allowed within the project boundary. All existing utility lines located within the park boundaries must be placed underground. This regulation applies to any overhead lines including electric lines, phone lines and public announcement system wiring. No vehicular right-of-way easements are allowed within the boundary.

4. A permanent sign stating that federal LWCF or state NCRGTF moneys were used to acquire and/or develop public outdoor recreation facilities must be maintained within the park in perpetuity. Guidelines for the size, placement and design of the signs will be presented to each applicant after grant approval. Upon project completion the applicant will be required to describe the location of the sign, and state that the sign location will not change.

5. All public recreation facilities constructed within a Matching Grant Program assisted park must be accessible to the handicapped. This also applies to those facilities constructed in whole or part with local funds.

6. Property acquired or developed with assistance from the fund must be open to entry and use by all persons regardless of race, color, religion, sex, or national origin. Discrimination on the

basis of residence, including preferential reservation or membership systems, is prohibited, except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence.

7. Property acquired or developed with assistance from the Matching Grant Program shall be operated and maintained in perpetuity. The property shall be maintained so as to appear attractive and inviting to the public. Sanitation and sanitary facilities shall be maintained in accordance with applicable health standards. Properties shall be kept safe for public use. Fire prevention, lifeguards, and the like should be provided for proper public safety. Buildings, roads, trails, and other structures and improvements shall be kept in reasonable repair throughout their functional lifetime to prevent undue deterioration and to encourage public use. Facilities that have reached an age that renders them obsolete or worn out may be removed with written permission of the Arkansas Department of Parks and Tourism's Outdoor Recreation Grants Program Director. Permission must be obtained prior to removal of the facilities.

8. The Arkansas ORGP staff will conduct periodic post completion inspections of the project area to ensure that program compliance continues after the project is completed. These inspections will be unannounced. Sponsors who fail to comply with long term commitment may jeopardize future eligibility for matching grant funds for new projects and/or be subject to legal actions by the State or Federal government to enforce program compliance.

9. The property shall be kept open for public use at reasonable hours and times of the year, according to the type of area or facility. Property which is not operated and maintained in good condition may jeopardize the awarding of future grant funds to that jurisdiction.

10. Participants may impose reasonable limits on the type and extent of use of areas and facilities acquired or developed with Matching Grant Program assistance when such a limitation is necessary for maintenance or preservation. Thus, limitations may be imposed on the type of users (i.e. hunters or four-wheelers, etc.). All limitations must be in accord with the applicable grant agreement and amendments.

11. All recipients of Matching Grant Program moneys must comply with the Architectural Barriers Act of 1968, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act, of 1990 Title II and Title III.

12. Properties (parks and recreation areas) acquired or developed with LWCF/NCRGTF assistance are prohibited by Section 6(f)(3) of the LWCF Act of 1965, as amended, from conversion to any use other than public outdoor recreation use.
Section 6(f)(3) of the LWCF Act states that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, U. S. Department of the Interior, be converted to other than public outdoor recreation use. The Secretary shall approve such conversion only if he/she finds it to be in accordance with the then existing Statewide Comprehensive Outdoor Recreation Plan (SCORP) and only upon such conditions as he/she deems necessary to assure the substitution of other recreation properties of at least equal fair market value and of reasonable equivalent usefulness and location."

versity and will graduate this spring from Louisiana

church. Winesburg is a board member of the Com-

than 100 franchisees atter ed the three-day conferen that included informative breakout sessions and an awards dinner. Attendees were able to learn about industry trends and company information, as well ways to make their busine more successful.

Handyman Connection specializes in small- t medium-home improvements, repairs and remode ling jobs. The company has a strong history, originally founded in 1990 to addres an unmet need for a reli-

PUBLIC MEETING

FAYETTEVILLE PARKS & RECREATION

Fayetteville Parks and Recreation invites citizens and other interested parties to a public meeting to be held at Eagle Park property located at 4103 E. Goff Farm Road on Monday, June 25, 2007 at 5:30 pm.

The purpose of this meeting is to identify potential outdoor parks and recreation needs and priorities for 2007. Following the identification process, city officials will select those priorities to be submitted to the Arkansas Department of Parks and Tourism for matching grant application.

Ethnic minorities, persons with special needs, elderly persons over 55, youth and special interest groups are encouraged to attend and participate.

In case of inclement weather, the meeting will take place on Tuesday, June 26, 2007 at 5:30 pm. For more information, please call 479.444.3471.

Written comments may be sent to parks_and_recreation@ci.fayetteville.ar.us

AAO
ARKANSAS ATHLETES OUTREACH
2007 SUMMER CAMPS

FAYETTEVILLE
PARKS & RECREATION

Fayetteville Parks and Recreation invites you to a public meeting to assist in the identification of potential outdoor parks and recreation needs and priorities for 2007.

5:30 p.m. Monday, June 25, 2007

Eagle Park property at 4103 E. Goff Farm Road

Please help us select the park amenities to improve your neighborhood park.

FOR MORE INFORMATION CALL
FAYETTEVILLE PARKS AND RECREATION AT 444-3471 EXT. 471

(In the event of inclement weather, the meeting will be on Tuesday, June 26)

RESOLUTION NO. _____

WHEREAS, _____, Arkansas seeks to improve the recreation facilities and wishes to seek grant funding assistance; and

WHEREAS, in order to obtain the funds necessary to develop and/or improve the site for such a recreation area, it is necessary to obtain a 50/50 Matching Grant from the Arkansas Department of Parks and Tourism's Outdoor Recreation Grant Program; and

WHEREAS, the plans for such recreation areas have been prepared and the price therefore has been established; and

WHEREAS, this governing body understands the grantee and grantor will enter into a binding agreement which obligates both parties to policies and procedures contained in the *Land and Water Conservation Fund Grants Manual* including, but not limited to the following; the park area defined by the project boundary map, submitted in the application, must remain in outdoor recreation use in perpetuity, regardless if the property is bought or developed with matching grant funds and; all present and future overhead utility lines within the project boundary must be routed away or placed underground and; the project area must remain open and available for use by the public at all resonable times of the day and year; facilities can be reserved for special events, league play, etc. but cannot be reserved, leased or assigned for exclusive use, and; the project area must be kept clean, maintained, and operated in a safe and healthful manner.

City Council/Quorum Court is well aware and apprised of the above-mentioned project, and will provide the local portion of the development cost of the entire project:.

NOW, THEREFORE, BE IT RESOLVED by the City Council/Quorum Court of _____, Arkansas that the Mayor/County judge is hereby authorized to make application to the Arkansas Department of Parks and Tourism for assistance to develop recreational facilities for the City/County; therefore such application shall be submitted as expediently as possible.

Passed this _____ day of _____, 2007.

APPROVED: _____ _____

Mayor/County Judge Clerk

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

CUP 07-2560 - Bohot Appeal

DEPARTMENTAL CORRESPONDENCE

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

Tabled to August 7, 2007 7/17/07

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.

RESOLUTION NO. _____

A RESOLUTION TO GRANT THE APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE 07-2560 (BOHOT) AND TO DENY THE CONDITIONAL USE

WHEREAS, on June 25, 2007, the Fayetteville Planning Commission approved CUP 07-2560 (Bohot); and

WHEREAS, on June 27, 2007, three aldermen properly appealed this decision to the Fayetteville City Council.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that the grant of the requested conditional use would adversely affect the public interest and would not be generally compatible with adjacent properties and other property in the district especially because of traffic concerns and therefore grants the appeal of the Planning Commission's approval of Conditional Use Permit 07-2560 (Bohot) and denies this Conditional Use Permit.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

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 ~~20~~ 17th, 2007.

Sincerely,

Brenda Thiel
Alderman, Ward One

Adella Gray
Alderman, Ward One

Shirley Lucas
Alderman, Ward Four

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: 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.

Fayetteville
ARKANSAS

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."**

	Required	Provided
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.

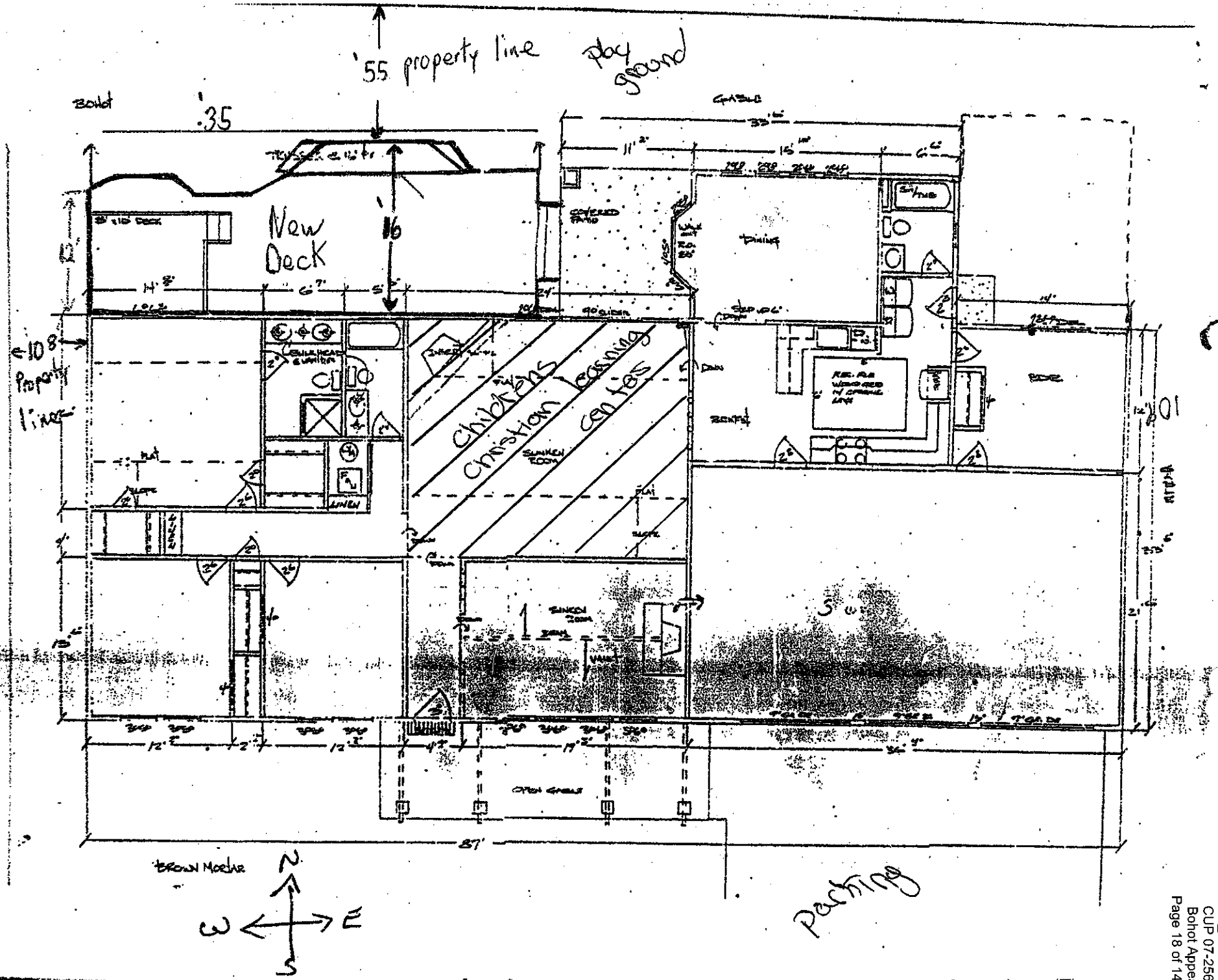
Enclosed you will find several letters pertaining to my business which include: a letter from the state licensing specialist, letter from the state nutrionlist licensing specialist, letter from Dolphin Discover Day Care licensed provider and an inspection from the fire marshal.

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


'55 property line
Play ground
Bohot
'35
New Deck
'16
Property line
Children's Christian Learning Center
Parking
BROWN MORTAR
N
W
E
S

10/31/2006

Washington Elementary

Route	Time	Stop Location	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.		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.	Morningside Apartments	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.		K-5	AM	Washington Elementary
M	6:33	1101 S. Curtis Ave.	Southmont Apartments	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.	K-5	AM	Washington Elementary
M	6:43	3375 S. Country Club Dr.	Country Club Dr & Fairway Ln	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. Layfeyette 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.		K-5	AM	Washington Elementary
M	7:20	E. Township St. & N. Terry Dr.		6-7	AM	Washington Elementary
M	7:21	E Township & N Winwood Dr		6-7	AM	Mcnair Middle School
M	7:25	3030 E. Mission Blvd	McNair Middle	6-7	AM	Mcnair Middle School
M	7:35	425 N Highland Ave	Washington Elementary	K-5	AM	Washington Elementary

9/1/2006

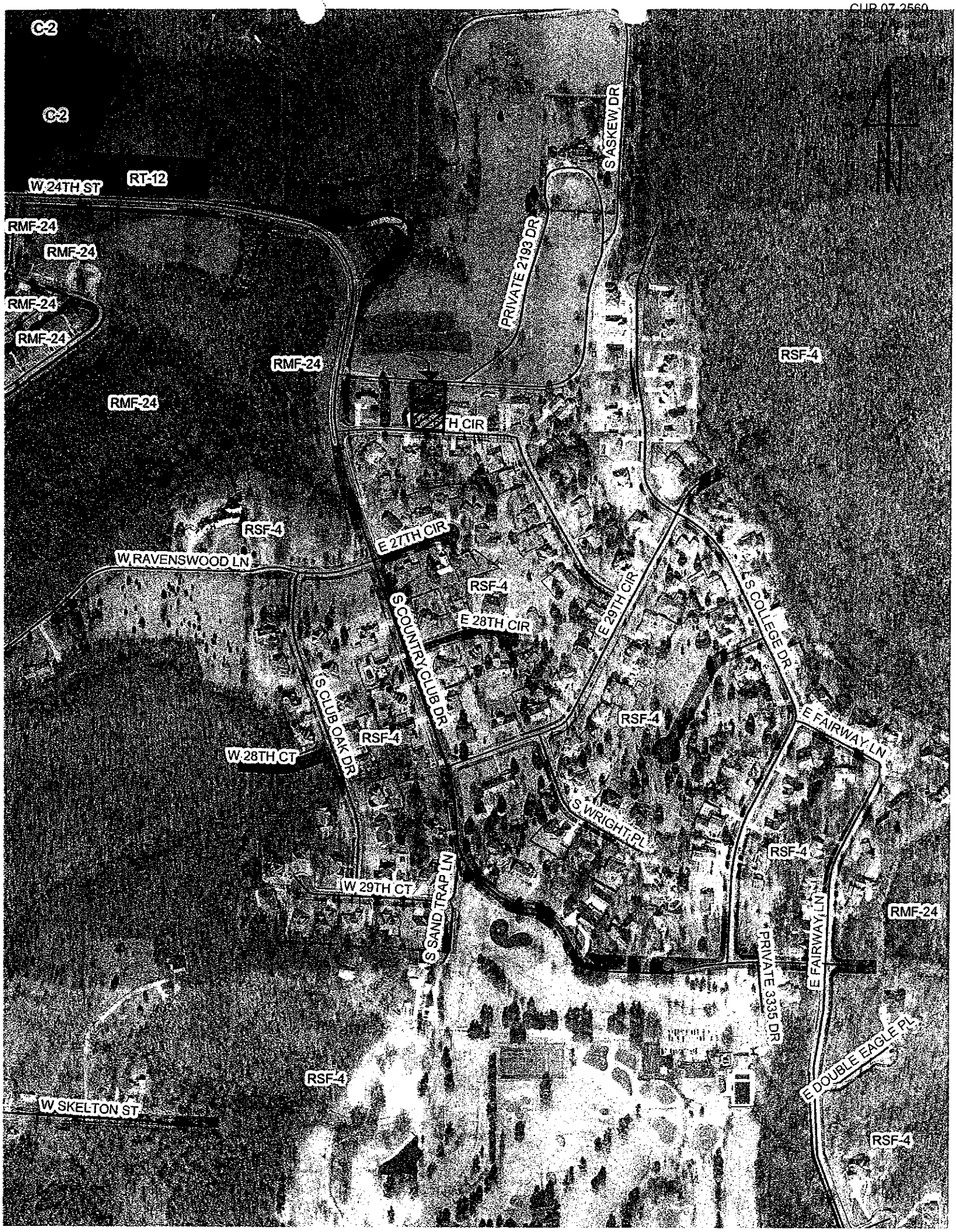
Owl Creek Middle School

Route	Time	Stop Location	Stop Description	Grade	AM/PM	School
L	6:30	2325 W. Stone St	Start Route- Bus Yard			
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.	Shanondoah 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

East Campus

Route	Time	Stop Location	Stop Description	Grade	AM/PM	School
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	7:50AM	S Contry Club Dr & W 29th St		8-9	AM	East Campus
L		S School St & W Nonamaker St		8-9	AM	East Campus
L	8:00AM	55 E 15th St		8-9	AM	East Campus
L	8:05AM	S College Ave & E 13th St		8-9	AM	East Campus
L	8:08AM	S College Ave & E 7th St		8-9	AM	East Campus
L	8:12AM	E 7th St & S Wood Ave		8-9	AM	East Campus
L	8:15AM	1001 W Stone St	East Campus	10-12	AM	East Campus
L	8:20AM	401 S Sang Ave	Ramay Jr High	8-9	AM	Ramay Jr High


C-2
C-2
W 24TH ST
RT-12
RMF-24
RMF-24
RMF-24
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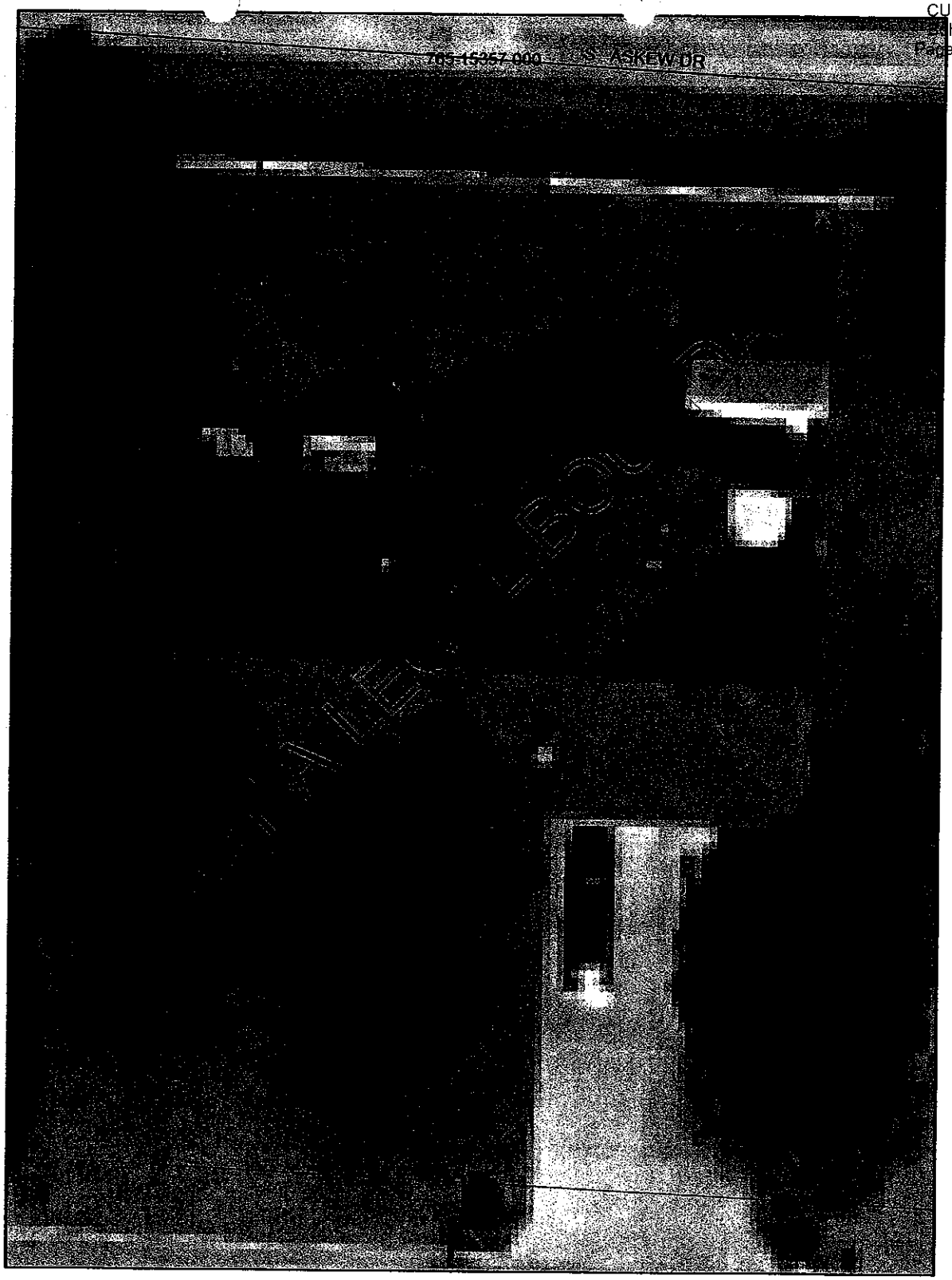
RMF-24
S ASKEW DR
PRIVATE 2193 DR
RSF-4
TH CIR
RSF-4
E 27TH CIR
W RAVENSWOOD LN
RSF-4
E 28TH CIR
E 29TH CIR
S COUNTRY CLUB DR
S COLLEGE DR
S CLUB OAK DR
RSF-4
RSF-4
W 28TH CT
E FAIRWAY LN
S WRIGHT PL
RSF-4
W 29TH CT
S SAND TRAP LN
RMF-24
PRIVATE 3335 DR
E FAIRWAY LN
E DOUBLE EAGLE PL
RSF-4
W SKELTON ST
RSF-4



0 15 30 60 Feet

County Disclaimer:

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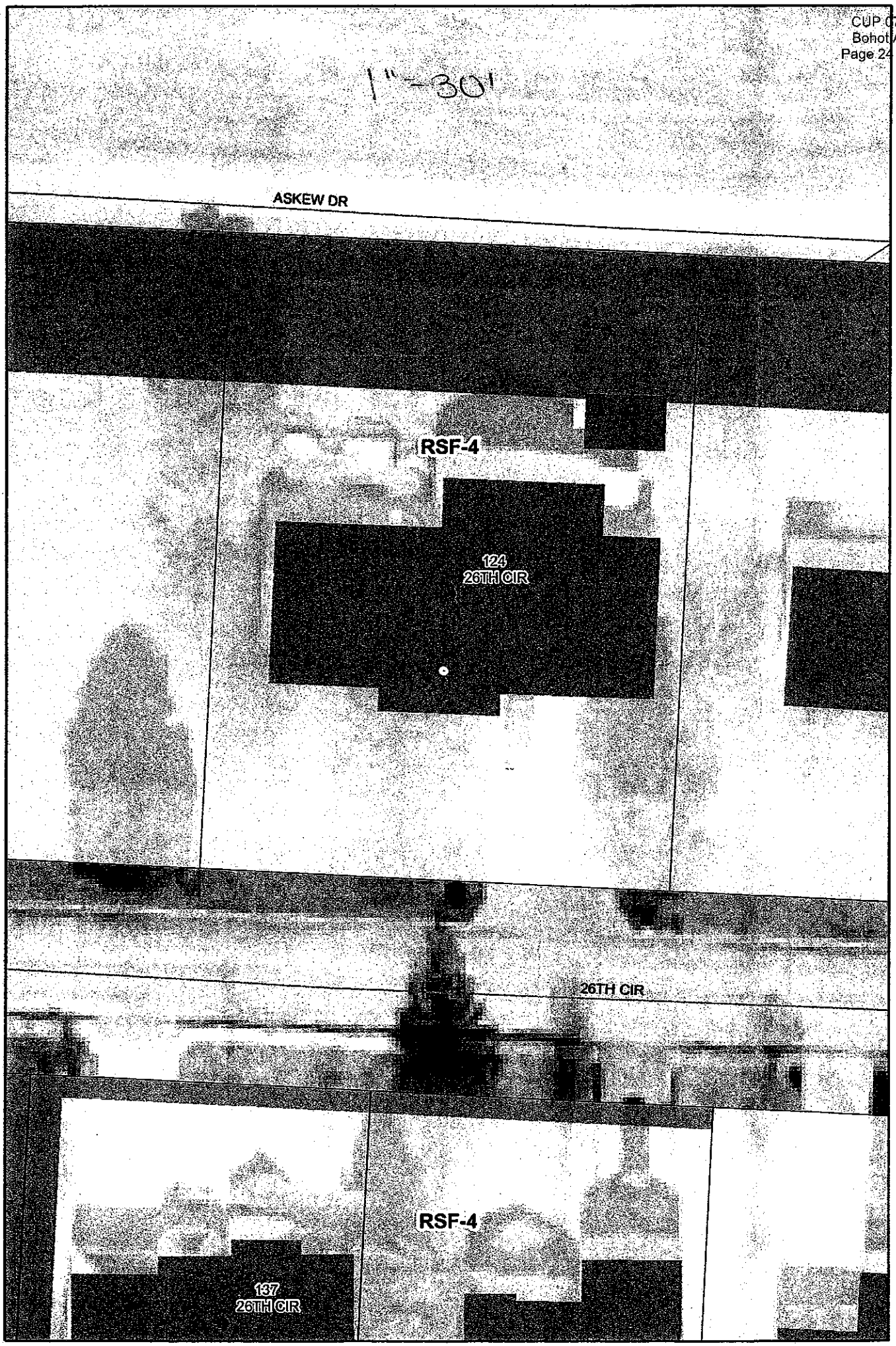
1"=30'



Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

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 & I walked & visited these neighbors.

Angels Blessings

(The hours we went to these homes) Hours 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 & Rose Marie	108 E 26th Circle	Refused to sign
	160 E 26th Circle Fay, Ar	Refused to sign
Dave & Pat Harvie	145 W. 26th Circle	Refused to sign
		Refused to sign
Ada	137 26th Circle	Refuse to sign
	Fay 145 26th Circle Fayetteville, Ar	Refused to sign
		Refused to sign
Doris	102 26th Circle	Refused to sign
Sandy & Gary	Fay	Not home
Larry	116 E 26th Circle went back & caught	would not sign
Stacy Hayes	74 26th Circle	Not home
Letter Vicky Martin	56 Circle	Not at home
Tammy Edrington	Fay 55 Circle	Not opposed
Letter Shirley Hardin	Fay 51 26th Circle	Not home
	Fay 50 26th Circle	Not opposed
	Fay 41 26th Circle	Not home
Letter Joe & Lyn	Fay 23 Circle	Not home
	Fay 26 Circle	Not opposed
Letter	2730 Country Club	Proposed letter off
Louis Toth	33 27th Circle	Not opposed
	49 27th Circle	No opinion
Robert Hempen	48 27th Circle	No opinion
Kirk Elsass	32 27th Circle	opinion
Fred Joe Starr	Ravenswood	Not home
		Not home

Mark	2489	College Dr	Not home
	2555	College Dr.	
	2556	College Dr.	
Patricia Devecsery	2583	College Dr	Not home
	2590	College	Not Home letter positive
Charlie Brown	2613	Colleg Dr.	not Home
Lori Derecsery	2651	College Dr.	no opinion
Judge	2624	college	Not opinion
	2697	college	Not Home
Tom & Connie Pori	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 Krokrich	2720 S Country club		undecide

I also left letters to the homes of whom would except 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

Ann Dalton
Child Care Licensing Specialist

Arkansas Department of Human Services
Division of Child Care & Early Childhood Education
Licensing Compliance Record

Facility Name Wilma Bohot Person in Charge Wilma Bohot
Address 124 E 26th Circle Fayetteville Phone 527-9992
Licensing Specialist Ann Dalton 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 - In packet		

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 Dalton 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
Brianey 12 & I from 5:45 - 8:30 p.m.
walked around the Pine hill top.

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	(very young not retired)
[illegible]	2730 Country Club Dr	= 1 school age daughter
Leanne Dunn	65 E 27th Circle	= 2 kids in Fay. schools
[illegible]	2834 Country Club Dr	
[illegible]	4 East 28 Circle	Retired
Betty Murphy	14 East 28 Circle	Retired
Lisa Claybrook	11 East 29th Circle	- 1 baby 6 months old
[illegible]	2891 S. Country Club	6 Kids
[illegible]	29 E 29 Circle	—
Kelly Latta	20 E. 29 Circle	1 Kid - Age 20
Jay Greenlee	2894 S. Wright Pl	
[illegible]	2899 S Wright Pl	—
Valerie Nichols	2911 S Wright Pl	2 children
JAMES HARVE	2916 S. WRIGHT Pl	0 CHILDREN
Wayne Osborn	2918 2918 S Wright	2 retire
[illegible]	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 26th CIRCLE	
Dick & Mary Lee Brock	17 E 26 Circle	
Diane Strayhorn	10 E. 26th Cir.	
Connie Serre	2702 S. College Drive	
Darlene Hatfield	30 E 29th Circle	

Brittney and I walked around
this evening from 7:00 p.m. to 7:30 p.m
Our neighborhood

Angels Blessings
Wilma Bohot
124 East 26th Circle
Fayetteville, AR 72701

APRIL ~~6~~ 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 Leland	2824 Club Oak dr.	2
Scott Turley	2910 Club Oak	
Ron B Foster	2929 S. Club Oak Dr.	
Greg Stout	154 W 29th Court	1
[illegible]	99 W 29th Ct.	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 Griffith	26 w 26th Circle	—
JOHN SEXTON	2806 S COLLEGE DR	—
W. H. SUMMERS	2970 S. COLLEGE DR.	0
Wanda Lamar	2952 S. College Dr. 4-21-07	0
Shannon Beck	2912 S. Wright Place	2
[illegible]	2912 S Wright Place 5-22-07	↑
John W. Watts	123 E 26th Circle	2
Holly Watts	123 E 26th Circle	2
Darlene Phipps	2720 CC Drive	—
Mike Phipps	" "	—

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

Terry Talbott

RECEIVED
JUN 0 4 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

Pat Talbott

RECEIVED
JUN 0 4 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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

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,

Heather Johnson

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,

Vickie Martin

Vickie Martin

To Whom It Concern: 4/14/07

Wilma bohot 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,

Janet Self
(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

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
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

Don Johnson, Principal
Elmdale Elementary

DJ:kl

ASSEMBLIES OF GOD
ALL THE GOSPEL
AG

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

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

Bob J. Fant

5-1-07

To whom it may concern:

I am a teachers aide at Elmdale Elementary in Springdale. I I have worked with Willma 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 Bayyon.

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

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

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,

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,

Valirie 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

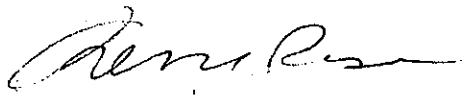
Dani Ziem

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 eàse knowing our children are being taken well care of while in her presence.

Please allow Ms. Bohot this opportunity!!!

Rene Rose



To Whom It May Concern;

My Wife and I support Ms. 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. 20th 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 siptems. She is a great parent and a my hard worker. I know she will do her best to provide ~~the~~ an excellent daycare for children.

Sincerely,
John Fallen

RECEIVED
APR 18 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

To whom it may concern:

my name is Brenda Fallen. 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.

RECEIVED
APR 18 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

Sincerely -
Brenda Fallen

5-1-07

To whom it may concern:

I am a teachers aide at Elmdale Elementary in Springdale. I I have worked with Willma 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

Norma Wright
1158 Farmer Ave
Fayetteville Ar
72701

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
May 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 L Scott

May 15, 2001
Sally
1158 Farmer Av.
Fayetteville

To the city of Fayetteville
I am writing on behave of Wilma Bohof 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 ministor to the children she would be guiding in her care.

Sincerely,
Sally Sob

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 discrves to have this daycare

Sincerly, 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,

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 and Joe F Starr

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" <et0ile13@hotmail.com>
Date: 5/15/07 4:47PM
Subject: Request to Deny the Conditional Use Permit for Home Child Care to Wilma Bohot

Clear Dayl 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>, <cmyres@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@mbl-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

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

April 28 2007
To: Jeremy Pace
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 Sr. citizens and we all know how this would decrease our property value. Once one is allowed, it opens the door to others 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 71 So. 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

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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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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,

Margaret Rodman

Margaret Rodman
2835 Club Oak Drive

RECEIVED
MAY 0 2 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.

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,

Joe B. Rodman
2835 Club Oak Drive

RECEIVED
MAY 0 2 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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>; <cmyres@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

RECEIVED
MAY 07 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

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,

RECEIVED
MAY 06 2007
PLANNING DIV.

Geneva Lash
345 East Fairway Lane
Fayetteville, AR 72701

Geneva M. Lash

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@mbl-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

Helen Kirby

From: Jim Hashbarger <jlhashbarger@hotmail.com>
To: <balliehi@sbcglobal.net>, <cmyres@sbcglobal.net>, <jgraves@bassettlawfirm.com>, <janthes@uark.edu>, <ipate@ci.fayetteville.ar.us>, <jfulcher@ci.fayetteville.ar.us>, <strumbo@nicklehill.com>, <alan.oster@sbcglobal.com>, <audy@mbl-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>, <mmitchellm@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=wlmailtagline

From: "GP125" <gp125@sbcglobal.net>
To: "Lois Bryant Ward 1 Planning Commission" <balliehi@sbcglobal.net>, "Christine Myres Ward 4 Planning Commission" <cmyres@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@mbl-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@mbl-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@mbl-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.

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>, "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 accomodate heavy traffic during the arrival and departure of small children: most of the residents are elderly (myself included) and this is zoned residential, and this is an unsuitable place for such a vulnerable business: Children deserve 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

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

RECEIVED
MAY 29 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

From: "Connie Dorre" <cjdorre@sbcglobal.net>
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@mbl-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....
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 Conditonal Use Permit for a child care center byWillma 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@mbl-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

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: 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	X	2803	S. College Drive	
NOLAN	X	2817	S. College Drive	Single - No Children Living in Home
HEIDEBRECHT	X	2818	S. College Drive	Retired - No Children Living in Home
YEARGAN	X	2831	S. College Drive	No Children Living in Home
JONES	X	2834	S. College Drive	No Children Living in Home
WHEATON	X	2855	S. College Drive	
SEXTON & Assoc.		2914	S. College Drive	
		2914	S. College Drive	
SEXTON & Assoc.		2930	S. College Drive	
TENANTS	X	2930	S. College Drive	
NELMS		2933	S. College Drive	No Children Living in Home
ANDERSON	X	2941	S. College Drive	
LAMAR		2952	S. College Drive	No Children Living in Home
COOPER	X	2957	S. College Drive	Retired - No Children Living in Home
SUMMERS		2970	S. College Drive	Single - No Children Living in Home
ARNOLD	X	2979	S. College Drive	Retired - No Children Living in Home
WILSON	X	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	X	2864	S. Country Club Drive	No Children Living in Home
HOLLIS	X	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	X	2932	S. Country Club Drive	Retired - No Children Living in Home
PHILLIPS	X	2943	S. Country Club Drive	
SHUMP	X	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	Oakew	

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
Doris D Hurley	102 E. 26th Circle	6-3-07
Joseph B Hurley	102 E 26TH CIRCLE	6-3-07
Stacy Hargis	74 E 26th Circle	6-3-7
Merry Lee Booth	17 W 26th Circle	6-3-7
Tammie Edrington	55 W 26th Circle	6-3-07
Chelsea Redman	115 E 26th Circle	6-3-07
DAVE HARVIE	145 E. 26th CIRCLE	6-3-07
Pat Harvie	145 E 26th CIR	6-3-07
[illegible]	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
[illegible]	105 E 26th Circle	6-3-07
[illegible]	74 26th CIRCLE	6-3-07
Freddie Brenson	88 E 26th	6/3/07
Pat Brenson	" "	
Jill Graves	40 26th Circle	6/3/07
Dick Booth	17 E 26 Circle	6/3/07
[illegible]	23 W. 26TH CIRCLE	6-3-07

OVER →

PETITION

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NAME	ADDRESS	DATE
Sandra Brinson	88 E 26th Circle	6/4/07
Gary Brinson	88 E 26th CIRCLE	6/4/07
[illegible]	2231 S. Askew Dr.	6-4-07
[illegible]	137 E. 26th cir.	6-4-07
[illegible]	137 E. 26 circle	6-4-07
[illegible]	115 E. 26 Circle	6-4-07

NAME	ADDRESS	DATE
Lawrence Turley	2910 Club Oak Drive	06-05-07
Martha J. [illegible]	2903 Club Oak Dr.	6-5-07
[illegible]	2892 Club Oak	6-5-07
Linda J Salmonson	2892 Club Oak	6-5-07

PETITION

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NAME	ADDRESS	DATE
[illegible]	49 E 27th	5 Jun 07
[illegible]	48 E. 27th Circle	Jun 5, 2007
[illegible]	32 E 27th Cr	6/5/07
[illegible]	65 E. 27th Cir	6/5/07
[illegible]	48 E. 27th Cir	6/5/07
[illegible]	49 E. 27th Circle	6/5/07
[illegible]	65 E. 27th Cir	6-6-07

PETITION

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NAME	ADDRESS	DATE
Barbara Pearce	2928 S Club Oak Dr.	06/04/07
Joe Pearce	" "	" "

PETITION

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NAME	ADDRESS	DATE
Betty Mayberry	14 E 28th Circle	6-4-07
Carol Hawkins	12 E. 28th Circle	6-5-07
Jim Hawkins	12 E. 28th Circle	6/5/07

PETITION

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NAME	ADDRESS	DATE
Swyn + Leary Pope	125 W. 29th Ct., Fayetteville	6-3-07
C L + Linda Gitter	47 W 29th Ct. Fayetteville AR	6-3-07
Craig + Jan Thoge	227 W 29th Ct Fayetteville AR	6-3-07
Marion & Bob Lindman	25 E 29th St Fay AR	6-3-07
Michael B Newell	41 East 29th Cir - Fayetteville	6-3-07
Gene A. Hanna Newell	41 E 29th Circle	6-3-07
Darlene Hatfield	30 E 29th Circle	6-3-07
Tom Hatfield	30 E 29th Circle	6-3-07
Peg Hart	159 W 29th Court	6-3-07
Lynn Rose	230 W. 29th Ct.	6-4-07
[illegible]	5953 Sand Dune Dr	6-4-07
John Gall	99 W 29th Ct.	6-4-07
[illegible]	37 E. 29th Circle	6-5-07
David [illegible]	29 E 29th Circle	6-5-07
Mann Mitchell	37 E. 29th Circle	6-5-07

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NAME	ADDRESS	DATE
[illegible]	2333 S. Ashley Dr.	6/4/07
[illegible]	2333 S. Ashley Dr.	6/4/07
[illegible]	380 Ravenswood	6-4-07
[illegible]	2834 S. Colley Dr.	6-5-07
[illegible]	210 Rowland	6/6/2007
[illegible]	2420 S School	6/6/07

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NAME	ADDRESS	DATE
Joe B. Rodman	2835 Club Oak Dr	6-4-07
[illegible]	2813 Club Oak Dr	6-4-07
Dot Watkins	2817 Club Oak Dr	06-04-07
Charlene Hull	2806 CLUB OAK DR	6-4-07
Brenda Stovall	2806 Club Oak Dr.	6/4/07
Margaret Rodman	2835 Club Oak Dr	6/4/07
[illegible]	2824 Club Oak	6-4-07
[illegible]	2824 Club Oak	6-4-07
Patty Horne	2803 Club Oak Dr	6-4-07
[illegible]	" "	6-4-7
Janet K. Wise	2840 Club Oak Dr	6-4-7
Ray Wise	" " "	6-4-7
Ron Calaway	2848 Club Oak Dr	6-5-7
Sue Calaway	2848 Club Oak Dr	6-5-07
Tom Pelizon	2876 Club Oak Dr	6-5-07
Gloria Pelizon	2851 S. Club Oak Dr	6-5-07

PETITION

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NAME	ADDRESS	DATE
Lindsay Mrean	2480 S. College Drive	6/4/07
Virginia Miller	2780 S. College Dr. Fayo.	6/4/07
Ellen Heidbreder	2818 So College Dr. Fayo	6/4/07
Don Heidbreder	2816 So College Dr. Fayo.	6/4/07
Ryan H. Jones	2834 S. College Dr. Fay.	6-4-07
Justin Nolan	2817 S. College Fay, AR	6-4-07
Frances Shirley	2748 S College Drive	6-4-07
Faribat Onsrain	320 Fairway 72701	6-4-07
Helen Kirby	2747 S College Dr	6-4-07
Jim Wood	2766 S College DR	6/4/07
Evelyn B Wood	2766 So College Dr	6-4-07
Patti Grace	29 East 29 Circle	6-5-07
Margaret Sexton	2803 South College Dr	6-4-07
JOHN SEXTON	2803 S COLLEGE DR	6-4-07
Jane Yearyan	2831 S. College Dr.	6-4-07
Jerry Yearyan	2831 S. College Dr.	6-4-07

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
Bob & PAT Cooper	2957 So. College DR.	6-4-2007
Dick & Betty Arnold	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 Hayes	2930 S College Dr	6-4-2007
Doug & Maria Wheat	2855 S. College Dr	6-4-2007

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NAME	ADDRESS	DATE
Karen Brown	2613 S. College Dr.	6-4-07
Charlie Brown	2613 S College Dr	6-4-07
Patricia Dewberry	2583 S. College Dr.	6-4-07
[illegible]	2555 S. College Dr.	6-4-07
[illegible]	2555 S College Dr	6-4-07
[illegible]	2489 S. College Dr	6-4-07
Cindy Tunnell	2488 S College Dr	6-4-07
Mark Sagaro	2489 S College Dr	6-4-7
Debbie Tunnell	2488 S. College Dr.	6-4-7
Brian Dewberry	2651 S. College Dr	6/4/07
Jeri Dewberry	2651 S. College Dr	6/4/07
Roy Clinton	2697 S. College	6/5/07
Hattie M. Clinton	2697 S. College Dr.	6/5/07
[illegible]	2702 S. College Dr	6/5/07
Connie J. Horne	2702 S. College Dr	6/5/07

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NAME	ADDRESS	DATE
Ted [illegible]	3419 S. Country Club Dr	June 3, 2007
Sandi [illegible]	3419 S. Country Club Dr.	June 3, 2007
John [illegible] Kim	2970 Country Club Dr	JUN 4, 2007
Mary A Kim	2970 Country Club Dr	JUN 4 2007
[illegible] Parker	2966 Country Club Dr.	6/4/2007
[illegible] Phillips	2943 S Country Club Dr	6/4/2007
Joann [illegible]	2943 S Country Club Dr	6/4/2007
Mary Jo Schroeder	2932 Country Club Dr	6/4/2007
William M Schroeder	2932 County Club Dr	6/4/2007
Jerry Hollis	2875 Country Club Dr	6/4/2007
[illegible]	2875 Country Club	6/4/2007
Brian Aura	3053 Sand Trap Ln.	6/5/2007

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NAME	ADDRESS	DATE
[illegible]	359 Fairway	6-5-07
[illegible]	359 FAIRWAY	6/5/07
[illegible]	330 E. Fairway	6/5/07
[illegible]	301 E Fairway	6/5/07
[illegible]	301 E Fairway	6/5/07
[illegible]	345 Fairway Lane	6/5/07
[illegible]	349 FAIRWAY LANE	6/5/07
[illegible]	300 Fairway Lane	6/6/07
[illegible]	310 Fairway Ln	6/6/07

PETITION

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NAME	ADDRESS	DATE
Calvine Jarrett	491 E. Fairway Lane	6-4-07
[illegible]	492 E. Fairway Ln	6/4/07
[illegible]	" "	
[illegible]	444 Fairway Lane	6/4/07
[illegible]	444 Fairway Lane	6/4/07
Rise Bonino	422 E. Fairway	6/4/07
Calvin Goforth	506 Double Eagle Pl	6/4/07
Suzanne Clark	438 E. Fairway Ln.	6/4/07
[illegible]	515 Amen Corner	6/4/07
[illegible]	515 Amen Corner	6/5/07

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NAME	ADDRESS	DATE
James B. Harvey	2919 S. WRIGHT PLACE	6/3/07
Mary Jo D. Harvey	2919 So Wright Pl Fville	6/3/07
Nancy 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
Joy Jacobs	2915 S. Wright Pl	6/5/07
Kris Jacobs	2915 S. Wright Pl.	6/5/07

PLANNING COMMISSION MINUTES
APRIL 24, 2006

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

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.

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

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

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.

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.

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…

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. Seqouyah. 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

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

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.

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.

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

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:

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 D. Bohot

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

C.8

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_cclerk@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

Jim and Gwyn Wood
2766 S. College Drive
Fayetteville, AR 72701
479 443-4033
gwyn.wood@sbcglobal.net

Ms Sondra E. Smith
P.O. Box 9211
Fayetteville, AR 72702

Re: Request for Appeal on City Planning Commission's Approval for:
CUP 07-2560 (Wilma Bohot – 124 E. 26th Circle)

Dear Ms Smith,

We respectfully request your support for a reversal of the above referenced action by the Fayetteville City Planning Commission. This is the second year that our neighborhood has united in opposition to Ms Bohot's request for rezoning to accommodate a child care center in her home. Last year the City Planning Commission voted unanimously to reject Ms Bohot's request.

Our concern about the Planning Commission's decision is that in allowing a commercial business to operate in our neighborhood, it sets a precedent for other "home based" businesses to be allowed.

We are a largely retired community with only twelve children living on the hill. It appears that most of Ms Bohot's clients will be traveling into and out of our neighborhood daily. With only one entrance and exit (24th Street), increased traffic could also become a concern.

We appreciate your consideration of this issue. It is a very important one for us and for our neighbors.

Sincerely,

Jim Wood Gwyn Wood

Jim and Gwyn Wood

ADA HUTCHINS
137 East 26th Circle
Fayetteville, AR 72703
479-582-1911

July 9, 2007

Dear Council Member ,

My name is Ada Hutchins. I live at 137 East 26th Circle in Fayetteville. This writing is regarding a request from Mrs. Bohot to operate a day care center out of her home at 124 East 26th Circle.

My home is directly across from the Bohot residence and we are ***STRONGLY OPPOSED*** to having a daycare in front of our home.

There is no commercial activity on **Our Hill**. Traffic on our hill is one way in and one way out. Cars will turn and park in front of our home. Therefore it will create extra traffic and noise.

We chose to come to Fayetteville and build our retirement home in this nice quit **RESIDENTIAL** neighborhood.

We strongly urge you to ***DENY*** this request for a daycare center.

Please save our residential status and its tranquility.

Sincerely and respectively,

Ada Hutchins

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

6/19/2007
City Council Meeting Date

Tim Conklin T.C.	Planning and Development Mgt.	Operations
Submitted By	Division	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 STEPBACK 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 — Date 5-30-07

City Attorney — Date 5-31-07

Finance and Internal Service Director — Date 5-31-07

Mayor — Date 6/4/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 5/31/07

Received in Mayor's Office ENTERED 5/31/07

Comments: Tabled to August 7, 2007 mtg 7/17/07
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 Meeting of June 19, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director
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 claify the 15 foot stepback requirment. (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 CODE 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 Code 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 _____day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

DAN COODY, Mayor **SONDRA E. 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.

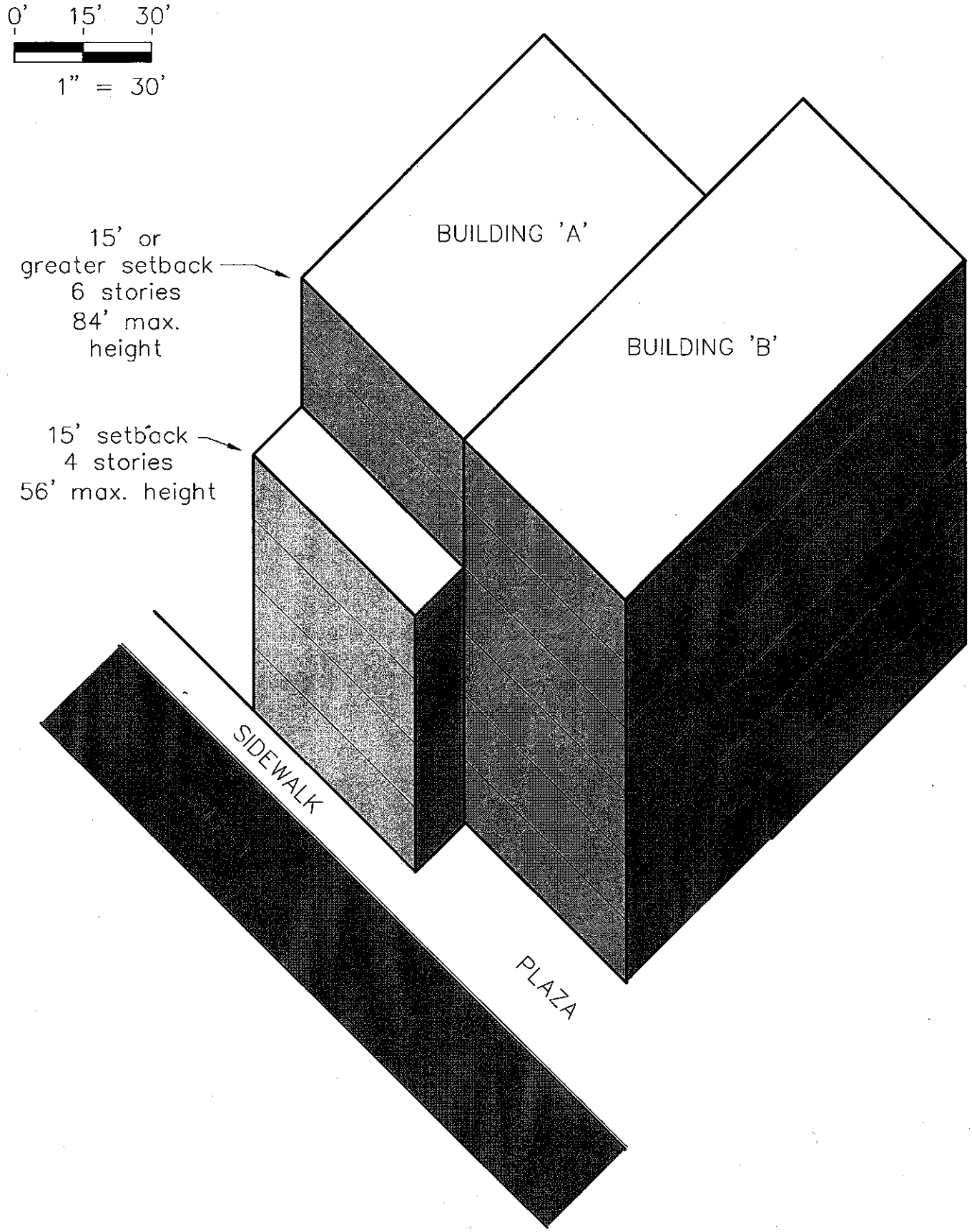
Jeremy Pate, Director of Current Planning, stated that the concern was duly noted, and staff will attempt to address the issue with a modification to the amendment if this goes forward to the City Council.

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.**

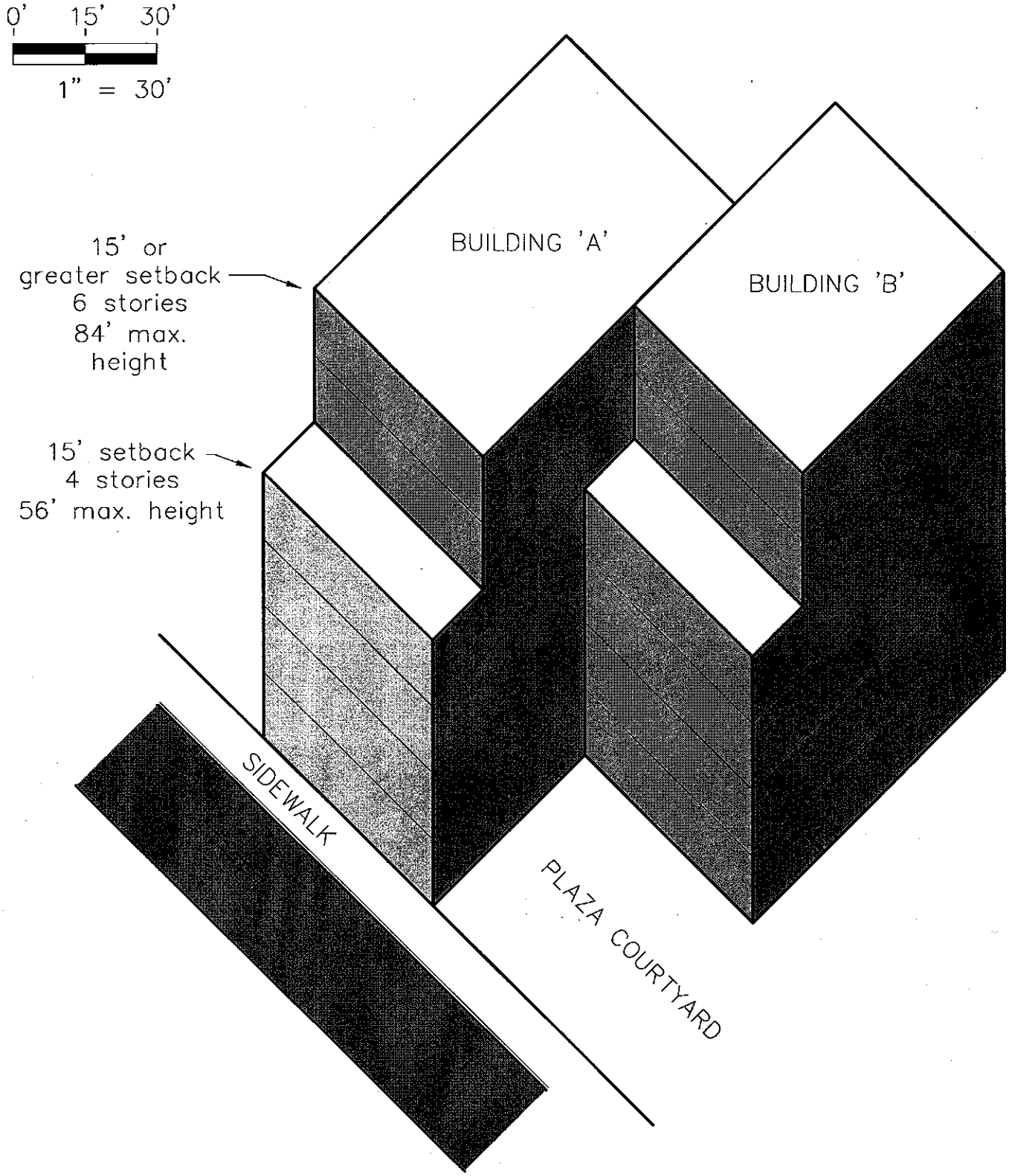
PROPOSED AMENDMENT

MAIN STREET CENTER



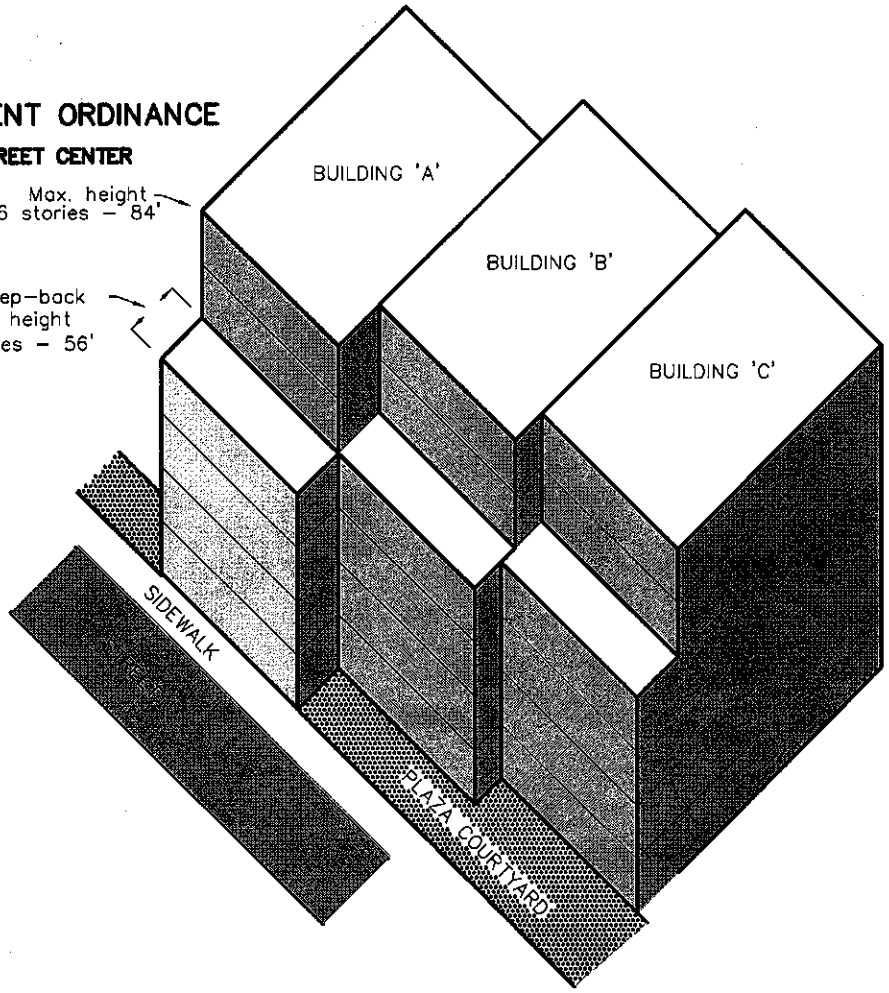
CURRENT ORDINANCE

MAIN STREET CENTER



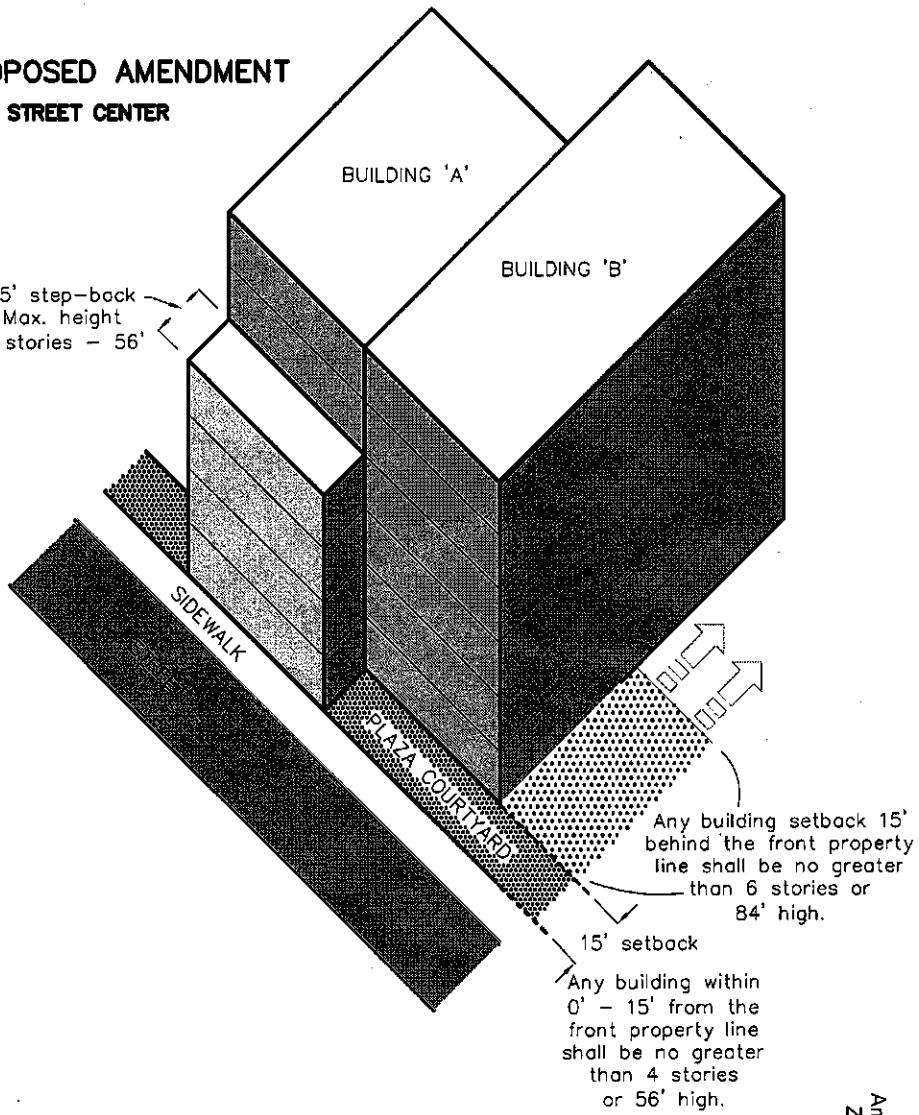
CURRENT ORDINANCE

MAIN STREET CENTER



PROPOSED AMENDMENT

MAIN STREET CENTER



B.2. Amend Chapter 161: Zoning Districts
Handed out at the City Council Meeting 7/17/07

Ozark Mountain Smokehouse Sound Survey

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 taking 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 57.0dbs to a high of 59.9dbs, with an average of 58.45dbs keeping it below the residential level of 60dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 60.2dbs to a high of 63.1dbs, with and average of 61.65dbs putting it just above the residential level of 60dbs. 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 69.9dbs, with and average of 67.95dbs, putting it above the residential of 60dbs. Although two of the readings were above the residential allowed decibels levels, all three were under the commercial set level of 75dbs 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 84dbs to a high of 91dbs, with an average of 87.5dbs. **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 80dbs to a high of 83dbs, with an average of 81.5dbs, putting it well above the residential level of 60dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 77dbs to a high of 80dbs, with an average of 78.5dbs, putting it well above the residential level of 60dbs. The next reading was taken with the volume set at 3.5. The reading ranged from a low of 73dbs to a high of 77dbs with an average of 75dbs, still above the residential level of 60dbs. **See diagram label B**

The next reading was taken with the volume set at 3.5. The reading ranged from a low of 60dbs to a high of 62.4, with an average of 61.2dbs. The next reading was taken with the volume set at 4.5. The reading ranged from a low of 63dbs to a high of 67dbs with an average of 65dbs. The next reading was taken with the volume set at 5.5. The reading ranged from a low of 65dbs with a high of 71.1, with an average of 68.5dbs. During these reading 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**

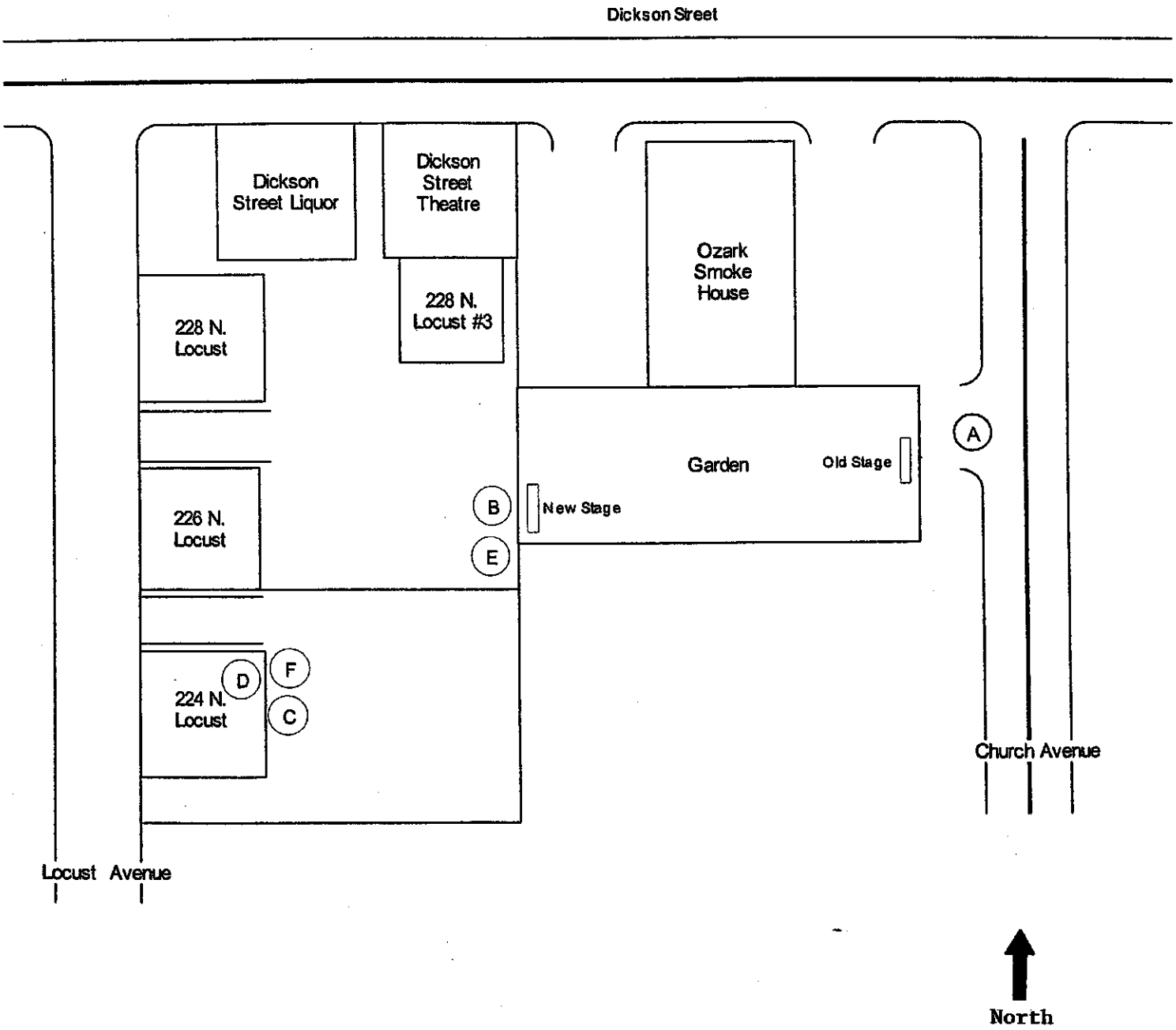
The fourth reading was taken from the backyard of 224 N. Locust Avenue, with the volume set at 5.5. The reading ranged from a low of 68.8dbs to a high of 72.1dbs, with and average of 70.45dbs. **See diagram label F**

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.

Cpl. D. Slaughter #141

NOT TO SCALE

Incident #07-68808



City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

7/3/2007
City Council Meeting Date
Agenda Items Only

Tim Conklin	Planning and Development Mgt.	Operations
Submitted By	**Division**	**Department**

Action Required:

To amend Title 15, Chapter 161, 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 — Date: 6-15-07

City Attorney — Date: 6-18-07

Finance and Internal Service Director — Date: 6-18-07

Mayor — Date: 6/18/07

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received in City Clerk's Office ENTERED 6/18/07

Received in Mayor's Office ENTERED 6/18/07

Comments:

Left on the second reading 7/17/07

7-3-07 City Council Meeting - Left on the First Reading

City Council Meeting of July 3, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: 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:

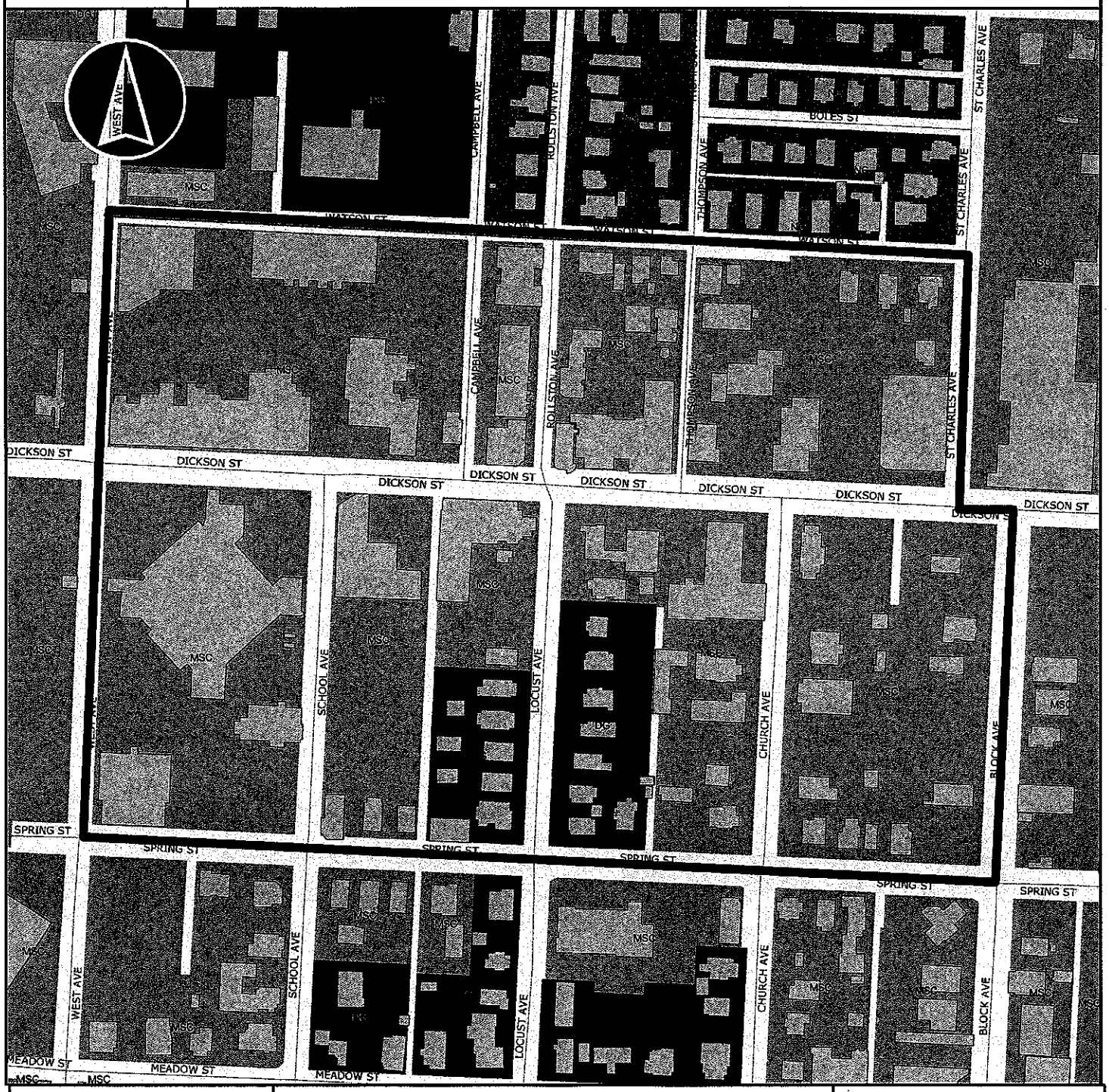
This section shall be removed:

~~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. Boudreaux'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. Boudreaux 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. Boudreaux 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

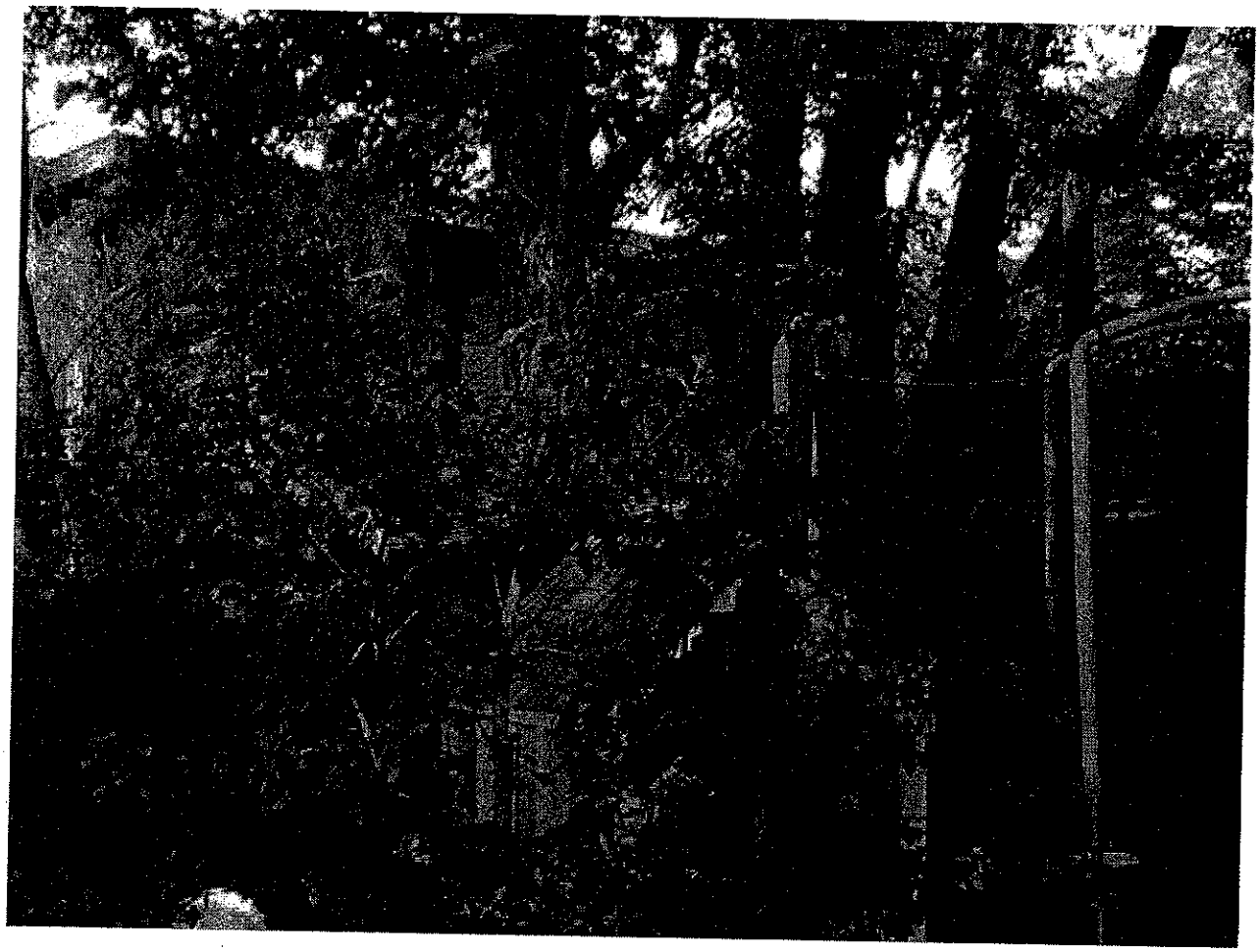
cc: Kyle B. Cook
Ward2_pos1@ci.fayetteville.ar.us

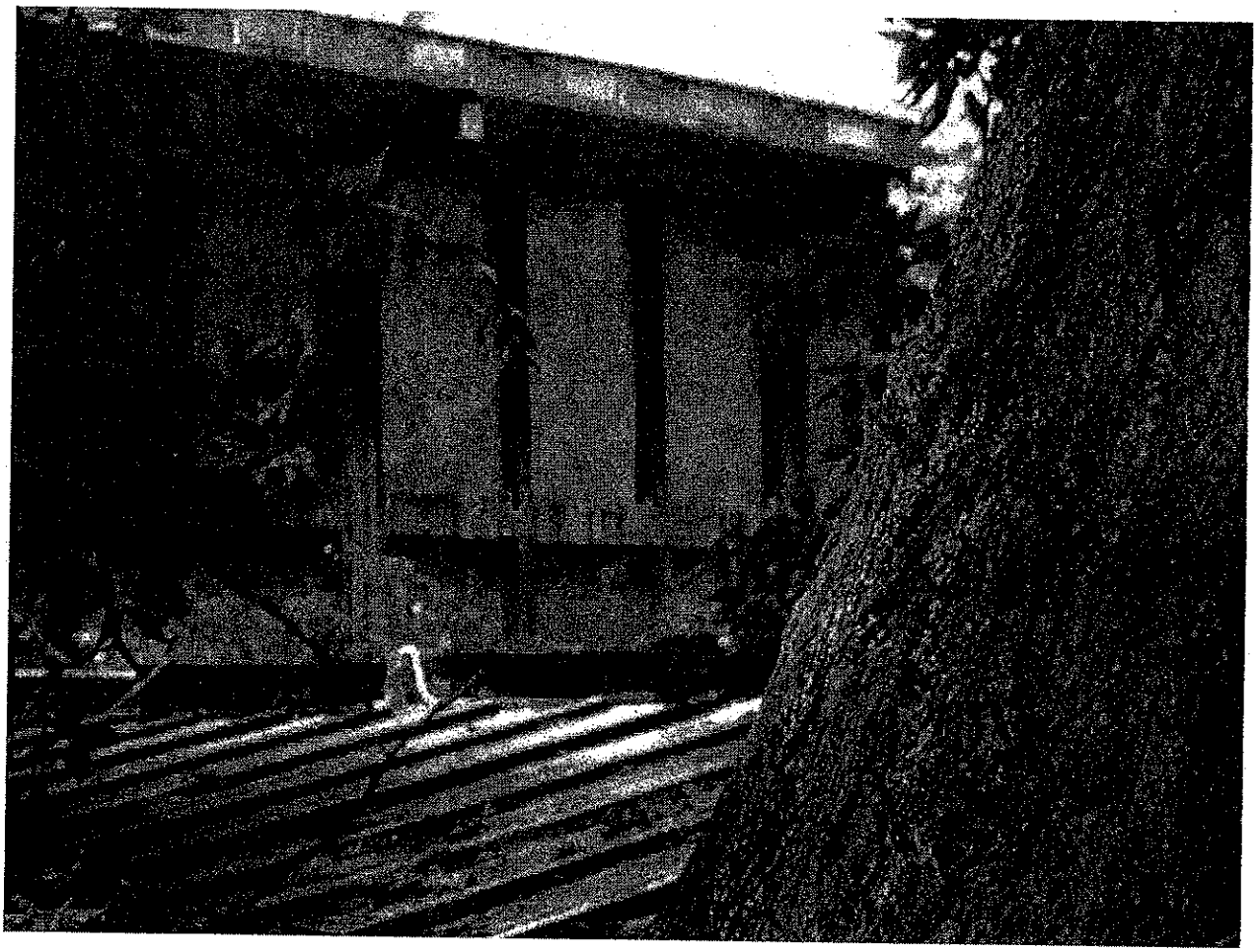
Nancy Gordon Allen
Ward2_pos1@ci.fayetteville.ar.us

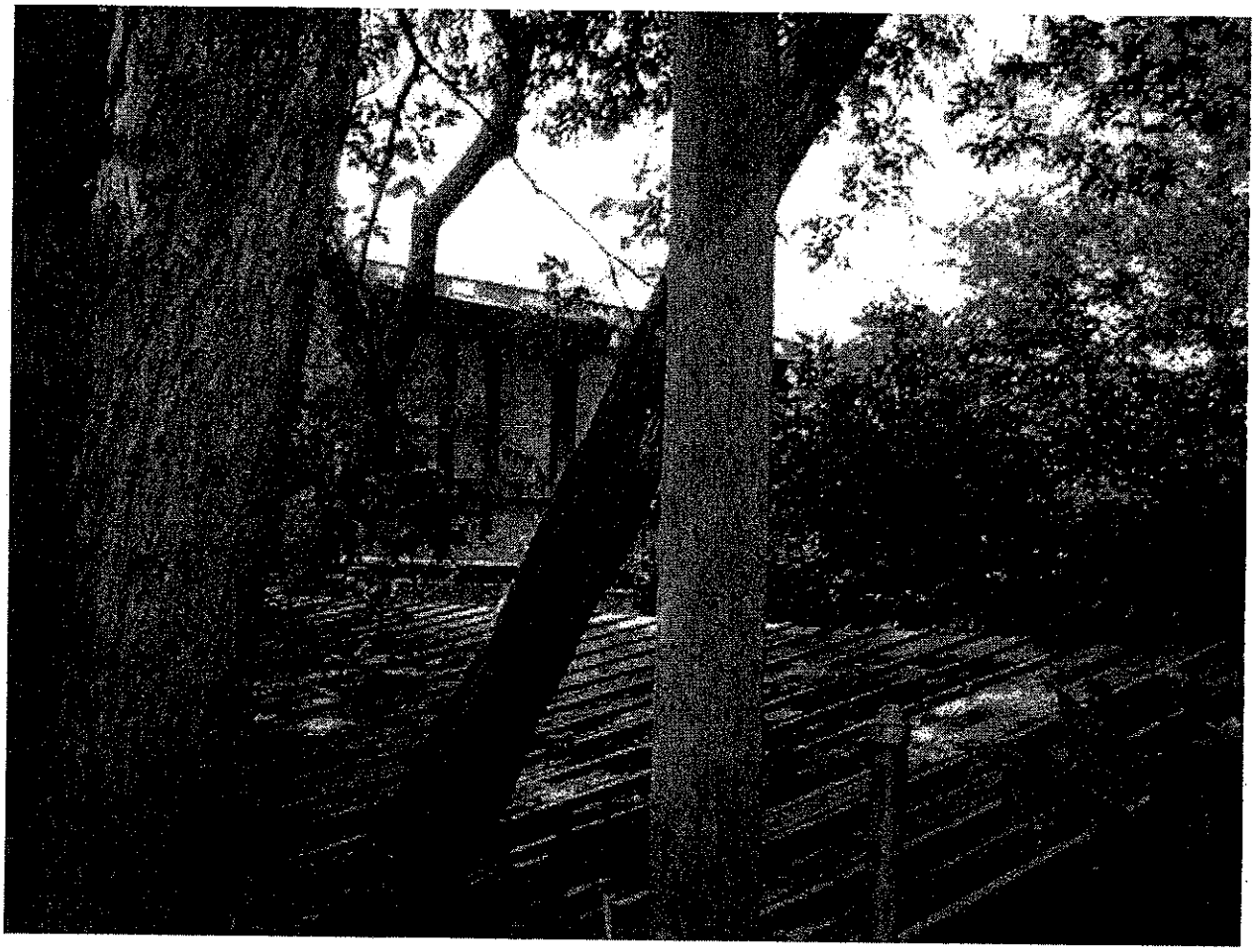
Tim Conklin
City of Fayetteville
Planning and Development Management Director

Gary Dumas
City of Fayetteville
Director of Operations

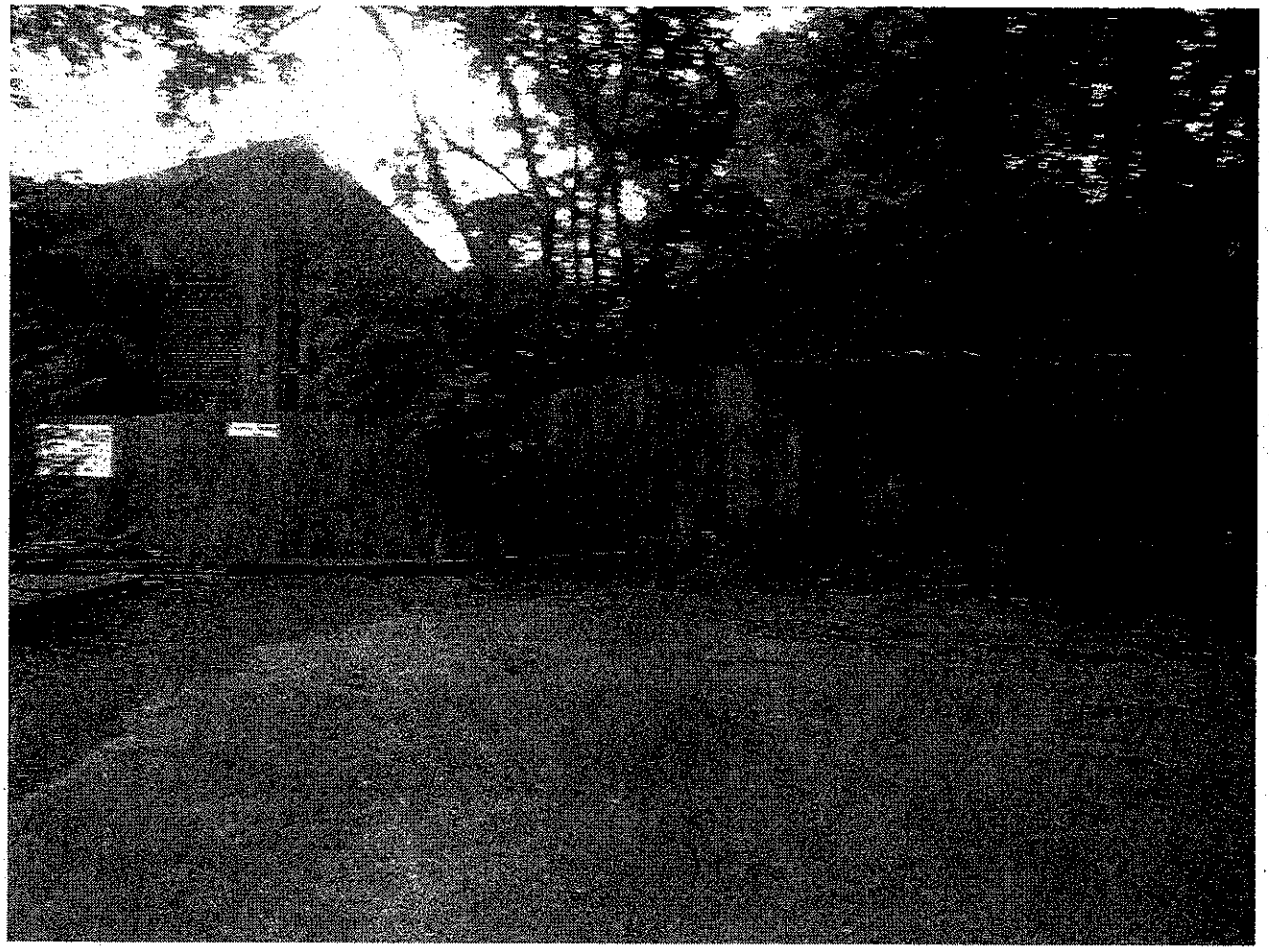
Juli D. Dorrough
Chair - Dickson Street Neighborhood Association

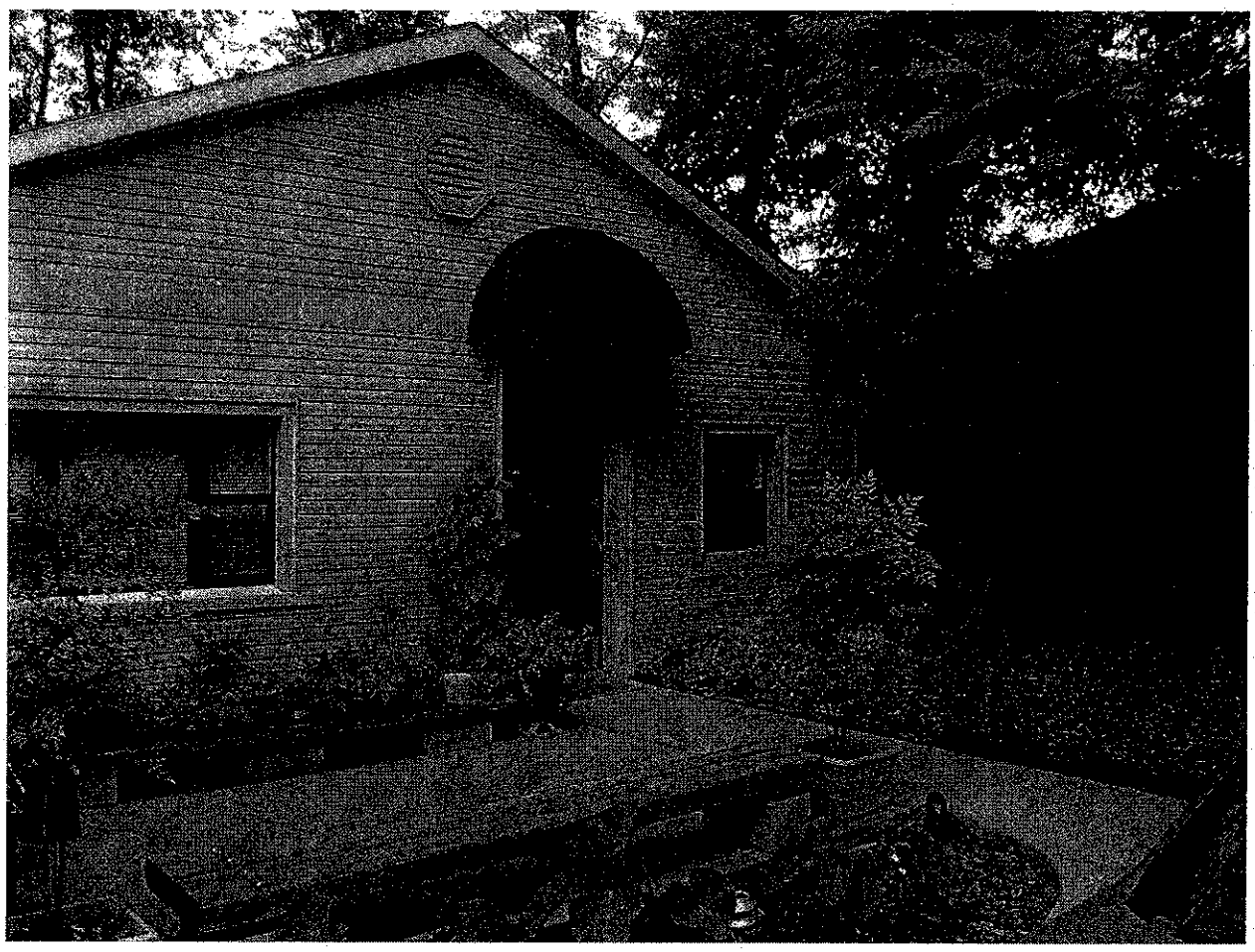


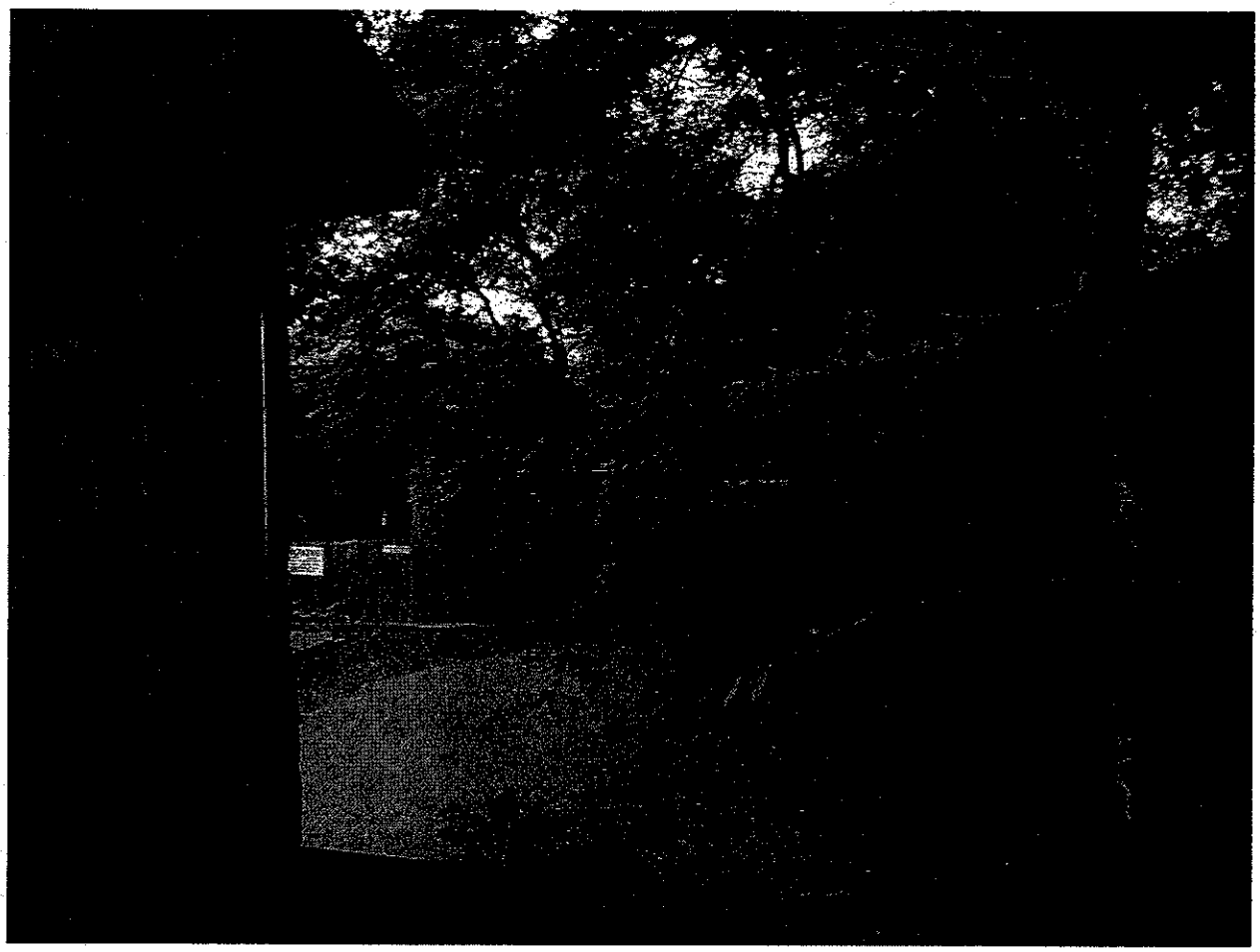




Dear Mr. Conklin My name is Rev. J.A. Gaglio I live at 226 N. Locust Ave. I have enclosed photos of how close the Garden Room is to my house and other homes.







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	W	DICKSON	LIVE BAND
199800038997	Noise Comp	19981022	21:45:48	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM INSIDE THE RESTAURANT. MDS
200000028791	Noise Comp	20000419	0:28:47	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THE AREA BEHIND THIS.
200000079345	Noise Comp	20001022	22:38:11	SASSAFRAS	215	W	DICKSON	LIVE BAND...SFS
200500009171	Noise Comp	20050129	23:23:31	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THIS LOCATION...MDS
200600048939	Noise Comp	20060513	22:16:27	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM THE BACK OF THIS LOC. JW
200600066784	Noise Comp	20060701	22:58:27	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM LIVE BAND AT THIS LOC. JR
200600069496	Noise Comp	20060708	21:54:41	OZK MTN SMOKEHO	215	W	DICKSON	LOUD BAND PLAYING AT THIS LOC. JW
200600074447	Noise Comp	20060722	22:38:32	OZK MTN SMOKEHO	215	W	DICKSON	THE GARDEN ROOM, LOUD MUSIC, THIS IS THE
200600085409	Noise Comp	20060819	18:05:23	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC..MTC
200600090705	Noise Comp	20060902	0:19:22	OZK MTN SMOKEHO	215	W	DICKSON	CALLER LIVES ON LOCUST AND IT SOUNDS LIKE THE
200600096293	Noise Comp	20060916	21:22:01	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM A BAR IN THE AREA. JW
200600096308	Noise Comp	20060916	22:00:57	OZK MTN SMOKEHO	215	W	DICKSON	AT THE GARDEN ROOM, LOUD MUSIC SHAKING THE
200600096341	Noise Comp	20060916	23:21:32	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC COMING FROM THE GARDEN ROOM AT
200600103633	Noise Comp	20061006	21:20:41	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC ON BACK PATIO AT THIS LOC
200700036618	Noise Comp	20070420	21:25:13	OZK MTN SMOKEHO	215	W	DICKSON	LOUD BAND ON THE PATIO. MH
200700036670	Noise Comp	20070420	23:37:17	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC, COMING FROM THE BACK PATIO...ES
200700036698	Noise Comp	20070421	0:42:10	OZK MTN SMOKEHO	215	W	DICKSON	CALLER WOULD LIKE AN NOISE METER READING AS
200700039424	Noise Comp	20070428	21:49:16	OZK MTN SMOKEHO	215	W	DICKSON	IN THE GARDEN ROOM ON THE BACK PATIO, THERE
200700044345	Noise Comp	20070512	21:25:38	OZK MTN SMOKEHO	215	W	DICKSON	LOUD MUSIC FROM THIS LOC. JW
200700049995	Noise Comp	20070527	20:57:23	OZK MTN SMOKEHO	215	W	DICKSON	PLAYING MUSIC VERY LOUDLY. SDW
200700055206	Noise Comp	20070609	20:43:17	OZK MTN SMOKEHO	215	W	DICKSON	224 N LOCUST, LOUD MUSIC BOTHERING FEMALE

FINAL TOTALS
COUNT 22

* * * E N D O F R E P O R T * * *

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #	.	STREET NAME	FIRST LINE OF NARRATIVE
199800000512	Noise Comp	19980103	23:40:36	226	N	LOCUST	POSB AT 224, LOUD PARTY OUTSIDE, LOUD MUSIC
200700018193	Noise Comp	20070224	21:33:38	226	N	LOCUST	LOUD MUSIC IN THE AREA...JH
200700027941	Noise Comp	20070324	23:17:46	226	N	LOCUST	LOUD MUSIC COMING FROM DICKSON STREET THEATER
200700036665	Noise Comp	20070420	23:24:28	226	N	LOCUST	BACK DOOR, UP THE STAIRS, THAT IS WHERE THE
200700039432	Noise Comp	20070428	22:10:24	226	N	LOCUST	LOUD MUSIC COMING FROM THE GARDEN ROOM
200700044374	Noise Comp	20070512	22:31:16	226	N	LOCUST	THE GARDEN ROOM IS TOO LOUD, CALLER ADV HE

FINAL TOTALS
COUNT 6

* * * E N D O F R E P O R T * * *

INCIDENT #	TYPE ABBV	CALL DATE	CALL TIME	STR #		STREET NAME	FIRST LINE OF NARRATIVE
200300056559	Noise Comp	20030613	2:42:53	229	N	LOCUST	LOUD MUSIC...JPS
200300094796	Noise Comp	20030923	2:54:37	229	N	LOCUST	LOUD MUSIC...KMV
200300095479	Noise Comp	20030925	2:05:23	229	N	LOCUST	LOUD MUSIC COMING FROM THIS LOC..KMV
200300095491	Noise Comp	20030925	2:53:16	229	N	LOCUST	STILL BEING VERY LOUD..MRS
200300096200	Noise Comp	20030927	2:19:33	229	N	LOCUST	LOUD MUSIC..MRS
200300098327	Noise Comp	20031003	0:47:16	229	N	LOCUST	LOUD MUSIC..MRS
200300098346	Noise Comp	20031003	3:02:40	229	N	LOCUST	LOUD MUSIC, C2 SUBJS...JPS
200300100072	Noise Comp	20031008	2:00:16	229	N	LOCUST	LOUD MUSIC..HDK
200300107772	Noise Comp	20031028	22:09:38	229	N	LOCUST	DOWNSTAIRS, LOUD MUSIC, POSB C2...JPS
200300108536	Noise Comp	20031031	0:57:22	229	N	LOCUST	LOUD MUSIC..MRS
200300110017	Noise Comp	20031104	1:09:45	229	N	LOCUST	LOUD MUSIC....KMV
200300125208	Noise Comp	20031217	19:32:20	229	N	LOCUST	LOUD MUSIC FROM THIS APT..SH
200300125251	Noise Comp	20031217	22:35:27	229	N	LOCUST	LOUD MUSIC..MRS

FINAL TOTALS
COUNT 13

* * * E N D O F R E P O R T * * *

Handed out at the City Council Meeting 7-3-07.

D.7. New Business Amend Chapter Zoning Districts.

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, "Well ....Ok." 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

17-Jul-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

RZN 07-2592: (Bellwood S/D Ph II, 400): Submitted by Jorgensen and Associates for property located west of Rupple 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 ☐

Department Director — Date: 6.29.07

City Attorney — Date: 7-2-07

Finance and Internal Service Director — Date: 7-2-07

Mayor — Date: 7/2/07

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:

Left on the second reading 7/17/07

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

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 Rupple Road and north of Wedington Drive.

BACKGROUND

The subject property contains approximately 8.41 acres located west of Rupple 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:

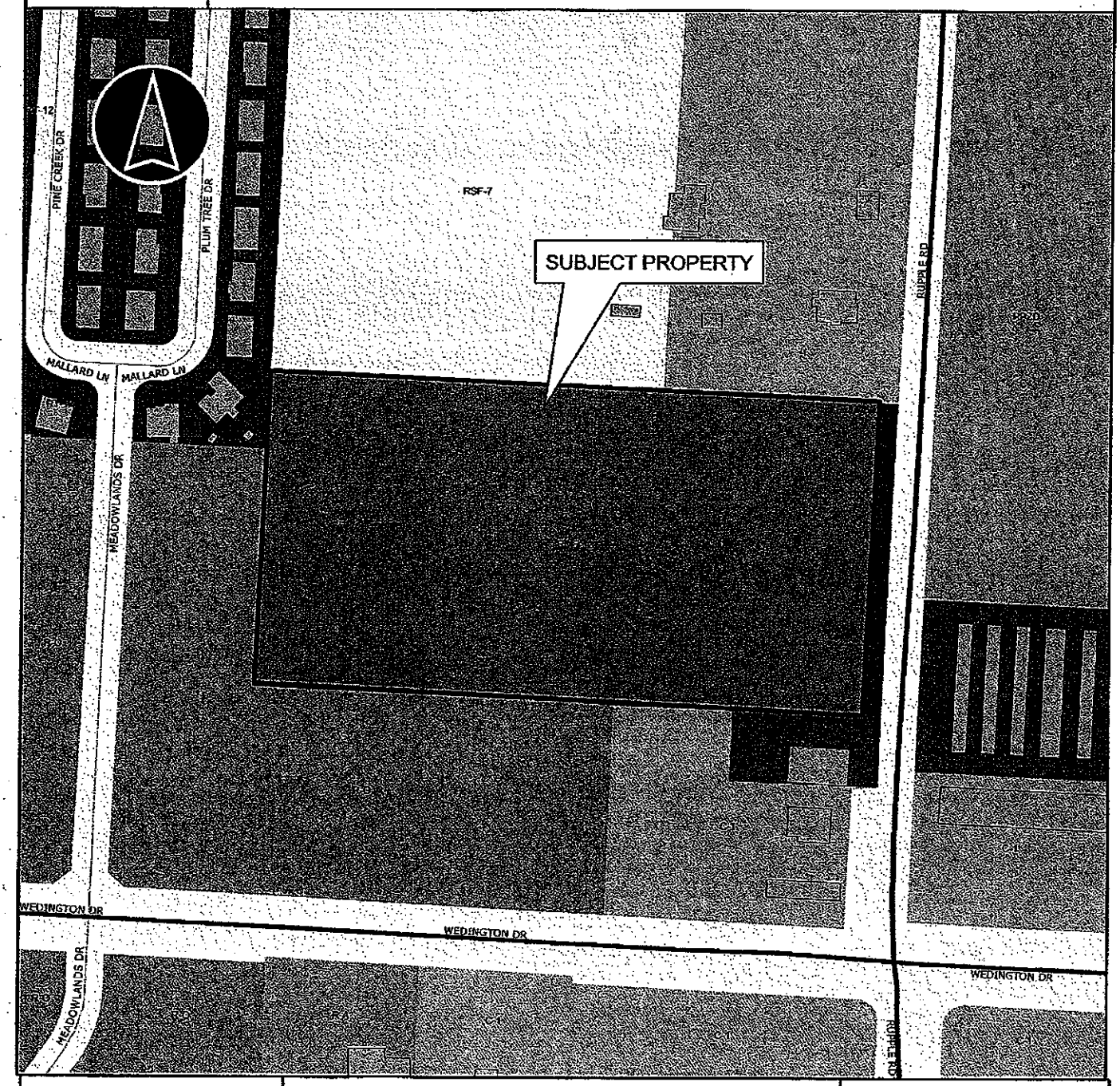
By: _____ By: _____
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

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 Rupple 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 Rupple 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
Parnership Dev.

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

JUDY BEARD
MY COMMISSION # 12359228
EXPIRES: April 8, 2017
Washington County

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.

Fayetteville
ARKANSAS

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** **YES**
√ Forwarded to C.C. ☐ **Denied**
Date: June 25, 2007
Motion: Myers
Second: Cabe
Vote: 8-0-0

CITY COUNCIL ACTION: **Required** **YES**
☐ **Approved** ☐ **Denied**
Date: July 17, 2007 (1st reading if recommended)

BACKGROUND:

Property Description: The subject property contains approximately 8.41 acres located west of Rupple 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 Rupple Road. Rupple Road is an unimproved 2-lane paved roadway adjacent to this property. Rupple 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: Rupple Road (Principal Arterial)

Water: Public water is adjacent to the site. There is a 6" waterline running along the east side of Rupple 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 Rupple 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 Rupple Road. The proximity of this property to two principal arterials - Wedington Drive and Rupple 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 Rupple Road. Rupple 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 Rupple Road and Wedington Drive will aid in facilitating safe traffic movements adjacent to the subject property. Additionally, the north section of Rupple 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

(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 •Individual lot	 10,000 sq. ft. 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 One bedroom Two or more bedrooms	 1,700 sq. ft. 1,700 sq. ft. 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

(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 Individual lot	 10,000 sq. ft. 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 One bedroom Two or more bedrooms	 1,700 sq. ft. 1,700 sq. ft. 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 Rupple 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 Rupple 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
Partner & Sole Owl.

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

JUDY BEARD
MY COMMISSION # 12359228
EXPIRES: April 8, 2017
Washington County

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 Rupple 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

Kooshesh
RZN07-2603

Bellwood
RZN07-2592
Station 7

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 ~~20.35~~ 8.41 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 Rupple Road.

Sanitary sewer is available on the site. There is an 8" main stubbed out to the property from the north and thewest. 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 Rupple Road. Rupple 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 ngineering 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 **Rupple Road, S of Phase 1 of Bellwood S/D.** The property contains **approximately ~~20.35~~ 8.41 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 Rupple Road, south of Bellwood Phase I and north of the Wedington/Rupple intersection. A mixed-use project is being planned on the east side of Rupple 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 Rupple Road. There is also an existing sewer on Rupple Road to the south.

Fire protection will be from the new fire station on Rupple 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 Rupple 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 Rupple 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.

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 Rupple 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.

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 Rupple 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

the street at Rupple 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 Rupple 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 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

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 Rupple?

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 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.

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 Rupple 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 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. ***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

CITY CLERK/TREASURER
CITY OF
FAYETTEVILLE
ARKANSAS
WASHINGTON COUNTY

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 Rupple 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 Rupple 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 Rupple 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 Rupple 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 Rupple 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

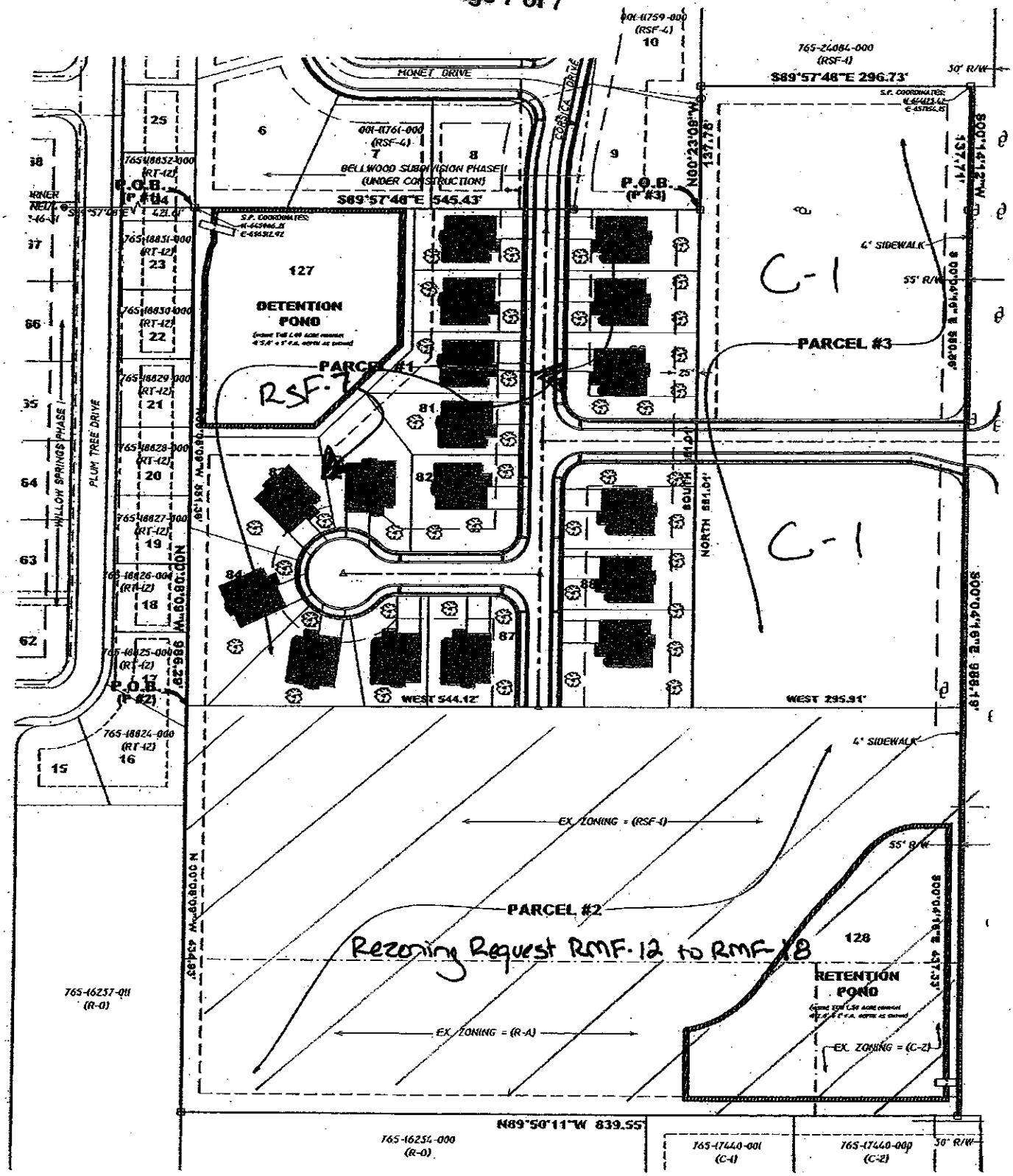
PO Box 9087
Address

FAYETTEVILLE, AR 72703

Signature

BILL Or 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.

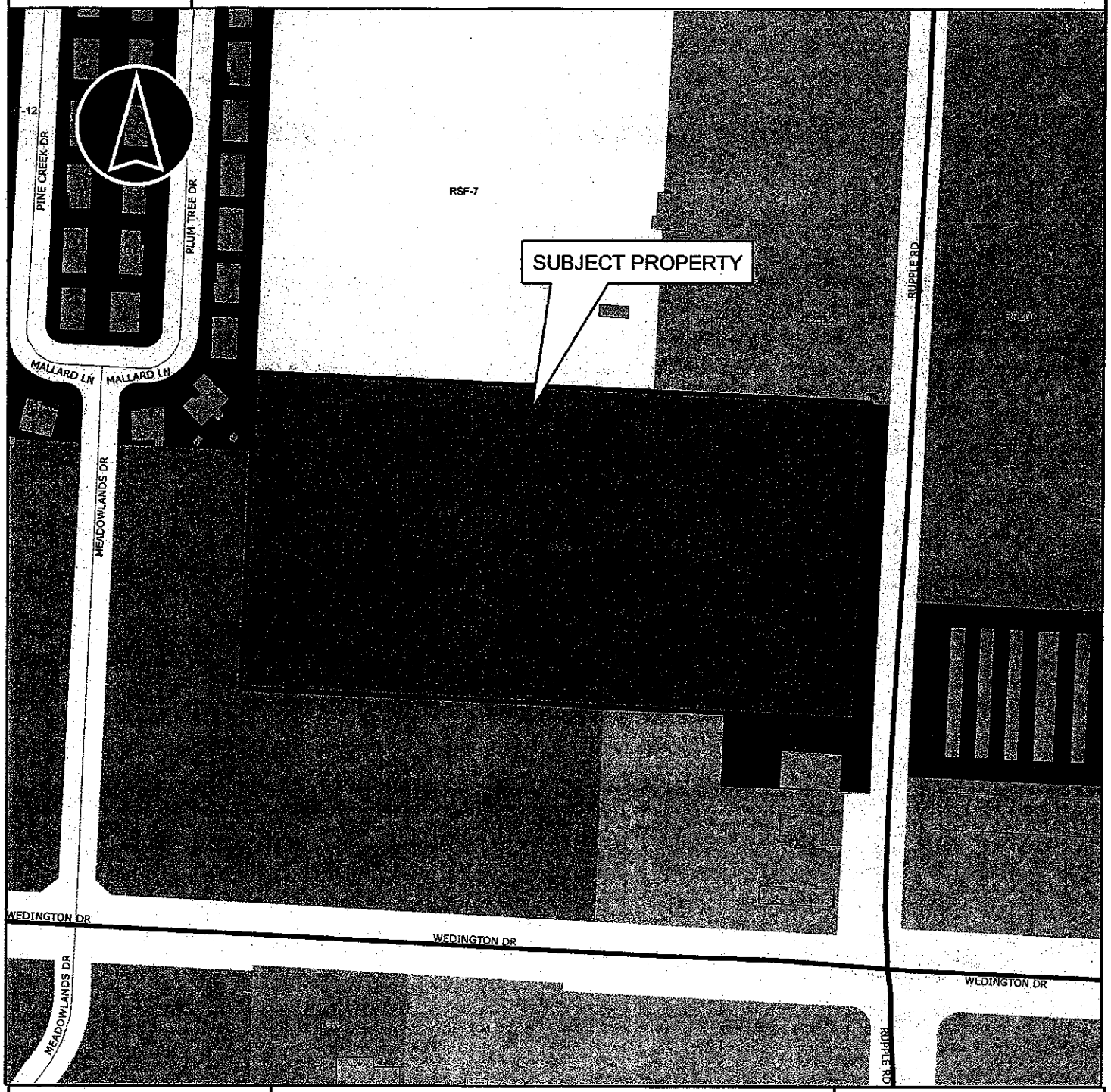
EXHIBIT "E"
Page 7 of 7



RZN07-2592

Close Up View

BELLWOOD S/D II



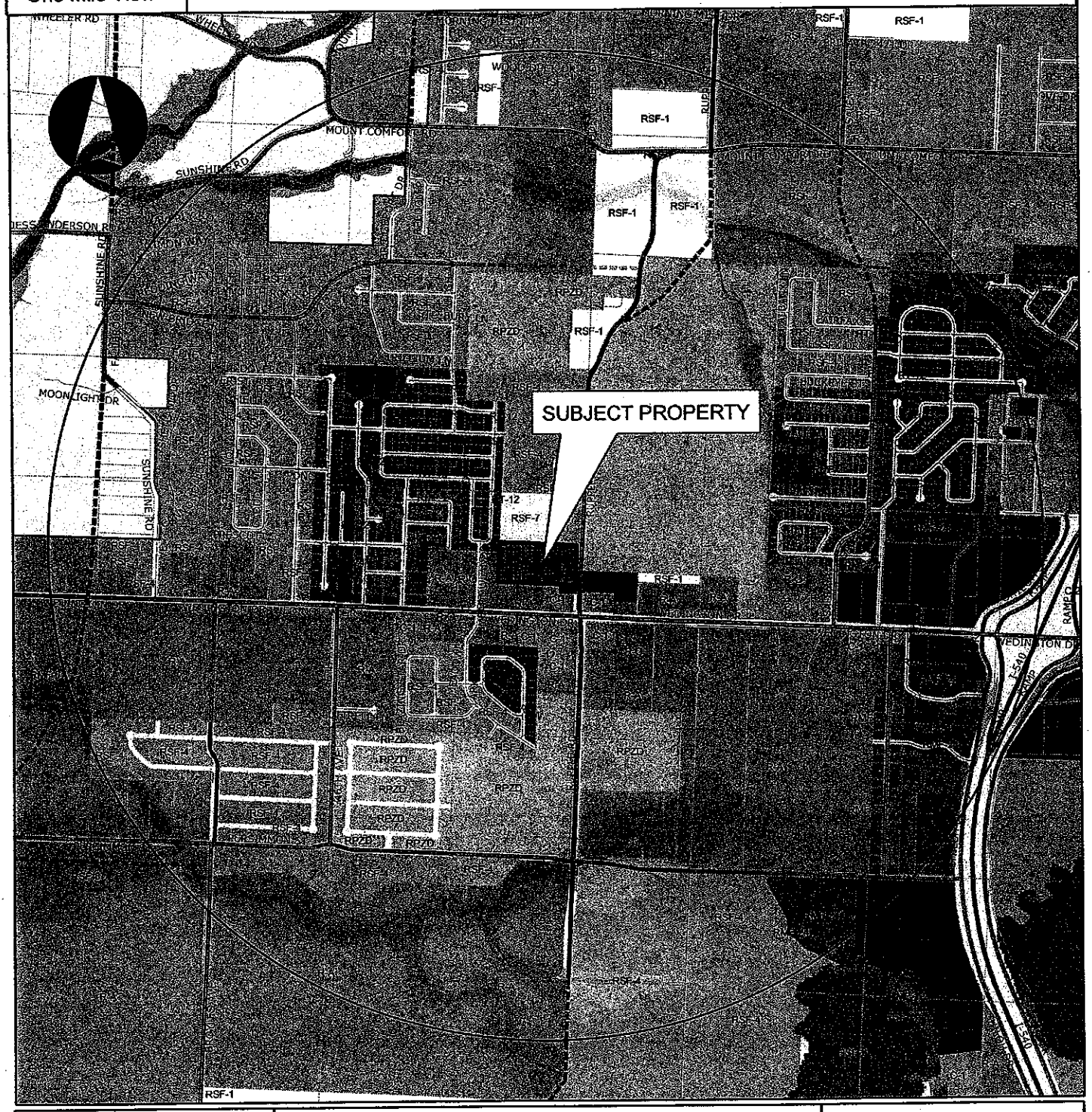
Overview

0 75 150 300 450 600 Feet

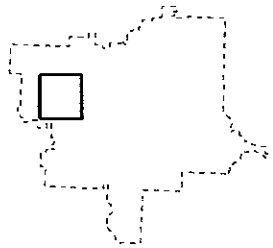
RZN07-2592

One Mile View

BELLWOOD S/D II



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

7-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 07-2578: Bailey Meadows, 2578: Submitted by Rodney R. and Nancy K. Payne for property located west of School Avenue and north of Bailey Drive containing approximately 3.86 acres. The request is for a Residential Planned Zoning District for re-zoning, land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24. 0.39, and 0.28 acres and associated rural residential uses.

$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 7-23-07 Date

City Attorney 7-20-07

Finance and Internal Service Director 7-21-07 Date

Mayor 7/23/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/20/07 LB

Received in Mayor's Office ENTERED 7/20/07 PH

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: July 12, 2007

Subject: Residential Planned Zoning District for Bailey Meadows (R-PZD 07-2578)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Bailey Meadows, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a residential project on approximately 3.86 acres located at 1200 Bailey Drive in south Fayetteville. The proposal is for rezoning, land use, and lot split approval to create a total of four single family lots and associated rural residential uses.

BACKGROUND

The applicant requests rezoning land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses. The existing house would be on the 0.39-acre tract, the applicant desires to construct two new residences on the 0.24 and 0.28-acre tracts, and the remaining 2.94 acres would likely be used for a horse/hay pasture, with the potential for one additional single family residence. The intent on the 2.94 acres is to allow for low impact agricultural uses adjacent to single family residences. A total of four residences on the 3.86-acre property would result in a maximum density of 1.04 units per acre.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on July 12, 2007. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2578, BAILEY MEADOWS, LOCATED WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE; CONTAINING APPROXIMATELY 3.86 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential-Agricultural to R-PZD 07-2578 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

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

APPROVED: ATTEST:

By: _____ By: _____

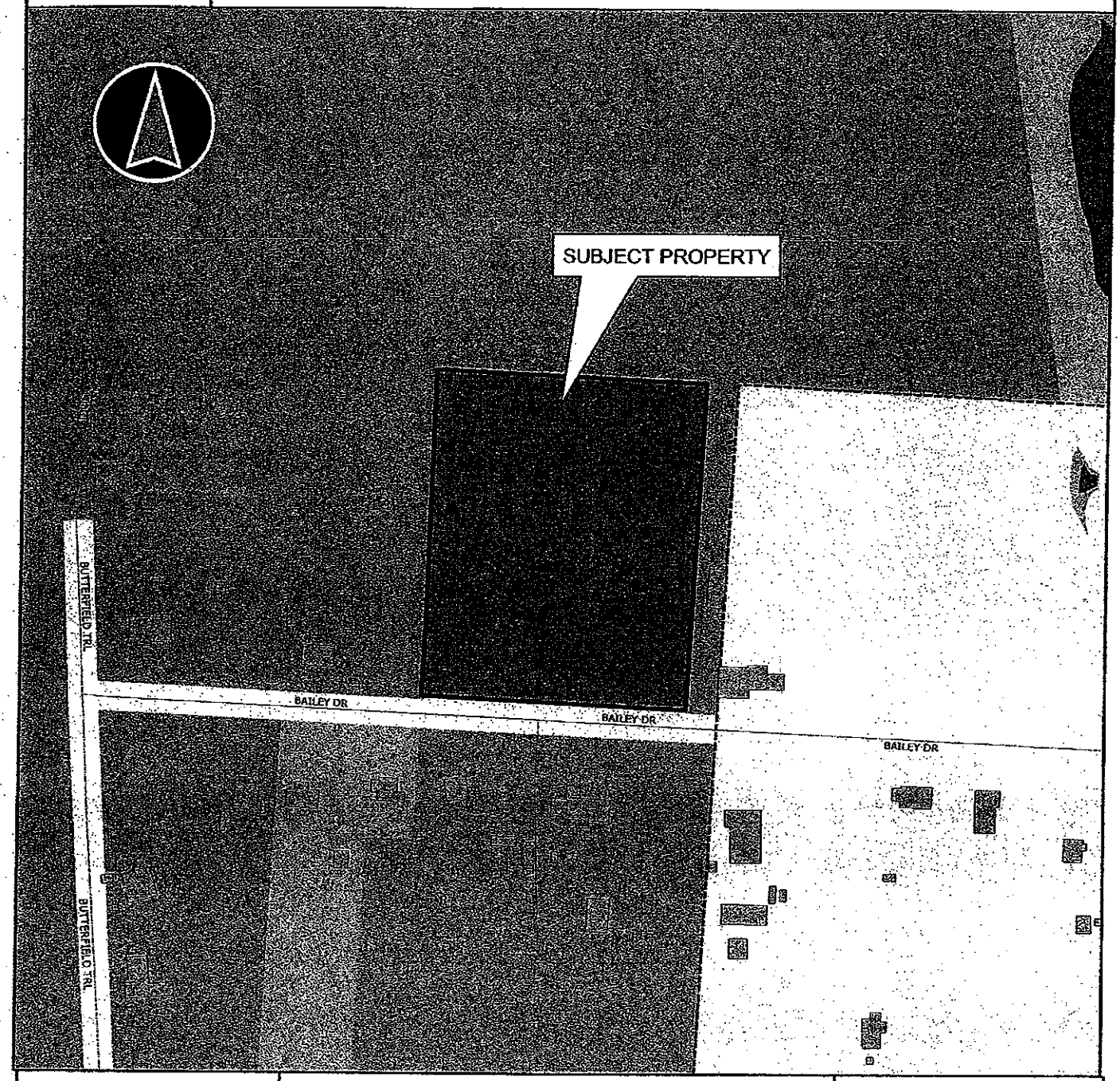
DAN COODY, Mayor **SONDRA SMITH,** City Clerk/Treasurer

EXHIBIT "A"

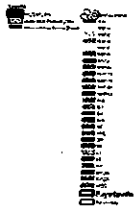
RPZD07-2578

Close Up View

BAILEY MEADOWS



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
R-PZD 07-2578

SURVEY DESCRIPTION - ENTIRE TRACT

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION THIRTY-TWO (32), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING AN EXISTING ALUMINUM ARKANSAS STATE LAND SURVEY MONUMENT; THENCE N00°47'33"W 858.21 FEET ALONG THE EAST LINE OF SAID 40 ACRE TRACT; THENCE S89°08'21"W 43.30 FEET TO A SET 1/2" IRON REBAR FOR THE TRUE POINT OF BEGINNING, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF BAILEY DRIVE; THENCE LEAVING SAID RIGHT-OF-WAY LINE, N00°47'33"W 456.64 FEET TO AN EXISTING IRON ON THE NORTH LINE OF SAID 40 ACRE TRACT; THENCE S89°02'19"W 372.54 FEET (DEED=361.50 FEET) ALONG THE NORTH LINE OF SAID 40 ACRE TRACT TO AN EXISTING FENCE AS REFERENCED IN LAND DOCUMENT 96-60514, SAID FENCE ALSO BEING N89°02'19"E 900.83 FEET (RECORD 920.85 FEET) FROM THE NORTHWEST CORNER OF SAID 40 ACRE TRACT; THENCE LEAVING THE NORTH LINE OF SAID 40 ACRE TRACT, S01°49'40"E ALONG SAID FENCE 241.60 FEET TO A FENCE CORNER POST; THENCE S02°11'49"E ALONG SAID FENCE 99.80 FEET TO A FENCE CORNER POST; THENCE S01°01'19"E 114.66 FEET TO A SET 1/2" IRON REBAR AT THE NORTH RIGHT-OF-WAY LINE OF BAILEY DRIVE; THENCE N89°08'21"E 365.27 FEET TO THE POINT OF BEGINNING, CONTAINING 3.86 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. THE ABOVE DESCRIBED 3.86 ACRE TRACT BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2578

Page 1 of 1

Staff recommends the following conditions of approval associated with R-PZD 07-2578 (Bailey Meadows).

1. Parks fees are due in the amount of $960.00 for each additional single family residential unit, due prior to building permit approval for each unit.

2. Residences shall be constructed to be consistent with the concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

4. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

5. Provide a CD containing the finalized lot split in AutoCAD or similar format.

6. Each single family home shall be required to submit and obtain a grading permit at the time of development of that lot.

Fayetteville
ARKANSAS

Planning Commission Meeting
July 9, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Andrew Garner, Senior Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 3, 2007~~ *Updated July 12, 2007*

R-PZD 07-2578: Planned Zoning District (BAILEY MEADOWS, 755): Submitted by RODNEY R. & NANCY K. PAYNE for property located WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 3.86 acres. The request is for a Residential Planned Zoning District for re-zoning, land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses.

Property Owner: Ron Payne
Planner: Andrew Garner

Findings:

Property Description: The subject property consists of approximately 3.86 acres located at 1200 Bailey Drive in south Fayetteville, approximately 0.25 mile west of Drake Field Airport. The property is zoned R-A, and is currently developed for one single family residence with pasture. Surrounding zoning and land uses are depicted in *Table 1*.

Table 1
Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Undeveloped/agricultural	R-A
South	Single Family Rural Residential	R-A
East	Single Family Rural Residential	R-A
West	Single Family Rural Residential	R-A

Background: The applicant applied to have the property re-zoned to RSF-4 on June 13, 2005 RZN 05-1449 (Payne) and was denied by the Fayetteville Planning Commission. The applicant has recently discussed with Planning staff a desire to build two additional single family residences on the property, and to leave the remainder of the property open for agriculture/horse pasture. Based on the existing zoning and amount of frontage, staff recommended that these uses and lot configuration would not fit into any existing zoning district, and that a customized

Planned Zoning District would be the best fit.

Proposal: The applicant requests rezoning land use, and lot split approval to create a total of 4 single family lots of 2.94, 0.24, 0.39, and 0.28 acres and associated rural residential uses. The existing house would be on the 0.39-acre tract, the applicant desires to construct two new residences on the 0.24 and 0.28-acre tracts, and the remaining 2.94 acres would likely be used for a horse/hay pasture, with the potential for one additional single family residence. The intent on the 2.94 acres is to allow for low impact agricultural uses adjacent to single family residences. A total of four residences on the 3.86-acre property would result in a maximum density of 1.04 units per acre.

Access: Access to the site is provided directly to Bailey Drive, with each lot having a minimum of 70' of frontage. Bailey Drive has access directly to State Highway 71, next to Fayetteville Municipal Airport, though a portion of the street is within the City of Greenland. No new streets are proposed. The applicant discussed at the June 28, 2007 Subdivision Committee meeting that the low railroad crossing on Bailey Drive and associated drainage issues in the City of Greenland have been improved since the previous rezoning request, and that the electric transmission service poles are scheduled to be either removed or relocated further away from the railroad crossing in the near future.

Phasing: The applicant proposes to construct two new houses on the property within two years, although with this PZD granting lot split approval, as long as the lot split is recorded within one year there are not time limits for construction of the individual homes.

Water & Sewer: Water and sewer lines are available to the property.

Adjacent Master Street Plan Streets: Bailey Drive (Local Street)

Parks: A lot split fee of $960.00 for each single family residential unit that is constructed will be required to be paid prior to issuance of a building permit.

Tree Preservation: This PZD does not propose development besides that of 2-3 single family homes that would be allowed as part of the lot split. No trees are affected with this PZD request.

Public Comment: Staff has received comments from surrounding property owners stating support for the low density of the project.

Police and Fire Service: The Fayetteville Police and Fire Departments reviewed this rezoning request and concluded that adverse impacts to provision of service would not occur.

Recommendation: Staff recommends forwarding **R-PZD 07-2578** to the full City Council with a recommendation for approval with the following conditions:

Issues/Conditions to Discuss:

1. Parks fees are due in the amount of $960.00 for each additional single family residential

unit, due prior to building permit approval for each unit.

PLANNING COMMISSION MODIFIED THIS CONDITION (JULY 9, 2007)

2. Residences shall be constructed to be consistent with the concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

3. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

Standard Conditions of Approval:

4. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

5. Provide a CD containing the finalized lot split in AutoCAD or similar format.

6. *Each single family home would be required to submit and obtain a grading permit at the time of development of that lot.*

PLANNING COMMISSION ADDED THIS CONDITION (JULY 9, 2007)

Planning Commission Action: ☐ Denied ☐ Tabled X Forwarded to C.C.

Motion: Graves
Second: Winston
Vote: 8-0-0
Meeting Date: **July 9, 2007**

Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature Date

Findings associated with MDP R-PZD 07-2578 (Bailey Meadows)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) *Approval or Rejection Criteria for Planned Zoning Districts*

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

(1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Future Land Use Plan adopted as part of City Plan 2025 designates this vicinity Rural Area. Rezoning this property to R-PZD 07-2578 with a maximum of four dwelling units and density of 1.04 units per acre is consistent with the land use plan and compatible with surrounding land uses and density surrounding single family residences and rural residential uses. The form of development is consistent with the Rural Area policies for an alternative development pattern to achieve compatibility with surrounding rural areas. The proposed lot splits to create three single family lots on Bailey Drive, and retaining the remainder of the site for open pasture/rural residential use is compatible with the surrounding single family residences on Bailey Drive, and the open pasture and other rural uses in the surrounding areas. The existing infrastructure and public services are adequate to support three additional residences on this property, and this area of Fayetteville is less than 0.25 mile from Drake Field Airport, and other industrial uses on State Highway 71.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. As stated in Finding No. 1, public services are adequate to serve three new residences on the property as proposed. There are existing water and sewer lines on Bailey Drive, and the Police and Fire Department currently provide service to the residences on this street.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow a maximum of four residences on the property in a configuration that would be

compatible with surrounding land uses. Three single family lots would be created on Bailey Drive, and the remainder of the property would be left for open pasture and rural residential uses. Bailey Drive currently has single family residences generally surrounded by rural residential uses. The proposed PZD would provide compatibility and transition with those uses.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property is developed for one single family residence, and a mobile home was in existence on the property and has been removed within the past few years. A large portion of the property is undeveloped grassland, with trees along the fence rows. The historical rural residential use of the pasture would be retained with project. The natural environment is suitable for the type of development proposed.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land use, rural residential, will create minimal impact the existing traffic conditions. The existing street infrastructure (Bailey Drive) is an unimproved two-lane paved road; however, due to the minimal amount of traffic generated by this PZD traffic congestion or burden to the existing road network would not occur.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all

applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Bailey Meadows PZD provides for two-three additional residences in an area in the immediate vicinity of the Drake Field Airport and industrial development in south Fayetteville. Access would be provided for the residences and pasture with driveways onto Bailey Drive for each of the lots. Adequate frontage and spacing between the driveways would be provided as each lot would have a minimum of 70' of frontage. The lot split layout leaves a majority of the property, 2.5 acres, into Planning Area 2 for rural residential uses. The lot split configuration and zoning criteria proposed under this PZD promote the health, safety, and welfare of the community.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening and landscaping will not be required for these rural residential uses.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and

interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: As stated in Finding B.1, access to the residential lots will be provided directly to Bailey Drive in accordance with Fayetteville Unified Development Code requirements.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking will be provided for the new residences in accordance with City ordinance.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

(6) *Sidewalks.* As required by §166.03.

FINDING: Sidewalk requirements will be met in accordance with Fayetteville Unified Development Code Section 171.12 requiring construction or contribution of money in lieu for the sidewalk, as determined by the Sidewalk Administrator at the time of development.

(7) *Street Lights.* As required by §166.03.

FINDING: This PZD/lot split is not subject to the street light requirements as it is not considered a subdivision.

(8) *Water.* As required by §166.03.

FINDING: Public water lines are available along Bailey Drive

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available along Bailey Drive.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii)All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The applicant does not propose public or private streets.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: Not applicable. The applicant is not proposing nonresidential facilities.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A Tree Preservation Plan is not required for the three lot splits proposed.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The single family residences are not subject to commercial design standards.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed is consistent with that allowed in surrounding RSF-4 and R-A zoning districts.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that_the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those

portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above ten criteria, including compatibility and transition of land

use, and flexibility to mix small lot residential with historic rural residential use. The following guiding policies within Rural Areas are applicable to this development, and help to achieve the primary goals of the City Plan 2025:

Rural Area Guiding Policies:

a. ***Conserve open space and protect areas of significant riparian benefit, tree canopy and other environmental resources through cluster development provisions, density controls, protective easements and/or other development tools.***

b. ***Allow and encourage historical agricultural and related uses to continue and to occur as permanent land uses within planned developments.***

c. ***If developed, encourage alternative development patterns to achieve compatibility with surrounding rural areas.***

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council, an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross floor area within the development.

FINDING: The majority of uses are principally residential, with rural-residential and agricultural uses allowed in Planning Area 2.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is similar in density to that proposed with the existing single family residences along Bailey Drive and rural residential uses in the vicinity. The proposed density and land uses are consistent with the rural residential development goals in the City Plan 2025 as this area is designated as Rural Area. The relatively flat topography and open pasture is suitable for the proposed single family residences adjacent to Bailey Drive, and the remainder of the property left for rural residential uses. Impacts to surrounding properties will be beneficial in terms of compatibility. Environmental impacts to the site will be minimal due to the low density and intensity of the uses proposed. Density and zoning criteria under the current zoning (R-A) would not allow for the proposed lot split for single family residences.

(2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Building setbacks proposed are typical of the surrounding RSF-4 and R-A zoning. Planning Area 1 contains three single family lots adjacent to Bailey Drive and would have the same building setbacks as RSF-4 with a minimum lot area of 9,000 square feet, when RSF-4 requires 8,000 square feet. Planning Area 2 contains the large rural residential lot and would have the same building setbacks as R-A zoning, and would require a minimum of 2.5 acre lot area when R-A zoning requires 2 acres.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single family and rural residential development in the area. Planning Area 1 has a height limit identical to RSF-4 zoning, and Planning Area 2 has a height limit identical to R-A zoning.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area on this project is typical of lot coverages in a standard residential and rural development, where there is a 40% maximum building area for Planning Area 1 and no maximum for Planning Area 2.

***Required Findings for Rezoning Request.**

Land Use Plan: ***The City Plan 2025 Future Land Use Plan designates this site as Rural Area. Rezoning this property to R-PZD 07-2578, with the associated Master Development Plan, meets this designation, as the principal use on the property (2.5 acres out of 3.86, or 65%) will be rural residential in Planning Area 2, and single family residential in Planning Area 1, with the existing pasture and historic rural residential uses preserved on a majority of the property. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.***

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Rural Area this proposal meets. Rezoning the property will accommodate residential uses in this area near industry and flexibility to allow for a mix of standard residential and agricultural uses in the rural residential area.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: At this time the property is zoned R-A, which would not allow for the lot splits as proposed. Staff finds that splitting the property into three relatively standard sized residential lots adjacent to Bailey Drive and retaining a majority of the property for rural residential use is more appropriate in this location than the uses allowed under the current R-A zoning. Rezoning of this property as proposed is advisable.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, as discussed in Finding No. E.6.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that in evaluating this proposal, the population density would

increase slightly from that which currently exists. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact.

Engineering: **Public water is located adjacent to the site. There is a 6" waterline along Bailey Drive. Water service may need to be extended through the property at the time of development.**

Sanitary sewer is located adjacent to the site. There is a 6" sewer main along Bailey Drive. 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 Bailey Drive. Bailey Drive is an unimproved narrow roadway in this location.

Standard improvements and requirements for drainage will be required for the development.

Police: **It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services.**

Fire: **The subject property is located 4.1 miles from the Engine 6 located at 900 South Hollywood, with an estimated response time of 7 minutes. No adverse impacts on call volume or response time are anticipated.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Date 5/30/07

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 07-2578: Planned Zoning District (BAILEY MEADOWS, 755):** Submitted by RODNEY R. & NANCY K. PAYNE for property located WEST OF SCHOOL AVENUE AND NORTH OF BAILEY DRIVE would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department that this 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.

Sincerely,

Captain William Brown
Fayetteville Police Department

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: May 24, 2007

Re: May 23, Zoning Review -- Fire Department Comments

R-PZD 07-2578 (Bailey Meadows)
These 4.73 acres are covered by Engine 6 located at 900 S. Hollywood.
It is 4.1 miles from the station with an anticipated response time of 7 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred.
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume to this development.

RZN 07-2602 (Armac Engineering)
This .18 acres is covered by Engine 1 and Ladder 1 located at 303 W Center.
It is .6 miles from the station with an anticipated response time of 2.25 minutes.
The Fire Department anticipates 1 call for service, per year, once the development is completed and maximum build-out has occurred
There is no measured hydrant flow recorded in this area.
There should be no adverse effects on our call volume or response time to this development.

RZN 07-2603 (Kooshesh)
These 1.59 acres are covered by Engine 7 located at 835 N Rupple Road.
It is .7 miles from the station with an anticipated response time of 2.75 minutes.
The Fire Department anticipates 9(6 EMS & 3 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 1520 gallon/minute.
There should be no adverse effects on our call volume or response time to this development

Station 6
Bailey Meadows
RPZD07-2578

Station 1
Armac Engineering
RZN07-2602

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701
ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Andrew Garner, Planner Date: June 27, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 28, 2007 Subdivision Committee Meeting)

Development: **Meadows – PZD – 07-2578**

Engineer: **Alan Reid & Associates**

1. Show the location of the existing water mains adjacent to the property. Provide a Utility Easement 10 ft from the existing utility main, if applicable.
2. Show the location of the existing water and sewer service. Services cannot cross private property.

SC Meeting of July 28, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Subdivision Commitee

From: Sarah K. Patterson, Urban Forester

Date: June 26, 2007

ITEM #: PZD 07-2578: Planned Zoning District (Bailey Meadows)

TREE PRESERVATION PLAN

- This PZD does not propose any development besides that of two single family homes. These lots are not found within the Hillside Hilltop Overlay District so are therefore exempt from Tree Preservation and Landscape requirements. No trees will be removed with this PZD request.

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Associate Planner

FROM: Kay Curry, Park Planner

DATE: June 26, 2007

SUBJECT: Parks & Recreation Subdivision Committee Review Comments

****

Meeting Date: June 28, 2007
Item: R-PZD 07-2578 (Bailey Meadows, 755)
Park District: SW
Zoned: R-A
Billing Name & Address: Rodney & Nancy Payne
1200 Bailey Drive
Fayetteville, AR 72701

	Current Land Dedication Requirement	***Money in Lieu***
Single Family	_____@ .024 acre per unit = _____ acres	_____@ $960 per unit = $_____
Multi Family	_____@ .017 acre per unit = _____ acres	_____@ $680 per unit = $_____

Lot Split Fee $960 per single family unit = $2,880
$680 per multi-family unit = _____

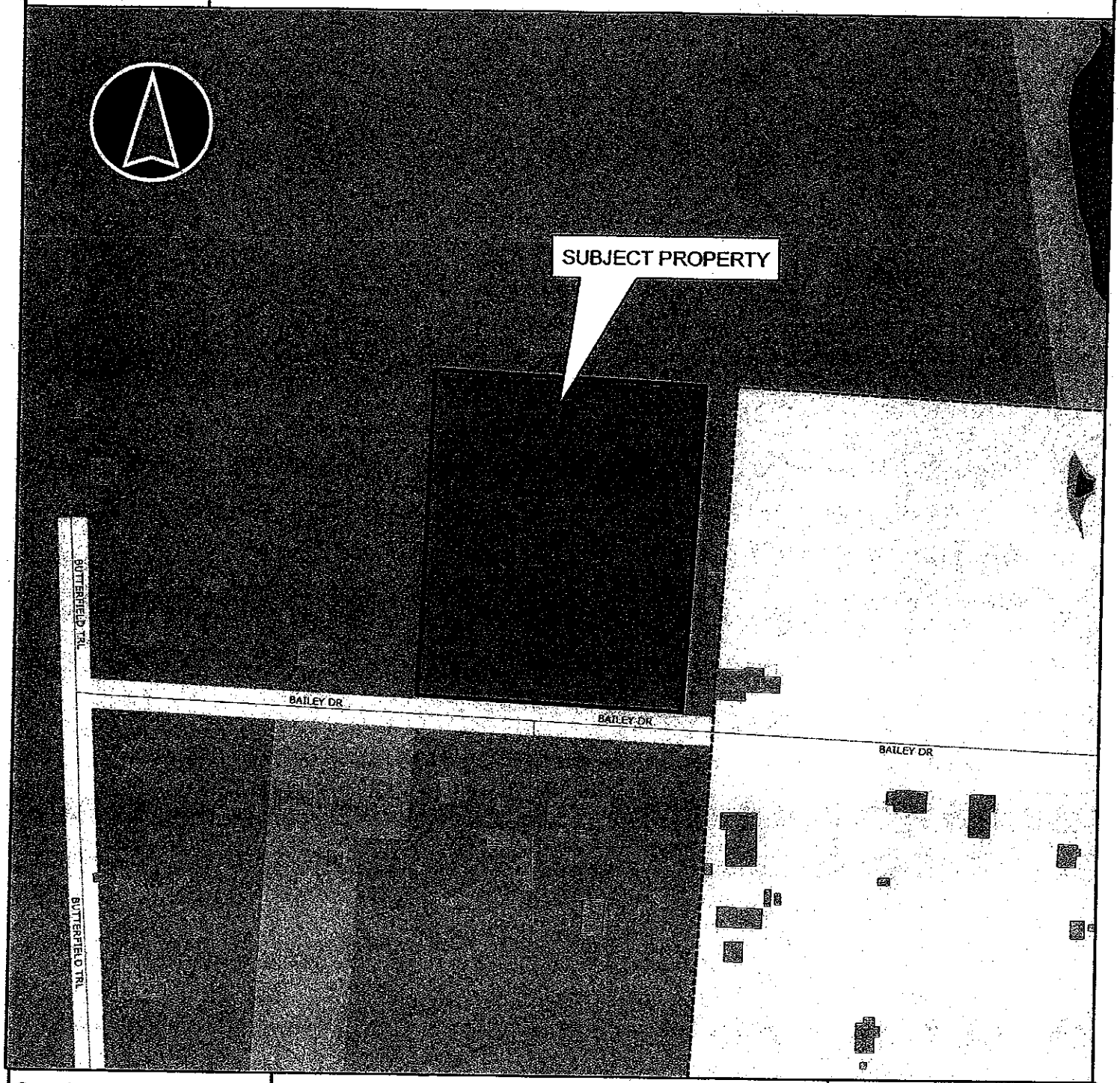
COMMENTS:

- A lot split fee of $960 (single family) will be assessed for each single family residential unit that is constructed on the additional lots. The actual amount of the fee will be based on the type and number of units $960 (single family) or $680 (multi-family). Fee is due at time of building permit.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation System. The money collected as part of this lot split will be used to fund future park acquisitions and improvements for this park quadrant.

RPZD07-2578

Close Up View

BAILEY MEADOWS



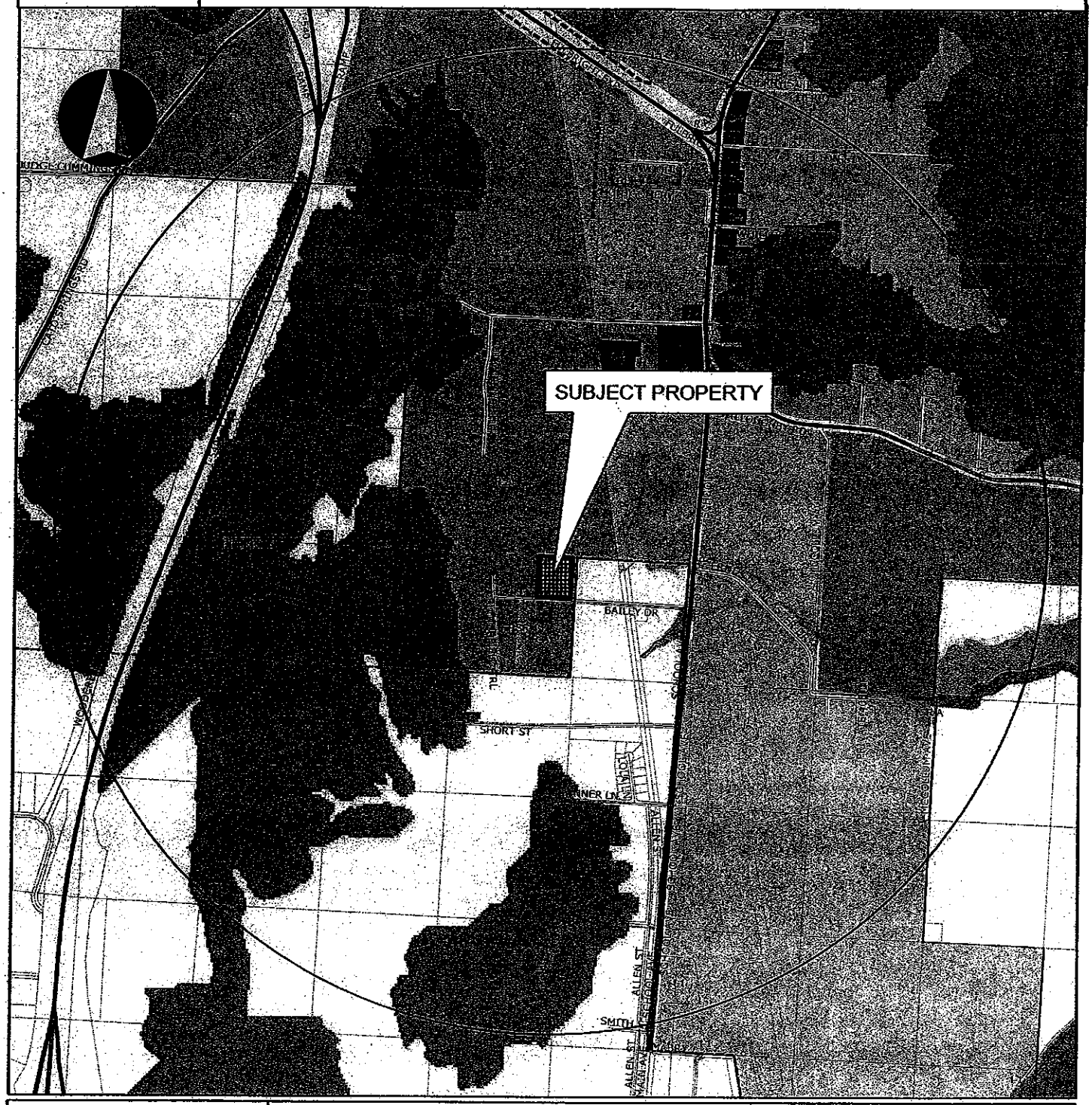
Overview

0 75 150 300 450 600 Feet

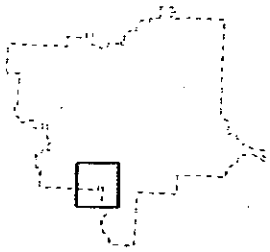
RPZD07-2578

One Mile View

BAILEY MEADOWS



Overview



Legend

Subject Property

RPZD07-2578

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

R-PZD 07-2613: Holcomb Heights Ph II, 245: Submitted by Appian Centre for Design for property located east of Rupple Road, west of Phase I containing approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District containing 36 single-family residential dwelling units.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	$ - Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 7-19-07 Date

City Attorney 7-19-07

Finance and Internal Service Director 7-19-07 Date

Mayor 7/19/07 Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/19/07

Received in Mayor's Office ENTERED 7/19/07

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: July 09, 2007

Subject: Residential Planned Zoning District for Holcomb Heights Phase II (R-PZD 07-2613)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Holcomb Heights Phase II, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 5.77acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. The proposal is for a residential development consisting of 36 single-family residential dwelling units.

BACKGROUND

The subject property consists of approximately 5.77 acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. Holcomb Heights Phase I was approved by the City Council on April 3, 2007. The property is zoned R-A, Residential Agricultural and is currently undeveloped pasture. Access to the site is by way of a stub-out provided from Phase I. The development shall also connect to Rupple Road once extended from the south. The project proposes a traditional neighborhood design with rear alley access and an interior neighborhood greenspace.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on July 09, 2007. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2613, HOLCOMB HEIGHTS PHASE II, LOCATED EAST OF RUPPLE ROAD, WEST OF PHASE I; CONTAINING APPROXIMATELY 5.77 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

Section 1: That the zone classification of the following described property is hereby changed as follows:

From R-A, Residential Agricultural to R-PZD 07-2613 as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the master development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

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

APPROVED: ATTEST:

By: _____ By: _____

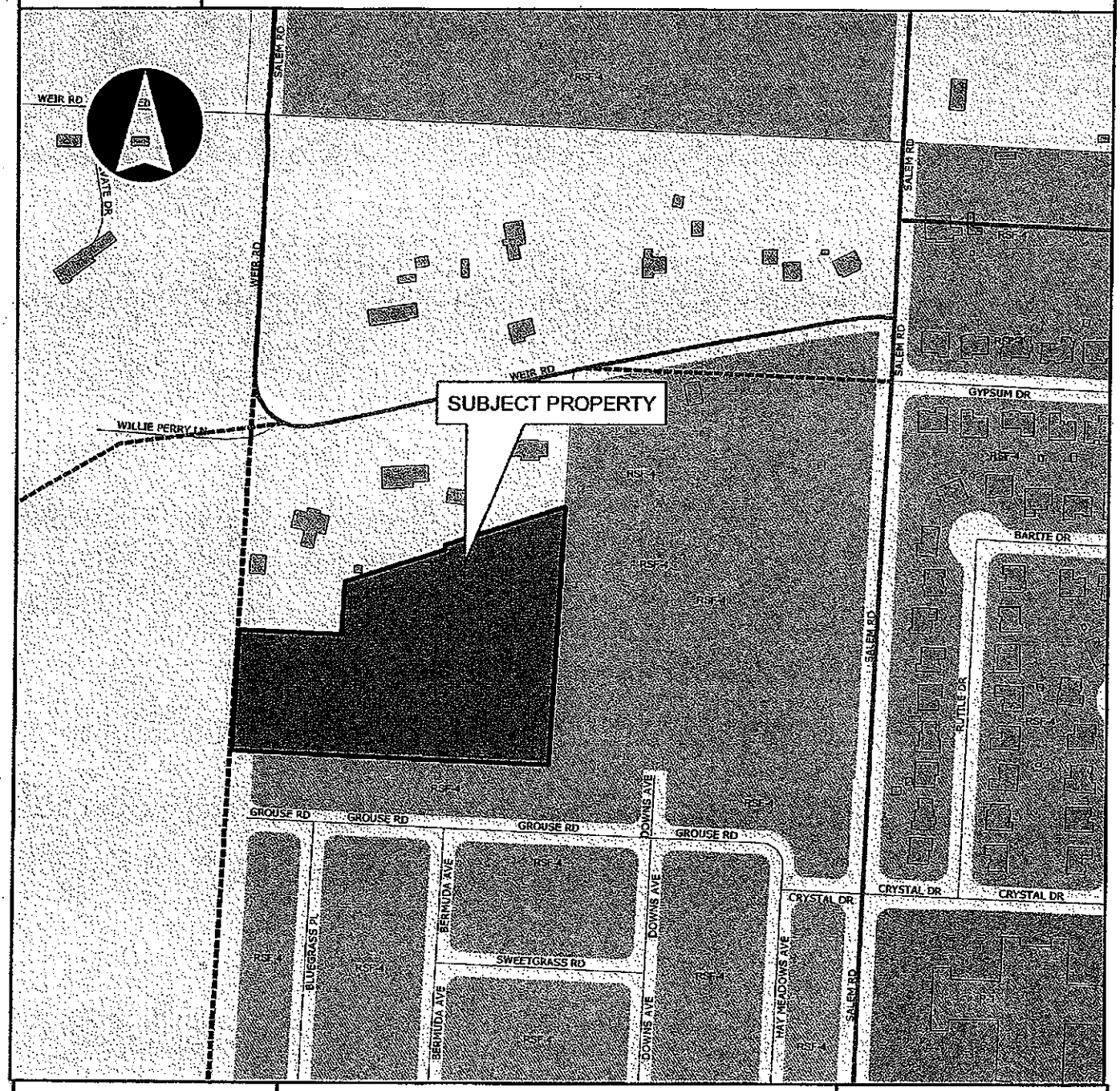
DAN COODY, Mayor **SONDRA SMITH**, City Clerk/Treasurer

EXHIBIT "A"

RPZD07-2613

Close Up View

HOLCOMB HEIGHTS PHASE II



Overview

0 125 250 500 750 1,000 Feet

EXHIBIT "B"
R-PZD 07-2613

COMBINED TRACTS 2, 3 & 4

A part of the NW1/4 of the NW1/4 of Section 32, Township 17 North, Range 30 West, being more particularly described as follows: Beginning at the Southwest Corner of the NW1/4 of the NW1/4 of said Section 32 and running thence N 02°50'27" E 250.00 feet; thence S 87%%D45'11" E 215.44 feet; thence N 03°14'38" E 110.31 feet; thence N 71°59'20" E 214.93 feet; thence N 03°17'00" E 10.73 feet; thence N 71°59'20" E 256.69 feet; thence S 03%%D10'10" W 536.39 feet, thence N 87%%D34'37" W 240.26 feet, thence N 87%%D34'37" W 200.03 feet, thence N 87%%D34'37" W 213.67 feet to the point of beginning, containing 5.77 acres, more or less, Washington County Arkansas.

Subject to any easements and/or right-of-ways of record.

Fayetteville
ARKANSAS

Planning Commission Meeting
July 9, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Planning Commission Members
FROM:	Jesse Fulcher, Current Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 3, 2007~~ *Updated July 10, 2007*

R-PZD 07-2613: Planned Zoning District (HOLCOMB HEIGHTS PHASE II, 245): Submitted by APPIAN CENTRE FOR DESIGN for property located at E OF RUPPLE ROAD, W OF PHASE I. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District containing 36 single-family lots proposed.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property consists of approximately 5.77 acres located between Salem Road and Rupple Road, and west of Holcomb Heights Phase I. Holcomb Heights Phase I was approved by the City Council on April 3, 2007. The property is zoned R-A, Residential Agricultural and is currently undeveloped pasture. Access to the site is by way of a stub-out provided from Phase I. The development shall also connect to Rupple Road once extended from the south.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single Family	Planning Area
South	Single Family	RSF-4, Residential Single Family, 4 Units/Acre
East	Single Family	R-PZD 06-2281 Holcomb Heights Phase I
West	Rural Agricultural	Planning Area

June 29, 2007 Subdivision Committee: Meeting minutes are within the staff report.

Proposal: The applicant requests rezoning and preliminary plat approval for a residential development in an R-PZD zoning district. The proposed use of the site is for 36 single-family units for a maximum density of 6.23 units per acre. All of the residential units will be located in Planning Areas 1-3 and Planning Area 4 will be utilized for community green space. This proposal does subdivide the property and will require final plat approval.

Access: Access to the site is provided from a street stub-out from Holcomb Heights Phase I, which has not been constructed. An assessment for the construction of Rupple Road along the property's western boundary is required prior to final plat approval.

Street Width: 23' wide streets with 16' rear alleys are proposed interior to the project. The proposed street section provides for 10' lane widths and one-side on-street parking, due to the reduced gutter width.

Fire and Solid Waste Service: The Fire Department has stated that the street and alley sections proposed with the latest revisions are sufficient to allow fire apparatus access to all lots within the subject development. In its review of this latest plan, the Solid Waste Division has discussed that solid waste service may be provided from rear alleys with the following requirements that will be included as notes on the final plat and construction documents. It is anticipated that alley service to the rear of structures can be provided as long as 20' clear and unencumbered is maintained to allow room for the truck and arm to pick up the carts. If the 20' is ever encumbered, it is at the discretion of the Solid Waste Division to provide service to the front and parking may be required to be removed along the street. If the design does not function as intended it shall be at the discretion of Solid Waste, pursuant to City ordinance, to require front service and the subsequent removal of parking.

Phasing: The applicant proposes to develop the 36 dwelling units within Phase II over the next 1-2 years. Preliminary Plat approval shall be valid one year from the date of the City Council approval.

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

Adjacent Master Street Plan Streets: Rupple Road (Principal Arterial)

Street Improvements: Staff recommends an assessment for improvements to Rupple Road, including 14' from centerline, curb and gutter, storm drainage and sidewalks. Additionally, an assessment shall be required for the unconstructed section of Street 2 that will end in a temporary cul-de-sac. These funds shall be utilized for the future construction of Rupple Road.

Parks: On May 7, 2007 the Park and Recreation Advisory Board recommended accepting money in-lieu to satisfy Park Land Dedication Ordinance requirements. The decision was based on the proximity of the land to Salem Meadows Subdivision park land, Gary Hampton Softball Complex and park land located in Clabber Creek Subdivision. Fees are due in the amount of $34,560.00 prior to issuance of building permits.

Tree Preservation:	Existing Canopy:	1.60%
	Preserved Canopy:	0.80%
	Required Canopy:	1.60%
	Mitigation:	Required in the amount of 7 (2)-inch caliper trees.

Public Comment: Staff has not received any comments.

Recommendation: Staff recommends forwarding **R-PZD 07-2613** to the City Council with a recommendation for approval with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following improvements:*
   a. *An assessment for improvements to Rupple Road, including 14' from centerline, curb and gutter, storm drainage and sidewalks in the amount of $35,093.00;*
   b. *An assessment for the unconstructed section of Street 2 that will end in a temporary cul-de-sac in the amount of $7,150.75.*
   c. *All interior streets and alleys shall be constructed to City design standards, inspected and approved by the Engineering Department.*

7-9-07 THE PLANNING COMMISSION FOUND IN FAVOR OF THE COST ESTIMATES AS SUBMITTED BY THE APPLICANT AND APPROVED BY STAFF.

2. Planning Commission determination of waivers from minimum street design standards of the Unified Development Code.
   a. *Street width waivers. The applicant proposes 23' interior street widths. Staff recommends in favor of the requested 23' street sections, finding that the street sections provide 10' lane widths, one-side on-street parking and are capable of handling the expected design service volume. Staff will review detailed construction plans at the time of development.*
   b. *Construct a centerline radius less than 150'. This occurs at lot 89 and 90 and at Lot 82 (detention lot). Staff finds in favor of this waiver request, finding it not will diminish public safety.*
   c. *Construct curb radii of 20' on minor residential street and alley intersections where 30' is required for minor streets and 25' is required for alleys. Staff recommends in favor of the curb radii of 20'. Finding that 20' curb radii on the more narrow streets and alleys proposed allows for adequate vehicular turning movements for passenger vehicles.*
   d. *Construct curb radius of 30' at the intersection of a collector street where 50' is required for the intersection of Street 2 and Rupple Road extension. Staff finds in favor of this waiver request.*
   e. *Waiver of standard 2' curb and gutter section (1.5' proposed). Staff recommends in favor of this request.*

7-9-07: THE PLANNING COMMISSION FOUND IN FAVOR OF THE REQUESTED WAIVERS.

3. As indicated on the plats, shared drives shall be utilized to minimize the number of curb-cuts onto the public streets. Driveway cuts onto public streets shall not exceed 16' in width.

4. The final plat for Holcomb Heights Phase II shall not be recorded until the final plat for Holcomb Heights Phase I has been recorded.

5. All street designs are subject to approval by the Fire Department and Solid Waste Department and shall be reviewed at the time of construction.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.

7. Parks fees are due in the amount of $34,560.00 for 36 single-family dwelling units, prior to building permit approval.

8. One (1) large species tree shall be planted for each lot as depicted on the landscape plan.

9. Mitigation will be required in the amount of 7 (2)-inch caliper large species trees, which will be planted on site. The trees shall be planted prior to signing the final plat, unless the timing is not conducive with the planting season, in which case the Urban Forester may permit a delay in the plantings.

10. A 3-year bond, letter of credit, or check in the amount of $1,750.00 shall be submitted prior to signing the final plat.

11. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.

12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential single-family development.

11. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development Plan – Planned Zoning District by the City Council shall also be binding.

12. See attached comments from the Engineering Division. Revisions requested by the Engineering Division, to be completed with revision submittal for Planning Commission.

13. Street lights are required at every intersection and at a maximum separation of one per 300' on all streets and shall be installed prior to signing the final plat.

14. Plat/booklet revisions to be completed prior to City Council submittal:

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).

16. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

17. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

18. All exterior lighting is required to comply with the City's lighting ordinance. A lighting plan and cut-sheets of the proposed exterior light fixtures shall be required to be approved by Planning Staff prior to building permit.

19. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action: ☐ Approved ☐ Tabled √ Forwarded to C.C.
Motion: **Ostner**
Second: **Trumbo**
Vote: **8-0-0**
Meeting Date: **July 9, 2007**
Comments:

The "Conditions of Approval" listed in the report above are accepted in total without exception by the entity requesting approval of this development item.

Signature Date

Findings associated with R-PZD 07-2613 (Holcomb Heights Phase II)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) *Approval or Rejection Criteria for Planned Zoning Districts*

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

(1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan

Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to R-PZD 07-2613 with single-family dwelling units is consistent with the land use plan and the surrounding land use. Although the proposed lot sizes are smaller than the lot sizes found within the standard RSF-4 developments in the area, staff finds the development to be relatively compatible with these developments and more in keeping with the City's adopted goal of encouraging traditional neighborhood development patterns. The development will also support the goal of providing density (6.23 units/acre) nearby to public services, i.e. schools, sports complexes, a major principal arterial in the future, etc.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

(3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The proposed development will yield a higher density than Salem Meadows Subdivision immediately to the south, however the overall density of 6.23 units/acres is compatible with surrounding developments including Salem Village P.U.D and Holcomb Heights Phase I (5.04 units/acre). A harmonious relationship with surrounding developments is achieved by utilizing detached single-family dwelling units throughout the development and providing a rear setback from the southern property line that is equal to or greater than that required in the RSF-4 zoning district.

(5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The site slopes from the north to the south and is comprised of undeveloped pasture land with a small percentage of existing tree canopy. A 0.37 acre greenspace will be reserved for recreational use and a significant number of trees will be planted throughout the development, creating a healthy urban canopy.

(6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets, however the overall density should not create an appreciable amount of traffic over that allowed under the current R-A zoning. As part Holcomb Heights Phase I, significant improvements to Weir Road and Salem Road are required, which will ultimately help facilitate safer traffic movements and improve service levels. Additionally, an assessment is required for the construction of Rupple Road which is adjacent to the west boundary of the property. Extension of Rupple Road from the south will create a principal arterial connection from Wedington Drive to Weir Road.

(7) Whether the planned development provides for unified development control under a unified plan;

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the project once constructed.

(8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) *Development standards, conditions and review guidelines*

(1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: This development is a compact, complete development pattern, all connected with a system of sidewalks, pedestrian walkways, and narrow streets. Rather than turning the rear of the houses to the surrounding streets, as is common in most developments, the homes will either face onto the surrounding streets, or onto a 0.37-acre village green located in the center of the development. Narrower street sections and on-street parking will provide adequate vehicular circulation and connectivity, while also reducing vehicle speeds and increase pedestrian safety. Common open space and smaller "pocket parks" throughout the development will add further to the health, safety and welfare of the community.

(2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

(a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.

(b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.

(c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.

(d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.

(e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.

(f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: All lots will be rear loaded from alley ways interior to the site, except Lots 91 to 101. Staff suggested continuing Alley "F" to Rupple Road; however, it was determined that another curb-cut onto Rupple Road in close proximity to Street "2" and an existing street stub-out from Salem Meadows was not appropriate. No curb-cuts are allowed onto Rupple Road.

(4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

(5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

(6) *Sidewalks.* As required by §166.03.

FINDING: 5' public sidewalks will be constructed along all public rights-of-way interior to the development. An assessment will be required for sidewalk construction along Rupple Road.

(7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided at all intersections and adjacent to all public and private streets at a separation of no greater than 300 feet.

(8) *Water.* As required by §166.03.

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be extended in accordance with city codes.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

(viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

(ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.

(x) There shall be no minimum building setback requirement from a private street.

(xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic, provide on-street parking and encourage pedestrian activity. Staff is recommending in favor of the waivers for street and alley design. No private streets are proposed.

(11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. Preliminary Plat and Planned Zoning District approval shall be valid for one year from the date of City Council approval.

(12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to maximize preservation of existing canopy; however there are two trees on the property. Due to the removal of one tree, on-site mitigation is required, which will ultimately benefit the site and surrounding area.

(13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

(14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed are not uncommon for the area.

(E) *Revocation.*

(1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

(a) *Building permit.* If no building permit has been issued within the time allowed.

(b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.
Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

(3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.
(b) Membership and fees must be mandatory for each home buyer and successive buyer.

(c) The open space restrictions must be permanent, rather than for a period of years.

(d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.

(e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements. A condition to this effect is included in the staff report.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

(1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.

(2) Compatibility. Providing for compatibility with the surrounding land uses.

(3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.

(4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.

(5) No negative impact. Does not have a negative effect upon the future development of the area;

(6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.

(7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under

conventional land development regulations.

(8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.

(9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.

(10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, common open spaces, and enhancement of existing natural features. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, lot arrangements, lot dimensions and building setbacks.

The following guiding policies within Residential Neighborhood Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Neighborhood Areas:

12.1.2 Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.

12.1.2 Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.

12.1.2 Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.

12.1.2 Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.

12.1.2 Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the

City Council an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

(a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.

(b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.

(c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.

(d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

(e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above. The requested R-PZD provides an effective relationship between similar land uses and activities on abutting parcels, while also providing a compact, complete and connected neighborhood.

(2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.

(3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

(4) *Condition.* In no instance shall the residential use area be less than fifty-one percent (51%)

of the gross floor area within the development.

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

(1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

(a) The densities of surrounding development;

(b) the densities allowed under the current zoning;

(c) the urban development goals and other policies of the city's General Plan;

(d) the topography and character of the natural environment; and

(e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is mixed in density and use, from traditional neighborhoods developed under the RSF-4 zoning district, large undeveloped agricultural properties, Holcomb Elementary School and Salem Village, which was developed as a Planned Unit Development. The density proposed for this development is appropriate given that the site is clear pasture land adjacent to an elementary school and existing infrastructure, meets the urban development goal of the City's City Plan 2025, and will not have a detrimental impact on the site and adjoining properties.

(2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums and setbacks are varied on this project with structures oriented to the street and minimal front setbacks. Due to the unique nature of this traditional neighborhood development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

(3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single-family development in the surrounding area.

(4) *Building area.* The Planning Commission shall review specific proposed lot coverages

which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area on this project is relatively high in comparison to a RSF-4 zoning district; however, the lot coverage is appropriate given the environment proposed. Additionally, the site plan provides common open space to be shared by all residents.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to **R-PZD 07-2613**, with the associated Master Development Plan, allows the use on the property to remain residential. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Neighborhood Areas this proposal meets. Rezoning the property will accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The rezoning is needed to allow for the creation of a traditional neighborhood development that is also sensitive to the surrounding developed community.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion on surrounding streets. The street improvements required with the development of Holcomb Heights Phase I will increase pedestrian safety and create safer traffic movements in the vicinity of Weir Road and Salem Road with the addition of turn lanes and sidewalks. Additionally, an assessment is required for future improvements to Rupple Road once it is extended from the south.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: **The proposed subdivision has been reviewed for access to public utilities, including water and sewer. Improvements to the water system and sewer system are required to serve all of the proposed lots.**

Police: **Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.**

***Fire*:** **Fire station #7, approximately 3.1 miles away, serves this site. Fire response time to the site is approximately 7.5 minutes, with an anticipated 8 (5 EMS – 3 Fire/Other) calls for service at maximum build-out, based on the Service Delivery Impact included as a part of the staff report.**

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

   a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

   b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

Fayetteville
ARKANSAS

PC Meeting of July 9, 2008

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: July 2, 2007

ITEM # R-PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II)

Requirements Submitted:

	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	5.77
square feet	245,341
Existing Tree Canopy	
acres	0.09
square feet	3,920
percent of site area	1.60%
Existing Tree Canopy Preserved	
acres	0.045
square feet	1,960
percent of total site area	0.8
Percent Minimum Canopy Required	**1.60%**

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site is adjacent to the already approved Holcomb Heights Phase I. This project site has little to no canopy on the site. The only two**

trees on this phase are elms found in good shape. One elm is proposed for preservation while the other is found in the alignment of the proposed road.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation should not occur on this site.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties should not be affected by the removal of tree canopy.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the does not reduce flexibility of design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees was determined to be good.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **One tree will be removed for infrastructure while the other is found on the back of a proposed lot in a space that could be preserved even with future development of the single family home.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **The elm preserved will be affected by a proposed utility easement but removal would not be required..**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **The elm removed is found directly in the middle of the proposed right of way. The ability to move the road around this tree is prohibited by the property boundary and proposed lot sizes.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on this site to replace 1,960 square feet of canopy removed. New canopy will be very beneficial to this site and**

the urban forest as a whole.

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **N/A**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. Mitigation will be required on the site to replace 1,960 square feet of canopy removed. This is equivalent to 7(2) inch caliper large species trees. The developer has requested and been approved to plant the trees on-site.
2. The mitigation trees will be located on lot 110, a common greenspace. Staff recommends planting all 7 trees before signature of Final Plat. These trees can not be located within any easements. If the timing of final plat is not conducive with the planting season, a delay can be approved by the Urban Forester.
3. A 3-year bond, letter of credit, or check in the amount of $1,750 must be submitted before signature of final plat to ensure the continued maintenance of these mitigation trees. At the end of the 3-year period, the Urban Forester will inspect the trees, finding 90% healthy, release the amount.

Fayetteville
ARKANSAS

PC Meeting of July 9, 2007

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3470

THE CITY OF FAYETTEVILLE, ARKANSAS

LANDSCAPE REVIEW FORM

To: **Fayetteville Planning Commission**

From: **Sarah K. Patterson, Urban Forester**

Date: **July 2, 2007**

ITEM #: PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II)

Applicable Requirements:

NA	Site Development & Parking Lot Standards
NA	I-540 Design Overlay
Y	Street Tree Planting Standards
NA	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant
N=requested by City of Fayetteville
NA= not applicable

Preliminary Submittal	Final Submittal	
		All Landscape Plans
N	*Y*	**Irrigation** *notes either automatic or hose bib*
Y	*Y*	**Species of plant material identified**
Y	*Y*	**Size of plant material at time of installation indicated**
N	*Y*	**Soil amendments** *notes include that soil is amended and sod removed*
N	*Y*	**Mulch** *notes indicate organic mulching around trees and within landscape beds*
N	*N*	**Plans stamped by a licensed Landscape Architect**
Y	*Y*	**Planting details according to Fayetteville's Landscape Manual**
		Site Development & Parking Lot Standards
NA		**Wheel stops/ curbs**
NA		**Interior landscaping** *Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces)* *Tree island (8' min. width/1 tree per 12 spaces)*

Preliminary Submittal	Final Submittal	
NA		**Perimeter landscaping** *Side and rear property lines (5' landscaped)* *Shade trees as described in street tree planting standards,* *Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)*
		Overlay District Requirements
NA		**Greenspace adjacent to street R.O.W. (25' wide)**
NA		**Large street trees planted every 30' L.F. along R.O.W.**
NA		**25% of total site area left in greenspace (80% landscape)**
NA		**Parking lots and outdoor storage screened with landscaping**
		Street Tree Planting Standards *(time of F.P. or permit)*
Y	Y	**Residential Subdivisions- 1 large species shade tree/ lot** *tree planted within R.O.W. if possible*
NA		**Nonresidential Subdivision- 1 large species shade tree/30 L.F.** *tree planted within 15-25' greenspace*
NA		**Urban Tree Wells-***urban streetscape only-10foot sidewalk*
NA		**Structural Soil-***if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan*
N	Y	**Timing of planting indicated on plans (subdivisions only)**
N	Y	**Written description of the method for tracking plantings**
		Stormwater Facilities *(time of F.P. or permit)*
NA		**1 deciduous or evergreen tree/ 3000 square feet**
NA		**4 large shrubs (3 gal) or small trees / 3000 square feet**
NA		**6 shrubs or grasses (1 gal) / 3000 square feet**
NA		**Ground cover unless seed or sod is specified**
NA		**50% of facility planted with grass or grass like plants**

Conditions of Approval:

1. **The Landscape Plan will be required to be stamped by a licensed Landscape Architect within the state of Arkansas before construction documents will be approved.**
2. **Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.**

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE **479-575-8206**

To: Jesse Fulcher, Planner June 27, 2007

From: Glenn E. Newman, Jr., P.E.
Staff Engineer

Re: Plat Review Comments (June 28, 2007 Subdivision Committee Meeting)

Development: **PZD 07-2613 Holcomb Heights Phase II**

Engineer: **Appian Centre for Design**

Site Plan:

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. We have received an estimate for Rupple Road and the Connection to Rupple Road by Street 2. The estimate will be reviewed before Planning Commission Meeting.
3. We are in support of the following waivers requested by the applicant in the June 20th letter to Mr. Pate. (Attached)
4. Revise the cross slope of the public roadway so that the centerline and the top of curb match.

Grading Plan:

5. All grading shall be set back a minimum of 5' from the property lines unless written permission is submitted from the adjacent property owner or a joint grading plan is submitted. Specifically south of the detention pond.

Drainage Report:

6. This project is dependant on the resolution of the Phase I detention pond size and downstream capacity as approved by the Planning Commission.

Fayetteville
ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner

FROM: Alison Jumper, Park Planner

DATE: June 26, 2007

SUBJECT: Parks & Recreation Planning Commission Review Comments

****

Meeting Date: July 9, 2007
Item: R-PZD 07-2613 Holcomb Heights Ph. II 245
Park District: NW
Zoned: R-PZD
Billing Name & Address: Nock / Broyles Development 4921 Clear Creek Blvd. Fayetteville, AR 72704

	Land Dedication Requirement	***Money in Lieu***
Single Family	____@ .024 acre/ unit =___acres	36 @ $960 per unit = $ 34,560
Multi Family	___@ .017 acre/ unit =___acres	_____@ $680 per unit = $_____

COMMENTS:

- Parks and Recreation Advisory Board made a recommendation of accepting money in lieu of land for the park land dedication requirement for this development on May 7, 2007. This decision was based on the proximity of existing park land. Additionally the developer is providing POA owned and maintained greenspace within the development.
- Fees are due prior to building permits.

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew
Date: 6/22/07 10:02AM
Subject: Subdivision Committee 6-28-07

FPL 07-2631(Westbrook PZD) - Solid Waste requests houses to have addresses and street names identified on the back of the homes and in the alleys to avoid confusion with residential carts as currently occurs in Clabber Creek.

LSD 07-2633 (WalGreen's 6th & One Mile Rd) - Compactor location okay, but no dimensions for the enclosure are shown. Please show dimensions. Also Wal Greens usually has a 6yd cardboard dumpster but no location for an enclosure for cardboard is shown on the plans.

R-PZD (Holcomb Heights) Alley collection is at the discretion of Solid Waste Director. If at anytime Solid Waste feels service is not being provided in a efficient manner due to alleys being encumbered, front side collection or modified collection points will be required of the residents resulting in a loss of parking spaces. No parking allowed in alleys.

Brian Pugh
Waste Reduction Coordinator
Fayetteville Solid Waste and Recycling
479-718-7685
479-444-3478 Fax

Fayetteville Fire Department

MEMO

To: Andrew Garner and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 8, 2007
Re: Re-zoning review comments – Holcomb Heights. Phase II

R-PZD 07-2613 (Holcomb Heights, Phase II)

These 5.77 acres are covered by Engine 7 at 835 N Rupple.
It is 3.1 miles from the station with an anticipated response time of 7.5 minutes. This long response time is due to Rupple Road being narrow and curvy. The improvements to Rupple Road should reduce the response times somewhat be we cannot estimate this at this time without the upgrades to the street.
The Fire Department anticipates 8(5 EMS – 3 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. The service impact of this type development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur.
There should be no adverse effects on our call volume to this development

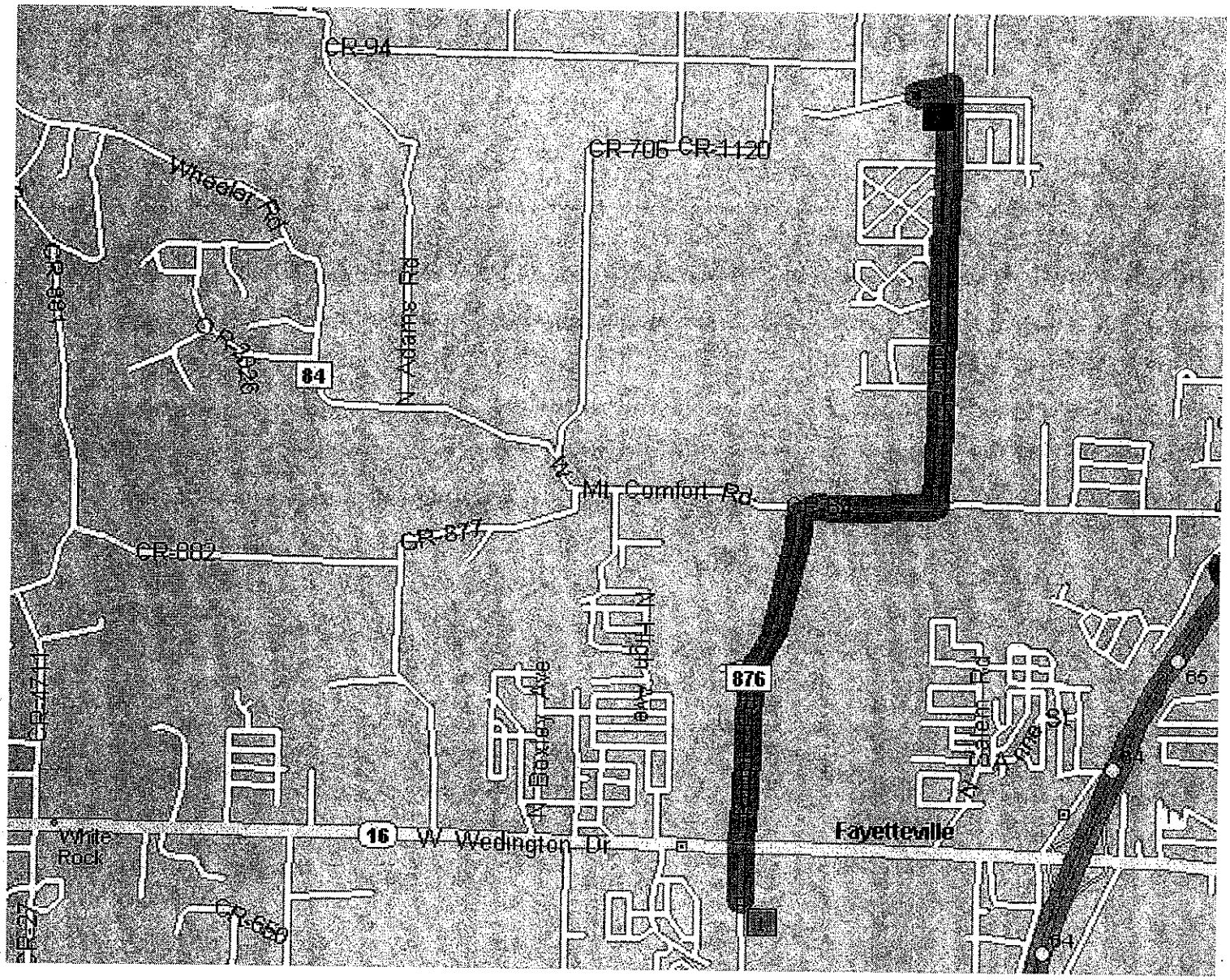
Please feel free to contact me if you have any questions.

Dale Riggins

Dale Riggins
Captain
Fayetteville Fire Department

Holcomb Heights, Phase II

Fayetteville Fire Department



Date 6/4/2007

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 **PZD 07-2613: Planned Zoning District (Holcomb Heights Phase II, 245):** Submitted by **Todd Jacobs Appian Center for Design** for property located at **E of Rupple Road, W of Phase I,** would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion.

It is the opinion of the Fayetteville Police Department that this PZD **will not** substantially alter the population density and **will not** create an appreciable or undesirable increase in the load on police services nor will it create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

PZD 07-2613: Planned Zoning District (HOLCOMB HEIGHTS PHASE II, 245): Submitted by TODD JACOBS APPIAN CENTER FOR DESIGN for property located at E OF RUPPLE ROAD, W OF PHASE I. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 5.77 acres. The request is for Phase II of a Residential Planned Zoning District with 36 single family lots proposed.

Planner: Jesse Fulcher

Public water is located adjacent to the site. There is an 8" waterline stubbed out from the subdivision to the south. Water service may need to be extended through the property at the time of development.

Sanitary sewer is available to the site. There is an 8" stubbed out from the subdivision to the south. Sewer service may need to be extended through the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Salem Road and Weir Road. Salem is currently an mostly improved two lane paved roadway. Weir Road is an unimproved two lane highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development.

ACD
PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING
APPIAN CENTRE FOR DESIGN

June 20th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Holcomb Heights, Phase II

CC: Glen Newman P.E. Staff Engineer
Jesse Fulcher Planner
Matt Casey P.E. Assistant City Engineer

RECEIVED
JUN 20 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

Mr. Pate,

Appian Centre for Design is writing to request waivers granting permission to:

1. Construction curb return radii (CRR) of 20' on all interior street and alley intersections
2. Implement street cross sections different than those required by the current Master Street Plan standard with regards to street width, greenspace, and sidewalk width.
3. Construct a centerline radius of 70' at the curve of Public Street 2 at lot 89 and 90, and a centerline radius of 100' at the curve of Public Street 2 at lot 82
4. The option to use 18" curb versus the standard 24" curb
5. Construct curb return radii (CRR) of 30' (instead of 50' radius for collector streets) at the intersection of Public Street 2 and Rupple Road extension.

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all interior street intersections and alleys in order to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe for pedestrians. A 20' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

   No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted with in fifteen feet (15') of an intersection of streets. Reinforced curbs and no parking zones will allow emergency apparatus to utilize curbs for their turning needs if the roadway is other wise restricted.

2. The request is for a waiver granting permission to design street cross sections differently than are required by the current Master Street Plan standard with regards to Holcomb

Heights. Our proposed street cross sections are intended to create the backbone of what we hope will be a successful development. We hope our proposed street cross sections promote a strong connection within the community. We feel that the typical street cross sections meet the City Plan 2025 vision for Fayetteville and Holcomb Heights. Our ideal is that the community should be pedestrian-friendly and have strong community character and identity. We intended for Holcomb Heights streets to define this project, creating a sense of place and providing a safe environment for pedestrians. The proposed 23' street section is intended to allow for on-street parking. On-street parallel parking is designed to provide a safe environment for pedestrians on the sidewalk from moving vehicles in the traveled lanes and provide street activity while developing a sense of neighborhood and sense of place.

3. Due to site constraints, we are proposing a 70' centerline radius on Public Street 2 at lot 89 and 90 and also a 100' centerline radius at lot 82. These radii will prove adequate for the small amount of residential traffic on the street along with any service or emergency vehicles that may require access into this part of Holcomb Heights.

4. An 18" curb versus a standard 24" curb uses less concrete and is consistent with traditional neighborhood design in which aesthetics play a large role.

5. We are requesting a 30' CRR at the intersection of Holcomb Heights Public Street 2 and the future Rupple Road extension to match conditions proposed in Phase I of Holcomb Heights,instead of the city requirement of a 50' CRR for a collector street.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050

Appian Centre for Design
One East Center Street, Suite 212
Fayetteville, AR 72701
Office: (479) 445-6009
Fax: (479) 445-6010

Fayetteville, AR - Holcomb Heights-Phase II
Project Number 6070
July 5th, 2007

Opinion of Probable Cost - Rupple Road Improvement

Half of 28' typ. street section (14') - Assessment #1 - Due to City at time of Final Platting of Phase II

	Quantity	Unit	Unit Cost	Total
Rupple Road @ 6"/3"/2"	389	S.Y.	$21.50	$8,363.50
2' Undercut and install hillside	389	C.Y.	$12.00	$4,668.00
6' Concrete Sidewalk	1500	S.F.	$3.00	$4,500.00
Curb and gutter	167	L.F.	$9.50	$1,586.50
24" RCP	250	L.F.	$45.90	$11,475.00
Curb Inlets	1	EACH	$3,500.00	$3,500.00
Handicap Ramps w/ Trunkated Domes	2	EACH	$500.00	$1,000.00
Final dress up and seeding	850	S.Y.	$0.30	$255.00
Total				$35,093.00

Opinion of Probable Cost - Connection to Rupple Road from Public Street 2

Street section from cul-de-sac to Rupple Road - Assessment #2 - Due to City at time of Final Platting of Phase II

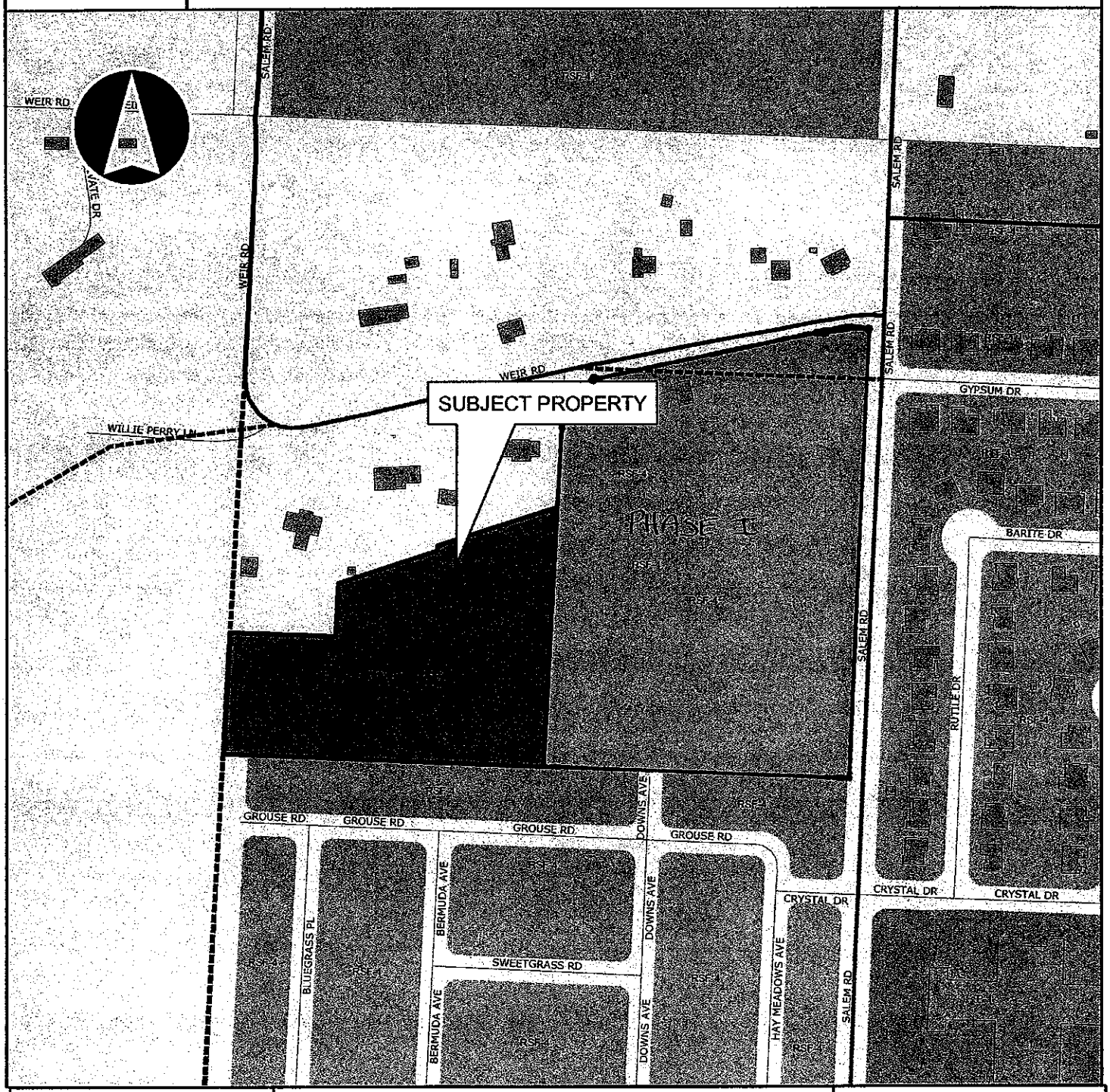
	Quantity	Unit	Unit Cost	Total
Public Street 2 @ 8"/3"	169	S.Y.	$16.75	$2,830.75
2' Undercut and install hillside	169	C.Y.	$12.00	$2,028.00
Curb and gutter	136	L.F.	$9.50	$1,292.00
Handicap Ramps w/ Trunkated Domes	2	EACH	$500.00	$1,000.00
Total				$7,150.75

Note: This estimate is based on local contractors bids in the area for several current Appian Centre for Design projects.

RPZD07-2613

Close Up View

HOLCOMB HEIGHTS PHASE II



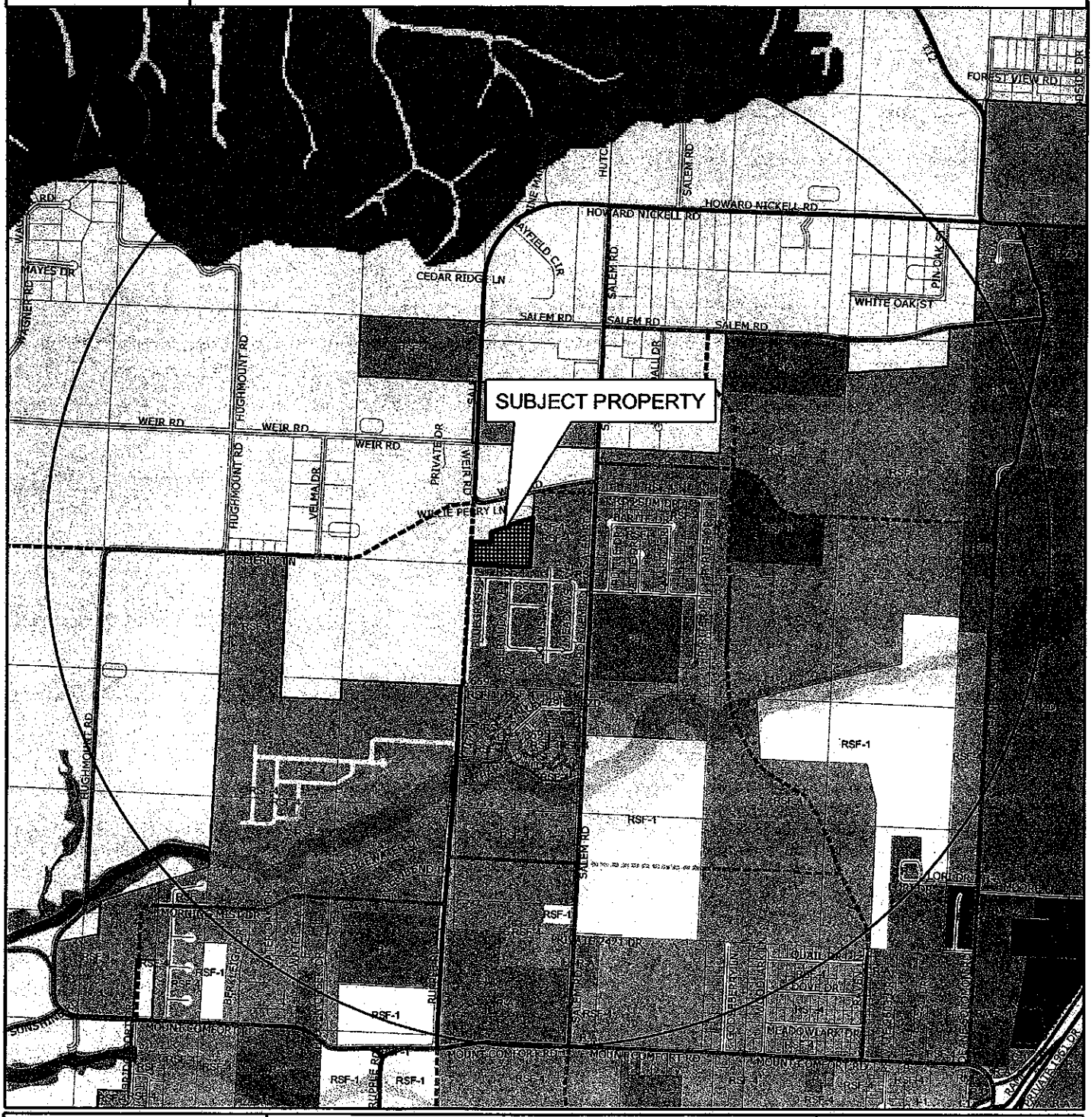
Overview

0 125 250 500 750 1,000 Feet

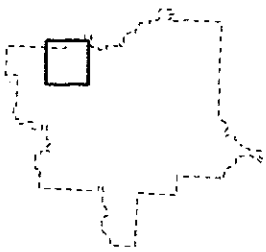
RPZD07-2613

One Mile View

HOLCOMB HEIGHTS PHASE II



Overview



Legend

Subject Property

RPZD07-2613

Boundary

Planning Area

Overlay District

Outside City

Legend

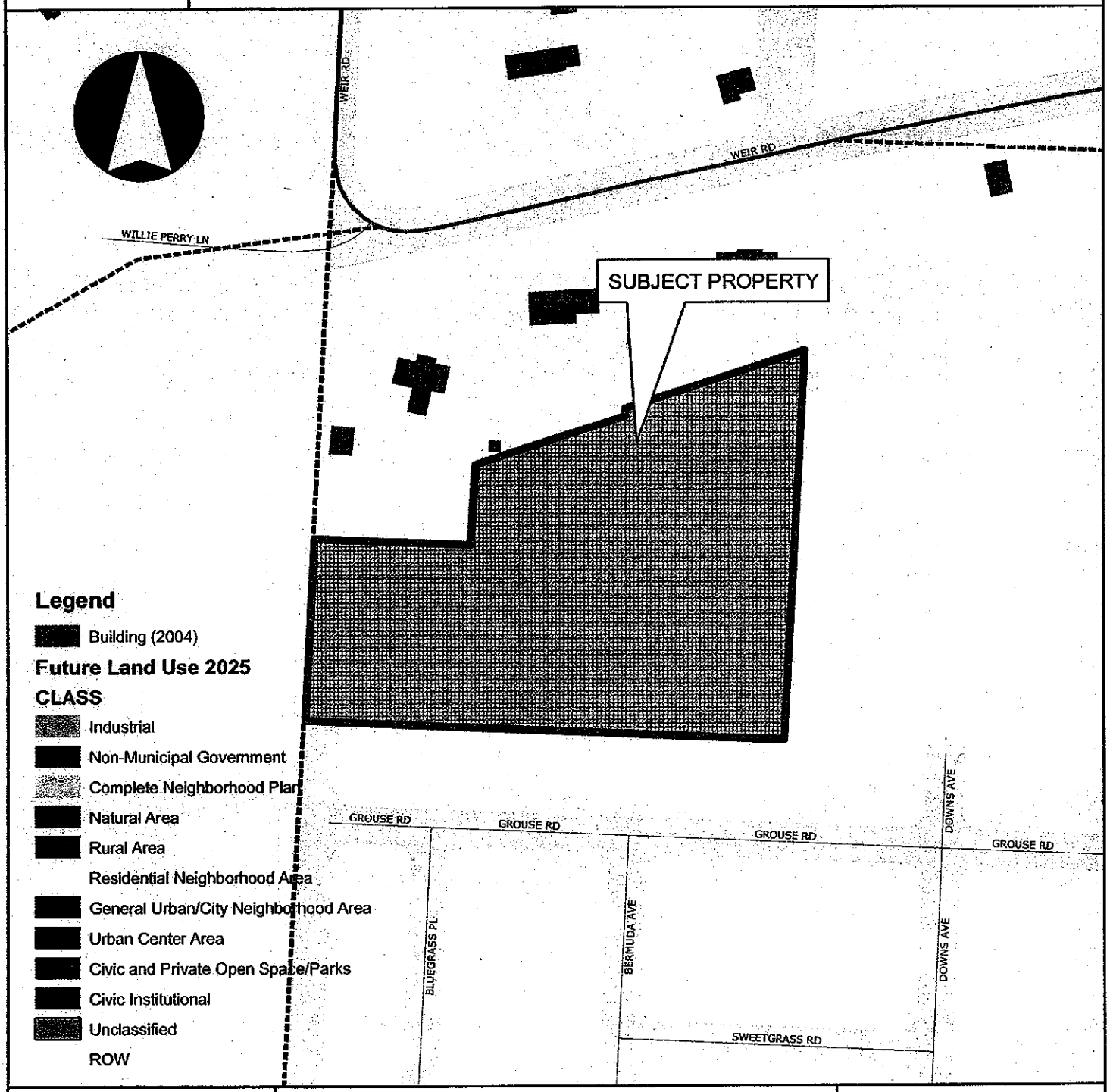
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

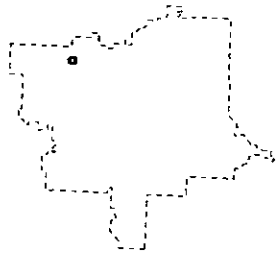
RPZD07-2613

Future Land Use

HOLCOMB HEIGHTS PHASE II



Overview



Legend

Subject Property

RPZD07-2613

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 75 150 300 450 600 Feet

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

7-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

VAC 07-2638: (Estes, 332): Submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive. The request is to vacate a portion of a drainage 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 — Date: 7-19-07

City Attorney — Date: 7-19-07

Finance and Internal Service Director — Date: 7-19-07

Mayor — Date: 7/20/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office — ENTERED 7/19/07

Received in Mayor's Office — ENTERED 7/19/07

Comments:

City Council Meeting of August 07, 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: July 10, 2007

Subject: Easement Vacation for Estes (VAC 07-2638)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a drainage easement located at 2350 Big Oaks Drive.

BACKGROUND

The subject property is located at 2350 Big Oaks Drive and is zoned RSF-4. The property was platted as part of East Oaks Addition Phase II with a 55' drainage easement along the east property line.

The applicant requests vacating a portion of the 55' drainage easement to allow for an expansion to the east side of the residence.

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 July 9, 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 07-2638 SUBMITTED BY PETER (TRIPP) AND BRANDY ESTES FOR PROPERTY LOCATED AT 2350 BIG OAKS DRIVE TO VACATE A PORTION OF A DRAINAGE 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 drainage easement is not required for corporate purposes;

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

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

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

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

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

1. The proposed easement vacation shall apply to the drainage easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

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

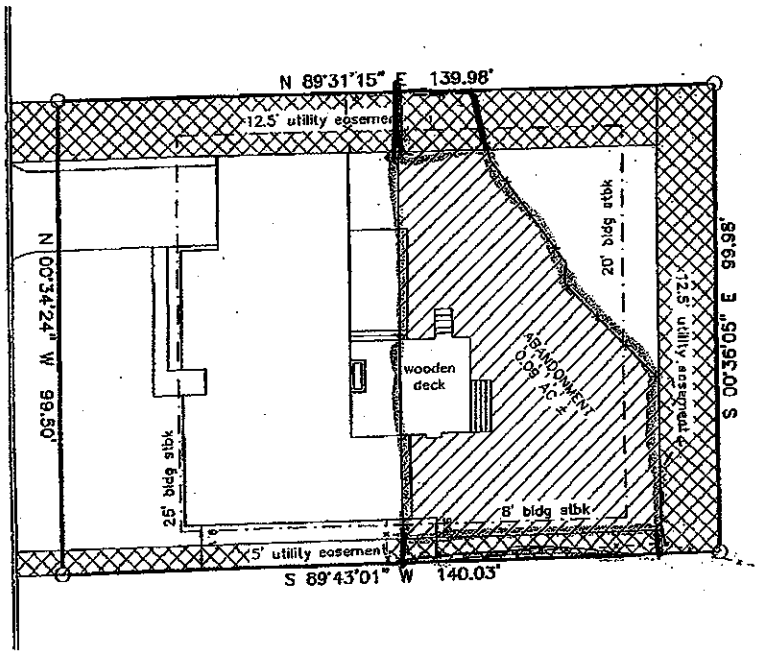
APPROVED: ATTEST:

By: _____ By: _____

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

EXHIBIT "A"

DRAINAGE EASEMENT
ABANDONMENT
for
TRIPP & BRANDY ESTES



Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

JENKINS SURVEYING, INC. 125 E. TOWNSHIP STE. 8 FAYETTEVILLE, AR 72703 PHONE (479) 445-6907 FAX (479) 445-6908	DATE: 5/27/07
	DRAWN BY: dwj
	SCALE: 1" = 30'
	LOCATION: EAST OAKS SUB.
	JOB NO: 07-092

EXHIBIT "B"
VAC 07-2638

A PART OF LOT 6 IN BLOCK 10 OF THE EAST OAKS SUBDIVISION, PHASE II, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT THAT IS S89°43'01"W 12.50 FEET FROM THE SOUTHEAST CORNER OF SAID LOT 6, AND RUNNING THENCE S89°43'01"W 55.00 FEET ALONG THE SOUTH LINE OF THE SAID LOT ; THENCE LEAVING SAID SOUTH LINE AND RUNNING N00°36'05"W 99.75 FEET TO THE NORTH LINE OF SAID LOT; THENCE N89°31'15"E 15.74 FEET ALONG SAID NORTH LINE; THENCE LEAVING SAID NORTH LINE AND RUNNING TO AND ALONG A WOODEN FENCE LINE THE FOLLOWING: S14°29'16"E 15.25 FEET, S35°36'54"E 27.58 FEET, S01°28'25"W 4.56 FEET, S44°37'16"E 28.70 FEET TO THE WEST LINE OF A 12.5 FOOT WIDE CITY OF FAYETTEVILLE UTILITY EASEMENT; THENCE LEAVING SAID FENCE LINE AND RUNNING S00°36'05"E 37.43 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING, CONTAINING 0.09 ACRES, MORE OR LESS, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS,

Fayetteville
ARKANSAS

PC Meeting of July 09, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jesse Fulcher, Current Planner
	Matt Casey, Assistant City Engineer
THRU:	Jeremy Pate, Director of Current Planning
DATE:	~~July 2, 2007~~ *Updated July 10, 2007*

VAC 07-2638: (ESTES, 332): Submitted by PETER (TRIPP) AND BRANDY ESTES for property located at 2350 BIG OAKS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.32 acres. The request is to vacate a portion of a drainage easement on the subject property.

Planner: JESSE FULCHER

Findings:

Property Description: The subject property is located at 2350 Big Oaks Drive and is zoned RSF-4. The property was platted as part of East Oaks Addition Phase II with a 55' drainage easement along the east property line.

Request: The applicant requests vacating a portion of the 55' drainage easement to allow for an expansion to the east side of the residence.

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

UTILITIES	RESPONSE
Ozarks Electric	No Objections.
Cox Communications	No Objections.
Southwestern Electric Power Company	Not applicable. All other existing utility easements shall remain.
Arkansas Western Gas	No Objections. All other existing utility easements shall remain.
Southwestern Bell Telephone	No Objections. All other existing utility easements shall remain.

	Relocation of any existing facilities shall be at the owner/developers expense.
CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections. The 12.5' sewer easement shall remain.
Transportation	No Objections.
Solid Waste	No Objections.
Engineering	No Objections.

Public Comment: The adjacent property owners have indicated no objections to the proposed drainage easement vacation.

Recommendation: Staff recommends forwarding **(VAC 07-2638)** to the City Council with a recommendation for approval with the following conditions.

Conditions of Approval:

1. The proposed easement vacation shall apply to the drainage easement only. All other existing easements shall remain in force.

2. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: √ **Forwarded** ☐ **Denied** ☐ **Tabled**

Date: July 09, 2007

Motion: Graves
Second: Ostner
Vote: 8-0-0 (forwarded from consent agenda)

Comments:_____

ESTES, GRAMLING & ESTES, PLC

Attorneys at Law

P.O. DRAWER 3883
19 EAST DICKSON STREET
FAYETTEVILLE, ARKANSAS 72702-3883

PETER G. ESTES, SR. (1916-1990)
PETER G. ESTES, JR.
J. DOUGLAS GRAMLING†
PETER G. ESTES III
AMY ESTES TURNER*

*ALSO ADMITTED IN WASHINGTON
†ALSO ADMITTED IN MISSOURI

WRITER'S DIRECT EMAIL: TESTES@NWARK.COM

TELEPHONE: (479)521-4444
FAX: (479) 521-6730
E-MAIL:eeg@nwark.com

OFFICE MANAGER:
LAURA G. HOBBS

May 22, 2007

Re: Description of Request for Vacation of Easement

Recently it has come to our attention that a drainage easement extends Fifty-Five (55) feet from the back property line of our residential lot in Phase Two (2) of East Oaks Subdivision. During the process of looking into building onto our house at 2350 Big Oaks in Fayetteville, we have run into a snag in that our proposed build would cross over into this easement. we have talked to Jesse Fulcher in the Planning Department and he referred us to Perry at Transportation, who has stated that he had no problem vacating this easement to the back fence line of our property.

We request at this time that the drainage easement recorded on the Plat of Phase Two (2) East Oaks Subdivsion be vacated to the back fence line of the property. Legal Description for the area to be vacated is as follows:

> A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
> Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

Thank you for your consideration.

Sincerely,

Tripp and Brandy Estes

PETITION TO VACATE DRAINAGE EASEMENT LOCATED IN LOT 6, BLOCK 10, EAST OAKS SUBDIVISION, CITY OF FAYETTEVILLE, ARKANSAS

To: The Fayetteville City Planning Commission and the Fayetteville City Council

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 6, Block 10, Phase II, East Oaks Subdivision, Fayetteville, Arkansas, a Municipal Corporation, petition to vacate an easement which is described as follows:

A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

That the abutting real estate affected by said abandonment of the Drainage easement is as follows:

Lot 2, Block 8, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 3, Block 8, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 7, Block 10, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 5, Block 10, East Oaks Subdivision, City of Fayetteville, Arkansas.
Lot 1, Block 12, East Oaks Subdivision, City of Fayetteville, Arkansas.

The City of Fayetteville declared a 55 foot easement for drainage purposes on said real property; however, neither the City of Fayetteville nor its citizens would be adversely affected by the abandonment of the portion of the above described easement. The petitioners request this vacation for the purpose of completing additional improvements on the real property that would encroach on the current easement.

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

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

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

Dated this 31 day of May, 2007.

Peter G. Estes, III

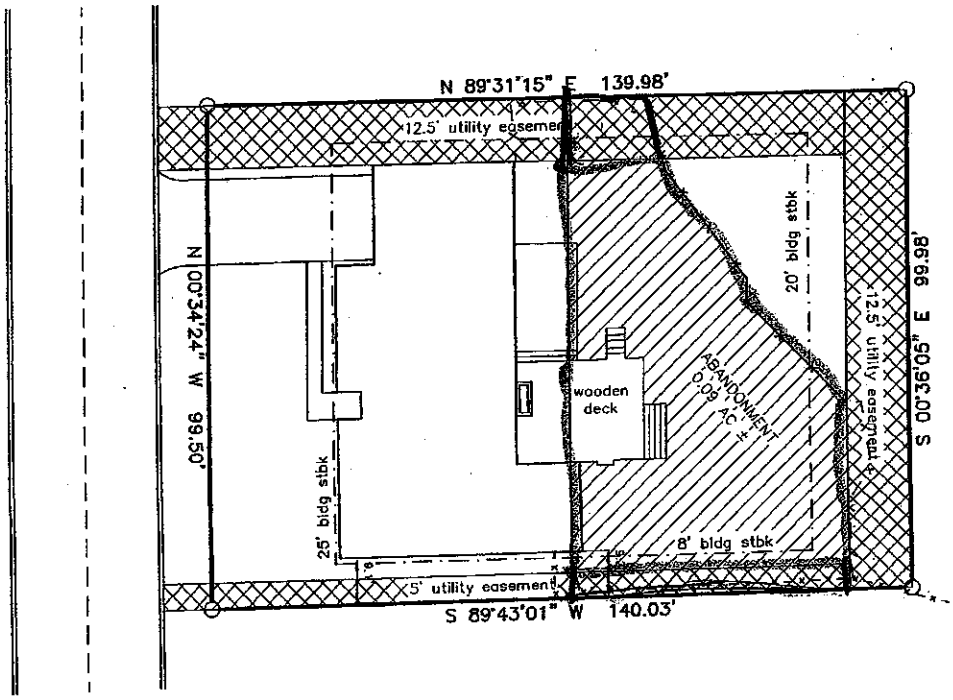
Brandy Estes

EXHIBIT "A"

DRAINAGE EASEMENT DESCRIPTION FOR ABANDONMENT

A part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II, and being more particularly described as follows:
Beginning at a point that is S89°43'01"W 12.50 feet from the Southeast Corner of said Lot 6, and running thence S89°43'01"W 55.00 feet along the South line of the said lot ; thence leaving said South line and running N00°36'05"W 99.75 feet to the North line of said lot; thence N89°31'15"E 15.74 feet along said North line; thence leaving said North line and running to and along a wooden fence line the following: S14°29'16"E 15.25 feet, S35°36'54"E 27.58 feet, S01°28'25"W 4.56 feet, S44°37'16"E 28.70 feet to the West line of a 12.5 foot wide City of Fayetteville utility easement; thence leaving said fence line and running S00°36'05"E 37.43 feet along said West line to the point of beginning, containing 0.09 acres, more or less, City of Fayetteville, Washington County, Arkansas,

DRAINAGE EASEMENT ABANDONMENT for TRIPP & BRANDY ESTES



Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

JENKINS SURVEYING, INC.
125 E. TOWNSHIP STE. 8
FAYETTEVILLE, AR 72703
PHONE (479) 445-6907
FAX (479) 445-6908

DATE:	5/27/07
DRAWN BY:	dwj
SCALE:	1" = 30'
LOCATION:	EAST OAKS SUB.
JOB NO:	07-092

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: Ozark Electric

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

OZARKS ELECTRIC

Signature of Utility Company Representative

Lead Staking Tech

Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: Cox Communications

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached documents must be completed**)

** 2350 Big Oaks, Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

Michael Smith
Signature of Utility Company Representative

Survey of
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: AEP/ SWEPCO

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444
REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 3350 Big Oaks Fayetteville AR 72703

(ATTACH Legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

The Existing 5' Utility Easement Along the South Property Line and the 12.5' Utility Easement Along the North Property Line Shall be Maintained

- No objections provided the following conditions are met:

Signature of Utility Company Representative

Engineer I
Title

Arkansas Western Gas Company
A subsidiary of Southwestern Energy Company

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

DATE: Monday, June 4, 2007

UTILITY COMPANY: Arkansas Western Gas

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION:

- [ ] Street
- [X] 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 Utility Easement (Please see list above)

Description described as follows:

See attached drainage easement description for abandonment for a part of Lot 6 in Block 10 of the East Oaks Subdivision, Phase II.

UTILITY COMPANY COMMENTS:

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

Utility easements along the Northern and Eastern portion of Lot 6 will be retained due to the fact Arkansas Western Gas has an existing distribution line located in these areas.

Signature of Utility Company Representative

Fayetteville Assistant Operating Manager
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: South Western Bell Telephone Company

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444
REQUESTED VACATION (***applicant must check all that apply***):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks, Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

12.5' U.E ALONG NORTH AND EAST PROPERTY LINES AND 5' U.E. ALONG SOUTH PROPERTY LINE - RELOCATION OF ANY EXISTING FACILITIES WILL BE @ THE OWNER'S EXPENSE

- No objections provided the following conditions are met:

Susan A Clinser
Signature of Utility Company Representative

MANAGER-ENG. DESIGN
Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Water and Sewer Division

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(*ATTACH legal description and graphic representation of what is being vacated-SURVEY*) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

12.5 ft Sewer easement is kept. This appears to not be part of what the customer wants to abandon.

Signature of Utility Company Representative

Water and Sewer OPS Mgr.

Title

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Transportation Division

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

~ X Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

- No objections provided the following conditions are met:

5/30/07

Signature of Utility Company Representative

Transportation Supt.

Title

Transportation Division
Operations Department
City of Fayetteville

575 8228

UTILITY APPROVAL FORM

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

DATE: 5/22/07

UTILITY COMPANY: City of Fayetteville, Solid Waste (Sanitation)

APPLICANT NAME: Peter and Brandy Estes, Husband and Wife APPLICANT PHONE: 479-521-4444

REQUESTED VACATION (*applicant must check all that apply*):

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

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Fayetteville AR 72703

(ATTACH legal description and graphic representation of what is being vacated-SURVEY) See Attached

UTILITY COMPANY COMMENTS:

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

_____

_____

- No objections provided the following conditions are met:

_____

_____

Brian Pugh
Signature of Utility Company Representative

Waste Reduction Coordinator
Title

UTILITY APPROVAL FORM

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

DATE: 7/3/07

UTILITY COMPANY: City of Fayetteville Engineering Department

APPLICANT NAME: _--Estes------ __ APPLICANT PHONE: _----------

REQUESTED VACATION (***applicant must check all that apply***):

√ Utility Easement

~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~ Alley

~ Street right-of-way

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

General location / Address (referring to attached document- must be completed**)

** 2350 Big Oaks Drive

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

_____

_____

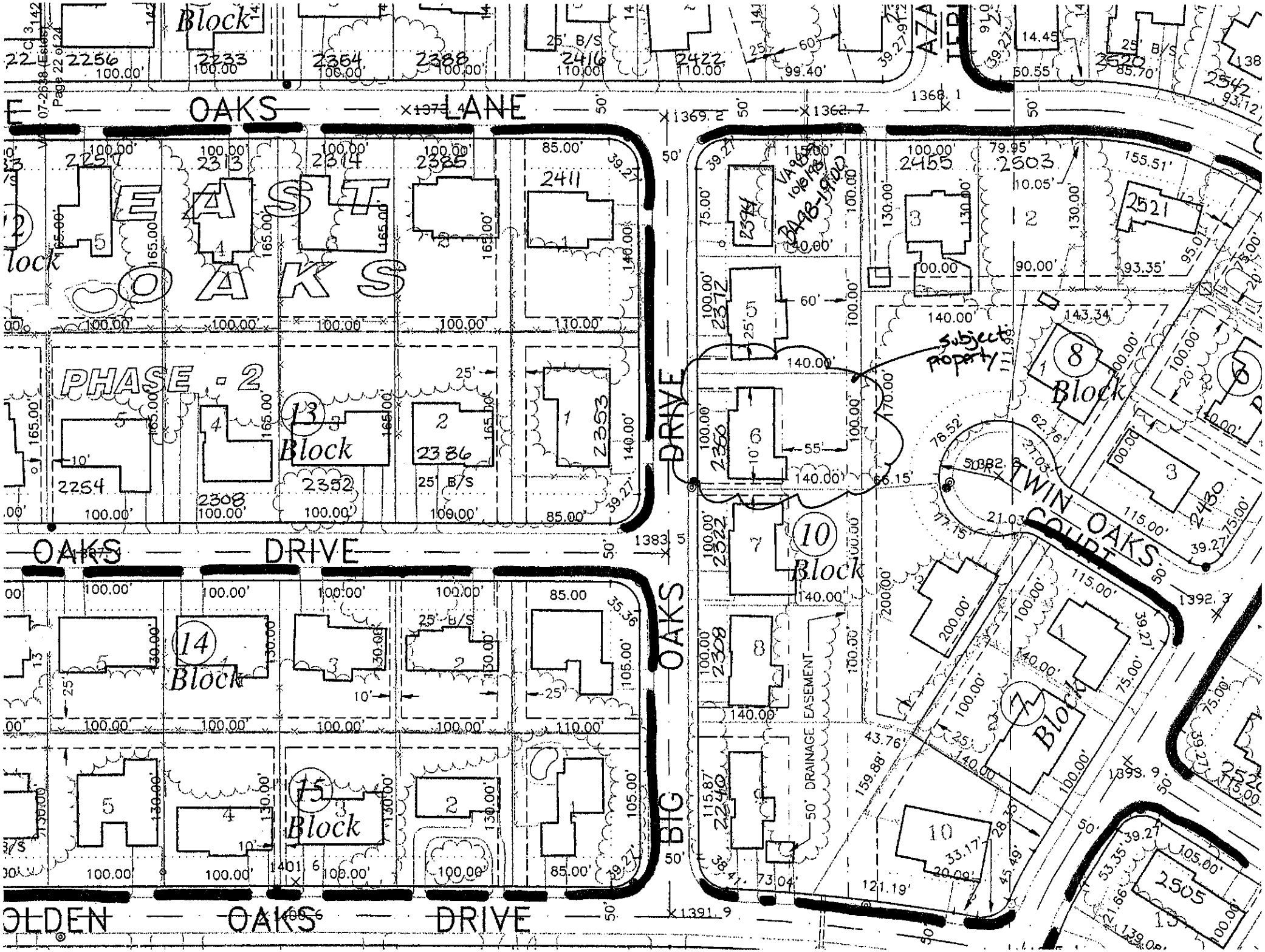
- No objections provided the following conditions are met:

_____

_____

_____
Signature of Utility Company Representative

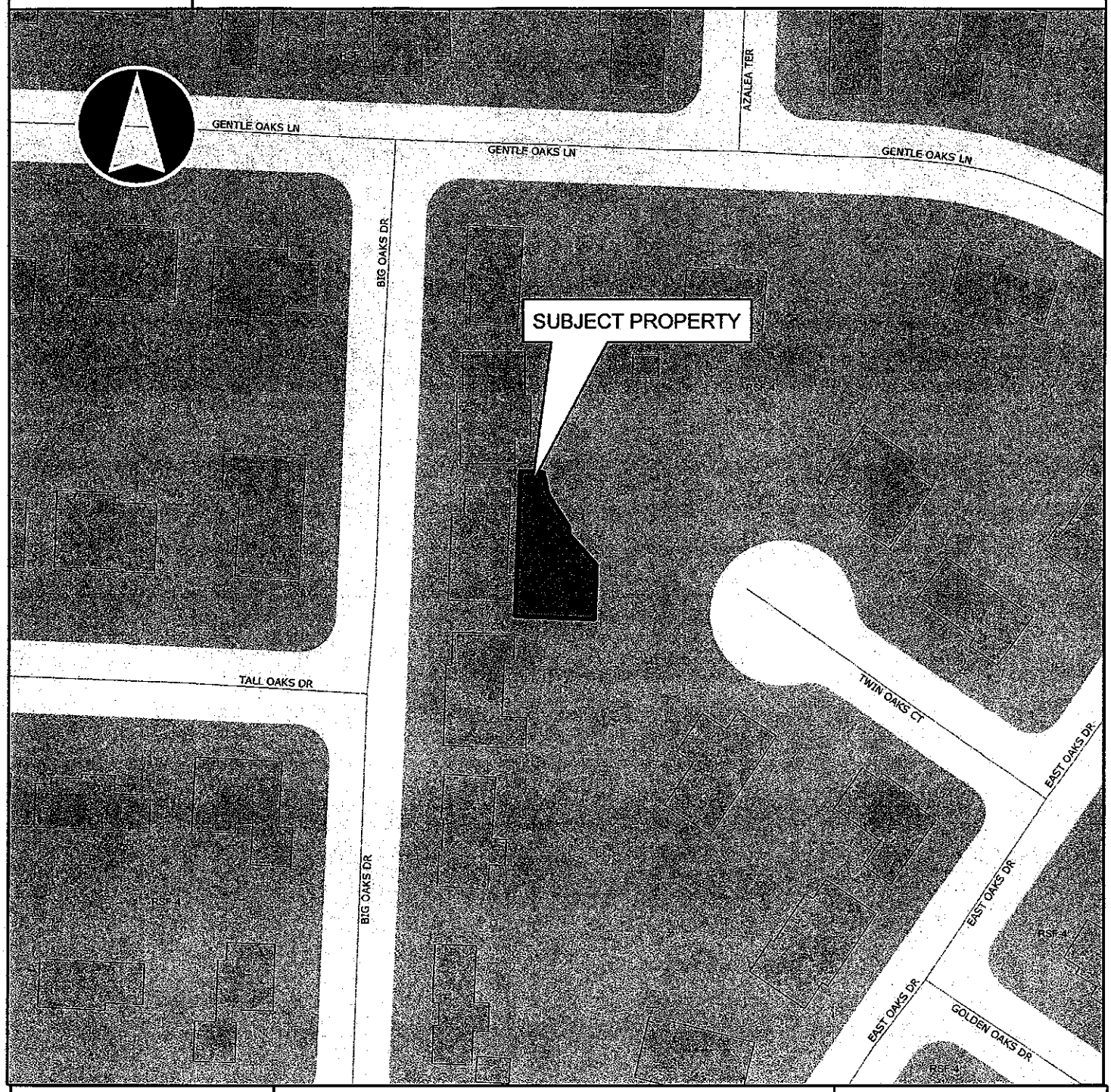
_____
Title


OAKS LANE
EAST OAKS
PHASE - 2
OAKS DRIVE
BIG OAKS DRIVE
TWIN OAKS COURT
GOLDEN OAKS DRIVE
Block
subject property
50' DRAINAGE EASEMENT
VA 98-106 BA 98-1910

VAC07-2638

Close Up View

ESTES



Overview

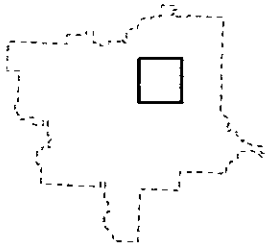
0 37.5 75 150 225 300 Feet

VAC07-2638

One Mile View

ESTES

Overview



Legend

Subject Property

VAC07-2638

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

VAC 07-2639: (Four Seasons Sunrooms/Boss, 397): Submitted by Bill Boss for property located at 5608 Reliance. 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 — Date 7-23-07

City Attorney — Date 7-20-07

Finance and Internal Service Director — Date 1-23-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

City Council Meeting of August 07, 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: July 12, 2007

Subject: Easement Vacation for Four Seasons Sunrooms (VAC 07-2639)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a portion of a utility easement located at 5608 Reliance Street.

BACKGROUND

The subject property is located at 5608 Reliance Street and is zoned RT-12. The property was platted as part of Heritage Village Subdivision with a 20' general utility easement along the rear (east) property line.

The applicant requests vacating a portion of the 20' utility easement to allow for an expansion to the east side of the residence.

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 July 9, 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 07-2639 SUBMITTED BY BILL BOSS FOR PROPERTY LOCATED AT 5608 RELIANCE 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. Relocation of any existing utilities shall be at the owner/developer's expense.
2. A variance must be obtained by the Fayetteville Board of Adjustment to allow for the approximately five-foot encroachment into the rear building setback.

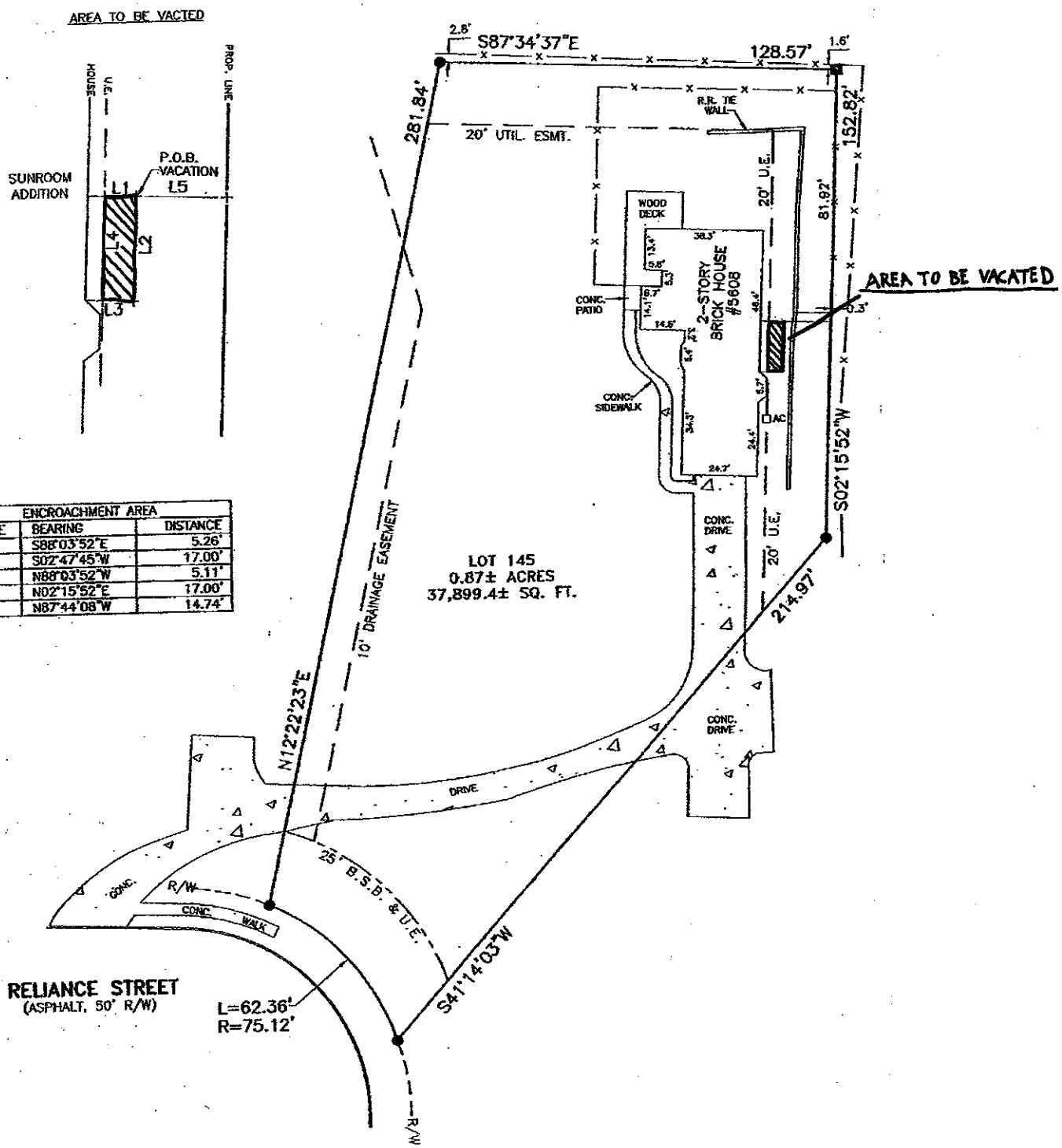
PASSED and **APPROVED** this day of , 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

EXHIBIT "A"



ENCROACHMENT AREA		
LINE	BEARING	DISTANCE
L1	S88°03'52"E	5.26'
L2	S02°47'45"W	17.00'
L3	N88°03'52"W	5.11'
L4	N02°15'52"E	17.00'
L5	N87°44'08"W	14.74'

EXHIBIT "B"
VAC 07-2639

A PART OF LOT NUMBERED ONE HUNDRED FORTY-FIVE (145), HERITAGE VILLAGE SUBDIVISION, PHASE 11, TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT OF SAID SUBDIVISION ON FILE IN TH EOFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT ONE HUNDRED FORTY-FIVE (145), SAID POINT BEING AN EXISTING CONCRETE MONUMENT; THENCE S02°15'52"W 81.92 FEET ALONG THE EAST LINE OF SAID LOT TO A POINT; THENCE N87°44'08"W 14.74 FEET TO THE TRUE POINT OF BEGINNING; THENCE S02°47'45"W 17.00 FEET; THENCE N88°03'52"W 5.11 FEET TO A POINT ON THE WEST BOUNDARY OF A TWENTY (20) FOOT WIDE UTILITY EASEMENT; THENCE N02°15'52"E 17.00 FEET ALONG THE WEST LINE OF SAID EASEMENT TO A POINT; THENCE S88°03'52"E 5.26 FEET TO THE POINT OF BEGINNING, CONTAINING 88.2 SQUARE FEET, MORE OR LESS.

Fayetteville
ARKANSAS

PC Meeting of July 9, 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:	~~July 3, 2007~~ *Updated July 17, 2007*

VAC 07-2639: VACATION (FOUR SEASONS SUNROOMS/BOSS, 397): Submitted by BILL BOSS/ FOUR SEASONS SUNROOMS for property located at 5608 RELIANCE. The property is zoned RT-12, RESIDENTIAL TWO & THREE FAMILY and contains approximately 0.87 acres. The request is to vacate a portion of a utility easement on the subject property.

Property Owner: Jamie and Jennifer Beaver
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 is located at 5608 Reliance Street, which is identified as Lot 145 of the Heritage Village Subdivision. There is a 20' general utility easement along the rear (east) property line. The applicant would like to construct a sunroom on the back of their house. The sunroom would encroach approximately five feet into the easement and rear building setback. Utility representatives have no objections to the requested vacation.

Request: The request is to vacate 88.2 square feet of the existing utility easement.

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	No Objections.
Cox Communications	No Objections.
AEP/SWEPCO	No Objections.
SBC Southwestern Bell/AT&T	No Objections.
Arkansas Western Gas	No Objections.

CITY OF FAYETTEVILLE:	**RESPONSE**
Water/Sewer	No Objections.
Transportation	No Objections.
Solid Waste	No Objections.
Engineering	No Objections.

Recommendation: Staff recommends approval of the proposed utility easement vacation **06-2639** with the following condition:

1. Relocation of any existing utilities shall be at the owner/developer's expense.
2. A variance must be obtained by the Fayetteville Board of Adjustment to allow for the approximately five-foot encroachment into the rear building setback.

PLANNING COMMISSION ACTION: __yes__Required
__X__Forwarded to City Council recommendation for approval _____Denied

Motion: Graves
Second: Ostner
Vote: 8-0-0
Date: July 9, 2007

Comments: Approved on the consent agenda.

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: August 7, 2007

PETITION TO PARTIALLY VACATE AN EASEMENT

PETITION TO PARTIALLY VACATE AN EASEMENT LOCATED IN Lot 145 of Heritage Village Subdivision, City of Fayetteville, Arkansas

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

We, the undersigned, being the owners of the real estate abutting the easement hereinafter seek to partially vacate an easement lying in Lot 145 of Heritage Village Subdivision, City of Fayetteville, Arkansas, a municipal corporation, petition to partially vacate an easement which is described as follows:

> A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

That the abutting real estate affected by said abandonment of the easement are Lot 145, Heritage Village Subdivision, City of Fayetteville used by the public for a period of years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

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

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

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

Dated this 20th day of April, 2007

Jamie Beaver

Jamie Beaver

Signature

Jennifer-Joe Beaver

Jennifer-Joe Beaver

Signature

ADJACENT PROPERTY OWNER NOTIFICATION FORM

FOR A PARTIAL EASEMENT VACATION REQUEST

Date: April 23, 2007

Address / Location of vacation: 5608 Reliance

Adjacent property address: Stephen Heim, 5632 W. Reliance Street, Fayetteville, AR 72704

Lot: 144 Subdivision: 06063 Heritage Village, Phase II

REQUESTED VACATION:

I have been notified of the petition for a partial easement vacation described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

ADJACENT PROPERTY OWNERS COMMENTS:

- I have been notified of the requested partial vacation and decline to comment
- I do not object to the partial vacation described above.
- I do object to the requested vacation because:

Please commence with construction.
Thank You

Stephen Gregory Heim
Name of Property Owner (printed)

Signature of Property Owner

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Greg McGee, Ozarks Electric, 684-4634

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

All other easement must Remain (F

[signature] - Ozarks Electric
Signature of Utility Company Representative

Lead Staking Tech
Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Mike Moore, Cox Communications, 717-3765

APPLICANT NAME: Jamie & Jennifer-Joe Beaver
479-200-0478

APPLICANT PHONE:

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Michael Smith
Signature of Utility Company Representative

Surveyor
Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Kenny Sullivan, AEP/SWEPCO, 973-2303

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Ozarks Electric Territory

Signature of Utility Company Representative

Engineer III

Title

Arkansas Western Gas Company
A subsidiary of Southwestern Energy Company

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

DATE: Tuesday, May 08, 2007

UTILITY COMPANY: Arkansas Western Gas Company

APPLICANT NAME: Jamie and Jennifer-Joe Beaver

REQUESTED VACATION:

- [ ] Street
- [X] 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 Utility Easement (Please see list above)

Description described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

- [X] 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

COPY

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

DATE: 05/18/07

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 part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20 foot wide utility easement; Thence N02°15'52"E17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, 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

Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

at&t

Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

T: 501.373.5255
F: 501.373.0229
lynda.palmer@att.com

COPY

May 18, 2007

Jamie and Jennifer-Joe Beaver
5608 Reliance St.
Fayetteville, AR 72704

Dear Mr. and Mrs. Beaver:

RE: Easement release – Heritage Village S/D-Fayetteville

Please find enclosed AT&T's concurrence in your request to the above mentioned easement 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

COPY

at&t

CONCURRENCE TO VACATE A DEDICATED UTILITY EASEMENT

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

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: Commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20 foot wide utility easement; Thence N02°15'52"E17.00 feet along the West line of said easement to a point; Thence S88°03'52"E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

Signed and executed this 16th day of May, 2007.

By: F. Jean Davis
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the ____ day of May, 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.

LYNDA E. SOMMERFELDT PALMER
NOTARY PUBLIC
COMM. EXP. 2011
AR

This instrument prepared by AT&T
1011 W. Capitol, Room 941
Little Rock, AR 72201 (501-373-5255)

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: April 23, 2007

UTILITY COMPANY: Fayetteville Transportation Administrator, 444-3491

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

_____

_____

_____

Signature of Utility Company Representative

Transportation Mgr

Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Fayetteville Water & Sewer Administrator, 575-8387

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

_____

_____

_____

Signature of Utility Company Representative

Water + Sewer Ops Mgr

Title

UTILITY APPROVAL FORM

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

DATE: April 23, 2007

UTILITY COMPANY: Fayetteville Solid Waste Administrator, 444-3499

APPLICANT NAME: Jamie & Jennifer-Joe Beaver APPLICANT PHONE: 479-200-0478

REQUEST IS FOR A PARTIAL VACATION OF A UTILITY EASEMENT

I have been notified of the petition to partially vacate an easement described as follows:

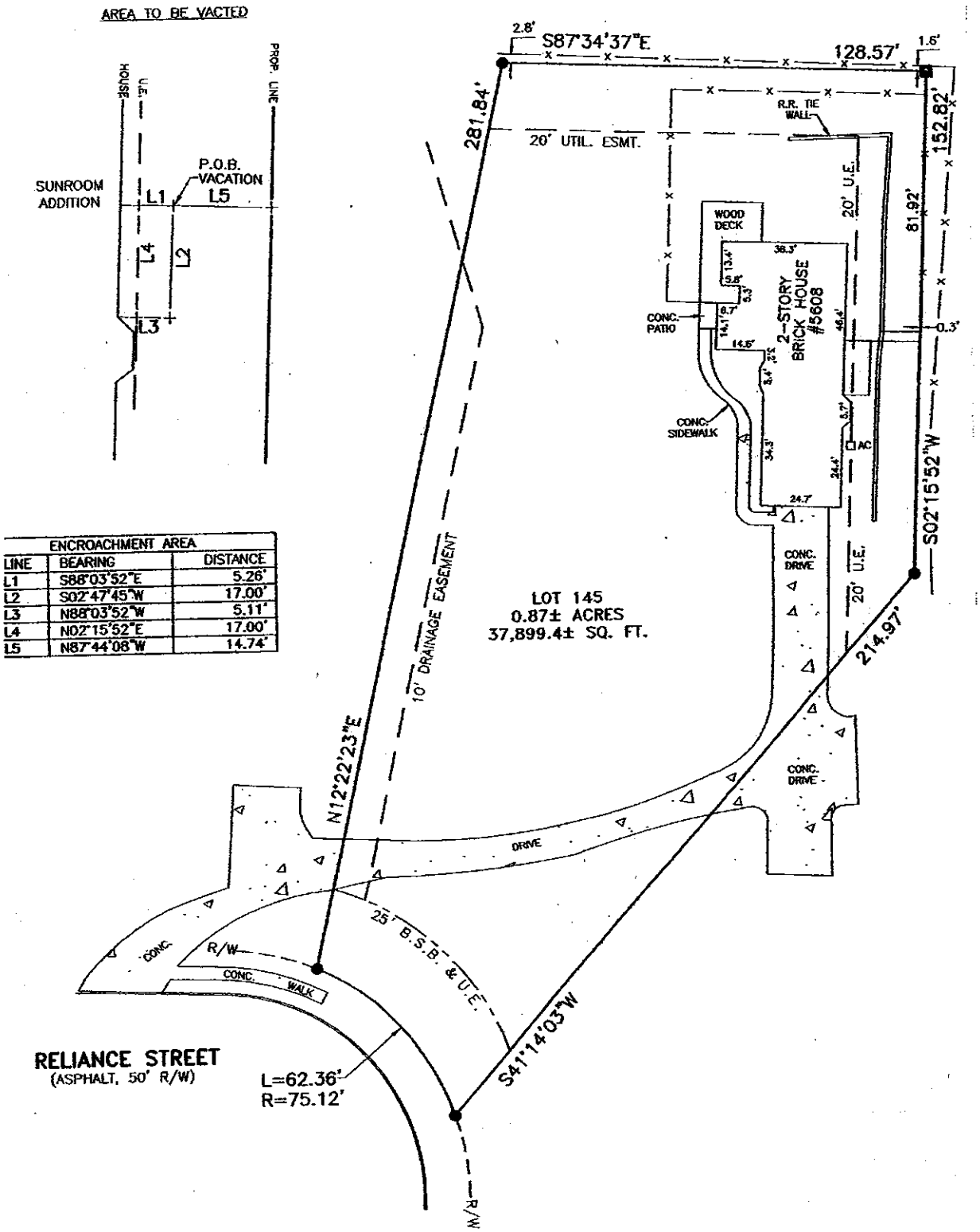
A part of lot numbered one hundred forty-five (145), Heritage Village Subdivision, Phase II, to the City of Fayetteville, Arkansas, as per plat of said Subdivision on file in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, and being more particularly described as follows: commencing at the Northeast corner of said Lot one hundred forty-five (145), said point being an existing concrete monument; Thence S02°15'52"W 81.92 feet along the East line of said lot to a point; Thence N87°44'08"W 14.74 feet to the true point of beginning; Thence S02°47'45"W 17.00 feet; Thence N88°03'52"W 5.11 feet to a point on the West Boundary of a Twenty (20) foot wide utility easement; Thence N02°15'52"E 17.00 feet along the West line of said easement to a point; Thence S88°03'52'E 5.26 feet to the point of beginning containing 88.2 square feet, more or less.

UTILITY COMPANY COMMENTS:

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

Signature of Utility Company Representative

Waste Reduction Coordinator
Title

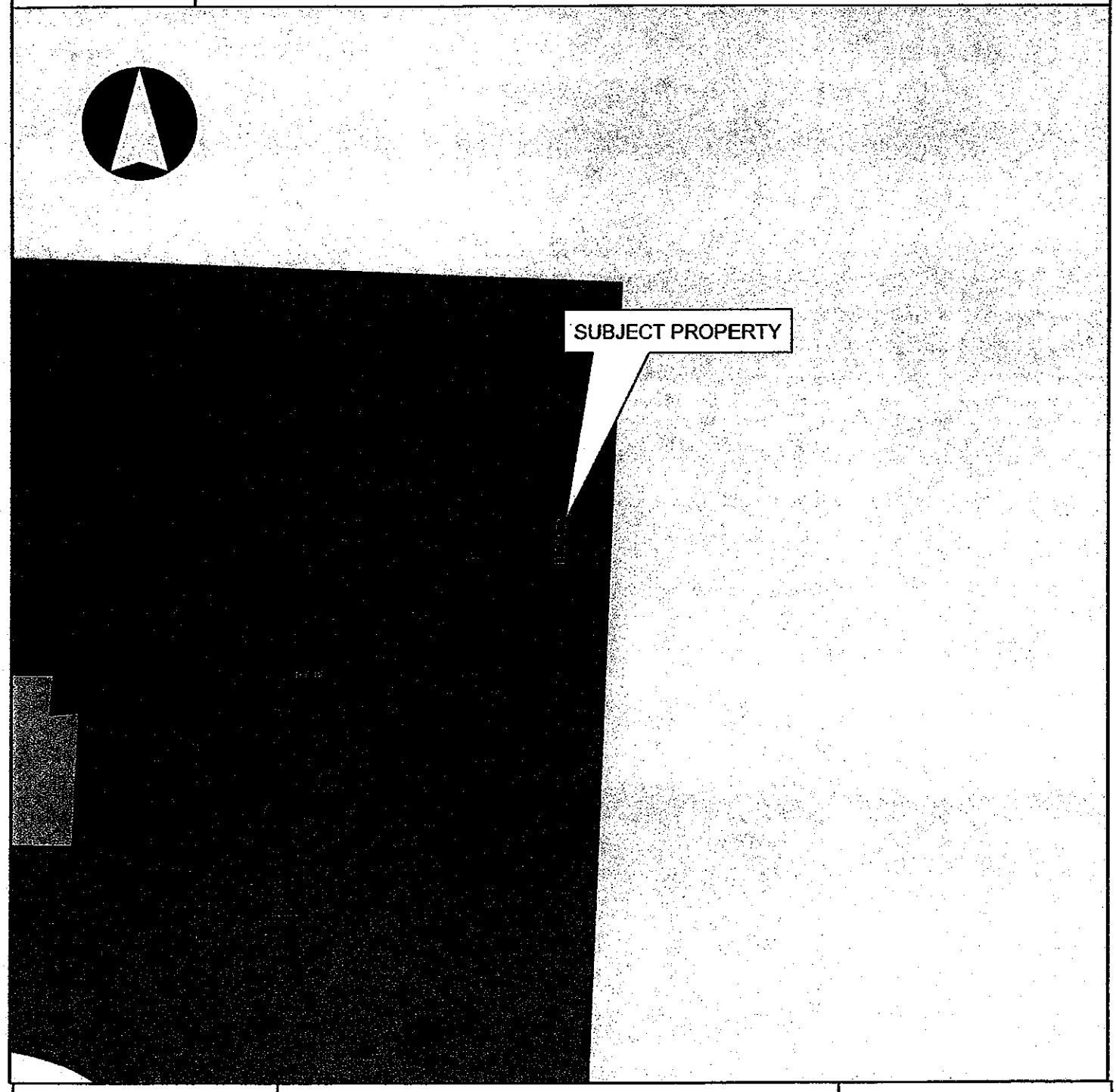


ENCROACHMENT AREA		
LINE	BEARING	DISTANCE
L1	S86°03'52"E	5.26'
L2	S02°47'45"W	17.00'
L3	N88°03'52"W	5.11'
L4	N02°15'52"E	17.00'
L5	N87°44'08"W	14.74'

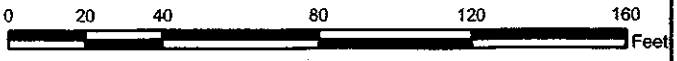
VAC07-2639

Close Up View

FOUR SEASONS SUNROOM/BOSS



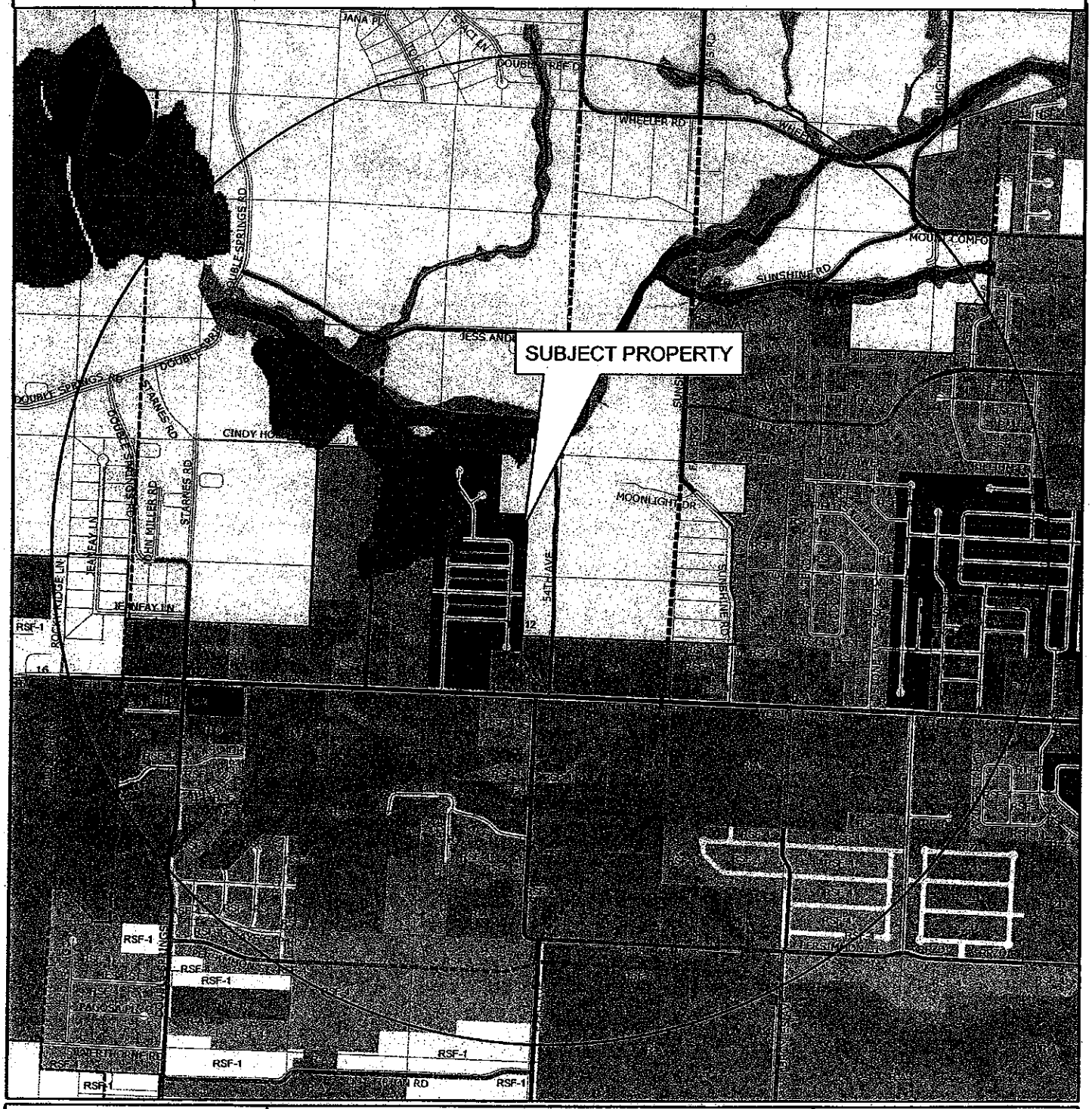
Overview



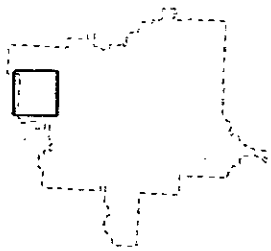
VAC07-2639

One Mile View

FOUR SEASONS SUNROOM/BOSS



Overview



Legend

Subject Property

VAC07-2639

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-Aug-07
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extension for the Aspen Ridge Planned Zoning District until June 29, 2008.

$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 — Date: 7-23-07

City Attorney — Date: 7-20-07

Finance and Internal Service Director — Date: 7-20-07

Mayor — Date: 7-23-07

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office
ENTERED 7/20/07

Received in Mayor's Office
ENTERED 7/23/07

Comments:

Town Creek Construction & Development

RE: Aspen Ridge Townhomes

June 28, 200~~6~~ 7

113 W. Mountain
Fayetteville, AR

Dear Mr. Pate,

On December 28th of last year we requested an extension on the requirement for obtaining our building permits at Aspen Ridge. Following this request we completed the installation of the city streets and sidewalks in Phase I of our project. During this period we also have been working to settle the situation with our prior general contractor, who had allowed the project to fall several months behind schedule before their termination. This has unfortunately caused us to be unable to meet our obligation on the building permit extension time.

As you may remember from when we first took this project through city council. We had spent several years purchasing and cleaning up the 29 separate parcels of land that made up this project. This development has helped promote one of the cities top priorities of revitalizing the south Fayetteville area. As Mayor Dan Coody mentioned during our opening ceremony, this project has provided the city with an upgraded sewer system, along with a re-development of the site and the surrounding area.

With the current market conditions and the delay by the prior contractor, we would like to request an extension of 12 months to complete the building permit requirement. The difficulties that have arisen during this process have been reflected in several other projects in town and throughout the nation.

We would again like to thank you for your consideration of this matter and we will be working very hard to resolve the current issues, so we can proceed with this project in a timely manner.

Sincerely,

Hal Forsyth
President
Town Creek Construction & Development, LLC

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 17, 2007

Subject: Aspen Ridge Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordinance repealing and replacing Ordinance No. 4971, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Aspen Ridge R-PZD and extending the expiration date for R-PZD 04-1307 (Aspen Ridge), with the condition that all building permits be obtained by the applicant prior to June 29, 2008 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property contains approximately 27.929 acres, located in south Fayetteville, near the intersection of Hill Avenue and 6th Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 04-1307) on the site on January 18, 2005. The combination zoning and development action allowed for the development of 220 condominium units in two phases, along with dedication of 0.86 acres for parkland and 0.36 acres of land for construction of a public trail through an old railroad corridor. A large tree preservation and deed-restricted wetland area along the floodplain of the on-site creek is also integrated with the project.

The subject Planned Zoning District was approved in January of 2005, prior to the adoption of the current Planned Zoning District Ordinance that allows for larger projects to request a more reasonable period of time in which to obtain building permits. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. The one-year time frame expired in January of 2006; the City Council approved an ordinance permitting an extension of that time frame for all building permits to be obtained by December 31, 2006. In January of 2007 the City Council waived UDC 166.20 to allow for a 180-day extension for building permits to be obtained by June 29, 2007 (Ordinance No. 4971). On June 28, 2007 the applicant submitted a letter to the Planning Division requesting an additional one year extension within which to obtain all building permits, otherwise the project (and PZD zoning) will be null and void.

The applicant has installed a great deal of the required public infrastructure for this project, including most streets, sidewalks, curb and gutter, storm drainage, etc. All of the city streets and sidewalks for Phase I of the project have been installed. However, in order for the applicant to obtain building permits for the project, all public improvements have to be installed or guaranteed. The resulting guarantee in the form of a letter of credit, cash, or bond approaches $500,000. All other requirements to obtain building permits for this project have been met. The applicant has indicated several issues with contractors and current market conditions have created delays in the past year.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately one year to expire on June 29, 2008. All building permits for Aspen Ridge PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4971, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2008.

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4971 that extended the approved plans to June 29, 2007.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2008.

PASSED and **APPROVED** this___day of ___, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

ORDINANCE NO. 4971

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2007

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4848 that extended the approved plans to December 31, 2006.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2007.

PASSED and **APPROVED** this 2nd day of January, 2007.

APPROVED:

By: Dan Coody
DAN COODY, Mayor

ATTEST:

By: Sondra Smith
SONDRA SMITH, City Clerk/Treasurer

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

Added at Agenda Session 12/28/06

ALDERMAN AGENDA REQUEST FORM

FOR: COUNCIL MEETING OF January 02, 2007

FROM: Brenda Thiel

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
Aspen Ridge Planned Zoning District – Project Extension
AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE)

APPROVED FOR AGENDA:

Brenda Thiel
Alderman — Date: 12/28/06

Jeremy C. Pate
Jeremy Pate
Director of Current Planning — Date: 12-28-06

CITY COUNCIL APPROVED

DATE: 01.02.07

Town Creek Construction & Development

RE: Aspen Ridge Townhomes

December 28, 2006

113 W. Mountain
Fayetteville, AR

Dear Alderwoman Thiel,

We would like to request an extension on the requirement for obtaining our building permits at our Aspen Ridge Project, located at 6th & Hill Ave in Fayetteville. We are currently completing the sidewalks on Phase I and we are working on the entrance area for Phase II.

The contractor that was formally employed by us has delayed the project. The site work subcontractor and the general contractor was unable to complete the work on time, due to poor performance and other delays from their lack of management on the project. Both of these companies have been terminated and we are currently working with new contractors for the remaining work.

We are requesting an extension of 180 days to complete all of the remaining civil work required. The landscaping around the buildings will be finished as the buildings are completed. We will also pave each of the alleyways as we complete each building section.

We appreciate your consideration in this matter and we are very excited about the future of this project. The continued improvements in the southern corridor of Fayetteville will greatly enhance all of the citizens of this area.

Sincerely,

Hal Forsyth
President
Town Creek Construction & Development, LLC

City Council Meeting of January 02, 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 JP

Date: December 28, 2006

Subject: Aspen Ridge Planned Zoning District Expiration

RECOMMENDATION

Planning staff recommends approval of an ordianance repealing and replacing Ordinance No. 4848, waiving the Unified Development Code, *§166.20 Expiration of Approved Plans and Permits* for Aspen Ridge R-PZD and extending the expiration date for R-PZD 04-1307 (Aspen Ridge), with the condition that all building permits be obtained by the applicant prior to June 29, 2007 or the project shall return through the Planned Zoning District review process, in accordance with the ordinances in place at the time of submittal.

BACKGROUND

The subject property contains approximately 27.929 acres, located in south Fayetteville, near the intersection of Hill Avenue and 6th Street. The City Council adopted an ordinance granting approval of a Planned Zoning District (R-PZD 04-1307) on the site on January 18, 2005. The combination zoning and development action allowed for the development of 220 condominium units in two phases, along with dedication of 0.86 acres for parkland and 0.36 acres of land for construction of a public trail through an old railroad corridor. A large tree preservation and deed-restricted wetland area along the floodplain of the on-site creek is also integrated with the project.

The subject Planned Zoning District was approved in January of 2005, prior to the adoption of the current Planned Zoning District Ordinance that allows for larger projects to request a more reasonable period of time in which to obtain building permits. When this project was approved, there was in place a blanket one-year time period in which to obtain all building permits associated with the project. The one-year time frame expired in January of 2006; the City Council approved an ordinance permitting an extension of that time frame for all building permits to be obtained by December 31, 2006, thus if all building permits are not obtained by this date, the project (and PZD zoning) will be null and void.

The applicant has installed a great deal of the required public infrastructure for this project, including most streets, sidewalks, curb and gutter, storm drainage, etc. However, in order for the applicant to obtain building permits for the project, all public

improvements have to be installed or guaranteed. The resulting guarantee in the form of a letter of credit, cash, or bond approaches $500,000. All other requirements to obtain building permits for this project have been met. The applicant has indicated several issues with contractors have created delays in the past year.

Staff would support a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process, also meeting all new submittal requirements. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished. Staff proposes a time limit on the extension of the approval of approximately 180 days to expire on June 29, 2007. All building permits for Aspen Ridge PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

AN ORDINANCE REPEALING AND REPLACING ORDINANCE NO. 4848, EXTENDING THE EXPIRATION DATE FOR R-PZD 04-1307 (ASPEN RIDGE) TO JUNE 29, 2007.

WHEREAS, after the Aspen Ridge R-PZD was approved in 2004 the City Council amended the Planned Zoning District ordinance to allow a greater period of time for large and complex projects to obtain building permits; and

WHEREAS, Aspen Ridge PZD is such a large R-PZD that construction of all necessary public improvements, such as streets, sidewalks, trails, water and sewer mains and other infrastructure improvements, could not be accomplished within the period of time granted; and

WHEREAS, the developer of Aspen Ridge has shown considerable progress in recent months in completing public improvements, and building permits are expected to be issued in the near future;

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 repeals and replaces Ordinance No. 4848 that extended the approved plans to December 31, 2006.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby extends the expiration date of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 for the applicant to obtain all building permits by June 29, 2007.

PASSED and **APPROVED** this___day of ___, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

DRAFT

ORDINANCE NO. 4848

AN ORDINANCE TO WAIVE § 166.20 EXPIRATION OF APPROVED PLANS AND PERMITS FOR R-PZD 04-1307 (ASPEN RIDGE)

WHEREAS, after the Aspen Ridge R-PZD was approved the City Council amended §166.20 to allow a greater period of time before an approved PZD must have all building permits issued; and

WHEREAS, Aspen Ridge is such a large R-PZD that construction of the streets, water mains, sewer mains, sidewalks, trail and other infrastructure improvements could not be accomplished so that all building permits could be obtained within one year of approval.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the one year time limitation of R-PZD 04-1307 (Aspen Ridge) adopted on January 18, 2005 to obtain all building permits and extends that period to December 31, 2006.

PASSED and **APPROVED** this 21st day of March, 2006.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

3/21/06
4848
Waive 166.20/
R-PZD 04-1307

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

21-Mar-06
City Council Meeting Date

Jeremy Pate	Planning	Operations
Submitted By	Division	Department

Action Required:

Approval of a waiver from the Unified Development Code Ch. 166.20 Expiration of Approved Plans and Permits, to permit an extention for the Aspen Ridge Planned Zoning District until December 31, 2006.

$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	$ - Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 3-2-06 Date

City Attorney 3-6-06

Finance and Internal Service Director 3-6-06 Date

Mayor 3/13/06 Date

Previous Ordinance or Resolution # n/a
Original Contract Date: n/a
Original Contract Number: n/a

Received in City Clerk's Office ENTERED 3/21/06

Received in Mayor's Office ENTERED 3/6/06

Comments:

Crafton, Tull & Associates, Inc.
901 N. 47th Street, Suite 200, Rogers, AR 72756 479.636.4838 Fax: 479.631.6224 www.craftull.com

March 2, 2006

Mr. Jeremy Pate
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, AR 72701

RE: PZD Expiration
Aspen Ridge
CTA Job No. 021111-00

Dear Mr. Pate:

On behalf of Mr. Hal Forsyth (a.k.a. Town Creek Construction & Development LLC), we request the city council's consideration to allow the construction of the Aspen Ridge project to continue. The approval for this project was conditioned on the PZD only being valid for one calendar year, and the approval was granted by the city council on January 18, 2005. The city staff approved the infrastructure construction plans on May 2, 2005 and construction proceeded shortly after that. Construction has continued steadily since that time, with the infrastructure on Phase I now nearing completion and work on the Phase II earthwork, drainage, utilities and streets on-going.

As you know, Aspen Ridge is a large and very complex project. Due to the size and complexity, completion of the project within a year of the PZD approval was not possible. Mr. Forsyth intends to obtain building permits for all of the buildings no later than December 31, 2006.

We appreciate your assistance with this project and ask that the city council look favorably on this request. When completed, we believe Aspen Ridge will be one of the premier housing developments in the region, aiding the city in its goal to revitalize south Fayetteville and setting a high standard for quality in the city.

Sincerely,

Crafton, Tull & Associates, Inc.

Matt Crafton, P.E.
Chief Operating Officer

ORDINANCE NO. 4672

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 04-1307, ASPEN RIDGE LOCATED SOUTH OF 6TH STREET, WEST OF HILL AVENUE, NORTHEAST OF 11TH STREET ALONG TOWN BRANCH CREEK CONTAINING APPROXIMATELY 27.969 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION

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-24, Residential Multi Family, 24 units per acre, to R-PZD 04-1307 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on December 13, 2004.

Section 3: That this ordinance shall take effect and be in full force at such time as all of the requirements of the development plan have been met.

Section 4: That the official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and **APPROVED** this 18th day of January, 2005.

APPROVED:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

CITY CLERK/TREASURER CITY OF FAYETTEVILLE ARKANSAS WASHINGTON COUNTY

EXHIBIT "A"
R-PZD 04-1307

PART OF THE SOUTH ½ OF THE SW ¼ OF SECTION 16, AND A PART OF THE NORTH ½ OF THE NW ¼ OF SECTION 21, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS: COMMENCING A THE NORTHWEST CORNER OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21, SAID POINT BEING AN EXISTING IRON PIPE; THENCE S87°04'09"E ALONG THE NORTH LINE OF THE NORTHEAST ¼ OF THE NORTHWEST ¼ OF SAID SECTION 21 A DISTANCE OF 5.92 FEET TO THE POINT OF BEGINNING; THENCE S87°04'09"E 418.49 FEET; THENCE S02°49'04"W 514.14 FEET; THENCE N87°04'09"W 424.40 FEET TO A SET ½" REBAR; THENCE S02°49'04"W 204.82 FEET; THENCE SOUTH 87°04'09"E 139.00 FEET; THENCE S02°48'48"W 293.00 FEET TO A SET ½" IRON REBAR; THENCE N87°05'54"W 183.58 FEET TO AN EXISTING IRON; THENCE S02°48'00"W 181.27 FEET; THENCE S8704'02"E 84.31 FEET, THENCE S02°40'05"W 79.86 FEET; THENCE S37°07'40"E 39.06 FEET THENCE S07°40'05"W 15.00 FEET; THENCE N87°18'29"W 65.13 FEET THENCE S02°40'17"W 13.01 FEET; THENCE N87°13'13"W 222.57 FEET; THENCE N02°39'07"E 98.08 FEET; THENCE N87°11'50"W 222.77 FEET; THENCE N87°13'26"W 514.88 FEET TO AN EXISTING IRON ON THE EAST RIGHT OF WAY LINE OF THE BURLINGTON NORTHERN RAILROAD; THENCE ALONG THE EAST RIGHT OF WAY LINE OF SAID RAILROAD N35°29'31"E 52.81 FEET; THENCE N32°17'21"E 103.24 FEET; THENCE N28°25'22"E 103.51 FEET; THENCE N24°16'00"E 103.08 FEET; THENCE N21°19'30"E 102.24 FEET; THENCE N18°44'44"E 102.31 FEET; THENCE N17°42'23"E 150.90 FEET; THENCE N19°09'44"E 46.21 FEET; THENCE N19°55'12"E 130.59 FEET; THENCE N24°20'10"E 111.27 FEET; THENCE N28°56'24"E 112.03 FEET; THENCE N33°22'01E 78.14 FEET; THENCE N36°27'09"E 61.08 FEET; THENCE N40°40'51"E 107.01 FEET; THENCE S86°14'53"E 62.45 FEET TO AN EXISTING IRON ON A 1381.79 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY AND CURVE 417.54 FEET, THE CHORD FOR WHICH BEING N51°38'45"E 415.96 FEET, TO AN EXISTING ARKANSAS HIGHWAY COMMISSION RIGHT OF WAY MONUMENT ON THE SOUTH LINE OF ARKANSAS HIGHWAY 180 (WEST 6TH STREET); THENCE ALONG THE SOUTH RIGHT OF WAY LINE OF SAID HIGHWAY S87°41'42"E 40.98 FEET TO AN EXISTING AHC MONUMENT; THENCE S87°40'49"E 26.16 FEET TO AN EXISTING AHC MONUMENT; THENCE S88°18'0"E 3.15 FEET; THENCE LEAVING SAID RIGHT OF WAY S01°44'50"W 153.30 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 315.50 FEET AND A DISTANCE OF 81.06 FEET; THENCE S16°28'1"W 8.54 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 215.50 FEET A DISTANCE OF 40.68 FEET TO THE POINT OF BEGINNING, CONTAINING 27.969 ACRES, MORE OR LESS, FAYETTEVILLE, ARKANSAS. THE ABOVE DESCRIBED 27.969 ACRE TRACT BEING SUBJECT TO THE RIGHT OF WAY OF DUNCAN AVENUE, ANDERSON PLACE, HILL AVENUE AND ALL EASEMENTS AND/OR RIGHTS OF WAY OF RECORD.

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Fayetteville
ARKANSAS

Aldermen

Ward 1 Position 1 - Robert Reynolds
Ward 1 Position 2 - Brenda Thiel
Ward 2 Position 1 - Kyle B. Cook
Ward 2 Position 2 - Don Marr
Ward 3 Position 1 - Robert K. Rhoads
Ward 3 Position 2 – Bobby Ferrell
Ward 4 Position 1 - Shirley Lucas
Ward 4 Position 2 - Lioneld Jordan

City Council
Meeting Minutes
January 18, 2005

A meeting of the Fayetteville City Council was held on January 18, 2005 at 6:00 p.m. 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 Reynolds, Thiel, Cook, Marr, Rhoads, Ferrell, Lucas, Jordan, Mayor Coody, City Attorney Kit Williams, City Clerk Sondra Smith, Staff, Press, and Audience.

Pledge of Allegiance

State of the City Address:

Mayor Dan Coody gave the State of the City Address. A copy of the address is attached.

Election of the Vice Mayor:

Alderman Lucas moved to appoint Alderman Jordan to serve as Vice Mayor. Alderman Marr seconded the motion. Upon roll call the City Council unanimously voted for Alderman Jordan to become Vice Mayor.

Board Appointments by the Fayetteville Housing Authority Board: Robin Ross & Deborah Olsen:

Alderman Marr moved to approve the Housing Authority Board appointments. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

CONSENT:

Approval of the Minutes: Approval of the December 7, 2004, December 28, 2004, January 4, 2005, and January 6, 2005 City Council meeting minutes.

The January 4, 2005 and the January 6, 2005 meeting minutes were pulled from the agenda.

ESRI, Inc. Annual Maintenance Agreement: A resolution approving the annual maintenance agreement in the amount of $28,124.72 with ESRI, Inc. for Geographic Information System (GIS) software maintenance and upgrades.

Resolution 09-05 as Recorded in the Office of the City Clerk.

Hansen Technology, Inc. Purchase Request: A resolution approving a purchase request to Hansen Technology, Inc. in the amount of $55,086.88 for 2005 service and maintenance fees.

Resolution 10-05 as Recorded in the Office of the City Clerk.

Pumping Unit Purchase: A resolution approving the purchase of one (1) portable, hydraulic-powered centrifugal pumping unit from Thompson Pump and Manufacturing Co., Inc. in the amount of $24,431.50.

Resolution 11-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Wedington Drive): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $54,000.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Wedington Drive.

Resolution 12-05 as Recorded in the Office of the City Clerk.

McClelland Consulting Engineers, Inc. Contract (Razorback Road): A resolution approving a contract with McClelland Consulting Engineers, Inc. in an amount not to exceed $22,800.00 for survey and preliminary design services for water and sewer relocation for highway improvements to Razorback Road.

Resolution 13-05 as Recorded in the Office of the City Clerk.

Police Vehicle Purchase: A resolution authorizing the purchase of thirteen (13) Ford Crown Victoria Police Interceptors from the North Point Ford of Little Rock at a total cost of $261,989.00.

Resolution 14-05 as Recorded in the Office of the City Clerk.

Insituform Technologies, Inc. Contract Renewal: A resolution approving a contract renewal with Insituform Technologies, Inc.; and authorizing the expenditure of an amount not to exceed $338,250.00 for sanitary sewer lining services.

Resolution 15-05 as Recorded in the Office of the City Clerk.

South Fayetteville Community Development Corporation Fee Waiver: A resolution to waive the building permit fee and other developmental fees for homes to be constructed by the South Fayetteville Community Development Corporation.

Resolution 16-05 as Recorded in the Office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda with the January 4 and January 6 meeting minutes removed. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

UNFINISHED BUSINESS:

RZN 04-1330 (Dunnerstock): An ordinance rezoning that property described in Rezoning Petition RZN 04-1330 for property located on the west side of Rupple Road containing approximately 19.84 acres from RSF-1, Residential Single Family, One Unit per Acre to RSF-4, Residential Single Family, Four Units per Acre. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

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

Mr. Williams read the ordinance.

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

Ordinance 4671 as Recorded in the Office of the City Clerk.

R-PZD 04-1307 (Aspen Ridge): An ordinance establishing a Residential Planned Zoning District titled R-PZD 04-1307, Aspen Ridge located south of 6th Street, west of Hill Avenue, northeast of 11th Street along Town Branch Creek containing approximately 27.969 acres, more or less; amending the Official Zoning Map of the City of Fayetteville; and Development Plan as approved by the Planning Commission. ***This ordinance was left on the second reading at the January 4, 2005 City Council Meeting.***

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

Mr. Williams read the ordinance.

Alderman Cook stated he would have to recuse from this vote.

Alderman Thiel: I would like to compliment Mr. Broyles, the owners and the other developers of this project. They have gone out of their way; I think Mr. Broyles has inparticularity, visiting with the neighborhood and addressing the impact of the stream. They have also worked with the Audubon representatives on ways they can protect and enhance the water way. I have had and the neighborhood has had a lot of concerns about potential flooding at this project. The more I have visited with Mr. Broyles and looked at this project, we have to depend upon the engineers that they will design this properly. The city has a good staff of engineers that will oversee this project. They have to guarantee that they will not increase the problem; they can't guarantee that they will make it better but they have to guarantee that their project will not increase it. One thing that has been pointed out is that the water way will probably, through this project, stay much cleaner than it has over the past few years. Some of the debris and so forth that gets in this water way contributes to some of the flooding downstream. I think that in itself is valuable that the stream will be kept cleaner. I at this point will probably support this project. I think it will certainly enhance that neighborhood. I am really glad that most of the project is going to be owner occupied; I think that complements that neighborhood.

Mitch Woody: I am all for this project. Most of the residents that live around there feel like it is a lot better to have beautiful town homes than to have what was there before. The Planning Commission, Mayor and city officials have done a lot of hard work to make this project go through. As a former real estate broker from Texas I can appreciate that hard work.

He handed out a packet to the City Council that showed the extension of Brooks Avenue from Phase 2 of Aspen Subdivision. It shows that Brooks Avenue will be built and tie in with Twelfth Street. He said there are 12 families living on Twelfth Street and that they are very happy with the way it is now but progress has to go on. It is a dead end street right now. He is concerned with the possibility of in the future extending Brooks Street all the way to Fifteen Street. Originally when the subdivision was platted to show the street, Brooks Avenue was going all the way to Fifteenth Street, it was vacated back to the property owner in 1993. He said as it stands right now the only options that we have would be to tie it in with Twelfth Street which wouldn't be that bad.

Mr. Woody explained the map that he presented to the City Council and the different routes around this area. He also discussed the traffic study that was completed in this area. He stated he did not feel the numbers were accurate. He stated the engineers are from Little Rock and it is difficult for them to tell what the traffic flow actually is. He stated he is concerned about their numbers.

I am not here to try to put a halt to this. I believe the project should go through rapidly. I just wanted to let everyone know how we feel around the neighborhood. Mayor Coody indicated

today that Mr. Dumas and Mr. Pate were going to try to put together a package for the Mayor so the Mayor could contact Pinnacle at some future date and see if they wouldn't agree to donate a strip of land through there for the street. Of course we couldn't ask the developer to come back and put a street in after everything is already done. Mr. Dumas suggested that the City might later put in a street through a street improvement project. It is really needed. I would like to thank the Mayor for working with us and talking to Pinnacle.

Mayor Coody: I did hear from Pinnacle this afternoon and they said the immediate answer was no but they were going to kick it up the chain of command.

Mitch Woody: Whatever you can do in the future. I would hope that the City Council would agree that that street is needed. Thank you so much. I know it is a lot of hard work and this is a great project.

Aubrey Sheppard a resident of the neighborhood: I agree with most everything everybody said. I was asked the last time I was here who has problems with this. I said a lot of people feel that if they take the trouble to come down they do not think they will be listened to. That is a fact. I talked to one lady and she stated if she comes here and tells people how close that water came to her house three different times last year and she decides to move and sell, she might not be able to sell her home because the water goes almost out to the street without getting in her house. Just a little bit of change in the floodplain up stream could make that difference that is something hard to guarantee. It is close to being dangerous anytime you live in a floodplain or very near one. When these houses were built it wasn't a dangerous situation because we didn't have all the paving on the University campus or a lot of things built up there. Each project that is done from now on and as it has been for years will increase, as it has, the potential of flooding downstream. That is why we spoke with Mr. Broyles many times and with this Council about the significance of being sure that we don't increase it at all if possible. We can't keep a 10 inch rain from coming and we can't guarantee it won't get up a little higher than it ever has even now. It is sort of like the global warming argument even if mankind's acts are not causing it then maybe we still need to be sure that what we do choose to do doesn't aggravate it, if it is occurring naturally. We know it is occurring for come reason.

He showed the Council some photographs of the property and the water that floods the property.

Alderman Rhoads: Are these the same photographs that are on your website?

Aubrey Sheppard: One of these is on the website the other one isn't.

Alderman Rhoads: Mr. Sheppard are you contending that you are very certain that because of this development that all these things are going to happen. That people's homes are going to be flooded or that it is just a possibility.

Aubrey Sheppard: Three times last year the water got very near property.

Alderman Rhoads: Are you contenting it is just a possibility or are you fairly certain that it is going to happen?

Aubrey Sheppard: Well, I don't make it rain so I am not going to make it happen but rain comes and if it should come as it did three times last year and get out of the banks then it's basically a slew parallel to the town branch.

Alderman Rhoads: Have you talked to the developers about this issue?

Aubrey Shepperd: Sure. We talked about it first last April as I recall.

Alderman Rhoads: What did they say?

Aubrey Shepperd: They are hoping their engineers get it right so that it can't happen. What I was pointing out, that I am not sure the engineers concluded, was that the over flow when the creek gets up as it did last year, then the water gets out there. If that doesn't occur, water goes down stream faster.

Mayor Coody: Mr. Shepperd what is your recommendation to the City Council? Are you asking the Council to deny the development?

Aubrey Shepperd: Not at all. I am not sure I am doing anything but maybe talking about the future. When you look at developments and when your engineers get plans in, in a water shed area that may not be identified on a map as an over flow or flood plain area it may not say wet land. The Corp of Engineers and the Department of Environmental Quality get their information from what the engineers give them from the site. I think they are hoping that it will not cause any problems. I don't think that they would willingly create that problem. I would ask them to adjust those plans a little bit to see that as much of the flood plain is there to allow the water to flow as it does now. That could possibility help the situation.

Mayor Coody: I know this development has been in the works for about two years and they have done a lot of changing to the plans. They have worked with our storm water engineers and the neighborhood extensively to make something that would be palatable to pretty much everyone.

Aubrey Shepperd: Some of us in the neighborhood have tried to be available every chance we had to visit with them and look at things with them and they have been very good about that, this is not a complaint about that at all. Planning Commission when this was finally announced put one sign on Sixth Street, that didn't show the people that there was development coming anywhere else down the street or anywhere connected to it. So, people didn't know they should come to comment except when they were told it would affect them. There was one story in one of the newspapers that actually mentioned the limits of this development site. I would say we need to notify more people not just adjacent property owners. Thank you.

Mary Bassett, owner of Bassett Mix Real Estate Company stated she appreciated the opportunity to speak. She said she is very familiar with this property and what it looked like before the developers bought it. She stated none of this property was listed. She represented the developers in acquiring it; they went to each tract of land individually and approached them about selling their property. The majority of them got more financial gain by these developers.

buying their property. They gave more than the appraised value for many of these properties to accumulate the property to make it a whole 30 acres that they could develop in a feasible way and to help in the redefining of south Fayetteville. She stated it is going to be a beautiful project and she is very proud to represent them.

Melissa Terry with Audubon Arkansas: The developers have been very good about working with us. Audubon has tried to be a third party to help broker some of this discussion. I think a lot of the tension that has come up is a natural consequence of some of these downtown areas getting infilled. The reason they weren't in the first place is because they were problematic environmentally. Audubon has over the past year and a half worked with the developer and the neighborhood association. We have invested approximately $200,000 in grant funds along this drainage. We see this as an investment in green infrastructure, a piece of infrastructure that's just as important as the city sewer or cable. This infrastructure has vital long term economic consequences for our community. We will do everything we can to keep working with the parties and I ask for your support as we go along.

Alderman Lucas: You had originally recommended 28 feet for that street with the idea that it would be going on to Fifteenth. Should we go back to 28 feet, does that allow a turn lane or why were you recommending 28 feet?

Jeremy Pate: The initial recommendation for 28 feet would allow on street parking. We were looking initially at the number of traffic that would be generated and the potential for it to get to Fifteenth Street. That would probably become much more of a through connection south to Fifteenth Street. The Planning Commission voted to recommend that go to 24 feet; it is just connecting to Twelfth. As the traffic study indicates only about 4% of the traffic will leave Phase 2 along Brooks and then Twelfth Street to go south. I feel comfortable recommending the 24 foot wide street as the Planning Commission has also indicated.

Alderman Lucas: Does that allow a turn lane later?

Jeremy Pate: It does not.

Larry Smith voiced his concern about the traffic.

Alderman Thiel: We should be very cautious whenever we vacate streets and alleys. This is a good example of no one foreseeing this project. I hope everyone understands that this is not something that we can do without condemning that property and paying money for it. I hope everyone understands that our hands are kind of tied in trying to make this extension.

Alderman Reynolds: Brenda and I have spent a lot of time in this area, we have done a lot of extra clean ups, we have taken tons of trash out of this area. When I heard Mr. Broyles was going to come in and take out these eyesores, which was the worst nightmare this city has ever had, those two parks, I thought it was a blessing for us and for our neighborhoods. For him to take on a project this size, you are not always lucky enough to get a home town guy to do a job like this. I know he is going to do a good job and he is going to do it right. I am going to support the project and I hope the neighbors do too at this point.

Alderman Marr: I want to thank the Audubon, the neighborhood association and the developer for working together because I do believe we need to push infill development in our city. I think it keeps us from annexing and putting in infrastructure outside of the core that cost us a lot more than continuing to invest in areas that are already there. I do realize we are going to have some difficult situations in doing that. I think it takes creativity to get through that, I appreciate the people who have done that. I am thrilled that we are having an infill project in south Fayetteville.

Alderman Jordan: I want to be sure that a 24 foot wide street is going to work. I am a big proponent of planning and what might occur. In your expert opinion we do not need a 28 foot street?

Jeremy Pate: A 28 foot wide street is considered a local street it handles 3,000 to 5,000 vehicle trips per day. That is not something we anticipate in this area. The 24 foot wide street in our Master Street Plan is considered a residential street and is probably more appropriate in this area. Most of the streets are actually a little wider and Twelfth Street is approximately 31 feet wide. It was developed like that to meet our ordinances in the past. The amount of traffic will probably never get to that point. We feel it is an adequate number at this point. It will allow for on street parking. Many of the streets downtown that handle much the same amount of traffic are the same width or narrower.

Alderman Lucas: If we do get the street through to Fifteenth Street will there be room for a turn lane?

Jeremy Pate: Yes that could be accommodated.

Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Cook recused.

Ordinance 4672 as Recorded in the Office of the City Clerk.

Downtown Master Plan Redevelopment District Number Two Adoption: An ordinance forming the Downtown Master Plan Redevelopment District Number Two pursuant to Amendment 78 of the Arkansas Constitution and authorizing the preparation of a project plan. ***This ordinance was left on the first reading at the January 4, 2005 City Council Meeting.***

Mayor Coody: I suspect this will be tabled at this meeting?

Kit Williams: Mr. Mayor I think you are correct on that, at this point until we have some resolution from the legislative or more likely from the courts I think that the TIF Districts, all of them in the State are kind of up in the air. My recommendation would be that you simply move to table this district indefinitely and then if something changes in the future we can bring it back.

Fayetteville
ARKANSAS

PC Meeting of December 13, 2004

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO:	Fayetteville Planning Commission
FROM:	Jeremy Pate, Senior Planner
	Brent O'Neal, Staff Engineer
THRU:	Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE:	~~December 08, 2004~~ *Revised 12-16-04*

R-PZD 04-1307: Planned Zoning District (ASPEN RIDGE, 522/561): Submitted by MATT CRAFTON CRAFTON, TULL & ASSOC. for property located at THE SW CORNER OF HWY 62, S ON HILL AVENUE AND BORDERED BY 11TH STREET AND THE BURLINGTON NORTHERN RR. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 27.969 acres. The request is to approve a Residential Planned Zoning District with 220 condominiums in two phases proposed.

Property Owner: HANK BROYLES Planner: JEREMY PATE

PLANNING COMMISSION ACTION:	Required YES	
Date: December 13, 2004	☑ Approved 8-0-0	☐ Denied
CITY COUNCIL ACTION:	Required YES	
Date: January 04, 2005 (1st reading if recommended)	☐ Approved	☐ Denied

Findings:

Property Description: The property consists of a total of 27.969 acres located in south Fayetteville, south of Hwy 62 (6th Street), west of Hill Avenue, east of the Railroad, along Town Branch Creek. The property previously was inhabited by a mobile home park, which was recently removed by the applicant. Several tons of trash, debris, tires, etc. were separated and removed from this property, beginning the cleaning up process. A total of 49 mobile homes and 6 single family homes were removed in an effort to combine the property for development. The applicant has contributed much time and money in an effort to clean this particular site, which is not readily recognized in the development review process. Approximately half of the site is underneath tree canopy, the majority of which is located along College Branch Creek, a stream

that bisects the site north and south. This stream, and associated runoff from surrounding development, has been the source of many neighborhood concerns in past years, due to high water, flooding and debris being washed into and down the creek during heavy rainfalls. There are existing wetlands in the area, as well, much of which the developer is proposing to retain or enhance.

Existing Development: The site is currently vacant, with remnants of the previous mobile home park development evident.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Hwy 62 – 6th Street, busy arterial	RMF-24, C-2
South	Pinnacle Foods, Single Family homes, approved MF development	I-2, RMF-24
East	SF homes, Coors, Brenda's Burgers	RMF-24, I-1
West	Burlington-Northern Railroad	RMF-24

Proposal: The applicant requests a rezoning and large scale development approval for a residential development within a unique R-PZD zoning district. The proposed use of the site is for a condominium-style development consisting of 220 attached residential dwelling units. Two separate phases are identified. Phase I consists of 113 units on the east side of College Branch Creek, and Phase II consists of 107 units on the west side of the creek. A future Phase III consisting of mixed-use office/retail/commercial is indicated on the site plans at the corner of 6th Street and Hill Avenue, but is not the subject of this request.

Process: Currently, the project proposal is submitted as one large tract of land, consisting of 27.969 acres. There are several independent parcels that create this tract, all of which are being combined into one for the purposes of development. Plans consist of all proposed buildings, parking, driveways, public and private streets, landscaping, tree preservation and mitigation, wetland mitigation, parkland dedication, trail construction, public utility extensions, etc., typically reviewed with a Large Scale Development. The developer intends to construct the project much as a typical multi-family development, with all structures, public infrastructure and utilities being constructed simultaneously. Though the process by which the request is being reviewed is a Large Scale Development consisting of 220 *condominiums*, the intent is to sell each of the 220 *townhomes* as a single-family residence and plat each townhome as a separate lot once the infrastructure has been constructed and the exact locations of the buildings are set in the field.

To clarify, a condominium and townhome are distinct from one another: **Condo unit owners own the inside of their units. Townhouse owners own the complete unit, including exterior surfaces and the land on which the unit is built.**

Condominium: a multiple-unit complex, the units of which are individually owned, with each owner receiving a deed to the unit purchased . . . and sharing in joint ownership of any common grounds, passageways, etc. (through an established POA/HOA) *(paraphrased from Webster's*

College Dictionary, 1991).This type of dwelling unit typically does not have land attached to its deed, it is merely the unit alone, inside the walls of the structure.

Townhome: a row house on a small lot, which has exterior limits common to other similar units. Title to the unit and its lot is vested in the individual owner with a fractional interest in common areas, if any. *(Source: mortgagewarehousemb.com)* A **townhouse** is a home that is attached to one or more other houses, but which sits directly on a parcel of land that you also own (if you don't own the land, it is a **condominium**).

In order to plat individual lots for the townhomes in the future, an amended Planned Zoning District plat will have to be processed and approved by the Planning Commission and City Council, at that time. This will likely take the form of a Concurrent Plat, if it meets the appropriate criteria. Otherwise, a Preliminary and Final Plat process will be required.

Proposed Land Uses:

- Use Unit 1: City-wide Uses by Right
- Use Unit 8: Single Family Dwellings
- Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

The total proposed number dwelling units on the 27.969-acre site is 220, therefore the proposed density for the R-PZD is **7.87 DU/acre.** The project site is currently zoned RMF-24, allowing for a much higher density of development as a traditional multi-family complex. The potential for a townhouse-style division of land, the inclusion of the public trail system, a public park, a large Tree Preservation and riparian corridor protection area, the challenges presented by existing natural conditions (drainage, slope and railway); all of these contribute to the need to process a Planned Zoning District in order for the best project to result for both the applicant and the city.

Building Setbacks: Building setbacks are proposed as indicated on the plat. Most setbacks are 8' or 10', with an exception at the 6th Street frontage (20 feet) and Duncan/11th Street frontage (25 feet).

Building Height: Maximum building height shall be 40 feet.

Greenspace: 51.6% Impervious (greenspace), 48.4% pervious (streets, buildings, trail, parking)

Wetlands: A small percentage of wetlands on the property are being filled and mitigated for in the riparian corridor along Town Branch Creek. As part of the Corps of Engineers permit to do so, a buffer area is to be deed-restricted for protection from future development. A portion of this area will also serve as the Tree Preservation and mitigation area.

Water & Sewer: Water and sewer lines are being extended to serve the development. The applicant is extending public lines to service each unit individually, in order to legally subdivide the property in the future.

Access: Access is from several streets in the area:

North: 6th Street (one-way entrance and exit, with a right-turn only allowed when exiting)

South: Phase I has no access across the creek.

Phase II : 11th and Duncan

: Brooks Avenue and 12th Street. This separate access point is recommended to provide a safe means of access into Phase II and alleviate potential congestion at the intersection of 11th and Duncan.

East: Phase I access east to Hill Avenue.

Phase II access south and east onto Duncan/11th/12th Streets.

West: No access is available over the railroad.

The ingress/egress to the proposed 113 units in Phase I is from 6th Street and Hill Avenue. Based on a traffic study prepared for this project, a turn lane and widening of the intersection is warranted at Hill and 6th Street due to the increase in number of vehicle trips per day, and plans by the developer have been prepared accordingly. Ingress and egress to Phase II is more difficult, due to the lack of frontage for this particular parcel. Staff has recommended, and the developer consented, to constructing an additional means of access within platted right-of-way known as Brooks Avenue, to connect to the portion of 12th Street that is constructed. The other entrance to this phase is at the corner of 11th and Duncan, which has been reviewed and determined to be satisfactory by the Engineering Division.

Interior to the project, public streets are being provided within a varying right-of-way, with sidewalks on both sides in most cases. Staff recommends that where possible, the sidewalk be located at the right-of-way line, with a minimum distance of six feet from the curb, to meet Master Street Plan requirements.

Adjacent Master Street Plan Streets: 6th Street (Principal Arterial), Hill Avenue, 11th Street, Duncan Avenue (Historic Collector)

Street Improvements: Staff recommends street improvements to surrounding streets to bring them to a safe and adequate level of service for the additional units proposed in this area. A significant number of units are being added to this area, and much of the property being developed has no direct frontage onto adjacent right-of-way. The following are staff's street improvement recommendations for the developer to meet ordinance requirements for this development's proportionate share:

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this stretch of street.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing

signal system. (Recommended in traffic study)

- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. The Master Street Plan calls for a 28-foot wide street in this location, based on the platted right-of-way and number of vehicle trips per day to be generated. The applicant disagrees with this recommendation, stating the Traffic Study indicates only 4% of all traffic from Phase II will utilize Brooks Avenue. Based on this same report, the following is applicable:
    - Phase II will generate approximately 627 vehicle trips per day.
    - Figure 3 of the Traffic Report indicates slightly more vehicles will travel south from Phase II than north (358 vs. 303) in a 24 hour period.

A 24-foot wide Residential Street is designed to serve a range of 300-500 vehicles per day, maximum. Should ½ of the traffic within Phase II of the development travel south, many of them will utilize the Brooks Avenue access. Typical traffic calculations by the City of Fayetteville, when two access points are provided, are based on ½ of the traffic potentially traveling in either direction. This would result in approximately 313 vehicles trips per day accessing the Brooks Avenue access. Additionally, the street to be constructed to provide the only secondary means of access to this site also fronts onto other properties that are vacant and have the potential to develop in the future, thereby increasing their volume. A Local Street, by contrast, is developed with a 28-foot width and can support up to 4,000 vehicles per day, per the Master Street Plan. Staff recommends a 28-foot wide street be constructed, to transition to the existing 31-foot wide 12th Street. This is based on providing a safe and adequate means of access to the proposed development, planning for this development along with potential other developments in the area that may access the street, and Master Street Plan requirements.

Tree Preservation:	Existing:	52.5%
	Preserved:	15.1%
	Mitigation:	On-site mitigation, to 25% minimum

Parks: The Parks and Recreation board recommends a combination of money, land and services to meet park land dedication requirements. This will include 0.36 acres of land on which a 12-foot public trail is to be constructed by the developer, per the City of Fayetteville specifications. In addition, approximately 0.86 acres of land on the southern edge of the property is to be dedicated as a public park. *Credit will be applied to the developer to account for 55 existing inhabited homes that were removed from the property.* If remaining fees are due above and beyond the requirements herein, they will be applied to amenities for the park.

Temporary Office Space: The applicant proposes to operate one (1) temporary office within the development specifically for the purpose of selling townhomes for Aspen Ridge. One of the constructed units in the Phase I area will be used as the location of the sales office, with office hours of Monday through Friday, 8 am to 8 pm, Saturday and Sunday 10:00 am to 6:00 pm.

Once all of the units in the development are sold, the sales office will be closed and sold as a single-family residence.

Neighborhood Involvement: The applicant has met several times with adjoining property owners and neighbors on Duncan, both in groups and individually. Much concern has been voiced regarding the drainage and flooding problems associated with the Town Branch Creek. Many of the homes that are adjacent to this creek are within the 100-year floodplain or floodway. The developer has been involved with his engineers from the beginning of the process to best address these concerns, and others voiced by the neighborhood. Though not all are pleased with all aspects of the proposal, staff has received numerous calls from residents in this area pleased with the clean-up effort, removal of the mobile home park and the efforts to better the drainage situation, along with the proposal for single family attached units, rather than typical multi-family units that are allowed by right on the property.

A draft of the future plat of lots, as well as the applicant's response to the Planned Zoning District requirements and description of the project have been submitted and are included in the staff report.

Recommendation: Staff recommends the Planning Commission forward **R-PZD 04-1307** to the City Council with a recommendation of approval for the requested rezoning and associated development plans, with the following conditions of approval:

Conditions of Approval:

1. Allowed uses in this R-PZD shall be restricted to Use Unit 1: City-wide Uses by Right, Use Unit 8: Single Family Dwellings and Use Unit 26: Multi-family Dwellings – Townhouse development, more than three attached units.

2. Planning Commission recommendation for future vacation of portions of existing Duncan Avenue and Anderson Place rights-of-way to facilitate the proposed development. *Staff recommends approval of the vacation of these platted rights-of-way, due to the changes in circulation proposed with the submitted site plans. The connection these two streets make will be in an improved configuration, with a boulevard section that enters into this neighborhood.* PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED FUTURE VACATIONS.

3. No structure shall be permitted that falls into existing platted right-of-way. Formal vacation requests for Duncan Avenue and Anderson Place shall be submitted prior to permitting of affected buildings.

4. Planning Commission determination of the applicant's request for a temporary sales office. *Staff recommends approval, with the following conditions: One (1) dwelling unit shall be permitted to house a temporary sales office for the sole purpose of selling dwelling units within the Aspen Ridge Planned Zoning District. The sales office shall appear in all manners as a dwelling unit, and shall cease operation and revert to its intended use as a single family residence once the remaining units have been sold.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE REQUESTED OFFICE.

5. Planning Commission determination of appropriate off-site street improvements. *Staff recommends the following improvements for this development:*

- Repair the broken pavement on 11th Street, directly south of the proposed intersection at the corner of 11th and Duncan, as part of the improvements to this street being utilized for primary ingress and egress, to the satisfaction of the Engineering Division.
- Continue the existing sidewalk on the north side of 11th street to connect the proposed sidewalk on Greystone Drive (approximately 20 feet).
- Complete the curb and gutter on the south side of 11th street from the bridge west to the constructed curb/gutter. Minimum street width should be 24 feet, face of curb to face of curb (approximately 240 feet in length).
- Widen the intersection at Hill Avenue and 6th Street, including a turn lane, the cost of relocating traffic signals and any necessary costs to add a left-turn signal to the existing signal system. (Recommended in traffic study)
- Improve that portion of Hill Avenue adjacent to the subject property where necessary, to conform to City specifications. A six-foot sidewalk is required, at the right-of-way line.
- Relocate the sidewalk along 6th Street to transition from the railroad bridge to the Master Street Plan right-of-way line along the frontage of this project.
- Construct a secondary means of access to Phase II; *The applicant proposes to construct a 24-foot wide public street within existing platted right-of-way of Brooks Avenue and turning south to connect to 12th Street. Staff recommends a 28-foot street to meet Master Street Plan requirements for the vehicle trips per day generated by this development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS, WITH A 24-FOOT WIDE STREET FOR BROOKS AVENUE.

6. Atypical interior street widths, sidewalk location, etc. shall be reviewed and approved by the Engineering Division at the time of more detailed construction plan review, to ensure emergency service vehicles, public service providers, solid waste, etc. is able to access the proposed development.

7. A combination of land, money and services shall be contributed by the developer to meet parkland dedication requirements, including 0.36 acres for a public trail, construction of said 12-foot wide trail, 0.86 acres land dedication for a park and all remaining fees due in excess of the above requirements for 220 units to be utilized for park amenities. ***Credit in the amount of $30,525 (55 units * $555/unit) will be applied to the developer to account for 55 existing homes that were removed from the property prior to development.*** All fees and deeds for land shall be submitted prior to building permit.

8. The developer shall mitigate for the removal of 115,440 sf of tree canopy to meet Tree

Preservation ordinance requirements. On-site mitigation shall consist of a minimum of 420 trees. If all trees can not be planted on-site, the balance shall be contributed into the Tree Fund, as determined by the Landscape Administrator.

9. Specific location of the on-site mitigation trees shall be coordinated with the Landscape Administrator for approval. Several sites exist on the property where mitigation trees could benefit the overall development and enhance the creek corridor, currently not indicated on the plans.

10. The property line adjustments to create the described 27.969-acre parcel shall be processed, approved and recorded prior to this item appearing before the City Council for consideration.

11. Staff recommends a second pedestrian path be constructed from approximately between buildings 35 and 36 in Phase II to connect to the public trail through an existing creek crossing (see plat). A hard-surface (concrete or asphalt) path is desired. However, at minimum, the path shall be constructed of a 4" minimum depth shredded mulch (or equal) with appropriate edging on both sides. Trail slope, width, location through existing tree canopy and specifications shall be approved by the City prior to construction.

12. Signage for the development shall be limited to one (1) monument sign at each of the three primary entrances to the development. Sign size, location, height, etc. shall be limited to the monument sign restrictions in an RMF zoning district, per city code. (Maximum 16 square feet display surface area, six feet in height, 10 feet from the property line).

13. All dumpsters shall be enclosed on a minimum of three sides with access not visible from the street. Landscape screening as shown shall be required.

14. No structures shall be constructed over public utility easements, per city ordinance (including, but not limited to, trash enclosures).

15. Should the applicant desire to subdivide the land to create townhomes, an amended Planned Zoning District will be required. The development review process will likely be a Concurrent Plat, if all criteria are met. If not, a standard Preliminary and Final Plat will be required to subdivide the property.

16. All comments as itemized in the attached memo from the City Floodplain Administrator shall be addressed at the appropriate time and are considered, by reference, a part of the official Conditions of Approval (see attached).

17. The maximum separation for fire hydrants shall be 500 feet in distance.

18. Entrances into the subject property shall utilize a minimum width of 20 feet clear, to allow for the passage of emergency vehicles.

19. Maximum spacing for public street lights shall be 300 feet, along the proposed and existing public streets.

Standard Conditions of Approval:

20. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)

21. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.

22. Planned Zoning District approval shall be valid for one calendar year, per city ordinance.

23. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

24. Prior to the issuance of a building permit the following is required:
    a. Grading and drainage permits
    b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
    b. Separate easement plat for this project that shall include the tree preservation area.
    c. Project Disk with all final revisions
    d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by §158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

PLANNING COMMISSION ACTION: yes **Required**

Date: December 13, 2004 — √ **Approved** ____ **Denied**

8-0-0

The "CONDITIONS OF APPROVAL", stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____ **Date** _____

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City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Tim Conklin	Planning and Development	Operations
Submitted By	**Division**	**Department**

Action Required:

An ordinance amending Title XV: Unified Development Code of The Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

	$ -	
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 — 7-23-07 Date

City Attorney — 7-23-07 Date

Paul A. Beck — 7-23-07
Finance and Internal Service Director — Date

Mayor — 7/23/07 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office — ENTERED 7/20/07

Received in Mayor's Office — ENTERED 7/23/07 BEP

Comments:

City Council Meeting of August 7, 2007
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Tim Conklin, Planning and Development Management Director

Date: July 20, 2007

Subject: **An ordinance amending Title XV: Unified Development Code of The Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.**

RECOMMENDATION

The Ordinance Review Committee voted to send the proposed ordinance without a recommendation to the full Council to amend the Unified Development Code to reduce the required curb radius and driveway widths for parking lots containing 8 or fewer parking spaces and regulating parking in the front yard area of a residential dwelling.

BACKGROUND

Existing UDC regulations concerning driveway curb radius and driveway widths are primarily designed to facilitate unrestricted traffic movements into parking areas without regard to the size of the parking lot or the amount of traffic volume likely to be generated by the development. Planning Staff has determined that this requirement in some instances is unnecessary and counterproductive to creating compact, complete and connected development patterns and locating parking behind existing buildings. Staff has drafted amendments that would create new standards for parking lots with 8 or less off-street parking spaces.

The City also receives numerous complaints related to the parking of several vehicles in the front yards of residences. Planning Staff proposes adding a new section to Chapter 172: Parking and Loading to regulate the number (4 spaces maximum) and location of vehicles parking in the front yard area of residential dwellings.

BUDGET IMPACT

None

ORDINANCE NO. ____

AN ORDINANCE AMENDING TITLE XV: UNIFIED DEVELOPMENT CODE OF THE CODE OF FAYETTEVILLE TO AMEND CHAPTER 171: STREETS AND SIDEWALKS AND CHAPTER 172: PARKING AND LOADING IN ORDER TO REDUCE THE REQUIRED DRIVEWAY WIDTHS AND REGULATE PARKING IN THE FRONT YARD AREA OF RESIDENTIAL DWELLING UNITS.

WHEREAS, the City of Fayetteville recognizes that currently required driveway widths are often excessive, especially in areas of the City with compact and connected development patterns; and

WHEREAS, the City of Fayetteville has determined that the public safety will not be adversely impacted by reducing the required width of driveways serving small parking lots with low traffic volume; and

WHEREAS, the City of Fayetteville has determined that when public service vehicles do not need access to small parking lots, reduced driveway widths can accommodate typical vehicular traffic; and

WHEREAS, City Plan 2025 encourages complete, compact and connected development patterns; and

WHEREAS, narrow pavement width reduces impervious surface and storm water run-off, which is environmentally sensitive; and

WHEREAS, parking in the front yard area of residential dwelling units can be appropriate with adequate regulations.

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

Section 1. That Chapter 171 Streets and Sidewalks is amended by repealing §171.13(B)(6) with following sections to be renumbered as necessary.

Section 2. That Chapter 172 Parking and Loading is amended by repealing §172.04(D)(2), and enacting a replacement § 172.04(D)(2) a copy of which marked Exhibit "A" is attached hereto and made a part hereof.

Section 3. That Chapter 172 Parking and Loading is amended by enacting a new subsection titled 172.11 Driveway Design, Location and Construction Standards for Four (4) or Less Parking Spaces within the Front Yard Area, a copy of which marked Exhibit "B" is attached hereto and made a part hereof.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

EXHIBIT "A" Proposed Amendments

172.04 Parking Lot Design Standards

(D) Parking Lot Circulation

(2) *Entrances and internal aisle design for parking lots containing 8 parking spaces or less.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

(i) *One-way access to parking lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 16 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. Commercial solid waste service is required.

(ii) *Two-way access to parking lots.* For two way access, the driveway width shall be a minimum of 12 feet and a maximum of 24 feet. Parking lots shall not be located more than 100 feet from the street right-of-way. This standard shall only apply when a 2 yard dumpster is allowed.

(iii) *Driveway width requirements for parking lots located 100 feet or more from the street right-of-way.* Two drive lanes a minimum width of 10 feet each, up to a maximum combined width of 24 feet, shall be required for adequate parking lot access.

(iv) *Curb radius.* All driveway entrances serving 8 or less parking spaces shall have a minimum curb radius of 10 feet and a maximum of 20 feet.

Parking Lots With 8 Spaces or Less	
	Driveway Dimensional Requirement
One Way Access <100'	12' Minimum – 16' Maximum
Two Way Access <100'	12' Minimum - 24' Maximum
>100' Driveway Length	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Curb Radius	10' Minimum – 20' Maximum

(b) *Internal aisle design.*

(i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.

(ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands, and shall meet the requirements of Chapter 177: Landscape Regulations.

(iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Waivers.* Development proposals which do not meet these standards may apply for a waiver from these requirements subject to Planning Commission approval.

(3) *Entrances and internal aisle design for parking lots containing 9 or more parking spaces.* The driveway width into parking lots shall meet the following requirements:

(a) *Entrances.*

(i) *One-way access to parking lots.* If the driveway is a one-way in or one-way out, then the driveway width shall be a minimum of 12 feet and a maximum of 24 feet.

(ii) *Two-way access to parking lots.* For two way access, the driveway width shall be a minimum 20 feet and a maximum width of 24 feet, unless otherwise required by the Fire Department.

(iii) *Collector and Arterial Streets.* Driveways that enter collector and arterial streets may be required to have two outbound lanes (one for each turning direction) and one inbound lane for a maximum total driveway width of 39 feet.

(iv) *Curb radius.* All driveways serving 9 or more parking spaces shall have a curb radius of 15 feet for curb cuts on local streets and a curb cut radius of 20 feet for collector, minor arterial and arterial streets.

Parking Lots With 9 Spaces or More	
	Driveway Dimensional Requirement
One Way Access	12' Minimum – 16' Maximum
Two Way Access	2 Drive Lanes 10' Minimum Each – 24' Maximum Total Driveway Width
Collector/Arterial Streets	3 Drive Lanes - Maximum of 39'
Curb Radius - Local	15'
Curb Radius - Collector/ Arterial	20'

(b) *Internal aisle design.*

(i) Aisles shall be designed so that they intersect at 90 degrees with other aisles and driveways where practical.

(ii) Aisles shall be designed to discourage cut-through traffic by use of landscape islands, and shall meet the requirements of Chapter 177: Landscape Regulations.

(iii) Aisles shall conform to the dimensional requirements of §172.04(C).

(c) *Waivers.* Development proposals which do not meet these standards may apply for waiver from these requirements subject to Planning Commission approval.

EXHIBIT "B"

172.11 Driveway Design, Location, and Construction Standards for Four (4) or Less Spaces Parking Spaces within the Front Yard Area

(A) *Minimum Distance of Driveway and Parking from Street and into Property.*

(1) *Driveway Approach to Property Line.* The driveway approach shall extend to the property line and/or master street plan right-of-way from the paved street and shall be designed, permitted, and paved with concrete in accordance with Chapter 171.13 Sidewalk and Driveway Specifications.

(2) *Driveways Beyond the Property Line.* Driveways shall be paved from the property line and/or master street plan right-of-way with asphalt, concrete, brick or stone pavers, or other solid surface and shall extend 18 feet (length) into the property unless no parking is provided between the property line and structure.

(3) *Driveways Beyond 18 Feet into the Property.* Driveways beyond 18 feet into the property may be paved or unpaved and shall be clearly defined by landscaping or edging.

(B) *Front Yard Area.* Front yard area shall mean the area between the plane of the front elevation of the principal façade(s) of the principal structure extending to the side property lines and the front property line abutting the street, including the driveway. A front shall be any plane of a building which abuts to a public street right of way.

(C) *Maximum Percent of Front Yard Area Used for a Driveway and Off-street Parking and Maximum Number of Parked Vehicles Allowed.* Driveways and off-street parking shall be limited to a maximum of four (4) vehicles and a maximum of 40% of the front yard area and shall meet the paving requirements as identified by this chapter.

(D) *Parking in Front Yard Area.* Parking of motor vehicles *recreational vehicles, trailers, and boats* in the front yard area of a property shall be prohibited, except in designated driveways or in a parking space as required by this chapter.

(E) *Off-street Parking on City Street Right-of-Way.* The off-street parking of any motor vehicle, boat, or trailer on a sidewalk or on city right-of-way and/or green space between the curb and property line shall be prohibited.

(F) *Unpaved Driveway Maintenance Requirements.* If an unpaved driveway is not maintained with adequate gravel, grasses, or other plants and/or landscaping materials to keep the area from becoming rutted, muddy and/or soil from being blown or washed away and is identified as a violation of this provision, such driveway shall be immediately remedied by the property owner.

(G) *Driveway Grading and Drainage.* The driveway shall be graded in such a way to dispose of surface water into appropriate structures.

(H) *Maximum Width.* Maximum Driveway width shall be limited to:

Lot Width	Maximum Driveway Width
70 feet or more	24 feet
50 feet to 69 feet	20 feet
Less than 50 feet	18 feet

(I) *Loop or Circle Driveways.* Loop or circle driveways shall be allowed with a 50 foot separation as measured from the driveway edge between curb cuts, subject to other restrictions for driveway separations in the UDC.

(J) Exemptions to Parking in Front Yard Areas.

(1) University of Arkansas Events. Parking in the front yard area shall be allowed for a period of 12 hours before and 12 hours after a University of Arkansas event for persons attending said event

on days when events are occurring at Bud Walton Arena or Donald W. Reynolds Stadium on the University Arkansas Campus.

(2) *Construction Vehicles.* Parking of vehicles for new construction and additions shall be allowed during the duration of the project.

(3) *Temporary Parking.* Temporary driveways or parking lots approved by the Planning Commission.

(4) *Existing Driveways.* All existing driveways constructed prior to adoption of these standards.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

8/7/2007
City Council Meeting Date
Agenda Items Only

Chief Greg Tabor	Police	Police
Submitted By	**Division**	**Department**

Action Required:

Council approve moving the effective date of City Ordinance 92.32 from October 17, 2007 to October 1, 2007.

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

Budgeted Item ☐ **Budget Adjustment Attached** ☐

Department Director — Date 7-18-07

City Attorney — Date 7-23-07

Finance and Internal Service Director — Date 7-23-07

Mayor — Date 7/23/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in Clerk's Office — ENTERED 7/23/07

Received in Mayor's Office — ENTERED 7/23/07

Comments:

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor

DATE: July 19, 2007

SUBJECT: City Ordinance 92.32 (Animals at Special Events Prohibited)

Recommendation:

City Council approve Fayetteville City Ordinance 92.32 to become effective October 1, 2007.

Background:

The Fayetteville City Council approved the addition of section 92.32 to Chapter 92 of the Fayetteville City Ordinance Code. The addition of section 92.32 authorizes the Chief of Police to prohibit the bringing of animals to Special Events, if in his or her judgment; their presence would constitute an unreasonable hazard to public safety or health.

Discussion:

The Fayetteville Police Department would like section 92.32 to become effective October 1, 2007. Currently this section is not effective until October 17, 2007. Changing the effective date to October 1, 2007 would allow the ordinance to be in effect for the 2007 Bikes, Blues and BBQ event.

Budget Impact:

There would be no budget impact in this approval.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 5002 IN ORDER TO MAKE THE NEWLY ENACTED §92.32 OF THE FAYETTEVILLE CODE EFFECTIVE EARLIER

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 Ordinance No. 5002 to change the effective date of the newly enacted §92.32 (which was a portion of Exhibit A to Ordinance No. 5002) of the Fayetteville Code from October 1, 2007, to the normally effective date of this ordinance.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

(E) All dangerous animals shall be sterilized and micro-chipped at the owner's expense at the time the animal has been determined to be dangerous.

(F) The owner shall be notified of the ability to appeal within 10 days upon issuance of such requirements to the Animal Services Superintendent.

(G) Any owner or harborer violating the requirements of this section shall be issued a citation to court for violation of this section.

92.32 Animals at Special Events Prohibited

(A) The Chief of Police may prohibit the bringing of animals to Special Events as defined herein, if in his or her judgment, their presence would constitute an unreasonable hazard to public safety or health.

(B) Service animals, recognized performing animals and police dogs shall be exempt from the provisions of this section.

92.33 Annual Hobbyist Permit

(A) Levy and amount of permit. There is hereby levied and there shall be collected an annual permit fee in the amount hereinafter provided on each dog or cat owned or kept within the city for the purposes of breeding, competing, or hunting. Said permit fee shall be paid to the city animal services division along with a $25 non-refundable application fee. For each unneutered male or unspayed female over six months of age the levied fee shall be in the amount of $25.00 annually.

(B) Issuance of permit and tag. The city animal services division to whom the fee levied by subsection (A) above is paid shall issue a permit after the following requirements have been documented and a successful inspection of the hobbyist's premises is complete.

(1) Hobbyist permit application is filed with the animal services division stating hobbyist's intent with said dog or cat.

(2) Documentation for breeding purposes testifying that said animal is registered with the AKC, UKC, CFA, or TICA as a purebred. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club; provides a signed copy of the Code of Ethics for the breed club of which the hobbyist belongs; provides documentation of all necessary health clearances for breeding specific type of breed and health records for litter.

(3) Documentation for competing purposes testifying that said animal has competed in at least one dog show or sporting competition sanctioned by a national or regional registry within the past 12 months. The hobbyist holds membership within the past 12 months in a national, regional or local kennel club.

(4) For hunting purposes hobbyist holds a current state hunting license with the Arkansas Fish and Game Commission and the hobbyist can successfully perform obedience commands with said animal.

(C) License period. A license, if not revoked, shall be valid for one year from the date of issue. A new permit shall be obtained each year by every hobbyist and a new fee paid. An owner shall have 30 days from the date the license expires to obtain a new license without penalty. Any hobbyist failing to obtain a license within such period shall be required to pay an additional fee of $10.00.

(D) Revocation of Permit. A permit may be revoked if the animal services division determines that any of the following conditions exist.

(1) The hobbyist has been convicted of or pleads guilty to cruelty to animals;

(2) The hobbyist has failed to comply with the conditions of the permit;

(3) The hobbyist has violated the provisions of this Chapter twice in one permit year;

(E) Nothing in this section shall be construed to apply to any dog or cat under the age of three months, or to dogs or cats brought to the city on a temporary basis for show or exhibition.

ARTICLE II ENFORCEMENT

92.40 Animal Control Officer

(A) There is hereby created the office of animal control officer. The animal control officer shall be appointed by the mayor and shall perform the duties and exercise the powers prescribed by this chapter. In addition, the animal control officer shall perform such duties as may be delegated to him by the mayor or the City Council.

(B) The city's animal control officers are authorized to issue a citation to any person

AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
GREG TABOR, POLICE CHIEF

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance To Amend §96.05 Motor Vehicle And Motorcycle Sound Limit By Adding A New Subsection (E) To Prohibit Excessive Engine Revving

APPROVED FOR AGENDA:

Police Chief — Date: 7-23-07

City Attorney — Date: 7-20-07

Mayor — Date: 7/23/07

ENTERED 7/20/07

ENTERED 7-20-07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor

DATE: July 11, 2007

SUBJECT: Amendment of Noise Ordinance Chapter 96

Recommendation:

City Council amends Noise Ordinance Chapter 96 to simplify enforcement in relation to excessive noise from motor vehicles and motorcycles.

Background:

Currently, Ordinance 96.05 requires officers to obtain noise level readings to determine if the noise is in violation as listed in Ordinance 96.05 Table II. This section does not specifically address excessive noise created by rapid throttle advancement (revving an engine).

Discussion:

The Fayetteville Police Department would like the amendment made to this ordinance to become more efficient in enforcement. The current noise ordinance does not specifically address rapid engine advancement (revving) which has become a complaint with citizens in recent years. In summary this amendment would make violation determination and enforcement much simpler.

Budget Impact:

There would be no budget impact in this amendment.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Kit Williams

FROM: Capt. K Yates
Captain Kenny Yates

DATE: July 19, 2007

SUBJECT: City Noise Ordinance Chapter 96

The Fayetteville Police Department would like to request an amendment be made to Fayetteville City Ordinance Chapter 96 concerning noise from motor vehicles. Noise from motor vehicles and motorcycles is currently addressed in Fayetteville City Ordinance 96.05 Table II. The current ordinance does not specifically address rapid throttle advancement, which has become a complaint in recent years.

We would like to see the following terminology or similar added to some portion of Chapter 96: "It shall be prohibited to permit or cause excessive noise by rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine".

Thank you for your consideration in helping us make this amendment.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
City Council
Chief Tabor
Captain Yates

FROM: **Kit Williams**, City Attorney

DATE: **July 20, 2007**

RE: **Proposed Noise Ordinance amendment to prohibit loudly revving an engine**

The police have requested that we simplify enforcement of the Noise Ordinance by permitting the arrest and prosecution of persons loudly revving their cars or motorcycles without having to prove a decibel level by use of a noise meter. I, therefore, have crafted subsection (E) to §96.05 **Motor Vehicle And Motorcycle Sound Limit**.

My proposal uses existing definitions within the Code of "noise disturbance" to describe the conduct which the police seek to prohibit. "Stationary Run-up" above 78 dB measured 25 feet from the motor vehicle is already banned by §96.05. Unfortunately, this requires an officer trained for and using one of our noise meters at the right distance for the right length of time which is very difficult to achieve in the real world.

This new subsection is more subjective, but mirrors the current prohibition in §96.02 against a "noise disturbance" which is defined in §96.01. I will leave it to Captain Kenny Yates (his memo is attached) or Chief Tabor to explain why the Police Department asked for this change in the law.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §96.05 MOTOR VEHICLE AND MOTORCYCLE SOUND LIMIT BY ADDING A NEW SUBSECTION (E) TO PROHIBIT EXCESSIVE ENGINE REVVING

WHEREAS, unnecessary rapid throttle advance (revving) of a car or motorcycle engine can annoy or disturb a reasonable person of normal sensitivity.

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 §96.05 **Motor Vehicle and Motorcycle Sound Limit** by enacting a new subsection (E) as follows:

> "(E) No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs."

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

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

7-Aug-07
City Council Meeting Date

Ron Petrie	Engineering	Operations
Submitted By	Division	Department

Action Required:

Approval of a cost-share and bid waiver in the amount of $69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

$69,674.00	$ 579,566.00	Other Drainage Improvements
Cost of this request	Category/Project Budget	Program Category / Project Name
4470.9470.5817.00	$ -	Bridge and Drainage Improvements
	Funds Used to Date	Program / Project Category Name
02108	$ 579,566.00	
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐ Budget Adjustment Attached ☐

Department Director 7.19.07 Date

City Attorney 7/23/07

Finance and Internal Service Director 7-23-07 Date

Mayor 7/23/07 Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/30/07

Received in Mayor's Office ENTERED 7/25/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, P.E., City Engineer

Date: July 18, 2007

Subject: Proposed Cost Share and bid waiver in the amount of $69,674.00 with the Boardwalk Subdivision Property Owners Association for the dredging of the Boardwalk POA Pond.

RECOMMENDATION

Staff recommends approval of the proposed cost-share with the Boardwalk Subdivision POA for the dredging of the pond that is contained on the common property of the Boardwalk Property Owners Association.

BACKGROUND

The Boardwalk Subdivision was developed in 1992 around an existing 5 acre pond that is estimated to have built in the early 1980's. This 83 home subdivision is located to the west of Crossover Road approximately one-half mile south of Mission Boulevard. The pond and the property surrounding the pond were platted as common property that is owned & maintained by the POA. The pond has a drainage basin of approximately 190 acres that drain to the pond through three different drainage systems that are owned and maintained by the City. Since the creation of this pond there have been numerous developments & projects that have occurred within the watershed including the Summersby Subdivision, the Highway 265 Widening, and the actual construction of the Boardwalk Subdivision. All of the developments have over time deposited silt and debris into the pond that has led to numerous complaints from the property owner's within the Boardwalk Subdivision. According to the residents, the depth of the upper end of the pond has decreased from 5-6' to 1-2'.

DISCUSSION

Due to the number of concerns raised by the residents, elected officials and city staff began meeting with the POA approximately 2 years ago to discuss possible solutions to the problem. The Engineering Division originally designed a structure at the main inflow channel to catch the sediment and debris. This design would require on-going maintenance and require a capital investment of approximately $50,000 if done by the Transportation Division. After studying this option and determining that the bulk of the

watershed is now developed, it was decided that we should explore other options. After meeting with numerous contactors onsite, it was determined that it is feasible to lower the pond elevation at a sufficient depth to remove the majority of the sediment that has been deposited in the upper portion of the 5 acre pond. This sediment would need to be placed in dump trucks and removed from the site. On behalf of the Boardwalk POA, the Engineering Division began soliciting proposals to perform the work and we have received a proposal from Wilson Excavating, LLC in the amount of $77,274.00 with the condition that the City lower & maintain the water level within the pond. The Boardwalk POA met on June 12, 2007 and agreed to pay for $7,600.00 of the proposed work.

Below is a summary of the costs as provided by Wilson Excavation, LLC:

Boardwalk POA Offered Share	**$ 7,600.00**
Proposed City's Share	**$ 69,674.00**
Total	**$ 77,274.00**

BUDGET IMPACT

The funds for this drainage cost-share project are proposed to come from "Other Drainage Improvements" project in the Bridge and Drainage Improvements fund. There is currently $579,566 remaining in this project fund.

The final costs to the City will be based upon actual costs as documented by the Boardwalk Subdivision POA subject to review by the City and may, or may not exceed the submitted estimate. However, the City's share will not exceed the estimate without additional authorization.

ORDINANCE NO.____

AN ORDINANCE WAIVING THE REQUIREMENTS OF FORMAL COMPETITIVE BIDDING AND APPROVING A COST-SHARE WITH THE BOARDWALK PROPERTY OWNERS ASSOCIATION (POA) IN AN AMOUNT NOT TO EXCEED $69,674.00 TO DREDGE THE BOARDWALK POA POND.

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 this constitute an exceptional situation where competitive bidding is not feasible or practical, and waives the requirements of formal competitive bidding to approve a cost-share with the Boardwalk Property Owners Association (POA) in an amount not to exceed $56,000.00 to dredge the Boardwalk POA pond.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____

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

Wilson Excavating, LLC.

703 N. Thompson Suite 105
Office: (479) 927-2797 Fax: (479) 927-2438

PROPOSAL

Date: July 18, 2007 **Company:**
Project: Pond Restoration **Attention:** Mat Casey
Location: Fayetteville Ark. **Phone/Fax:** 575-8202

We propose to furnish all material, equipment, and labor necessary to perform and complete the following:

DESCRIPTION:	QUANTITY:	Unit:	Unit Cost:	COST:
Export Material	400.00	lds	$ 85.00	$ 34,000.00
Remove and load material from pond	4720.00	Cu. Yds	$ 7.95	37,524.00
Repair temp road and Seed	1.00	Lump Sum	$ 5,750.00	5,750.00
				0.00
9400 SF @4' = 1392 cu yd				0.00
22320SF @ 3' = 2480 Cu Yd				0.00
10000SF @2' = 740 Cu Yd				0.00
2920 SF @ 1' = 108 Cu Yd				0.00
Total 4720 Cu. YD.				0.00
				0.00
				0.00
				0.00
				0.00
ANY Additional WORK TO BE PAID ON Quantity prices				0.00
NOT Included; Lowering Water Level, Maintaining water level				0.00
				0.00

We propose to furnish all material, equipment, and labor, complete in accordance with the above specifications, for the sum of:

_____ Dollars $77,274.00 **Page 1 Total**

$77,274.00 **Proposal Total**

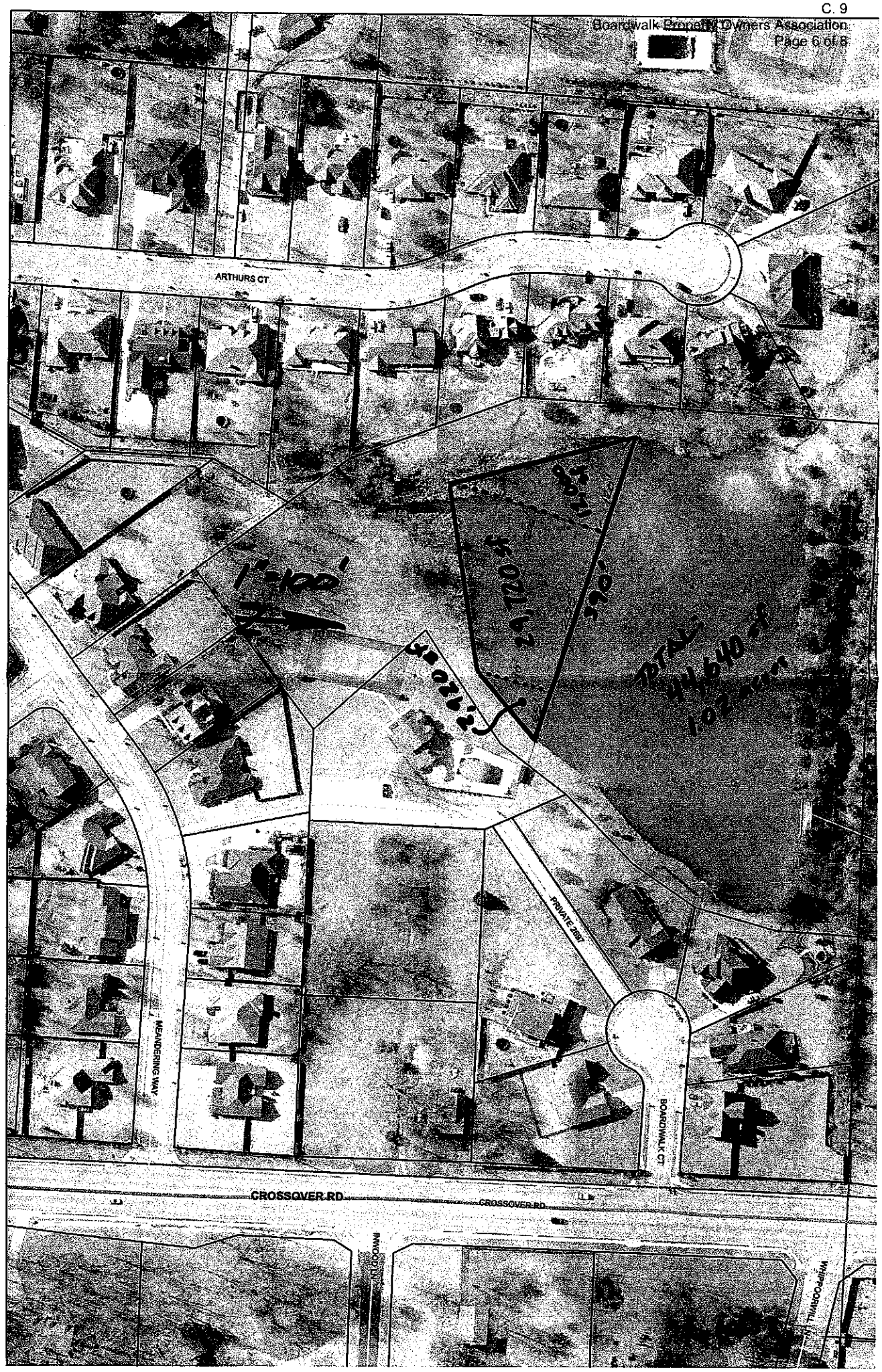
Payments to be made as follows: Monthly Progress Payments for Percentage of Work Complete.

Contractors Signature: H Mel Tyler 7-18-07

Acceptance of proposal - The above pricing, specifications, and conditions are satisfactory and are hereby accepted. Wilson Paving & Excavation, Inc. is authorized to perform the work as specified. Payments to be made as outlined above.

** Above Pricing is guaranteed for 30 Days from date of this document. If Proposal remains unsigned after 30 calendar days from date specified, pricing is subject to change.*

Owner / Agent Signature: _____ **Date Approved:** _____


ARTHURS CT
MEANDERING WAY
PRIVATE 30'
BOARDWALK CT
CROSSOVER RD
CROSSOVER RD
INWOOD LN
WINFOORWILL LN

CONTRACTUAL AGREEMENT

This Agreement, made and entered into this _____, by and between the City of Fayetteville, Arkansas and the Boardwalk Subdivision POA Witnesseth:

WHEREAS, Boardwalk Subdivision POA has in their development a 5 acre pond that the development was constructed around; and

WHEREAS, this pond has been affected by the development and highway construction in the area over the past several years; and

WHEREAS, these construction activities have caused silt and debris to be deposited in this pond and reducing the depth and volume of the pond considerably; and

WHEREAS, it would benefit the residents in this development to have this pond dredged to remove the accumulated silt; and

NOW, THEREFORE, the City of Fayetteville and Boardwalk Subdivision POA agree as follows:

1. Upon the City Council and/or the Mayor approving the Cost-Share, the City of Fayetteville agrees to:

   A. Pay a maximum-not-to-exceed cost of $69,674.00 of the $77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.

   B. Reconsider the costs if the future and actual construction prices exceed the maximum-not-to-exceed amount that was furnished by the contractor. The contractual agreement shall be required to be reevaluated and re-approved by the Mayor and/or City Council as appropriate prior to proceeding with construction.

   C. Make all efforts to provide payment to Wilson Excavating, LLC within thirty (30) days after receipt of the invoice(s) but cannot guarantee the thirty day schedule.

2. Boardwalk Subdivision POA agrees to:

   A. Pay a maximum-not-to-exceed cost of $7,600.00 of the $77,274.00 for the afore mentioned pond dredging as was provided by Wilson Excavating, LLC, the contractor, and made a part of this agreement.

IN AGREEMENT WITH ALL THE TERMS AND CONDITIONS ABOVE, WE SIGN BELOW:

CITY OF FAYETTEVILLE

By:_____
DAN COODY, Mayor

Boardwalk Subdivision POA

By:_____

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

7-Aug-07
City Council Meeting Date

David Jurgens	Wastewater System Imprv Project	Water/Wastewater
Submitted By	Division	Department

Action Required:

Approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358

($140,000.00)	$ -	Wastewater System Imp Project
Cost of this request	Category / Project Budget	Program Category / Project Name
5400.0940.6881.02	$ -	Water and Wastewater
Account Number	Funds Used to Date	Program / Project Category Name
06032	$ -	Water/Sewer
Project Number	Remaining Balance	Fund Name

Budgeted Item [xx] Budget Adjustment Attached [x]

Department Director — Date: 20 Jul 07

City Attorney — Date: 7/23/07

Finance and Internal Service Director — Date: 7-23-07

Mayor — Date: 7/23/07

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office ENTERED 7/20/07

Received in Mayor's Office ENTERED 7/23/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
Fayetteville Sewer Committee

From: David Jurgens, Water and Wastewater Director

Date: July 18 2007

Subject: Approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358

RECOMMENDATION

City Administration recommends approval of the sale of 4.0 acres of the City's West Side Wastewater Treatment Plant site to Ozarks Electric Cooperative for the amount of $140,000 ($35,000.00 per acre), providing an access and utility easement to the same, and waiving the requirements of Ordinance 4358.

BACKGROUND

Ozarks Electric approached the City about purchasing land adjacent to the West Side WWTP for the future installation of an electrical substation several years ago. Collocating the two utility facilities is in the bests interests of both utilities and the public.

DISCUSSION

Selling the property. Staff does not anticipate utilization of this land for wastewater purposes as it is located at the west and north of the existing WWTP site. There is adequate room for expansion of the wastewater treatment plant first to the south for an additional 50% capacity increase (10 mgd to 15 mgd), and then to the west for a full doubling to 30 mgd, all based on using the current technology. It is likely that technology improvements will reduce this future footprint requirement. The property layout is such that the City will keep a 50' strip of land between the Ozarks property and the 54th Avenue right of way for future trail construction and a tree buffer.

Waiving the ordinance. The $35,000 per acre price is higher than both the $29,000 per acre price established by the City Council in resolution 109-05, and $31,850 per acre at which the WWTP site land was sold in 2007. Given the location within and completely surrounded by the City's West Side WWTP property, this land is not eligible for sale for commercial or residential use. Thus, staff feels it would be an unnecessary cost to have a new appraisal, as required in Ordinance 4358. The entire West Side WWTP site is zoned residential-agricultural, as is appropriate for the proposed electrical substation and the WWTP.

BUDGET IMPACT

Funds from this sale will be placed in the WSIP project fund.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF ORDINANCE No. 4358 AND APPROVING AN OFFER AND ACCEPTANCE CONTRACT BETWEEN THE CITY OF FAYETTEVILLE AND OZARKS ELECTRIC COOPERATIVE CORP. FOR THE SALE OF FOUR (4) ACRES OF UNNEEDED LAND WITH AN ACCESS AND UTILITY EASEMENT FOR SAME AT THE WEST SIDE WASTEWATER TREATMENT PLANT FOR $140,000.00; APPROVING A BUDGET ADJUSTMENT; AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE SAID AGREEMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of Ordinance No. 4358 and approves an Offer and Acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00;. 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 Ozarks Electric Cooperative Corp.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED: ATTEST:

By: _____ By: _____
DAN COODY, Mayor **SONDRA E. SMITH**, City Clerk/Treasurer

Ozarks Electric Cooperative Corp.

A Touchstone Energy® Cooperative

Box 848
Fayetteville, Arkansas 72702-0848
(479) 521-2900

May 15, 2007

Andrea Allen
The City of Fayetteville, Arkansas
113 West Mountain 72701
Phone (479) 718-7670

Andrea Allen,

This letter constitutes a Letter of Intent to purchase the property and acquire the easements that Ozarks Electric Cooperative Corporation and The City of Fayetteville have been in discussion with in regards to and being described as follows:

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set 5/8" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set 5/8" rebar pin with a yellow plastic cap stamped "Gary Denzer 1266"; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less;

In addition to

a part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter

Ozarks Electric Cooperative Corp.

A Touchstone Energy® Cooperative

Box 848
Fayetteville, Arkansas 72702-0848
(479) 521-2900

(NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" being the "True Point of Beginning" of this boundary description of a utility and access easement being contiguous with the existing 50 foot wide overhead electric right of way, the afore mentioned 4.00 acres, and 54th Street; thence leaving said North line of said existing 50 foot right of way North 02°35'16" East a distance of 40 feet; thence North 88°32'18" West a distance of 130.03 feet; thence South 02°35'36" West along the west line of said Northeast Quarter (NE ¼) a distance of 40 feet; thence South 88°32'18" East a distance of 130.03 feet to the Point of Beginning.

The price agreed upon was $140,000.00 for the afore mentioned property being $35,000.00 per acre for four acres with the easements granted for egress and regress of underground and over head utilities in addition to vehicular and pedestrian traffic by OECC personnel and their assigns. The property boundaries have been marked in the field and noted on a plat filed with the Washington County Circuit Clerk on 03/21/2007 which was designated as File 2007-00010234.

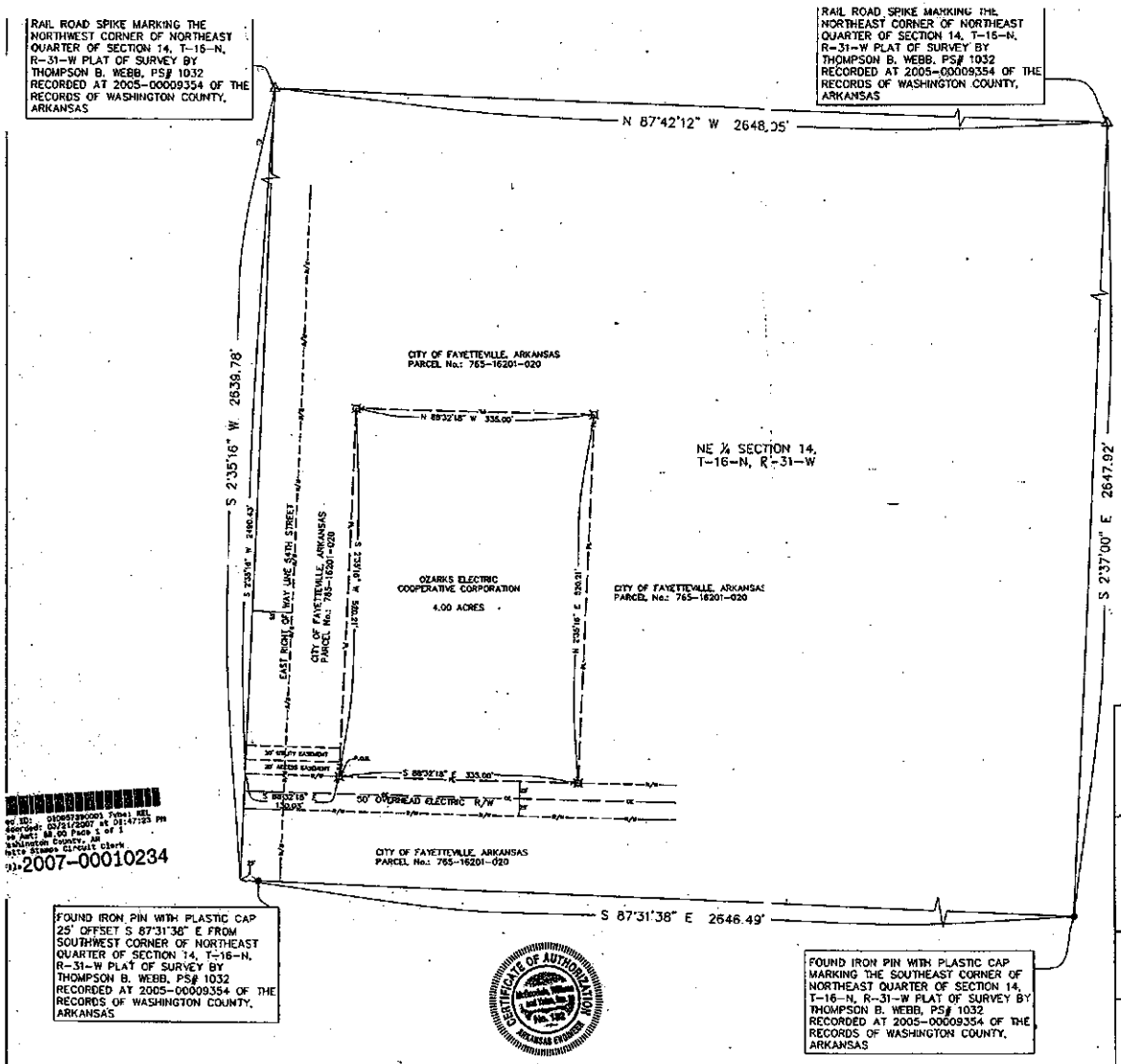
The land is assumed to be free and clear of all encumbrances, free of any issues pertaining to the presence of any Hazardous Substances on, under, or about the Property, and it is assumed that the Property is not contiguous with or classified as a Wet Lands area.

Sincerely,

Robert Erickson

Robert Erickson
Engineer
Ozarks Electric Cooperative Corporation

Cc: Mitchell Johnson
Troy Scarbrough



BOUNDARY DESCRIPTION:

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West, Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the Northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set ⅝" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set ⅝" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less.

FLOOD DATA
THIS PROPERTY DOES NOT LIE WITHIN A DETERMINED FEMA FLOOD HAZARD ZONE AS DETERMINED FROM F.I.R.M. MAP OF WASHINGTON COUNTY, ARKANSAS AND INCORPORATED AREAS, MAP No. 05143C0091 D, REVISED DATE JULY 21, 1999

BASIS OF BEARINGS
PLAT OF SURVEY BY THOMPSON B. WEBB, PS 1032 RECORDED AT 2005-00009354 OF THE RECORDS OF WASHINGTON COUNTY, ARKANSAS

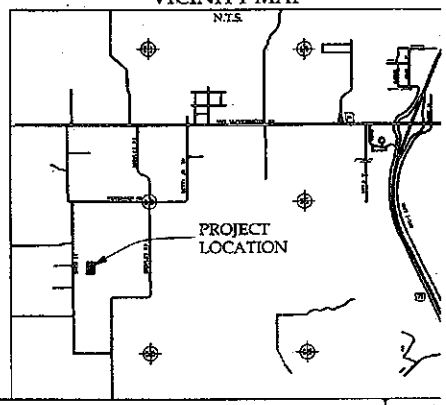
N

0' 100' 200' 300' 400'

SCALE 1" = 100'

LEGEND
- FOUND RAILROAD SPIKE
- FOUND IRON PIN WITH PLASTIC CAP
- SET ⅝" REBAR PIN WITH YELLOW PLASTIC CAP STAMPED GARY DENZER 1266
- PROPERTY LINE
- RIGHT OF WAY LINE
- EASEMENT LINE
- OVERHEAD ELECTRIC LINE
- SECTION LINE

VICINITY MAP



CERTIFICATE OF AUTHORIZATION ARKANSAS ENGINEER No. 192

CERTIFICATION: This is to certify that this plat represents a survey conducted by me of the property shown to the best of my ability. I confirmed the correctness of prior monuments and supervised the survey and the setting of two monuments. The survey and plat conform to the Arkansas Minimum Standards for Boundary Surveys and Plats. This plat is for the sole use of Ozarks Electric Cooperative Corporation — any warranties, express or implied are so limited. Third parties shall consult with me before relying on the dimensions shown hereon.

COPYRIGHT MANAGEMENT INFORMATION: This work is copyrighted. It may be copied for fair use as an aid to research, however, ALL RIGHTS TO PRODUCE DERIVATIVE WORKS USING THIS IMAGE OR THE INFORMATION SHOWN HEREON ARE SPECIFICALLY RESERVED.
GARY L. DENZER, PS 1266, MARCH, 2007 McGOODWIN, WILLIAMS, & YATES, CONSULTING ENGINEERS
906 ROLLING HILLS DR., FAYETTEVILLE, AR 72703
MWY CODE: FY-337, 141631, 0307 GD
SURVEYORS CODE: 500-16N-31W-0-14-400-72-1266

REGISTERED PROFESSIONAL LAND SURVEYOR — STATE OF ARKANSAS — GARY LEE DENZER — 3-17-07

DESIGNED	DRAWN
GLD	JDF
CHECKED	
GLD	
PLANS NO.	
FY-337	

McGoodwin Williams & Yates
Engineering Confidence
© 2007 Fayetteville, Arkansas

PLAT OF SURVEY
OZARKS ELECTRIC COOPERATIVE CORPORTION
FAYETTEVILLE, ARKANSAS

NEW SUB-STATION SITE
PART OF THE NORTHEAST QUARTER
SECTION 14, T-16-N, R-31-W

STRUCTURE I

SHEET NO 1/1

OFFER AND ACCEPTANCE CONTRACT

1. **Ozarks Electric Cooperative Corp.** an Arkansas Corporation, hereinafter referred to as the "Buyer", 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, Ozarks Electric Cooperative shall pay for the property at closing, the total and cash payment of **$ 140,000.**

3. **Contingent Earnest Money Deposit**: Ozarks Electric Cooperative herewith tenders a check for **$ 100.00** 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 Ozarks Electric Cooperative 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 Ozarks Electric Cooperative. If Ozarks Electric Cooperative fails to fulfill their obligations under this contract or, after all conditions have been met, Ozarks Electric Cooperative 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 Ozarks Electric Cooperative 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. Ozarks Electric Cooperative and the City of Fayetteville shall share equally in the cost of the title insurance.

6. The City of Fayetteville agrees to allow Ozarks Electric Cooperative, if Ozarks Electric Cooperative so desires, at Ozarks Electric Cooperative'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 **Sixty (60)** 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 Ozarks Electric Cooperative on the date of closing.

10. The City of Fayetteville hereby grant(s) permission for Ozarks Electric Cooperative 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 Ozarks Electric Cooperative any and all environmental hazards of which the City of Fayetteville has actual knowledge.

OFFER AND ACCEPTANCE CONTRACT

14. This agreement shall be governed by the laws of the State of Arkansas.

15. This agreement, when executed by both Ozarks Electric Cooperative 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 agreement is contingent upon approval of a lot split by the City of Fayetteville Planning Commission.

17. This contract expires, if not accepted by the City of Fayetteville on or before the 31st day of December, 2007.

18. The City of Fayetteville shall submit this fully executed Offer and Acceptance Contract to the City Council for their approval within one hundred twenty (120) days of acceptance by the City of Fayetteville.

19. **NOTICE:** **THE Ozarks Electric Cooperative 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 Ozarks Electric Cooperative OF THE $ 100.00 EARNEST MONEY DEPOSIT.**

_____ Date:_____

_____ Date:_____

AGENT OR WITNESS:

_____ Date:_____

City of Fayetteville, Arkansas,
A municipal corporation

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

EXHIBIT "A"
PROPERTY DESCRIPTION

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description; thence continue South 88°32'18" East along said north line of said existing 50 foot right of way a distance of 335.00 feet to a set 5/8" rebar pin with plastic yellow cap stamped "Gary Denzer 1266"; thence leaving said north line of said existing 50 foot right of way North 02°35'16" East a distance of 520.21 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266"; thence North 88°32'18" West a distance of 335.00 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" ; thence South 02°35'16" West a distance of 520.21 feet to the Point of Beginning, containing 4.00 acres, more or less.

In addition to

A part of the Northeast Quarter (NE ¼) of Section 14, Township 16 North, Range 31 West Washington County, Arkansas, being more particularly described as follows: Commence at the Railroad Spike marking the northwest Corner of said Northeast Quarter (NE ¼) of said Section 14 and run thence South 02°35'16" West along the west line of said Northeast Quarter (NE ¼) a distance of 2490.43 feet; thence leaving said west line South 88°32'18" East along the North line of an existing 50 foot wide overhead electric right of way, a distance of 130.03 feet to a set 5/8" rebar pin with yellow plastic cap stamped "Gary Denzer 1266" for the "True Point of Beginning" of this boundary description of a utility and access easement being contiguous with the existing 50 foot wide overhead electric right of way, the aforementioned 4.00 acres, and the 54th Street; thence leaving said North line of said existing 50 foot right of way North 02°35'16" East a distance of 40 feet; thence North 88°32'18" West a distance of 130.03 feet; thence South 02°35'36" West along the west line of said Northeast Quarter (NE1/4) a distance of40 feet; thence South 88°32'18" East a distance of 130.03 feet to the Point of Beginning.

Recorded at 2007-00010234 of the Records of Washington County, Arkansas.

SIGNED FOR IDENTIFICATION:

_____ Date:_____

_____ Date:_____

_____ Date:_____
Dan Coody, Mayor

_____ Date:_____
Sondra Smith, City Clerk

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared _____, to me well known as the person(s) who executed the foregoing document, and who stated and acknowledged that he/she/they is/are _____ of _____ and is/are duly authorized to execute the foregoing instrument for and in the name and behalf of said _____, 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 _____ day of _____, 2007.

_____
Notary Public

MY COMMISSION EXPIRES:

_____

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WASHINGTON)

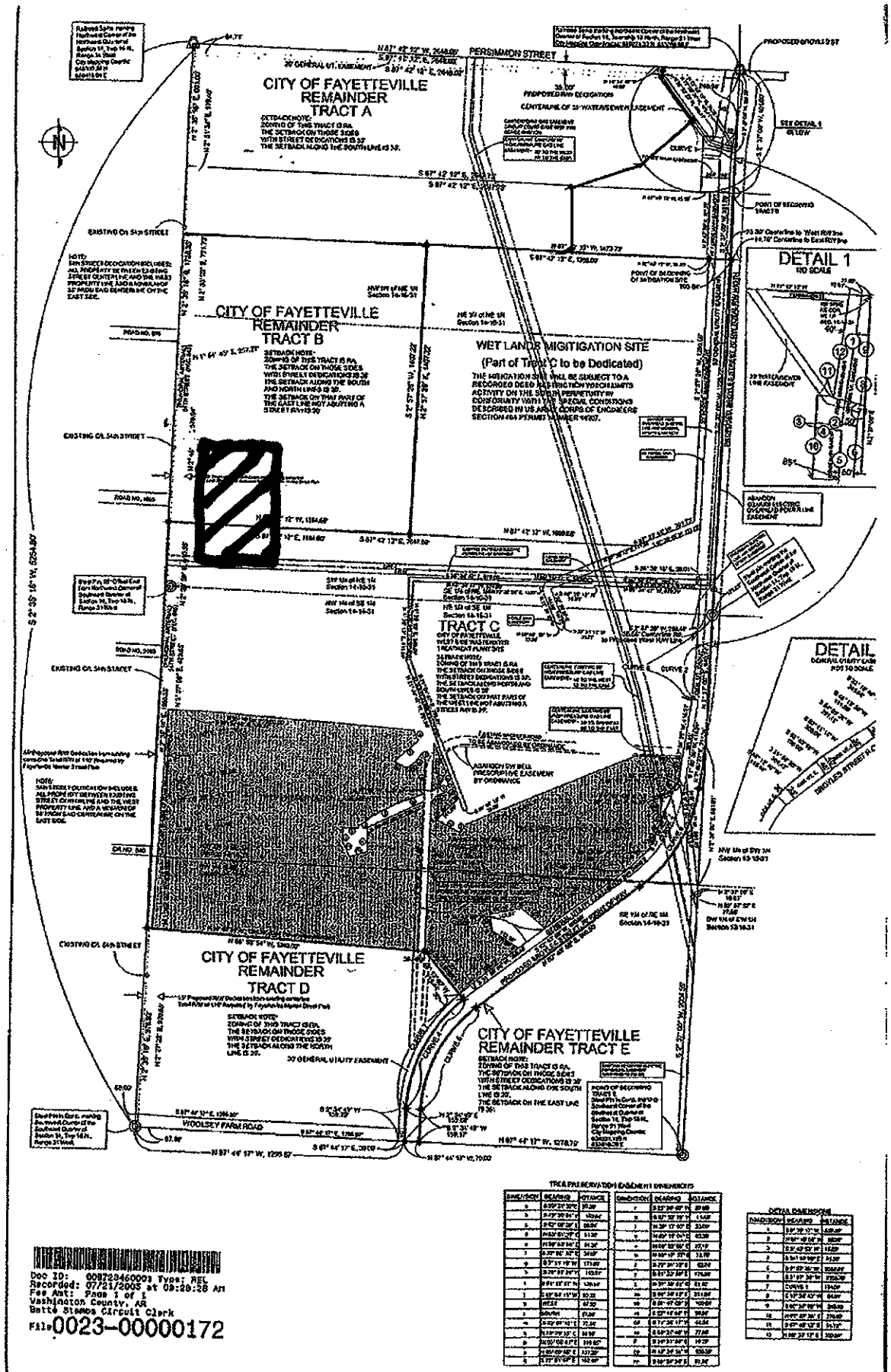
BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Dan Coody** and **Sondra Smith**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged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

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

_____
Notary Public

MY COMMISSION EXPIRES:

_____



Doc ID: 008720460003 Type: REL
Recorded: 07/21/2005 at 09:20:28 AM
Fee Amt: Page 1 of 1
Washington County, AR
Bette Simmons Circuit Clerk
File 0023-00000172

CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:
An Ordinance To Repeal Article 17, Youth Activities Committee, Chapter 33 Of The Fayetteville Code

APPROVED FOR AGENDA:

City Attorney — Date: 7-20-07

Mayor — Date: 7/23/07

ENTERED 7/20/07

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

FROM: **Kit Williams**, City Attorney

DATE: **July 20, 2007**

RE: **Repeal of Youth Activities Committee**

During the June 19, 2007, City Council meeting, I was instructed to prepare an ordinance to end the Youth Activities Committee because sufficient citizens were not applying to serve on that committee. Attached is page 3 of the approved City Council meeting minutes of June 19, 2007, referencing this discussion.

I have obeyed the City Council's instruction and prepared an ordinance to repeal that title in the Fayetteville Code of Ordinances that created the Youth Activities Committee.

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 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.

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL ARTICLE 17, YOUTH ACTIVITIES COMMITTEE, 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 repeals Article 17, **Youth Activities Committee**, of Chapter 33 of the Fayetteville Code in its entirety.

PASSED and **APPROVED** this 7th day of August, 2007.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

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

POPS OLD TIME BAR-B-QUE

WILLARD AND KAREN STARKS OWNERS
504 E. 15TH STREET
FAYETTEVILLE, AR 72701

FAYETTEVILLE CITY CLERKS OFFICE, JULY,16,2007

THIS NOTICE IS TO INFORM YOUR OFFICE OF OUR INTENTION TO \ APPEAL RZN 07-2637 . THIS REQUEST WAS DENIED AT THE PLANNING COMMISSIONS MEETING OF JULY 9, 2007. FROM THE CONVERSATIONS I'VE HAD WITH THE STAFF, PLANNING COMMISSION MEMBERS AND THE CITY ATTORNEY. IF I HAD GIVEN ASSURANCES THAT THE PROPERTY WOULD NEVER BE USED FOR PURPOSES DETRIMENTAL TO A RESIDENTIAL NEIGHBORHOOD . THESE NEGATIVE VOTES COULD HAVE BEEN AVOIDED.. WE WILL COMPLETE THE DOCUMENT REQUIRED AND HOPE THAT WILL AID OUR REQUEST.

THANK YOU
Willard Starks
Karen Starks
WILLARD AND KAREN STARKS

RECEIVED
JUL 16 2007
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

CONTACT INFORMATION
5009 BOULDER LANE
FAYETTEVILLE,AR

PHONES
POPS OLD TIME BAR BBQ
442-9966
FARMS "N HOMES
582-2828
WILLARDS CELL
445-7014

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, developer, or buyer of this property, (hereinafter "Petitioner") WILLARD STARKS AND KAREN STARKS, hereby voluntarily offers 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 Petitioner or Petitioner's 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 **reasonable rely** upon all of the terms and conditions within this Bill of Assurance in considering whether to approve Petitioner's rezoning request.

Petitioner hereby voluntarily offers assurances that Petitioner and Petitioner's property shall be restricted as follows **IF** Petitioner's rezoning is approved by the Fayetteville City Council.

1. The use of Petitioner's property shall be limited to RESTAURANTS OFFICES OR NEIGHBORHOOD SHOPPING

2. Other restrictions including number and type of structures upon the property are limited to TWO (WE MAY, IN THE FUTURE ADD A SMOKEHOUSE FOR OUR BBQ OR A SMALL OFFICE

3. Specific activities will not be allowed upon petitioner's property include GAS STATIONS LIQUOR STORES OR DRIVE IN RESTAURANTS

4. (Any other terms or conditions) _____

5. 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 Petitioner's rezoning is effective and shall be noted on any Final Plat or Large Scale Development which includes some or all of Petitioner's property.

IN WITNESS WHEREOF and in agreement with all the terms and conditions stated above, I, WILLARD STARKS & KAREN STARKS as the owner, developer or buyer (Petitioner) **voluntarily offer** all such assurances and sign my name below.

7/17/07
Date

WILLARD STARKS
KAREN STARKS
Printed Name

5009 BOULDER LANE
Address
FAYETTEVILLE, AR 72701

Willard Starks
Karen Starks
Signature

NOTARY OATH

STATE OF ARKANSAS }
COUNTY OF WASHINGTON }

And now on this the 17th day of July, 2007 appeared before me, Willard Starks and Karen Starks and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

Courtney Cline
NOTARY PUBLIC

My Commission Expires:
8-10-2016

COURTNEY CLINE
Commission No. 12344
NOTARY PUBLIC
My Commission Expires Aug. 10, 2016
WASHINGTON CO., ARKANSAS

City Council Meeting of August 7, 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 JP

Date: July 17, 2007

Subject: Rezoning for Starks (RZN 07-2637)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted to deny rezoning the subject property from R-O, Residential Office to C-1, Neighborhood Commercial for approximately 0.64 acres located at 504 East 15th Street. The applicant has appealed the Planning Commission's decision to the City Council.

BACKGROUND

The subject property contains one parcel of property containing 0.64 acres. The property is located at 504 East 15th Street. There is one building on the property and associated parking that is currently being used for Pops Old Time Barbeque restaurant. According to the applicant this structure and the property has been used for a restaurant since its construction in 1968, which is consistent with staff's research and records of the property. The property is bordered by industrial and non-profit uses to the south, and multi-family, undeveloped pasture, and church uses to the north, west, and east, respectively.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 9, 2007. The Planning Commission voted 5-2-1 to recommend denial of this rezoning request with Commissioners Winston and Anthes voting 'No', and Commissioner Trumbo recusing. The main issues discussed included the historic nature of restaurant use at this property and the potential for incompatible uses under the proposed C-1 zoning. The request for commercial zoning on this property has been denied on several occasions since the property was developed in the 1960s.

BUDGET IMPACT

None.

Fayetteville
ARKANSAS

PC Meeting of July 9, 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:	~~July 3, 2007~~ *Updated July 17, 2007*

RZN 07-2637: REZONING (STARKS, 563): Submitted by WILLARD AND KAREN STARKS for property located at 504 E. 15TH STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.64 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

Property Owner: Willard and Karen Starks
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends denial of the requested rezoning request from R-O to C-1 based on the findings herein.

PLANNING COMMISSION ACTION: Required YES
☐ Forward to City Council (recommend approval) ☐ Denied
Date: July 9, 2007
Motion: Graves
Second: Ostner
Vote: 5-2-1 (Commissioners Winston and Anthes voting no, Commissioner Trumbo recused.)

CITY COUNCIL ACTION: Required YES
☐ Approved ☐ Denied
Date: August 7, 2007 (1st reading if recommended)

BACKGROUND:

Property description: The subject property contains one parcel of property containing 0.64 acres. The property is located at 504 East 15th Street. There is one building on the property and associated parking that is currently being used for Pops Old Time Barbeque restaurant. According to the applicant this structure and the property has been used for a restaurant since its construction in 1968, which is consistent with staff's research and records of the property.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Multi-family residential	RMF-24
South	Foundation for Human Development/ Hiland Dairy	I-1
East	First Assembly of God Church	RMF-24
West	Undeveloped pasture	RMF-24

Proposal: The applicant proposes to rezone the 0.64 acre property from R-O to C-1 to bring a historic nonconforming use into compliance. The applicant discussed with staff that they do not want to apply for a conditional use permit for the restaurant, though it is permitted by Conditional Use Permit in the R-O zoning district. The zoning criteria for R-O and C-1 are attached to this report.

Background: Based on staff's research of hardcopy files, there have been three previous requests to rezone the subject property to C-1 and C-2 in the 1970's that were denied by the Planning Commission. Concerns at that time centered on the fact that the General Plan did not want to encourage strip commercial uses along 15th Street, and that the desired uses in this area were mainly residential. The current R-O designation was assigned in 1979 after the denial of an application to rezone the property to C-2. While staff generally supports bringing non-conforming uses into compliance, a rezoning to C-1 has the potential to bring other higher impact uses into the area. Additionally, being an existing nonconforming use that has been in existence for almost 40 years, the use may continue as is, or may become conforming with a conditional use permit.

INFRASTRUCTURE:

Streets: The site has access to 15th Street. 15th Street is a two lane paved State Highway in this location. Improvements to the adjacent streets will be evaluated at the time of development and subject to approval from AHTD.

Water: Public water is located adjacent to the site. There is a 12" water main that runs along 15th Street and along Wood Avenue.

Sewer: Sanitary sewer is not available on the site. There is an 8" main located on the property to the north that will need to be extended to the site. Improvements to the

sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: These 0.63 acres are covered by Engine 1 and Ladder 1 located at 303 W Center. It is 1.5 miles from the station with an anticipated response time of 4.25 minutes. Once Station #3 is built the response time will be reduced to 2.45 minutes. The measured hydrant flow recorded in this area is 1510 gallon/minute. We do not figure calls for service for developments rezoning to C-1, Neighborhood Commercial, but typically this type of development does not result in any increase in our calls for service.

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 **City Neighborhood Area**. Rezoning this one specific property to C-1 would not encourage complete, compact, and connected communities along this stretch of 15th Street, and could encourage strip-center type development, in contrast to the currently adopted land use plan policies. Rezoning the property to C-1 is not consistent with the land use plan, and long-range planning objectives for this area of the City.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: **The proposed rezoning is not consistent with future land use planning objectives, principles, and policies for City Neighborhood Areas. The Future Land Use plan identifies these areas to:**

"...encourage complete, compact, and connected neighborhoods."

"Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas..."

Commercial uses as allowed in the proposed C-1 zoning district are a vital piece in a complete, compact, connected community. However, rezoning the property to C-1 does not assure the City that this property would be integrated into a compatible development pattern. The City Neighborhood Area also encourages nonresidential uses at corner locations, and this property is currently mid-block.

The proposed C-1 zoning does not provide the City the assurance that the development would be compatible with the surrounding 15th Street corridor

with a mix of residential, church, park, and industrial uses. Staff finds that while the potential to support non-residential uses along 15th Street is evident, allowing a C-1, Neighborhood Commercial zoning district along the north side of 15th Street adjacent to residences is not consistent with the Future Land Use Plan guiding policies and strategies. As the City Plan 2025 indicates, corner locations should be first considered for non-residential 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 not justified. The applicant's stated intent is to rezone the property to bring the non-conforming use into compliance and to recognize the historic commercial use on the property. While staff does not find that a restaurant in this location is incompatible with surrounding land uses, and the existing restaurant use is an established land use along 15th Street, staff would recommend a Conditional Use Permit to allow for expansion of the restaurant use if desired. A C-1 zoning allows several intense uses that are more appropriate in corner locations, and may be objectionable to surrounding residential uses.**

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: **The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 0.64 acres. However, traffic volumes in this area are high, and increasing. Planning of any future commercial development on this site must address safe access concerns. At the time of development, improvement to this street may be required; and ingress/egress evaluated carefully.**

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 not increase population density.**

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

161.16 District R-O, Residential Office

(A) *Purpose.* The Residential-Office District is designed primarily to provide area for offices without limitation to the nature or size of the office, together with community facilities, restaurants and compatible residential uses.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 5	Government facilities
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 12	Offices, studios and related services
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 11	Manufactured home park
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 24	Home occupations
Unit 26	Multi-family dwellings
Unit 36	Wireless communications facilities

(C) *Bulk and area regulations.*
(Per dwelling unit for residential structures)

(1) *Lot width minimum.*

Manufactured home park	100 ft.
Lot within a manufactured home park	50 ft.
Single-family	60 ft.
Two-family	60 ft.
Three or more	90 ft.

(2) *Lot area minimum.*

Manufactured home park	3 acres
Lot within a manufactured home park	4,200 sq. ft.
Townhouses: Development Individual lot	 10,000 sq. ft. 2,500 sq. ft.
Single-family	6,000 sq. ft.
Two-family	6,500 sq. ft.
Three or more	8,000 sq. ft.
Fraternity or Sorority	1 acre

(3) Land area per dwelling unit.

Manufactured home	3,000 sq. ft.
Townhouses & apartments: No bedroom One bedroom Two or more bedrooms	 1,000 sq. ft. 1,000 sq. ft. 1,200 sq. ft.
Fraternity or Sorority	500 sq. ft. per resident

(D) *Density.*

Units per acre	4 to 24

(E) *Setback regulations.*

Front	30 ft.
Front, if parking is allowed between the right-of-way and the building	50 ft.
Front, in the Hillside Overlay District	15 ft.
Side	10 ft.
Side, when contiguous to a residential district	15 ft.
Side, in the Hillside Overlay District	8 ft
Rear, without easement or alley	25 ft.
Rear, from center line of public alley	10 ft.
Rear, in the Hillside Overlay District	15 ft.

(F) *Height regulations.* There shall be no maximum height limits in R-O Districts, provided, however, that any building which exceeds the height of 20 feet shall be set back with any boundary line of any RSF or RMF District an additional distance of one foot for each foot of height in excess of 20 feet.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code No. 1965, App. A., Art. 5(x); Ord. No. 2414, 2-7-78; Ord. No. 2603, 2-19-80; Ord. No. 2621, 4-1-80; Ord. No. 1747, 6-29-70; Code 1991, §160.041; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4726, 7-19-05; Ord. 4943, 11-07-06)

161.16 District C-1, Neighborhood Commercial

(A) *Purpose.* The Neighborhood Commercial District is designed primarily to provide convenience goods and personal services for persons living in the surrounding residential areas.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping
Unit 18	Gasoline service stations and drive-in restaurants
Unit 25	Professional offices

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 34	Liquor stores
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	10 ft.
Rear	20 ft.

(F) *Height regulations.* There shall be no maximum height limits in C-1 District, provided, however, that any building which exceeds the height of 10 feet shall be setback from any boundary line of any residential district a distance of one foot for each foot of height in excess of 10 feet.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1965, App. A., Art. 5(V); Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.035; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

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: July 5, 2007

Re: Zoning Review – Fire Department Comments

RZN 07-2637 (Starks)
These 0.63 acres are covered by Engine 1and Ladder 1 located at 303 W Center.
It is 1.5 miles from the station with an anticipated response time of 4.25 minutes.
Once Station #3 is built the response time will be reduced to 2.45 minutes.
The measured hydrant flow recorded in this area is 1510 gallon/minute.
We do not figure calls for service for developments rezoning to C-1, Neighborhood Commercial, but typically this type of development does not result in any increase in our calls for service.

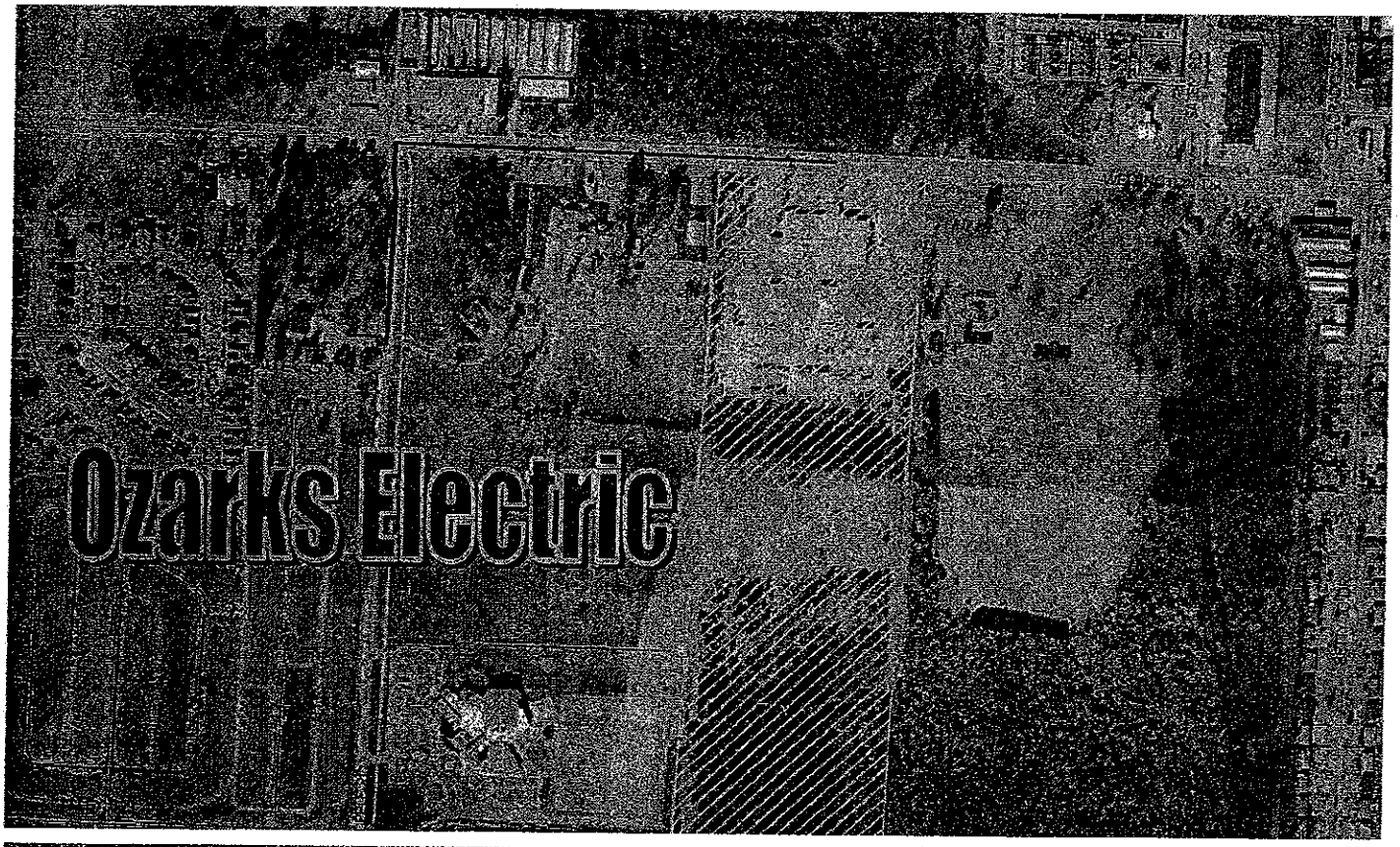
RZN 07-2636 (Ozarks Electric)
These 44.36 acres are covered by Engine 7 located at 835 Rupple Road.
It is .5 miles from the station with an anticipated response time of 2 minutes.
The measured hydrant flow recorded in this area is 1575 gallon/minute.
We do not figure calls for service for developments rezoning to I-1, Heavy Commercial/Light Industrial, but typically this type of development does not result in any increase in our calls for service.

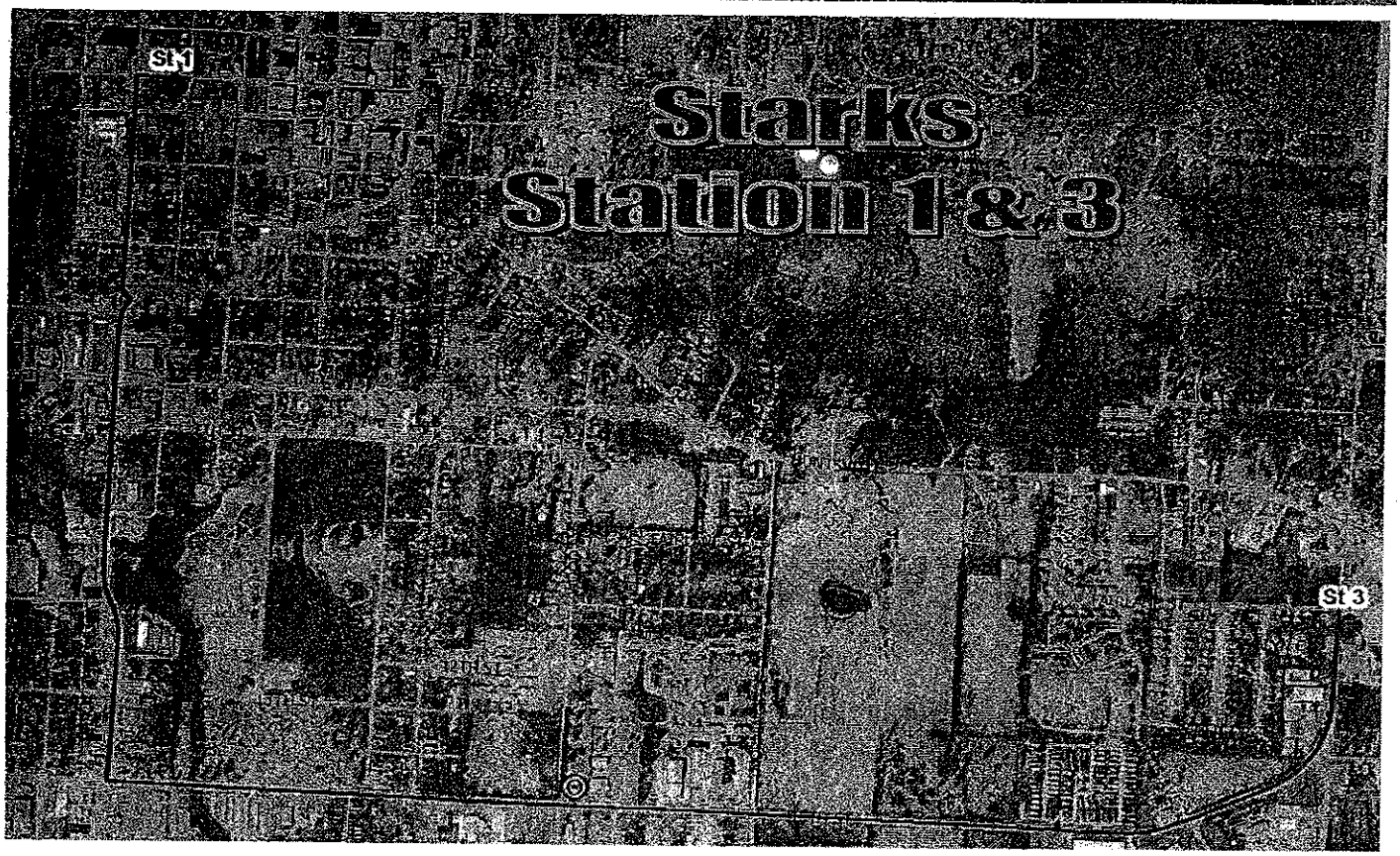
Please feel free to contact me if you have any questions concerning these comments.

Dale Riggins

Dale Riggins

Fayetteville Fire Department


Ozarks Electric


St1
Starks
Station 1 & 3
St3

Police Department Comment

From: William Brown
To: Andrew Garner
Date: 7/5/07 10:01AM
Subject: Re: Rezoning Items Due Tomorrow

I have been working on some high priority things for the Chief. I will send something more formal, but I see no issues with 15th Street, Wedington, or the College Avenue Townhomes. I will get you a letter ASAP.

Starks RZN 07-2637

William Brown
Administrative Captain
Fayetteville Police Department
FBINA 222
(479) 587-3500 - Office
(479) 587-3522 - FAX

RZN 07-2637: (STARKS, 563): Submitted by WILLARD AND KAREN STARKS for property located at 504 E. 15TH STREET. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.63 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

Andrew Garner, Senior Planner, gave the staff report. Garner described the history of the project, along with previous requests to rezone the property in a similar manner to commercial districts, all of which were denied. The structure on the property has historically been utilized for a café since the 1960s. While the requested rezoning would bring it into compliance as it pertains to its use, a conditional use permit in the existing R-O zoning would accomplish the same. Additionally, as the structure has been used constantly for a café, it is an existing nonconforming use that may continue as it is as long as the use does not cease. Staff finds that in this particular location, the commercial zoning could introduce potential objectionable uses that are not compatible to properties on the north side of 15th Street. Commercial uses are more appropriate, in general, at corner locations, and this is mid-block. Based on the findings within the staff report, staff recommends denial of the rezoning request, and recommends the applicant apply for a conditional use permit if he wants to bring the use into compliance.

Commissioner Trumbo stated he must recuse from this item, and left the chambers.

No public comment was received.

Willard Starks (applicant), owner of the property, stated this has been a restaurant for 39 years. It just about constitutes a landmark. He stated he does not agree with staff's recommendation, and the staff report was drawn from old information. Mr. Starks passed out an old zoning map copy from 1984. He stated the uses along 15th Street have changed a lot since then. This is not a residential area, thus staff's argument is non-existent. He doesn't intend on changing anything, and thinks he deserves to be brought into compliance.

Commissioner Anthes asked if Wood Avenue, which shows up on the maps, exists.

Jeremy Pate, Director of Current Planning, explained that Wood Avenue right-of-way does not exist, and discussed the Nantucket project the Planning Commission reviewed and approved to the north that dealt with Wood Avenue being extended south to 15th Street. This did not occur because the right-of-way to extend the street does not exist. As it stands today, the right-of-way for Wood Avenue does not exist to the west of this property.

Commissioner Ostner discussed the project to the north and the extension of Wood Avenue.

Starks discussed his concerns with Wood Avenue coming south, and his objections because of the traffic danger.

Commissioner Winston and Pate discussed the differences in the zoning and future land use map.

Commissioner Graves asked where the C-1 zoning district would fit within the Future Land Use Map designations.

Pate stated that C-1 could work in this Future Land Use Map designation, if appropriate for area, given the timing of the request. However, with the potential incompatibilities of the commercial zoning in the area, staff recommends the Conditional Use Permit as a better option of achieving the same goal of the applicant, to bring the restaurant into compliance. Pate discussed the options of bringing the property into compliance.

Commissioner Graves stated that right now this seems to be a spot zone. He tends to support staff and would like to see this property come into compliance by a Conditional Use Request instead of a C-1 zoning surrounded by RMF-24.

Motion:

Commissioner Graves made a motion to deny the request, based on the findings of staff. **Commissioner Ostner** seconded the motion.

Commissioner Winston asked if it would be more or less difficult to improve the property if zoned C-1.

Pate stated no, the requested zoning would actually increase setbacks from that of R-O. The development standards for the two zoning districts are virtually the same, in terms of parking lots and greenspace. However, as the use has existed for many years, if the applicant requested a conditional use permit, he would not see much reason for improvements with the conditional use or the rezoning, unless the property was being expanded or redeveloped for something else.

Commissioner Ostner stated the rezoning was a matter of timing, it may not be out of line in a few years.

Commissioner Anthes asked the applicant if the stated intent was to leave the restaurant in place, and leave the property as it has been used historically.

Starks stated the biggest difference is that with the R-O zoning, he could not put up a sign. He stated he had been over several options with staff members, but could not find a way to advertise his business. The two choices given to him were to leave it as it is or rezone the property to allow a sign.

Staff and the Planning Commission discussed signage in the different zoning districts, including size limitations and setbacks.

Commissioner Graves stated he understands that signage is the issue, but that doesn't change the justification for the motion to deny the rezoning.

Upon roll call, the motion to deny passed 5-2-1, with Commissioners Winston and Anthes voting no, Commissioner Trumbo recusing.

CITY OF FAYETTEVILLE
PLANNING COMMISSION

May 22, 2007

WILLARD & KAREN
STARKS
5009 BOULDER LANE
FAYETTEVILLE, AR
72701

DEAR SIRS,

THIS REQUEST CONCERNS THE PROPERTY AT 504 E. 15TH STREET. THE PROPERTY, BUILDING AND BUISNESS LOCATED THERE BELONG TO MYSELF AND MY WIFE KAREN. THIS PROPERTY HAS BEEN FIVE OR SIX ASSORTED RESTAURANTS. FOR FORTY YEARS.....CURRENTLY WE ARE DOING BUISNESS AS POPS OLD TIME BAR B QUE. THERE ARE NO PROPOSED OR PENDING PROPERTY SALES. THE REASON FOR REQUESTING THIS ZONING CHANGE IS. .

THIS RESTAURANT HAS BEEN OPERATING UNDER A NON CONFORMING USE PERMIT. AFTER FORTY YEARS OF THE SAME USE. WE FEEL A C-1 ZONING DESIGNATION IS PROPER.

THERE WILL BE NO CHANGES IN THE NEIGHBORHOOD IN ANY RESPECT. BUISNESS HAS BEEN HERE FOR A LONG TIME.

SINCERILY,

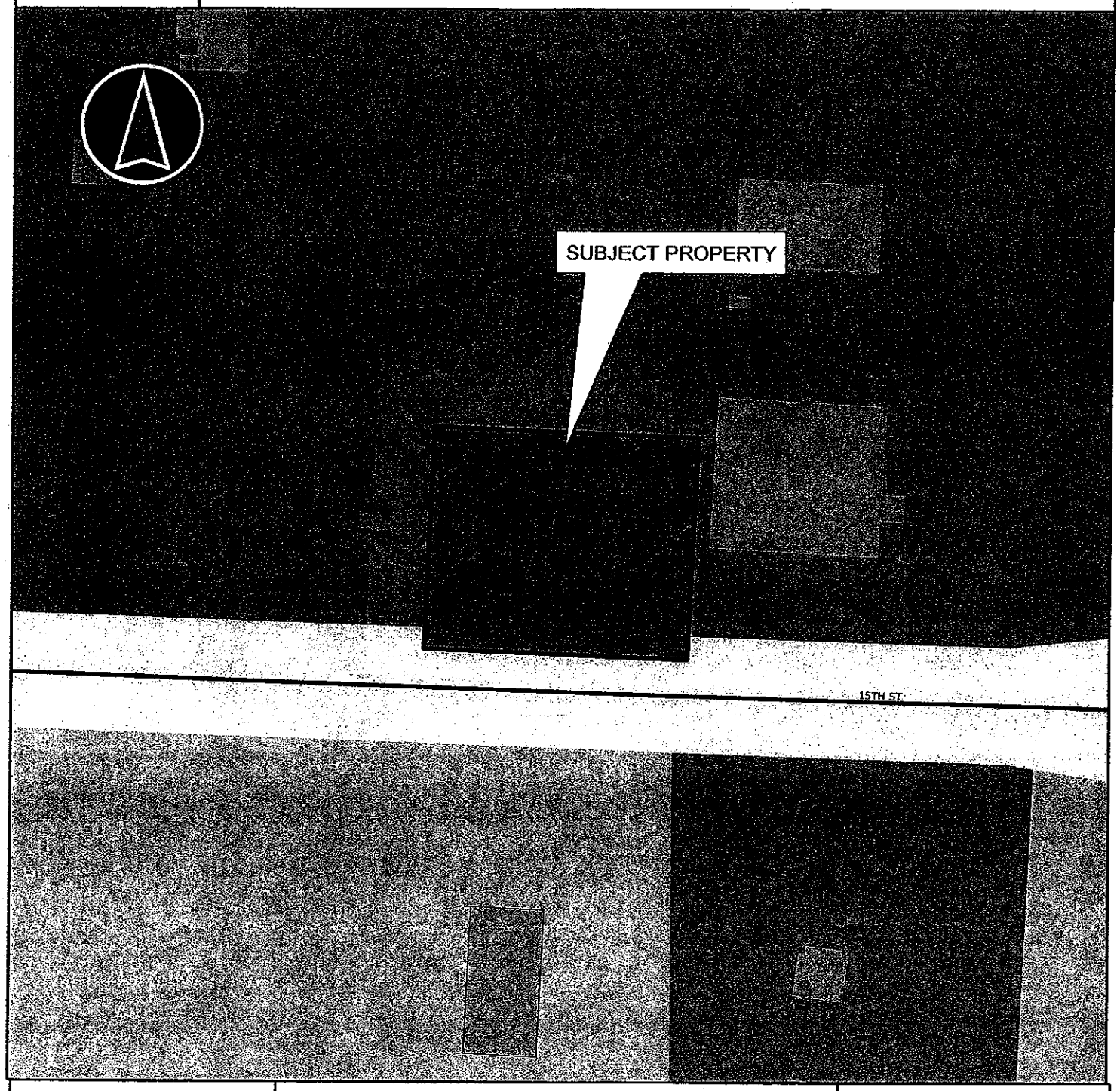
WILLARD & KAREN
STARKS

BUIS: 442-9966
CELL 445-7014
HOME 442-3738

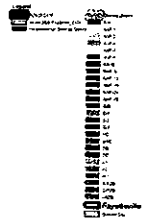
RZN07-2637

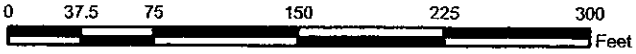
Close Up View

STARKS



Overview



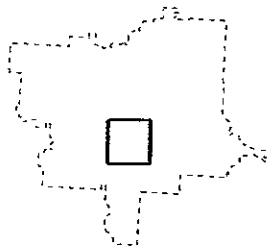


RZN07-2637

One Mile View

STARKS

Overview



Legend

Subject Property

RZN07-2637

Boundary

Planning Area

Overlay District

Outside City

Legend

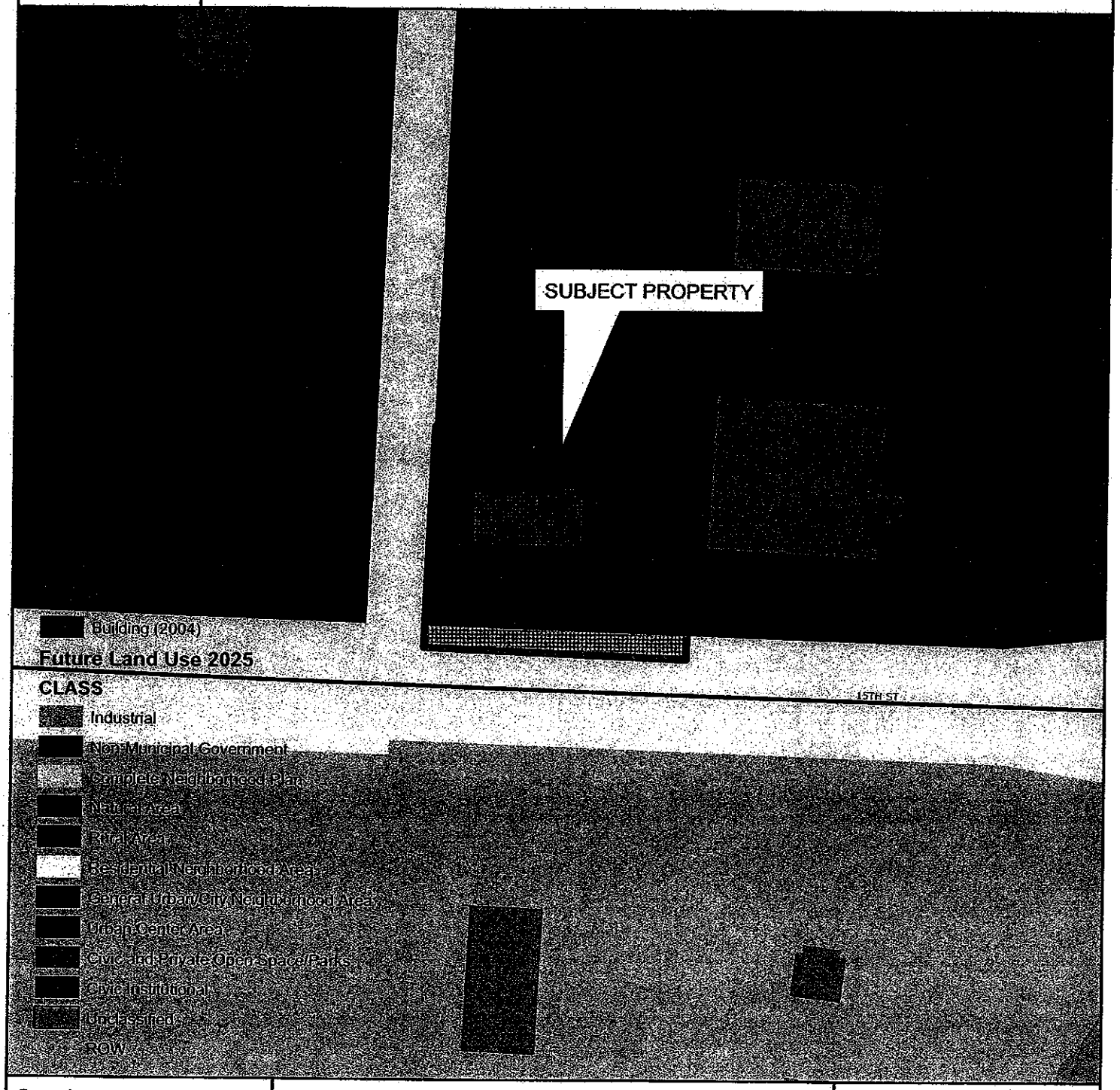
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

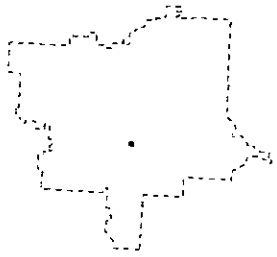
RZN07-2637

Future Land Use

STARKS



Overview



Legend

Subject Property

RZN07-2637

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 37.5 75 150 225 300 Feet

Agenda Session 7/31/07

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

Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 07, 2007

A meeting of the Fayetteville City Council will be held on August 07, 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

Human Resource Project Updates – HR Staff – Agenda Session Only

2006 Comprehensive Annual Financial Report given by Bill Golbuff – Agenda Session Only

A. CONSENT:

1. **Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.**

2. **Bid # 07-46 Littlefield Oil Company:** A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. **Bid # 07-49 Sunbelt Fire, Inc:** A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. **Bid # 07-56 Downing Sales and Service:** A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. **IBM AS400:** A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. **Airport Museum:** A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

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8. **Stone Bridge Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. **Industrial Park Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. **McCollum Road Lift Station Upgrade:** A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. **Clean-up at 509 East Huntsville Road:** A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Move to after Pop's Old Time BBQ opens

2. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

Move to 6

3. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

Move to 7

4. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

5. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

6. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

7. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

8. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

Need new ordinance from Kit.

9. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

10. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

11. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

12. **Pops Old Time Bar-B-Que Appeal:** An appeal of the Planning Commission's decision to deny RZN 07-2637.

D. INFORMATIONAL:

City Council Tour: August 06, 2007

(1) Liberty Bank Appeal - Add to New Business

Next to Last NB

(2) McClelland Consulting Engineers, Inc. Add to Consent

Consent

(X) (3) Red Oak Park Streambank Improvements Add to August 21, 2007 Agenda

8/21/07

(4) abshier Heights - Add to New Business

Last NB

Pre-Agenda Session 7/25/07

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith

Aldermen

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Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
Ward 2 Position 2 – Nancy Allen
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12. **Eagle Park Improvement Grant:** A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

Remove → ~~13~~. **McClelland Consulting Engineers, Inc:** **waiting on staff review item.**

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2. **Amend Chapter 161: Zoning Regulations:** An ordinance amending Title XV: Unified Development Code 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. *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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.***

3. **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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

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. ***This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.***

C. NEW BUSINESS:

1. **R-PZD 07-2578 (Bailey Meadows):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. **R-PZD 07-2613 (Holcomb Heights Ph. II):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

3. **VAC 07-2638 (Estes):** An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

4. **VAC 07-2639 (Four Seasons Sunrooms/Boss):** An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

5. **Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge):** An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

6. **Amend Chapters 171 & 172:** An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

7. **Amend Ordinance 5002:** An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE **LEGAL DEPARTMENT**

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

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

FROM: **Kit Williams**, City Attorney

DATE: **August 2, 2007**

RE: **Liberty Bank appeal: Curb cut regulation**

In my memo of May 3rd, 2005, I advised you that the Arkansas Supreme Court has held that "the owner of property abutting upon a street has an easement in such street for the purpose of ingress and egress. . . . (T)his property right is not diminished merely because the property owner has alternative means of ingress and egress." Wright v. City of Monticello, 345 Ark. 420, 47 S.W. 3d 851, 857 (2001). Attached is that memo, as well as my memos of March 7, 2007, and February 6, 2003, discussing abutting owner's access easement rights to city streets.

I have also attached a one page memo dated July 31, 2007, from Liberty Bank's attorney which also discusses access easement rights owned by abutting property owners.

All of my earlier memos were directed toward proposed vacations or closing of streets or alleys, not the disallowance of a requested curb cut which is what Liberty Bank is appealing to you. The Arkansas Supreme Court has held that a city council has been given "broad discretion" in matters pertaining to city streets by the state legislature.

> "With such broad (statutory) power over streets and alleys, it seems the latitude of discretion vested in city governing boards should be very wide indeed." City of Little Rock v. Linn, 245 Ark. 260, 432 S.W.2d

455, 461 (1968).

> "This court long ago recognized that the varied uses and conflicts of city life required that much be left to the discretion of city authorities, whose actions should not be judicially interfered with unless manifestly unreasonable and oppressive, an unwarranted invasion of private rights, or clearly in excess of powers granted."
> Id. at 462.

Another case discussing the access easement rights of an abutting owner to a state highway described the **access easement as "limited"** and agreed the owner whose land had been condemned for the highway could recover damages because the access easement the owner was left with "would surely be **subordinated to the needs of the highway department** and those political subdivisions and utilities. . . ." Arkansas State Highway Commission v. Wallace, 249 Ark. 303, 459 S.W.2d 812, 814 (1970) (emphasis added).

Those cases lead me to conclude that cities do have the legal and constitutional power to control access to their streets by regulating where and how curb cuts will be allowed. Such curb cut regulation has existed in Fayetteville and most larger cities in Arkansas for decades without serious legal challenge. I do not believe that Liberty Bank is questioning the City's power to regulate curb cut location, but does question whether the City can **prohibit** any curb cut along Joyce Boulevard for the entire length of the bank's fairly large lot. I believe that the City has a heavy burden in this case to absolutely prohibit any curb cut on Joyce.

The case cited by the bank's attorney, Campbell v. Arkansas State Highway Commission, 183 Ark. 780, 38 S.W.2d 753 (1931), has some strong language, but it is based upon significantly different facts. In that case, the Highway Commission built a bridge over the White River in Newport. The bridge and its approaches were necessarily raised dramatically above Campbell's house and property and thereby obstructed his previous access to his property. Therefore, the Highway Commission had to pay Campbell for his loss of access.

In our case, we are considering a loss of **potential** access, not current access. However, even blocking access to a public street by a curb or barrier can constitute a taking for which the City could be liable for loss of the property owner's access easement. Curbs and curb cuts were discussed in Flake v. Thompson, Inc., 249 Ark. 713, 460 S.W.2d 789 (1970), in relation to blocking access to a public street. The Arkansas Supreme Court held:

> "The property right of ingress and egress of appellants in the easement was one that could not be taken by the city, at least without payment of just compensation." Id. at 796.

An argument that the property owner had other access on another city street was rejected by the Arkansas Supreme Court.

> "The mere fact that appellants also have a means of ingress and egress via University Avenue does not affect or diminish their property rights in the easement, and they cannot be deprived of these rights because of the remaining means of ingress and egress." Id. at 797.

CONCLUSION

The requested curb cut does not specifically violate our current distance requirements from intersections. **Therefore, the curb cut requested by the bank can only be denied pursuant to our U.D.C. if it creates or compounds a dangerous traffic situation.** The Planning Commission tied 4-4 on this issue.

If no curb cut on Joyce is allowed for a good public policy reason (safety), **the City might still be liable** to the bank for depriving it of its access easement to serve a City goal of facilitating safe and efficient traffic management just as we would if we condemned private property to obtain enough right of way to enlarge a street for safety or efficiency improvements.

MEMO

DATE: July 31, 2007

RE: Liberty Bank - Ingress and Egress

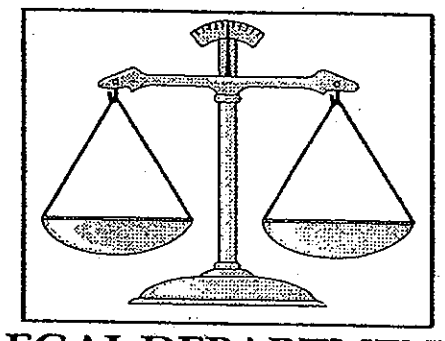
The Supreme Court of Arkansas in *Campbell v. Arkansas State Highway Commission*, 183 Ark. 780, held that an owner of property abutting upon a street has easement for ingress and egress which attaches to his property. The reason is that the easement in the street or highway is incident to the lot itself, and any damage, whether by destruction or impairment, is a damage to the property owner, and independent of any damage sustained by the public generally. This right of ingress and egress which attaches to the lot is right derivative of the taking section in the Arkansas Constitution, Article 2, Section 22. The Supreme Court of Arkansas in a recent decision of *Wright v. City of Monticello*, 345 Ark. 420 (2001), echoed the well established principals of law holding that an abutting landowner has a property right of ingress and egress as a means of accessing the property. That right attaches to the property as fully as in the lot itself.

The right of an easement for ingress and egress off of a public roadway or street is independent of whether there are any alternate routes to access the property. See *Wright v. City of Monticello*, 345 Ark. 420 (2001). This right was specifically discussed in the Supreme Court of Arkansas case *Flake v. Thompson*, 249 Ark. 713 (1970), which the court held that the mere fact that a property owner has a means of ingress and egress via an alternate route does not affect or diminish their property rights in the easement which is affected and they cannot be deprived of these rights because of the remaining means of ingress and egress. Quoting; *Langford v. Griffin*, 179 Ark. 574 and *Campbell v. Ford*, 244 Ark. 1141.

The courts have repeatedly held that the right of a property owner to ingress and egress cannot be taken without just compensation. There is also an ALR article discussing the principals associated with the power to directly relate or prohibit abutter's access to a street or highway. This article is located at 73 A.L.R. 2d 652. Let me know what else I can do for you on this issue.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **City Council**
Planning Commissioners

FROM: **Kit Williams**, City Attorney

DATE: **May 3, 2005**

RE: **Vacation of streets, alleys and easements**

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

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

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

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

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

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

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

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

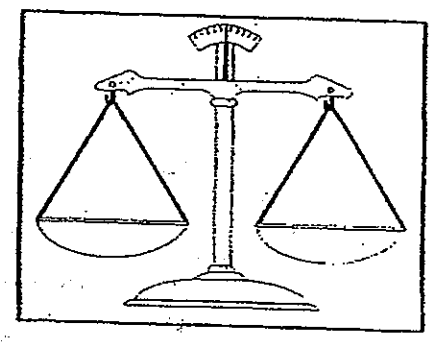
If an owner of a large tract of undeveloped, platted land wishes to vacate dedicated streets and alleys (which have never been built or used) in order to reconfigure and replat his property (which would require appropriate new access and easements because of our UDC), there would seem to be no corporate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

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Tim Conklin,** Planning Department

FROM: **Kit Williams,** City Attorney

DATE: **February 6, 2003**

RE: **Vacation of dedicated streets and alleys**

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

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

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

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

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

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

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

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

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

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

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

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

The Arkansas Court of Appeals has held:

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

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

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

CONCLUSION

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

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

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

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

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

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

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

8. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

9. **Boardwalk Property Owners Association:** An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

10. **Sale of 4.0 Acres to Ozarks Electric:** An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

11. **Repeal Youth Activities Committee:** An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

12. **Pops Old Time Bar-B-Que Appeal:** An appeal of the Planning Commission's decision to deny RZN 07-2637.

D. INFORMATIONAL:

City Council Tour: August 06, 2007

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

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

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

FROM: **Kit Williams**, City Attorney

DATE: **March 7, 2007**

RE: **Vacations of streets and alleys**

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

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

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

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS

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

LEGAL DEPARTMENT

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

DATE: **August 8, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of August 7, 2007**

1. **Littlefield Oil Company:** Resolution approving annually renewable contract with Littlefield Oil Company pursuant to Bid #07-46 in approximate annual amount of $1,228,023.00;

2. **Sunbelt Fire, Inc.:** Resolution awarding Bid #07-49 to Sunbelt Fire, Inc. (Emergency One) for purchase of one 114"" Articulated Aerial Platform Truck in amount of $886,843.00 for use by Fayetteville Fire Dept. and approving purchase of ancillary equipment in amount not to exceed $25,000.00;

3. **Downing Sales & Service:** Resolution awarding Bid #07-56 to Downing Sales & Service, Inc. for purchase and installation of one recycling baler in amount of $211,393.00 plus applicable taxes; and approving contingency in amount of $5,500.00;

4. **IBM AS400:** Resolution approving purchase of IBM AS400, Model 9406-515 through State Purchasing Contract in amount not to exceed $43,700.00 for use by Fayetteville Police Department;

5. **Air Museum:** Resolution approving budget adjustment in amount of $16,000.00 from Economic Development funds to Airport Museum to finish cabinets for display of historic documents;

6. **Stone Bridge Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $236,225.00 for upgrade of Lift Station 13 (Stone Bridge) WSIP Subproject EL-4 LS-13; and approving 2% EL-4 contingency in amount of $7,000.00;

7. **Industrial Park Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $74,942.00 for upgrade of Lift Station 14 (Industrial Park) WSIP Subproject EL-4 LS-14; and approving 2% EL-4 contingency in amount of $1,500.00;

8. **McCollum Road Lift Station Upgrade:** Resolution approving out-of-scope agreement with OMI in amount of $74,931.00 for upgrade of Lift Station 16 (McCollum Road) WSIP Subproject EL-4 LS-16; and approving 2% EL-4 contingency in amount of $1,500.00;

9. **Clean-up of 509 E. Huntsville Road:** Resolution certifying to Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon property located at 509 E. Huntsville Road in City of Fayetteville'

10. **Eagle Park Improvement Grant:** Resolution authorizing Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in amount not to exceed $125,000.00 for improvements to Eagle Park;

11. **McClelland Consulting Engineers, Inc.:** Resolution approving Task Order #1 with McClelland Consulting Engineers, Inc. in amount of $45,000.00 to conduct an obstruction survey of Drake Field Runway approaches; accepting grant form Arkansas Department of Aeronautics in amount of $2,250.00; and approving budget adjustment in amount of $45,000.00;

12. **GeoSyntec Consultants, Inc.:** Resolution awarding contract to GeoSyntec Consultants, Inc. in amount of $199,883.00 to develop Nutrient Reduction Plan in accordance with Beaver Water District Agreement, WSIP Subproject DWD-1, RFP 06-17;

13. **CUP 07-2560 Bohot Appeal:** Resolution granting appeal of Planning Commission's approval of Conditional Use Permit 07-2560 (Bohot) and to deny the conditional use;

14. Amend Chapters 171 and 172: Ordinance amending Title XV: Unified Development Code of Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in front yard area of residential dwelling units;

15. Amend Ordinance #5002: Ordinance amending Ordinance No. 5002 in order to make newly enacted §92.32 of Fayetteville Code effective earlier;

16. Sale of 4.0 Acres to Ozarks Electric: Ordinance waiving requirements of Ordinance No. 4358 and approving Offer and Acceptance contract between City of Fayetteville and Ozarks Electric Cooperative Corp. for sale of four acres of unneeded land with an access and utility easement for same at West Side Wastewater Treatment Plant for $140,000.00; approving budget adjustment and authorizing Mayor and City Clerk to execute said agreement;

17. Repeal Youth Activities Committee: Ordinance repealing Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code;

18. Liberty Bank Appeal: Resolution granting appeal of Planning Commission's approval of LSD 07-2574 for Liberty Bank by modifying Condition #3 and allowing Bank's requested curb cut on Joyce Boulevard.

From: Sondra Smith
To: Leflar, Missy
Date: 7/2/2007 4:49 PM
Subject: Re: End of July Agenda session
Attachments: Sondra Smith1.vcf

I have added you to the August 7, 2007 City Council agenda for a presentation at the July 31, 2007 Agenda Session.
Have a great evening!

Sondra E. Smith, CMC, CAMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Missy Leflar 7/2/2007 4:26 PM >>>
Thank you - may we have July 31st?

The title will be "Human Resource project updates" presented by the City's HR Staff. We'll shoot for 10 minutes. Thanks.

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

>>> Sondra Smith (Amber Wood) (Sondra Smith) 6/29/2007 11:11 AM >>>
Hi Missy,

We can put you on July 10th or July 31st whichever you would prefer. Just send me the title of the presentation and who will be giving the presentation and we will add it on the agenda.

Have a nice day!

Amber Wood

>>> Missy Leflar 6/29/2007 10:12 AM >>>
Sondra,

Could HR do a brief (10 - 15 minute) staff presentation at the last agenda session in July? (Even if it's the "pre-August council meeting" session)?

The Mayor asked us to do one at a short agenda session. Provided that this is a short agenda session, we would like to do it at this one.

Thanks,
Missy

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

From: Missy Leflar
To: Sondra Smith
Date: 7/2/2007 4:26 PM
Subject: Re: End of July Agenda session

Thank you - may we have July 31st?

The title will be "Human Resource project updates" presented by the City's HR Staff. We'll shoot for 10 minutes. Thanks.

Missy Leflar
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113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

>>> Sondra Smith (Amber Wood) (Sondra Smith) 6/29/2007 11:11 AM >>>
Hi Missy,

We can put you on July 10th or July 31st whichever you would prefer. Just send me the title of the presentation and who will be giving the presentation and we will add it on the agenda.

Have a nice day!

Amber Wood

>>> Missy Leflar 6/29/2007 10:12 AM >>>
Sondra,

Could HR do a brief (10 - 15 minute) staff presentation at the last agenda session in July? (Even if it's the "pre-August council meeting" session)?

The Mayor asked us to do one at a short agenda session. Provided that this is a short agenda session, we would like to do it at this one.

Thanks,
Missy

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

From: Missy Leflar
To: Sondra Smith
Date: 7/20/2007 5:20 PM
Subject: July 31st Agenda session presentation

CC: Gary Dumas; Susan Thomas

The HR Division is doing a brief (about ten minute) staff presentation at the July 31st agenda session.

Do we get to do it at the beginning of the session?

We'd prefer to, from the standpoint of having the powerpoint all set up and ready to go.

Thanks,
Missy

Missy Leflar
Human Resources Division Manager
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

From: Vicki Deaton
To: Branson, Lisa
Date: 7/18/2007 4:10 PM
Subject: agenda session information item

Lisa,
This is to confirm that an information only item for agenda session has been added to the 8/7/07 City Council agenda. Bill Golbuff, Audit Committee Chair, will present the 2006 Comprehensive Annual Financial Report on 7/31/07. Thanks.

Vicki D. Deaton
City of Fayetteville
Internal Auditor
113 W. Mountain
Fayetteville, AR 72701
479-575-8261

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I, Kate MacNaughton, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of

City of Fayetteville: Final Agenda for August 7, 2007

Was inserted in the Regular Editions on:
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Subscribed and sworn to before me
This day of , 2007.
06th August

Notary Public
Sean-Michael Argo

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FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
AUGUST 07, 2007

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on August 07, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order
Roll Call
Pledge of Allegiance

Presentation: First School of First Presbyterian Church K-1 Class - Carolyn Swaney, Teacher and David Channell on guitar.

A. CONSENT:

1. Approval of the July 03, 2007 and July 17, 2007 City Council meeting minutes.

2. Bid # 07-46 Littlefield Oil Company: A resolution to approve an annually renewable contract with Littlefield Oil Company pursuant to Bid # 07-46 in the approximate annual amount of $1,228,023.00.

3. Bid # 07-49 Sunbelt Fire, Inc: A resolution awarding Bid # 07-49 to Sunbelt Fire, Inc. (Emergency One) for the purchase of one (1) 114' Articulated Aerial Platform Truck in the amount of $886,843.00 for use by the Fayetteville Fire Department; and approving the purchase of ancillary equipment in an amount not to exceed $25,000.00.

4. Bid # 07-56 Downing Sales and Service: A resolution awarding Bid # 07-56 to Downing Sales and Service, Inc. for the purchase and installation of one (1) recycling baler in the amount of $211,393.00 plus applicable taxes; and approving a project contingency in the amount of $5,500.00.

5. IBM AS400: A resolution approving the purchase of an IBM AS400, Model 9406-515 through the state purchasing contract in an amount not to exceed $43,700.00 for use by the Fayetteville Police Department.

6. Airport Museum: A resolution to approve a budget adjustment in the amount of $16,000.00 from Economic Development Funds to the Airport Museum to finish the cabinets for display of historic documents.

7. GeoSyntec Consultants, Inc: A resolution awarding a contract to GeoSyntec Consultants, Inc. in the amount of $199,883.00 to develop a Nutrient Reduction Plan in accordance with the Beaver Water District Agreement, WSIP Subproject BWD-1, RFP 06-17.

8. Stone Bridge Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $236,225.00 for the upgrade of Lift Station 13 (Stone Bridge), WSIP Subproject EL-4 LS-13; and approving a 2% EL-4 project contingency in the amount of $7,000.00.

9. Industrial Park Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $74,942.00 for the upgrade of Lift Station 14 (Industrial Park), WSIP Subproject EL-4 LS-14; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

10. McCollum Road Lift Station Upgrade: A resolution approving an out-of-scope agreement with OMI in the amount of $74,931.00 for the upgrade of Lift Station 16 (McCollum Road), WSIP Subproject EL-4 LS-16; and approving a 2% EL-4 project contingency in the amount of $1,500.00.

11. Clean-up at 509 East Huntsville Road: A resolution certifying to the Tax Collector of Washington County the costs of abating unsightly and unsanitary conditions upon the property located at 509 E. Huntsville Rd. in the City of Fayetteville, Arkansas.

12. Eagle Park Improvement Grant: A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in an amount not to exceed $125,000.00 for improvements to Eagle Park.

13. McClelland Consulting Engineers, Inc: A resolution approving task order #1 with McClelland Consulting Engineers, Inc. in the amount of $45,000.00 to conduct an obstruction survey of the Drake Field Runway Approaches; accepting a grant from the Arkansas Department of Aeronautics in the amount of $2,250.00; and approving a budget adjustment in the amount of $45,000.00.

B. UNFINISHED BUSINESS:

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 appeal was Tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.*

2. Amend Chapter 161: Zoning Regulations: An ordinance amending Title XV: Unified Development Code 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. 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 ordinance was left on the Third Reading and tabled at the July 17, 2007 City Council meeting to the August 7, 2007 City Council meeting.*

3. 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 ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.*

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. *This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting.*

C. NEW BUSINESS:

1. R-PZD 07-2578 (Bailey Meadows): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2578, Bailey Meadows, located west of School Avenue and north of Bailey Drive; containing approximately 3.86 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

2. Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge): An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008.

3. Amend Chapters 171 & 172: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 171: Streets and Sidewalks and Chapter 172: Parking and Loading in order to reduce the required driveway widths and regulate parking in the front yard area of residential dwelling units.

4. Amend Ordinance 5002: An ordinance to amend Ordinance No. 5002 in order to make the newly enacted §92.32 of the Fayetteville Code effective earlier.

5. Amend Chapter 96 Noise Ordinance: An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new subsection (E) to prohibit excessive engine revving.

6. Boardwalk Property Owners Association: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed $69,674.00 to dredge the Boardwalk POA pond.

7. Sale of 4.0 Acres to Ozarks Electric: An ordinance waiving the requirements of Ordinance No. 4358 and approving an offer and acceptance contract between the City of Fayetteville and Ozarks Electric Cooperative Corp. for the sale of four (4) acres of unneeded land with an access and utility easement for same at the West Side Wastewater Treatment Plant for $140,000.00; approving a budget adjustment; and authorizing the Mayor and City Clerk to execute said agreement.

8. Repeal Youth Activities Committee: An ordinance to Repeal Article 17, Youth Activities Committee, Chapter 33 of the Fayetteville Code.

9. Pops Old Time Bar-B-Que – Appeal of the Planning Commission's Decision to Deny RZN 07-2637: An ordinance rezoning that property described in rezoning petition RZN 07-2637, for approximately 0.64 acres, located at 504 East 15th Street from R-O, Residential Office to C-1, Neighborhood Commercial.

10. R-PZD 07-2613 (Holcomb Heights Ph. II): An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2613, Holcomb Heights Phase II, located east of Rupple Road, west of Phase I; containing approximately 5.77 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

11. VAC 07-2638 (Estes): An ordinance approving VAC 07-2638 submitted by Peter (Tripp) and Brandy Estes for property located at 2350 Big Oaks Drive to vacate a portion of a drainage easement on the subject property.

12. VAC 07-2639 (Four Seasons Sunrooms/Boss): An ordinance approving VAC 07-2639 submitted by Bill Boss for property located at 5608 Reliance to vacate a portion of a utility easement on the subject property.

13. Liberty Bank Appeal: A resolution to grant the approval of the Planning Commission's approval of large scale development 07-2574 for Liberty Bank by modifying condition #3 and allowing the bank's requested curb cut on Joyce BLVD.

14. Abshier Heights – Waive Chapter 166.20 of the UDO: An ordinance to waive Chapter 166.20 of the Unified Development Code, Expiration of Approved Plans and Permits, for R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

D. INFORMATIONAL:

City Council Tour: None