

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
May 06, 2008**

A meeting of the Fayetteville City Council will be held on May 06, 2008 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

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Confirmation of the Advertising and Promotion Commission appointment. **APPROVED.**
2. Quarterly Report of Financial Condition of the City. **INFORMATIONAL ITEM – REPORT GIVEN TO CITY COUNCIL AS REQUIRED BY STATE LAW.**

Agenda Additions:

A. Consent:

1. Approval of the April 15, 2008 City Council meeting minutes. **APPROVED.**

2. **2008 Community Development Block Grant:** A resolution approving a budget adjustment in the amount of \$20,047.00 to reflect a like reduction in the 2008 Community Development Block Grant Revenues.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 88-08.

3. **Farmington Cost-Share Agreement - Farmington Lift Station:** A resolution to approve a cost share agreement with Farmington in which Fayetteville pays \$482,078.52 (with credit to be given for some equipment), Farmington pays \$1,215,802.48, and Fayetteville authorizes a \$30,000.00 contingency for the Farmington Lift Station.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 89-08.

4. **Oscar Renda Change Order # 3:** A resolution approving Change Order # 3 to the contract with Oscar Renda Contracting, Inc. in the amount of \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamstring Lift Station, WSIP Subproject WL-4.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 90-08.

5. **Black & Veatch Corporation Amendment No. 2:** A resolution approving Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line – Rehabilitation Study.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 91-08.

6. **TIF District Interest Income:** A resolution to approve a budget adjustment in the amount of \$20,119.00 to recognize interest income from the TIF Project Fund and allocate it to sidewalk improvements in the TIF District.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 92-08.

7. **Anaconda Sports:** A resolution to award a bid to Anaconda Sports in the amount of \$22,043.00 with a contingency of \$3,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 93-08.

8. **Arkansas Department of Aeronautics Grant:** A resolution to approve an application for Federal Assistance and an Arkansas Department of Aeronautics matching grant to help fund Task Order # 3 in the amount of \$128,337.00 of the total task order cost of \$158,700.00 and to accept the grants when awarded.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 94-08.

- 9. Arkansas Recreational Trails Grant:** A resolution approving an Agreement of Understanding with the Arkansas Highway and Transportation Department for the acceptance of an Arkansas Recreational Trails Grant to utilize \$33,600.00 in federal-aid funds to replace the Mud Creek Trail Bridge near Front Street; and approving a budget adjustment in the amount of \$69,320.00.

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- 10. Thompson Culvert Company:** A resolution approving the purchase under Bid # 08-15 of one (1) prefabricated weathering steel pedestrian bridge for Mud Creek Trail from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 96-08.

- 11. Kinco Contractors, LLC Change Order # 1:** A resolution approving Change Order # 1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one (1) trail bridge for Mud Creek Trail; and approving a 15% project contingency in the amount of \$5,550.00.

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- 12. Arkansas Historic Preservation Program Grant:** A resolution approving an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the increased grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 98-08.

- 13. PetSmart Grant:** A resolution authorizing the Fayetteville Animal Services Division to accept a grant from PetSmart Charities in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries; and approving a budget adjustment to recognize the grant revenue.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 99-08.

- 14. BNSF Railway Co.:** A resolution approving the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 100-08.

- 15. Gordon Backhoe and Dozer Service Inc.:** A resolution to approve a bid contract with Gordon Backhoe and Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00 and to approve a budget adjustment in the amount of \$19,068.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 101-08.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals: A resolution to approve the hiring of replacement employees for the following positions:

- (A) One Database Administrator position;
- (B) One Police Dispatcher.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 102-08.

2. **RZN 08-2937 (Mountain Ranch Ph. III):** An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre. *This ordinance was left on the Second Reading at the April 15, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5133.

3. **C-PZD 08-2894 (Park Centre):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans Park Entry Drive, containing approximately 8.58 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Third Reading and then Tabled at the April 15, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5134.

C. New Business:

1. **Fayetteville Municipal Property Owners' Improvement District No. 28 - Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 28 Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5135.

2. **Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 5136.

3. **Northwest Arkansas Naturals – City of Springdale Congratulations:** A resolution to congratulate the City of Springdale for building the Arvest Ballpark and acquiring the Northwest Arkansas Naturals.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 103-08.

4. **RZN 07-2708 (Fire Stations):** An ordinance amending Ordinance Number 5074 to attach the correct Hansen Number to the exhibits of said ordinance.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5137.

5. **RZN 08-2934 (Newell/Morton):** An ordinance rezoning a portion of property described in rezoning petition RZN 08-2934, for approximately 0.37 acres, located at 1141 Hendrix from RSF-4, Residential Single Family, 4 units per acre, to RSF-8, Residential Single Family, 8 units per acre.

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

6. **R-PZD 08-2915 (Hill Place):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915, Hill Place, located at the southwest corner of 6th Street and Hill Avenue; containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

7. **VAC 08-2951 (Shoppes at Wedington):** An ordinance approving VAC 08-2951 submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road, to vacate a utility easement on the subject property, a total of 5,997 square feet.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5138.

8. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5139.

9. **Repeal and Replace §158.03 Maintenance:** An ordinance to repeal §158.03 Maintenance of the Unified Development Code and to enact a replacement §158.03 Maintenance.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5140.

10. **Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5141.

11. **Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with amendments proposed by The Board of the Downtown Off-Street Parking Improvement District.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5142.

12. Pratt Place Inn Appeal: An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670, Pratt Place Inn, located at 2115 W. Markham Road, containing approximately 72.00 acres, to allow a monument sign in Planning Area 2 in-lieu of a sign in Planning Area 3, as described herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5143.

13. Bridgedale Plaza Appeal: An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

Announcements:

1. City Council Tour: May 05, 2008 - 4:30 PM – R-PZD 08-2915 (Hill Place)

Adjournment: Meeting adjourned at 10:10 p.m.

Subject: Roll					
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody	✓			

9-0

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

Subject: Confirmation of the Advertising and Promotion Commission appointment.					
Motion To:		Approve Appointment			
Motion By:		Cook			
Seconded:		Allen			
<u>Approved</u>	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Mayor Coody					

8-0

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Lucas			
<u>passed</u>	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Mayor Coody					

Minutes
Approved
Res.
88-08

to
101-08

8-0

Subject:		Hiring Freeze Appeals: <i>Data Base Administrator</i>			
Motion To:		<i>Approve</i>			
Motion By:		<i>Gray</i>			
Seconded:		<i>Allen</i>			
B.1. Unfinished Business <i>Approved</i> <i>102-08</i>	Allen	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Mayor Coody				

8-0

Subject:		Hiring Freeze Appeals: <i>Dispatcher</i>			
Motion To:		<i>Approve</i>			
Motion By:		<i>Rhoads</i>			
Seconded:		<i>Gray</i>			
B.1. Unfinished Business <i>Approved</i>	Allen	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Mayor Coody				

Subject: RZN 08-2937 (Mountain Ranch Ph. III)

Motion To:

3rd Read

Pass

Motion By:

Jordan
Lucas

Seconded:

B.2.

Unfinished

Business

Allen

✓

✓

Rhoads

✓

✓

Ferrell

✓

✓

Lucas

✓

✓

Jordan

✓

✓

Gray

✓

✓

Thiel

✓

✓

Cook

✓

✓

Mayor Coody

8-0

8-0

Subject: C-PZD 08-2894 (Park Centre)

Motion To:

Pass

Motion By:

Seconded:

B.3.

Unfinished

Business

Allen

✓

Rhoads

✓

Ferrell

✓

Lucas

✓

Jordan

✓

Gray

✓

Thiel

✓

Cook

✓

Mayor Coody

8-0

Subject: Fayetteville Municipal Property Owners' Improvement District No. 28 Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project:					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Jordan		
Seconded:		Gray	Ferrell		
C.1 New Business <u>Passed</u> 5135	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Fayetteville Municipal Property Owners' Improvement District No. 29 Ruskin Heights Subdivision Infrastructure Project:					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Lucas	Lucas		
C.2 New Business <u>Passed</u> 5136	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Northwest Arkansas Naturals - City of Springdale Congratulations					
Motion To:		Approve			
Motion By:		Ferrell			
Seconded:		Lucas			
C.3 New Business <u>passed</u> 103-08	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
	Mayor Coody				

8-0

Subject: RZN 07-2708 (Fire Stations)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Lucas		
C.4 New Business <u>passed</u> 5137	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

Subject: RZN 08-2934 (Newell/Morton)					
Motion To:					
Motion By:					
Seconded:					
C.5 New Business <i>Left on the First Reading</i>	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Mayor Coody				

Subject: R-PZD 08-2951 (Hill Place)					
Motion To:		<i>Amend</i>			
Motion By:		<i>Thiel</i>			
Seconded:		<i>Gray</i>			
C.6 New Business <i>Left on the First Reading</i>	Allen	<i>✓</i>			
	Rhoads	<i>✓</i>			
	Ferrell	<i>✓</i>			
	Lucas	<i>✓</i>			
	Jordan	<i>✓</i>			
	Gray	<i>✓</i>			
	Thiel	<i>✓</i>			
	Cook	<i>✓</i>			
	Mayor Coody				

Subject: VAC 08-2951 (Shoppes at Wedington)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
C.7 New Business <u>Passed</u> 5138	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	Absent during the vote	Absent during the vote	✓	
Mayor Coody					
		7-0	7-0	8-0	

Subject: Amend Chapter 97 Parks and Recreation					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Thiel		
C.8 New Business <u>Passed</u> 5139	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Repeal and Replace §158.03 Maintenance					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Fernell	Fernell		
Seconded:		Lucas	Jordan		
C.9 New Business <u>Passed</u> 5140	Allen	✓	✓	✓	
	Rhoads	Absent during the vote.	Absent during the vote.	Absent during the vote.	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		7-0	7-0	7-0	

Subject: Repeal and Replace Chapter 168: Flood Damage Prevention Code					
Motion To:		2nd Read	3rd Read	Pass	Emergency Clause
Motion By:		Jordan	Jordan		Jordan
Seconded:		Allen	Allen		Thiel
C.10 New Business <u>Passed</u> Emergency Clause 5141	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
Mayor Coody					
		8-0	8-0	8-0	8-0

Subject: Downtown Off-Street Parking Improvement District					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Ferrell	Lucas		
C.11 New Business <u>Passed</u> 5142	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Pratt Place Inn Appeal					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Lucas	Jordan		
Seconded:		Jordan	Lucas		
C.12 New Business <u>Passed</u> 5143	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Bridgedale Plaza Appeal					
Motion To:		Amend to Add 3 conditions of Approval			
Motion By:		Thiel		1 -	18 feet
Seconded:		Gray		2 -	phasing
C.13 New Business	Allen	✓		3 -	drainage
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Mayor Coody					

8-0

Subject: Bridgedale Plaza Appeal					
Motion To:		2nd Read			
Motion By:		Ferrell			
Seconded:		Lucas			
C.13 New Business	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook	✓			
Mayor Coody					

Left
on
the
Second
Reading

8-0

Aldermen

Mayor Dan Coody
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Ward 1 Position 1 – Adella Gray
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Ward 2 Position 1 – Kyle B. Cook
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Roll Call

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2. Quarterly Report of Financial Condition of the City.

Agenda Additions:

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5. **Black & Veatch Corporation Amendment No. 2:** A resolution approving Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line – Rehabilitation Study.
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11. **Kinco Contractors, LLC Change Order # 1:** A resolution approving Change Order # 1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one (1) trail bridge for Mud Creek Trail; and approving a 15% project contingency in the amount of \$5,550.00.
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- 1. Hiring Freeze:** Hiring Freeze Appeals:

Information Technology - One Database Administrator Position

- 2. RZN 08-2937 (Mountain Ranch Ph. III):** An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre. *This ordinance was left on the Second Reading at the April 15, 2008 City Council meeting.*
- 3. C-PZD 08-2894 (Park Centre):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans Park Entry Drive, containing approximately 8.58 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Third Reading and then Tabled at the April 15, 2008 City Council meeting.*

C. New Business:

- 1. Fayetteville Municipal Property Owners' Improvement District No. 28 - Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 28 Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project.
- 2. Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project.
- 3. Northwest Arkansas Naturals – City of Springdale Congratulations:** A resolution to congratulate the City of Springdale for building the Arvest Ballpark and acquiring the Northwest Arkansas Naturals.
- 4. RZN 07-2708 (Fire Stations):** An ordinance amending Ordinance Number 5074 to attach the correct Hansen Number to the exhibits of said ordinance.

5. **RZN 08-2934 (Newell/Morton):** An ordinance rezoning a portion of property described in rezoning petition RZN 08-2934, for approximately 0.37 acres, located at 1141 Hendrix from RSF-4, Residential Single Family, 4 units per acre, to RSF-8, Residential Single Family, 8 units per acre.
6. **R-PZD 08-2915 (Hill Place):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915, Hill Place, located at the southwest corner of 6th Street and Hill Avenue; containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
7. **VAC 08-2951 (Shoppes at Wedington):** An ordinance approving VAC 08-2951 submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road, to vacate a utility easement on the subject property, a total of 5,997 square feet.
8. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.
9. **Repeal and Replace §158.03 Maintenance:** An ordinance to repeal §158.03 Maintenance of the Unified Development Code and to enact a replacement §158.03 Maintenance.
10. **Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances.
11. **Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with amendments proposed by The Board of the Downtown Off-Street Parking Improvement District.
12. **Pratt Place Inn Appeal:** An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670, Pratt Place Inn, located at 2115 W. Markham Road, containing approximately 72.00 acres, to allow a monument sign in Planning Area 2 in-lieu of a sign in Planning Area 3, as described herein.
13. **Bridgedale Plaza Appeal:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Announcements:

1. **City Council Tour: May 05, 2008 - 4:30 PM – R-PZD 08-2915 (Hill Place)**

Adjournment:



FAYETTEVILLE TOWN CENTER

Advertising and Promotion
Commission Appointment
Page 1 of 2

RECEIVED
APR 17 2008
CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

April 17, 2008

TO: Fayetteville City Clerk

FROM: Marilyn Heifner *Marilyn Heifner*
Executive Director, Fayetteville Advertising and Promotion Commission

RE: Vacancy on Fayetteville Advertising and Promotion Commission for 4 year term
expiring April 1, 1012.

The Fayetteville Advertising and Promotion Commission at their April 14, 2008 regular meeting voted to appoint Tim Freeman, general manager of the Holiday Inn Express to fill a tourism industry position on the A & P Commission. Mr. Freeman is a resident of Fayetteville and a registered voter.

The Commission asks for the approval of the Fayetteville City Council per state statute as follows:

26-75-605 (b)(2) Advertising and Promotion Commissions

Vacancies on the commission, whether resulting from expiration of a regular term or otherwise, in any of the four (4) tourism industry positions provided for in subdivision (a) (1) or in the at-large position provided for in subdivision (a)(3) shall be filled by appointment made by the remaining members of the commission, with the approval of the governing body of the city.

City of Fayetteville
Application Form
For appointment to City Boards, Commissions, and Committees

Tim Freeman Name
1251 N. Shiloh Dr. Resident Street Address
Fayetteville City
AR State
72704 Zip Code
(same as above) Mailing Address
479-466-4629 Home phone #
479-444-6006, ext. 161 Business phone
Fayetteville-express@yahoo.com Email Address
Advertising & Promotion (A+P) Choice of Committee
8 years, 4 months Length of Residency in the City Limits of Fayetteville
G.M. Holiday Inn Express Hotel & Suites - Fayetteville Occupation/Employer Name

Are you a Fayetteville registered voter? Yes ☒ No ☐

- Instructor, Hotel Operations, NWACC.

1. What are your qualifications for serving on this committee, including education and expertise in the subject matter?

- 12 years in hospitality, including: Sales, Operations, and F & B/Restaurant
- Extensive guest interaction with visitors & tourists in Fayetteville & Eureka Springs
- Bachelor's degree, political science, U of A in 2005
- Served 3 1/2 years on CVB, tourism committee & have extensive knowledge of CVB operations

2. Why would you like to be considered for appointment to this committee?
I would like to be given the opportunity to serve the community, and I believe that my extensive knowledge of the Fayetteville visitor, our attractions, the CVB, and the hotel/restaurant industry could be useful to the city. I would like to keep as much business in Fayetteville as possible, and I feel that we have an opportunity to increase tourism and convention business through our many great attractions.

David Whitaker Name
717 N. Lewis Ave. Fayetteville, AR 72703 Address
479-236-8313 Phone
Nanny Krushiker Name
P.O. Box 7479 Springdale, AR 72766 Address
479-879-6995 Phone

How did you hear about the opening(s)? NWA Times ☐ Free Weekly ☐ Accessfayetteville.org ☐
Government Channel ☐ Chamber of Commerce ☐ Other ☐

RECEIVED

APR 15 2008

Please fill out application COMPLETELY and return to: City Clerk's Division
113 W. Mountain Street, Fayetteville 72701
Fax to 718-7695 or Email to city_clerk@ci.fayetteville.ar.us
If you have any questions call 575-8323

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

Office Use Only:

Term Begins: _____

Appointed: _____

Term Expires: _____

Replaced: _____

Terminated: _____

Resigned: _____

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Dan Coody and Members of the City Council

FROM: Paul A. Becker, Finance Director

DATE: April 30, 2008

SUBJECT: **Permission to Fill the Database Administrator Position**

Our current Database Administrator (Scott Caldwell) has submitted his resignation effective May 7, 2008. I am requesting to fill that position as soon as possible.

Scott has been with the City for 12 years and his absence will create a void within the department.

This position is responsible for the installation, creation, operation and maintenance of all hardware and software related to City database systems. Database systems collect, organize, store data and provide for reporting of that data. Examples include: *Hansen Municipal Management system, District Court software, GIS Spatial database systems, Document Management systems, Fleet Management systems, Access Fayetteville and City Net*. These systems are varied and are utilized by almost every City employee on a daily basis.

The Database Administrator must maintain a stable environment for City Business operations which ensures the security, backup and recovery of millions of records stored in the various databases. The Database Administrator must have the ability to troubleshoot complex hardware and software issues relating to database issues. The position must also provide interface programming among applications.

In summary, the responsibility of the Database Administrator requires a unique combination of specialized skill, training and experience to be successful. We do not have personnel currently available in the IT division with background or time to absorb these responsibilities. I believe the ramifications associated with not replacing this position would be severe. Therefore, I respectfully request permission to fill this position as soon as possible. Please find attached the Position Description for the Database Administrator for your review.



CITY OF FAYETTEVILLE
Position Description

POSITION TITLE: Database Administrator

EXEMPT (Y/N): Yes
SUPERVISOR: IT Manager
CITY/EEOC/JG CODES: 366/1/1
Job Grade: 120

DEPARTMENT: Finance
DIVISION: Information Technology
DATE REVISED: May 2007

ESSENTIAL DUTIES AND RESPONSIBILITIES: *Note: All City of Fayetteville positions require the employee to provide good customer service to both internal and external customers, maintain positive and effective working relationships with other City employees (especially members of his or her own team), and have regular and reliable attendance that is non-disruptive. Other essential duties of this position include the following:*

1. Install, configure, administer and tune database management system software. Monitor system performance; implement changes as necessary.
2. Analyze business service areas and develop conceptual and logical information and database models to be used for actual information system databases.
3. Provide implementation, architecture, and operational support of purchased database application software, including financial management systems and work management systems..
4. Develop and maintain integration and interfaces among the City's Relation Database Management Systems (RDMS).
5. Develop and implement database backup and recovery plans.
6. Research and analyze complex technical problems, database-related system errors, or application software problems. Isolate problem areas. Recommend and/or develop and implement solutions.
7. Develop and implement physical database designs to ensure efficient and reliable information access.
8. Work with users and other IT staff to develop detailed data models; provide guidance and expertise in the development of database models.
9. Research and analyze upgrades and service packs of database management and operating system software. Recommend, install, or participate in installation of upgrades and service packs on multiple servers. Assists with preparing applications for upgrades when necessary.
10. Maintain development, test, and production RDBMS environments.

11. Create procedures and maintain various database related documents such as manuals and programmers handbooks.
12. Participate in design and support of regional shared databases, including geographical (GIS) data.
13. Research current and future trends in computer technology generally, and database technology specifically. Provide expertise and direction on the appropriate application of new database technology.
14. Implement and administer advanced SQL Server functionalities such as Data Transformation Services, Replication Services, SQL Server Job Scheduling.
15. Perform other related duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. Bachelor's degree (B.A. or B.S.) from four year college or university and three years of database administration experience.
2. Effectively communicate with others orally and in writing.
3. Thorough knowledge of Enterprise level servers, disk storage sub-systems and/or other related software programs.
4. Must have extensive knowledge of principles and processes of relational data base management and development, structured system analysis/design and programming, computer hardware/software and database management system software as well as operating systems and network capabilities. Database tools and design techniques. Computer programming languages used for personal computers, web based applications, and client server applications.
5. Must be proficient in the use of a personal computer and other related software programs. Must be able to effectively operate standard office equipment.
6. While performing the functions of this job, the employee is regularly required to communicate with others. The employee frequently is required to move from location to location; use hands to finger, handle, or feel; reach with hands and arms. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities to accomplish computer and office work.

B.3 Unfinished
Handed out at
Agenda Session
4-29-08



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

To: City Council, Mayor Dan Coody
From: Ron Petrie, City Engineer *RP*
Jeremy Pate, Director of Current Planning *JP*
Date: 23 April 2008
Subject: Park Center PZD – Street Improvements

Following is a synopsis of the previously discussed street improvements, both on- and off-site, for Park Center Planned Zoning District. Included is a normal development requirement, which is consistent for all developments within the City of Fayetteville, the staff's recommendation for this particular development, and the developer's request. Please contact us if you have any detailed questions.

Right-of-way

Normal Development Requirement: Dedicate right-of-way adjacent to property to meet Master Street Plan

Staff recommendation for Park Center PZD: City paid full appraised value in the amount of \$42,030 for right-of-way acquisition along the property prior to development.

Developer's request: Pay City back \$0 for right-of-way

Off-site Street Improvements

Normal Development Requirement: Improve streets in front of development to Master Street Plan standards or pay an assessment for the cost of those improvements in-lieu of construction. Traffic signal assessments or construction depend upon traffic generated.

Staff recommendation for Park Center PZD: No street improvements recommended. City of Fayetteville providing all adjacent street improvements with bond program money; this development's share is estimated at approximately \$104,000. Staff is recommending the developer pay the City back the appraised value of \$42,030 as the off-site street assessment. Staff is not recommending the developer pay assessments for a future traffic signal at Vantage and Zion Roads.

Developer's request: No street improvements and pay no street or traffic signal assessments. In addition, the developer requests the City to pay approximately \$36,000 to the developer for constructing on-site street into development, which will serve the proposed development and provide a new access into the park.

On-site Streets

Normal Development Requirement: Developer to construct public streets, as needed, to provide safe and adequate access to property and connectivity to adjacent properties. Public streets are constructed both in subdivisions and large scale developments. Private streets, pursuant to code, must be designed and constructed to the same standard as public streets, with the exception of width and cul-de-sacs.

Staff recommendation for Park Center PZD: A public street is to connect from the Zion Road/Vantage intersection into the park. This would be dedicated to the City, and relieve the developer of the burden of maintenance. If the street were made private, and did not connect to the park, the project would need to return to the Planning Commission for revisions to the zoning criteria and removal of the curb cut to the west that is directly adjacent to the park entry, for safety concerns. Due to the public street connection, staff is not recommending an assessment for the cost of a future traffic signal at Vantage and Zion Roads.

Developer's request: Build a public street, dedicate to City, requests City to pay \$36,000 for portion of difference in development cost from private to public street. Staff does not agree with this request, nor the estimated cost difference, as private streets within a PZD must be constructed to the same standard as public streets, as noted above.

Staff finds that, based on the above information, contribution to the developer from the City for the on-site public street is very much inconsistent with the cost-sharing policy of the City, and instead subsidizes the private development for constructing the project. Cost-shares are typically utilized when capacity is being increased in a street beyond what the development would require. Numerous developments throughout the City exist which have constructed City streets to provide access through both the proposed development and to provide connectivity to adjacent properties in the future, at the cost of the developer.

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

Added to Agenda
Session 4/29/08

C. 1
Fayetteville Municipal Property
Improvement District No. 28 -
Legacy Heights, Phases 2 and 3
Subdivision Infrastructure Project
Page 1 of 14

May 6, 2008

City Council Meeting Date

Sondra Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 28 - Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by James N. McCord. on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Sondra E. Smith
Department Director

Date

4/24/08

Previous Ordinance or Resolution #

Original Contract Date:

[Signature]
City Attorney

Date

4/28/08

Original Contract Number:

Paul A. Babin
Finance and Internal Service Director

Date

4-28-08

Received in City Clerk's Office

4-24-08 US



Sam Coody
Mayor

Date

4/24/08

Received in Mayor's Office



Comments:



C. 1
Fayetteville Municipal Property
Owners' Improvement District No. 28
Legacy Heights, Phases 2 and 3
Subdivision Infrastructure Project
Fayetteville, AR 72701
Telephone: (479) 578-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

City Clerk/Treasurer Division

RECEIVED

APR 24 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

April 24, 2008

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

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 28
Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project

Dear Mayor:

Pursuant to Arkansas Code Ann. Sec. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to form Fayetteville Municipal Property Owners' Improvement District No. 25 – Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Sondra E. Smith
City Clerk/Treasurer

cc: Kit Williams, City Attorney
James N. McCord

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 28 - LEGACY HEIGHTS,
PHASES 2 AND 3 SUBDIVISION INFRASTRUCTURE
PROJECT**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 28 - Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project has been filed with the Fayetteville City Clerk; and

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

WHEREAS, the Mayor has set May 6, 2008, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and

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

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

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Charles W. Sloan, Cynthia E. Sloan and J.B Hays.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project.

Section 4: The district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purposes authorized in Ark. Code Ann., Title 14, Chapter 94.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH City Clerk/Treasurer

EXHIBIT "A"

LEGACY HEIGHTS

LEGAL DESCRIPTION:

Part of the NE1/4 of the NW1/4 and part of the NW1/4 of the NW1/4 of Section 14, and part of the SW1/4 of the SW1/4 and part of the SE1/4 of the SW1/4 of Section 11, all in T16N, R31W in Washington County, Arkansas and being described as follows: Beginning at the NE Corner of said NE1/4, NW1/4 thence S89°52'31"W 165.22 feet to the P.O.B., thence S00°05'32"W 263.08 feet, thence S89°53'33"W 45.86 feet, thence S00°10'03"W 302.64 feet, thence S89°39'28"W 50.24 feet, thence S00°01'38"W 168.94 feet, thence S89°50'01"E 213.56 feet, thence S00°08'29"W 168.96 feet, thence N89°50'20"W 779.11 feet, thence S00°03'23"W 151.11 feet, thence S89°52'32"W 824.49 feet, thence N00°11'00"E 1052.93 feet, thence N00°08'08"W 819.44 feet, thence N89°47'11"E 333.79 feet, thence S00°56'19"E 47.92 feet, thence S89°42'41"E 329.86 feet, thence S00°08'12"E 770.53 feet, thence N89°52'31"E 820.40 feet to the P.O.B.; Containing 45.51 acres more or less subject to easements and Right of Way of record.

RECEIVED

APR 24 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

JAMES N. McCORD
Attorney at Law
217 E. DICKSON STREET
SUITE #102
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 442-1490
jimmccordlaw@alltel.net

April 24, 2008

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

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure
Project

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project. Please file mark each Petition, retain one for the City's permanent file and for presentation to the Mayor, and return the other counterparts to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

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

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

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

* * *

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

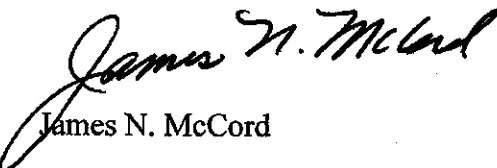
Also enclosed for filing in the office of the City Clerk is an executed Title Company Certificate of Property Ownership certifying that the improvement district petition is signed by the owner of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance which would establish the district and name the commissioners.

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

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

Should there be any questions, please contact me.

Sincerely,


James N. McCord

pc: Kit Williams, City Attorney
Charles Sloan

NOTICE

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 28- LEGACY HEIGHTS, PHASES 2 AND 3
SUBDIVISION INFRASTRUCTURE PROJECT**

For its petition to form Fayetteville Municipal Property Owners'
Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision
Infrastructure Project, the undersigned petitioner states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington, County Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be established and laid off into a municipal property owners' improvement district pursuant to Ark. Code Ann. Sec. 14-94-101 et seq. for the purpose of constructing, purchasing, accepting as a gift

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

3. Petitioner desires that the district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purposes authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioner names the following three individuals, pursuant to Ark. Code Ann. 14-94-105(a)(2)(B), as designated representatives of Petitioner to be appointed as commissioners of the district: Charles W. Sloan, J.B. Hays and Cynthia E. Sloan.

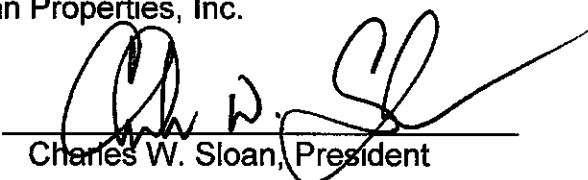
5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project.

WHEREFORE, the undersigned Petitioner hereby petitions the City Council of Fayetteville, Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 28- Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and

excavations necessary for the installation by public utilities or municipal utilities of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

DATED this 21st day of April, 2008.

Sloan Properties, Inc.

By: 

Charles W. Sloan, President

EXHIBIT "A"

LEGACY HEIGHTS

LEGAL DESCRIPTION:

Part of the NE1/4 of the NW1/4 and part of the NW1/4 of the NW1/4 of Section 14, and part of the SW1/4 of the SW1/4 and part of the SE1/4 of the SW1/4 of Section 11, all in T16N, R31W in Washington County, Arkansas and being described as follows:
Beginning at the NE Corner of said NE1/4, NW1/4 thence S89°52'31"W 165.22 feet to the P.O.B., thence S00°05'32"W 263.08 feet, thence S89°53'33"W 45.86 feet, thence S00°10'03"W 302.64 feet, thence S89°39'28"W 50.24 feet, thence S00°01'38"W 168.94 feet, thence S89°50'01"E 213.56 feet, thence S00°08'29"W 168.96 feet, thence N89°50'20"W 779.11 feet, thence S00°03'23"W 151.11 feet, thence S89°52'32"W 824.49 feet, thence N00°11'00"E 1052.93 feet, thence N00°08'08"W 819.44 feet, thence N89°47'11"E 333.79 feet, thence S00°56'19"E 47.92 feet, thence S89°42'41"E 329.86 feet, thence S00°08'12"E 770.53 feet, thence N89°52'31"E 820.40 feet to the P.O.B.;
Containing 45.51 acres more or less subject to easements and Right of Way of record.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 28- LEGACY HEIGHTS, PHASES 2 AND 3
SUBDIVISION INFRASTRUCTURE PROJECT**

TITLE COMPANY CERTIFICATE OF PROPERTY OWNERSHIP

Old Republic National Title Company hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following is the owner of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 28 – Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Sloan Properties, Inc.

Old Republic National Title Company further certifies that all of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

DATED this 23rd day of April, 2008.

Old Republic National Title Company

By: Richard L. Miller, Agent
AUTHORIZED REPRESENTATIVE

EXHIBIT "A"

LEGACY HEIGHTS

LEGAL DESCRIPTION:

Part of the NE1/4 of the NW1/4 and part of the NW1/4 of the NW1/4 of Section 14, and part of the SW1/4 of the SW1/4 and part of the SE1/4 of the SW1/4 of Section 11, all in T16N, R31W in Washington County, Arkansas and being described as follows:
Beginning at the NE Corner of said NE1/4, NW1/4 thence S89°52'31"W 165.22 feet to the P.O.B., thence S00°05'32"W 263.08 feet, thence S89°53'33"W 45.86 feet, thence S00°10'03"W 302.64 feet, thence S89°39'28"W 50.24 feet, thence S00°01'38"W 168.94 feet, thence S89°50'01"E 213.56 feet, thence S00°08'29"W 168.96 feet, thence N89°50'20"W 779.11 feet, thence S00°03'23"W 151.11 feet, thence S89°52'32"W 824.49 feet, thence N00°11'00"E 1052.93 feet, thence N00°08'08"W 819.44 feet, thence N89°47'11"E 333.79 feet, thence S00°56'19"E 47.92 feet, thence S89°42'41"E 329.86 feet, thence S00°08'12"E 770.53 feet, thence N89°52'31"E 820.40 feet to the P.O.B.;
Containing 45.51 acres more or less subject to easements and Right of Way of record.

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

Fayetteville Municipal Property Owners'
Improvement District No. 29 - Ruskin Heights
Subdivision Infrastructure Project
Page 1 of 14

Added at Agenda Session 4/29/08

May 6, 2008

City Council Meeting Date

Sondra Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by James N. McCord. on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Dan E. Dink

Department Director

4/28/08

Date

Previous Ordinance or Resolution #

K. [Signature]

City Attorney

4/29/08

Date

Original Contract Date:

Original Contract Number:

Paul A. Buh

Finance and Internal Service Director

4-29-08

Date

Received in City Clerk's Office

4-25-08

Received in Mayor's Office

ENTERED
4/29/08

Mayor

Date

Comments:



City Clerk/Treasurer Division

RECEIVED

APR 28 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

C. 2
Fayetteville Municipal Property Owners'
Improvement District No. 29 - Ruskin Heights
Subdivision Infrastructure Project
Fayetteville, AR 72701
Page 2 of 14
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

April 25, 2008

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

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 29-
Ruskin Heights Subdivision Infrastructure Project

Dear Mayor:

Pursuant to Arkansas Code Ann. Sec. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to form Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Sondra E. Smith
City Clerk/Treasurer

cc: Kit Williams, City Attorney
James N. McCord

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 29 - RUSKIN HEIGHTS
SUBDIVISION INFRASTRUCTURE PROJECT**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project has been filed with the Fayetteville City Clerk; and,

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

WHEREAS, the Mayor has set May 6, 2008, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and,

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

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

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Edward Davis, Morgan Hooker and Dirk Van Veen.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project.

Section 4: The district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purposes authorized in Ark. Code Ann., Title 14, Chapter 94.

PASSED AND APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA E. SMITH City Clerk/Treasurer

EXHIBIT "A"

Boundary Description - Ruskin Heights

A part of the Southeast Quarter (SE1/4) of the Southwest Quarter (SW1/4) and the Southwest Quarter (SW1/4) of the Southeast Quarter (SE1/4) of Section Two (2), Township Sixteen (16) North, Range Thirty (30) West, being more particularly described as follows:

Beginning at a ½" rebar located S87°32'34"E 660.0 feet from a stone monument located at the Southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 2; thence N 03°38'07"E 441.29 feet to a ½" rebar; thence N 87°33'26"W 135.00 feet to a ½" rebar; thence N03°42'40"E 80.00 feet to a ½" rebar; thence N 87°33'28"W 175.00 feet to a ½" rebar; thence N 03°42'40"E 212.28 feet to a ½" rebar; thence S 87°48'42"E 310.03 feet to a ½" rebar; thence N03°42'38"E 417.42 feet to a ½" rebar located on the South right-of-way of Arkansas Highway No. 45 (Mission Boulevard); thence Northeasterly along said right-of-way the following: N69°23'34"E 249.39 feet to a ½" rebar, along a curve to the right having a radius of 970.00 feet, an arc length of 108.99 feet and a chord bearing of N 72°36'42"E 108.93 feet to a ½" rebar, along a curve to the right having a radius of 978.84 feet, an arc length of 335.04 feet and a chord bearing of N85°38'10"E 333.40 feet to a ½" rebar, S01°04'05"W 12.27 feet to a ½" rebar; S86°22'14"E 166.88 feet to a ½" rebar, S03°35'31"W 1.95 feet to a ½" rebar; thence S86°28'21"E 252.00 feet to a ½" rebar; thence leaving said right-of-way and running S03°29'46"W 825.60 feet to a ½" rebar located on the north line of the Park Place Addition Phase II; thence N85°48'23"W 422.74 feet to a ½" rebar located at the Northwest corner of said addition; thence S03°45'46"W 491.63 feet along the west line of said addition to a stone monument; thence N87°31'58"W 657.93 feet to the point of beginning, containing an area of 28.93 acres, more or less, Fayetteville, Washington County, Arkansas.

Subject to any easements and/or right-of-ways of record.

RECEIVED

APR 25 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

JAMES N. McCORD
Attorney at Law
217 E. DICKSON STREET
SUITE #102
FAYETTEVILLE, ARKANSAS 72701

TELEPHONE (479) 695-1134
FACSIMILE (479) 442-1490
jimmccordlaw@alltel.net

April 25, 2008

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

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 29- Ruskin Heights Subdivision Infrastructure
Project

Dear Ms. Smith:

Enclosed for filing in the office of the Fayetteville City Clerk are three executed counterparts of a Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project. Please file mark each Petition, retain one for the City's permanent file and for presentation to the Mayor, and return the other counterparts to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

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

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

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

* * *

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

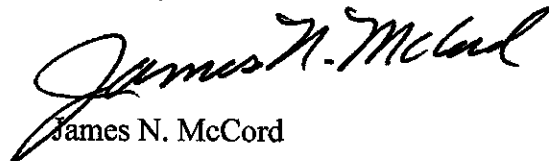
Also enclosed for filing in the office of the City Clerk is an executed Title Company Certificate of Property Ownership certifying that the improvement district petition is signed by the owner of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance which would establish the district and name the commissioners.

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

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

Should there be any questions, please contact me.

Sincerely,



James N. McCord

pc: Kit Williams, City Attorney
Edward Davis

NOTICE

RECEIVED

APR 25 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 29- RUSKIN HEIGHTS SUBDIVISION
INFRASTRUCTURE PROJECT**

For its petition to form Fayetteville Municipal Property Owners'
Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project,
the undersigned petitioner states:

1. Petitioner is the record title owner to all of the real property described in Exhibit "A" attached hereto and made a part hereof as reflected by the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington, County Arkansas. All of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

2. Petitioner desires that the real property described in Exhibit "A" attached hereto and made a part hereof be established and laid off into a municipal property owners' improvement district pursuant to Ark. Code Ann. Sec. 14-94-101 et seq. for the purpose of constructing, purchasing, accepting as a gift

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

3. Petitioner desires that the district shall not cease to exist upon the acquiring, constructing or completion of the improvements, but it shall continue to exist for the purposes authorized in Ark. Code Ann., Title 14, Chapter 94.

4. Petitioner names the following three individuals, pursuant to Ark. Code Ann. 14-94-105(a)(2)(B), as designated representatives of Petitioner to be appointed as commissioners of the district: Edward Davis, Morgan Hooker and Dirk Van Veen.

5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project.

WHEREFORE, the undersigned Petitioner hereby petitions the City Council of Fayetteville, Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and excavations necessary for

the installation by public utilities or municipal utilities of electricity and telephone distribution systems, sanitary sewers, streets including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

DATED this 24th day of April, 2008.

Ruskin Heights, LLC
An Arkansas limited liability company

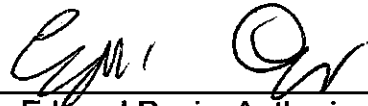
By: 
Edward Davis, Authorized member

EXHIBIT "A"

BOUNDARY DESCRIPTION - RUSKIN HEIGHTS

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR LOCATED S87°32'34"E 660.0 FEET FROM A STONE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE N 03°38'07" E 441.29 FEET ½" REBAR; THENCE N 87°33'26" W 135.00 FEET ½" REBAR; THENCE N 03°42'40" E 80.00 FEET ½" REBAR; THENCE N 87°33'28" W 175.00 FEET ½" REBAR; THENCE N 03°42'40" E 212.28 FEET ½" REBAR; THENCE S 87°48'42" E 310.03 FEET ½" REBAR; THENCE N 03°42'38" E 417.42 FEET TO A ½" REBAR LOCATED ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 45 (MISSION BOULEVARD); THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY THE FOLLOWING: N 69°23'34" E 249.39 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 970.00 FEET, AN ARC LENGTH OF 108.99 FEET AND A CHORD BEARING OF N 72°36'42" EAST 108.93 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 978.84 FEET, AN ARC LENGTH OF 335.04 FEET AND A CHORD BEARING OF N 85°38'10" E 333.40 FEET TO A ½" REBAR, S 01°04'05" W 12.27 FEET TO A ½" REBAR; S 86°22'14" E 166.88 FEET TO A ½" REBAR, S 03°35'31" W 1.95 FEET TO A ½" REBAR, THENCE S 86°28'21" E 252.00 FEET TO A ½" REBAR; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING S 03°29'46" W 825.60 FEET TO A ½" REBAR LOCATED ON THE NORTH LINE OF THE PARK PLACE ADDITION PHASE II; THENCE N 85°48'23" W 422.74 FEET TO A ½" REBAR LOCATED AT THE NORTHWEST CORNER OF SAID ADDITION; THENCE S 03°45'46" W 491.63 FEET ALONG THE WEST LINE OF SAID ADDITION TO A STONE MONUMENT; THENCE N 87°31'58" W 657.93 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 28.93 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 29- RUSKIN HEIGHTS SUBDIVISION
INFRASTRUCTURE PROJECT**

TITLE COMPANY CERTIFICATE OF PROPERTY OWNERSHIP

Heritage Land Title of Arkansas, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following is the owner of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 29- Ruskin Heights Subdivision Infrastructure Project, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Ruskin Heights, LLC

Heritage Land Title of Arkansas, Inc. further certifies that all of said property is located within the corporate limits of the City of Fayetteville, Arkansas.

DATED this 25th day of April, 2008.

Heritage Land Title of Arkansas, Inc.

By:



AUTHORIZED REPRESENTATIVE

EXHIBIT "A"

BOUNDARY DESCRIPTION - RUSKIN HEIGHTS

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) AND THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWO (2), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A ½" REBAR LOCATED S87°32'34"E 660.0 FEET FROM A STONE MONUMENT LOCATED AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 2; THENCE N 03°38'07" E 441.29 FEET ½" REBAR; THENCE N 87°33'26" W 135.00 FEET ½" REBAR; THENCE N 03°42'40" E 80.00 FEET ½" REBAR; THENCE N 87°33'28" W 175.00 FEET ½" REBAR; THENCE N 03°42'40" E 212.28 FEET ½" REBAR; THENCE S 87°48'42" E 310.03 FEET ½" REBAR; THENCE N 03°42'38" E 417.42 FEET TO A ½" REBAR LOCATED ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY NO. 45 (MISSION BOULEVARD); THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY THE FOLLOWING: N 69°23'34" E 249.39 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 970.00 FEET, AN ARC LENGTH OF 108.99 FEET AND A CHORD BEARING OF N 72°36'42" EAST 108.93 FEET TO A ½" REBAR, ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 978.84 FEET, AN ARC LENGTH OF 335.04 FEET AND A CHORD BEARING OF N 85°38'10" E 333.40 FEET TO A ½" REBAR, S 01°04'05" W 12.27 FEET TO A ½" REBAR; S 86°22'14" E 166.88 FEET TO A ½" REBAR, S 03°35'31" W 1.95 FEET TO A ½" REBAR, THENCE S 86°28'21" E 252.00 FEET TO A ½" REBAR; THENCE LEAVING SAID RIGHT-OF-WAY AND RUNNING S 03°29'46" W 825.60 FEET TO A ½" REBAR LOCATED ON THE NORTH LINE OF THE PARK PLACE ADDITION PHASE II; THENCE N 85°48'23" W 422.74 FEET TO A ½" REBAR LOCATED AT THE NORTHWEST CORNER OF SAID ADDITION; THENCE S 03°45'46" W 491.63 FEET ALONG THE WEST LINE OF SAID ADDITION TO A STONE MONUMENT; THENCE N 87°31'58" W 657.93 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 28.93 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

SUBJECT TO ANY EASEMENTS AND/OR RIGHT-OF-WAYS OF RECORD.

AGENDA REQUEST

C. 3
Northwest Arkansas Naturals - City
of Springdale Congratulations
Page 1 of 2
Added at
Agenda Session
4-29-08

FOR: COUNCIL MEETING OF May 6, 2008

FROM:
ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

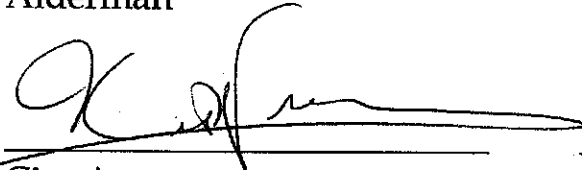
A Resolution To Congratulate The City Of Springdale For Building The Arvest Ballpark And Acquiring The Northwest Arkansas Naturals

APPROVED FOR AGENDA:



Bobby Ferrell
Alderman

4/29/08
Date



City Attorney
(approved as to form)

4-22-08
Date

RESOLUTION NO. _____

**A RESOLUTION TO CONGRATULATE THE CITY OF
SPRINGDALE FOR BUILDING THE ARVEST BALLPARK
AND ACQUIRING THE NORTHWEST ARKANSAS
NATURALS**

WHEREAS, through a community-wide effort with leadership from the Mayor, City Council, and Chamber of Commerce and the willingness of Springdale citizens to tax themselves, the City of Springdale built the Arvest Ballpark and secured the Northwest Arkansas Naturals to play there; and

WHEREAS, Arvest Ballpark is a state-of-the-art Minor League stadium bringing an attractive and exciting sporting venue to Springdale; and

WHEREAS, many citizens from all over Northwest Arkansas including Fayetteville have already enjoyed the hospitality of Springdale at Arvest Ballpark; and

WHEREAS, the City Council encourages its citizens to patronize and support the Northwest Arkansas Naturals in their new home in Springdale.

**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 extends its wholehearted congratulations to the Mayor, City Council, Chamber of Commerce and Citizens of Springdale for the rapid construction of their comfortable and state-of-the-art Arvest Ballpark and wishes our sister city, Springdale, the best for its Northwest Arkansas Naturals and in all of its other endeavors.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



Date: February 15, 2008

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Subject: **Ordinance to repeal and replace U.D.O. Chapter 168: Flood Damage Prevention Code in order to adopt the Flood Insurance Study (FIS) for Washington County, Arkansas dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008.**

RECOMMENDATION:

Staff recommends approval of repealing and replacing Chapter 168: Flood Damage Prevention Code to adopt the Flood Insurance Study (FIS) for Washington County, Arkansas dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008 and meet all standards of Paragraph 60.3(d) of NFIP regulations (44 CFR 59, etc.)

BACKGROUND:

On December 20, 2000, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas in Fayetteville. Recently, FEMA completed a re-evaluation of flood hazards in Fayetteville and Washington County. The proposed Base Flood Elevations (BFEs) were published in the Morning News of Northwest Arkansas, Arkansas Democrat Gazette Fayetteville, and Northwest Arkansas Times, on April 18, 2007 and April 25, 2007. The publication stated a 90-day appeal period in which time no appeals were received and the BFEs were then considered final.

The FIS report and DFIRM for Fayetteville will become effective on May 16, 2008.

Fayetteville is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) of NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature. Failure to enact the necessary

floodplain management regulations will result in suspension from participation in the NFIP.

DISCUSSION:

The NFIP provided a model ordinance to be used by communities to meet all standards of Paragraph 60.3(d) of NFIP regulations (44 CFR 59, etc.). Upon staff inspection of this model ordinance it was found that the City's existing ordinance and the model ordinance contain much of the same requirements. The model ordinance included some more stringent requirements that are outlined as follows:

- The City Floodplain Administrator is required to obtain yearly accreditation through the Arkansas Natural Resources Commission
- Floodplain developments should be inspected as necessary to ensure construction is in accordance with the application data that formed the basis for the decision to issue the Floodplain Development Permit.
- Certificates of Compliance shall be issued.
- Procedures for obtaining a variance are outlined and the City Council is designated as the Appeal Board.
- All critical facilities must be constructed or substantially improved in Special Flood Hazard Areas (SFHA) to be constructed or modified to exceed 500-year flood protection standards or located outside the SFHA.
- Requirements for recreational vehicles (RV) in Special Flood Hazard Areas are outlined.
- All proposals for the development of a commercial business park or a manufactured home park/subdivision must include an adequate evacuation plan for the escape of citizens from affected nonresidential structures during flooding events.
- Floodproofed facilities are to be designed so that floodproofing extends to an elevation of 3 feet above the base flood elevation.
- Requirements for manufactured home chassis are outlined.
- Require that no Floodplain Development Permit may be issued where FEMA has not established a regulatory floodway in Zone AE, AH, or AO, unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.
- No Manufactured Home may be placed in a regulatory floodway, regardless of elevation height, anchoring methods, or No-Rise Certification.

The existing City code also has some more stringent requirements than the model ordinance in the areas of "Standards for Subdivisions".

These codes have been combined to include the most stringent of both the model ordinance and the existing code by using the model ordinance as a base document and inserting the existing more stringent code.

The proposed Chapter 168: Flood Damage Prevention Code is included as an attachment.

BUDGET IMPACT:

The proposed ordinance amendments will cause no budget impact.

EXHIBIT A

Off-Street Parking Development District No. 1

33.062 Establishment and Purposes

(A) The Off-Street Parking Development District No. 1 was established on December 7, 1976, by Ordinance No. 2292 with its commissioners appointed by the Fayetteville City Board of Directors. The District encompasses the property described in Exhibit A to Ordinance No. 2292.

(B) The Off-Street Parking Development District was created for the purpose of constructing facilities for the off-street parking of vehicles on lands to be purchased by the District.

33.063 Membership of the Board, Terms of Office

(A) The City Council shall appoint five owners of real property located within the District to be commissioners for the Off-Street Parking Development District Board.

(B) The three current commissioners shall continue in their office for the remainder of their normal six year terms and may be reappointed. One new appointment shall be for an initial four year term of office. The other new appointment and all reappointments shall thereafter be for six year terms.

33.064 Powers and Responsibilities

(A) The District Board shall have the power to acquire real property and construct facilities for off-street parking of vehicles on lands it owns. The District Board shall generally have the statutory power of a municipal improvement district pursuant to Subtitle 5 **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

(B) The District Board shall comply with all responsibilities and restrictions for boards of improvement districts mandated by Subtitle 5, **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

Aldermen

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

Mayor Dan Coody

Assistant City Attorney David
Whitaker

City Clerk Sondra Smith



**City of Fayetteville Arkansas
City Council Meeting Minutes
April 15, 2008**

A meeting of the Fayetteville City Council was held on April 15, 2008 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, Jordan, Mayor Coody, Assistant City Attorney David Whitaker, City Clerk Sondra Smith, Staff, Press, and Audience.

ABSENT: Alderman Lucas

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Mayor Coody welcomed the students from Spring International which were representing different countries. He asked them to stand and be recognized.

Presentations, Reports and Discussion Items: None

Agenda Additions: None

Consent:

Approval of the April 01, 2008 City Council meeting minutes.

Approved

Bid # 08-33 Professional Turf Products: A resolution awarding Bid # 08-33 and approving the purchase of one (1) multi-deck mower from Professional Turf Products in the amount of \$41,562.00 for use by the Parks & Recreation Division.

Resolution 77-08 as Recorded in the office of the City Clerk.

Bid # 08-34 Truck Centers of Arkansas: A resolution awarding Bid # 08-34 and approving the purchase of one (1) tandem-axle truck tractor from Truck Centers of Arkansas in the amount of \$85,038.00 for use by the Transportation Division.

Resolution 78-08 as Recorded in the office of the City Clerk.

Bid # 08-35 Williams Tractor: A resolution awarding Bid # 08-35 and approving the purchase of one (1) compact track excavator from Williams Tractor in the amount of \$26,264.00 for use by the Water & Sewer Division.

Resolution 79-08 as Recorded in the office of the City Clerk.

Bid # 08-36 Warrior of Arkansas: A resolution awarding Bid # 08-36 and approving the purchase of one (1) compact tractor backhoe from Warrior of Arkansas in the amount of \$30,798.00 for use by the Parks & Recreation Division.

Resolution 80-08 as Recorded in the office of the City Clerk.

Bid # 08-38 Wayest Safety: A resolution awarding Bid # 08-38 and approving the purchase of one (1) breathing air station from Wayest Safety in the amount of \$30,523.00 for use at the new fire station #3.

Resolution 81-08 as Recorded in the office of the City Clerk.

Arkansas Recreational Trails Program Grant: A resolution expressing the willingness of the City of Fayetteville, Arkansas to utilize federal-aid funds.

Resolution 82-08 as Recorded in the office of the City Clerk.

OMI Agreement: A resolution approving an out-of-scope agreement with OMI in the amount of \$65,000.00 for WSIP West Side Cutover/Tieover Actions, WSIP Subproject WL-9; and approving a 5% contingency in the amount of \$3,250.00.

Resolution 83-08 as Recorded in the office of the City Clerk.

Cherokee Nation: A resolution approving a budget adjustment in the amount of \$500,000.00 to the Solid Waste Fund and recognizing like revenue from the Cherokee Nation for reimbursement of costs associated with operation of the Transfer Station.

Resolution 84-08 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Cook seconded the motion. Upon roll call the motion passed 6-0. Alderman Rhoads was absent during the vote. Alderman Lucas was absent.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals:

- A. One Senior Legal Assistant**
- B. One Senior Secretary**
- C. Two Animal Services Caregivers**

Casey Jones, Prosecuting Attorney gave a description of the positions the City Prosecutor's office was requesting to be approved. He stated we have not added to our staff since 1999 even though the work load has increased.

Mayor Coody: These are not new positions. This is replacing existing positions of people who are leaving.

Casey Jones: Yes sir.

Alderman Rhoads: I would highly support this. Having worked with the Prosecutor's office quite a bit it would be nice to be able to keep the good service level.

If these are replacement positions and they are not adding to the head count why don't we let them do that and then if they are adding to the head count, then they can come before the City Council.

Mayor Coody: Paul was thinking about bringing this forward for discussion because the Council wanted to know after the first quarter where we stood on all this. Were you going to bring something forward for Council consideration pretty soon?

Paul Becker, Finance and Internal Services Director: We will have a discussion at the April 29th agenda meeting.

Alderman Rhoads: If we haven't added to the head count then we should put our efforts elsewhere.

Paul Becker: These are not new positions; they are replacements for existing positions.

Alderman Cook moved to approve two positions for the City Prosecutor's Office. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Jill Hatfield, Animal Services Superintendant gave a description of the current vacancies in the Animal Services Division. These are not new positions.

Alderman Rhoads moved to approve two positions for Animal Services. Alderman Thiel seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Resolution 85-08 as Recorded in the office of the City Clerk

ADM 07-2712 Amend Chapters 151, 159, 161, 162, 163 and 164: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 159: Fees, Chapter 161: Zoning Regulations, Chapter 162: Use Units, Chapter 163: Use Conditions and Chapter 164: Supplementary District Regulations in order to make accessory dwelling units a permitted use in all residential zoning districts contingent upon Planning Division administrative approval. ***This ordinance was left on the First Reading at the March 18, 2008 City Council meeting. This ordinance was left on the Second Reading at the April 1, 2008 City Council meeting.***

Tim Conklin, Planning and Development Management Director gave a brief description of the item. He pointed out a revised Exhibit "B" which was discussed at the Ordinance Review Committee. He briefly explained the differences between the old and new ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Thiel: The Ordinance Review Committee recommended this to the Council for passage after the changes were made.

Alderman Allen: This is an excellent ordinance. This brings forth a lot of things in the 2025 Plan that we want to have happen in our city. This will bring density, infill, and hopefully some affordable housing. Across the board there are no parts of the City that are exempt. It is available to everyone.

Alderman Cook: What I like about it is it standardizes the discussion of the accessory dwelling units which I have supported.

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

Ordinance 5128 as Recorded in the office of the City Clerk

Mayor Coody: Thank you very much. You have done a lot of good work on this and your staff deserves to be commended. This is a good fleshing out of the 2025 Plan which is important to the City.

Amend Chapters 151, 152 and 166: An ordinance amending Title XV: Unified Development of the Code of Fayetteville to amend Chapter 151: Definitions, Chapter 152: Administration and

Chapter 166: Development in order to prohibit or regulate decentralized sewer systems within the city limits. *This ordinance was left on the First Reading at the April 1, 2008 City Council meeting.*

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Cook: We discussed this at the Water and Sewer Committee.

Tim Conklin: The direction at the Water and Sewer Committee was for me to develop a policy paper of the advantages and disadvantages of using our wastewater treatment plant, decentralized sewer, or septic. I would recommend that you table this to the 2nd meeting in May until the Water and Sewer Committee can make a formal recommendation to the entire Council.

David Jurgens, Water/Wastewater Director: On the accessory dwelling units, the health department doesn't consider it to be a community sewer system until there are three or more dwelling units. An accessory dwelling unit does not fall under the same definition therefore this ordinance would not apply.

Alderman Jordan moved to table the ordinance to the May 20, 2008 City Council Meeting. **Alderman Gray** seconded the motion. Upon roll call the motion passed 7-0. **Alderman Lucas** was absent.

This item was tabled to the May 20, 2008 City Council meeting.

Repealing and Replacing § 51.137: An ordinance repealing and replacing § 51.137, Monthly Sewer Rates, of the Fayetteville Code of Ordinances. *This ordinance was left on the Second Reading at the April 1, 2008 City Council meeting.*

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

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5129 as Recorded in the office of the City Clerk

Alderman Ferrell: I give Kyle a lot of credit; we worked a long time with staff and the consultant. This was not an easy decision to arrive at.

New Business:

Fayetteville Municipal Property Owners' Improvement District No. 25 – Falcon Ridge Subdivision Infrastructure Project: An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 25 – Falcon Ridge Subdivision Infrastructure Project.

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

Mayor Coody: This is a routine housekeeping item. It doesn't involve any taxpayer money.

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

Ordinance 5130 as Recorded in the office of the City Clerk

RZN 08-2936 (Mullins): An ordinance rezoning that property described in rezoning petition RZN 08-2936, for approximately 0.2 acres, located at 2846 South School Avenue from RSF-4, Residential Single-Family, 4 units per acre, to R-O, Residential Office.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the item. He stated staff felt that this was a good transitional zoning within that area to provide an office use that would help buffer some of the residential single family uses to the east. Staff and the Planning Commission recommend in favor of this rezoning.

Alderman Thiel: Is it going to continue to be just bail bond offices along there? I know this is appropriate in that it adjusts with the neighborhood zoning adjacent to it but we are doing a lot of R-O along there and no commercial. Do you feel that this is a good use?

Jeremy Pate: While probably a majority of those properties have been utilized as a bail bond office it does not limit it to that. The R-O zoning is appropriate at this time.

Alderman Thiel: I haven't heard anything negative about it.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5131 as Recorded in the office of the City Clerk

RZN 08-2937 (Mountain Ranch Ph. III): An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff is supportive of this request. The Planning Commission voted 9-0.

Blake Jorgensen with Jorgensen Associates: We would like to point out that although we are trying to get it rezoned for higher density the overall development is still under the four units per acre as we delineate that throughout the rest of the acreage.

Alderman Jordan: I would like for you to show this at the Ward 4 Meeting.

Blake Jorgensen: That will be fine. We can meet with everyone and see if we can't move forward from there.

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

Assistant City Attorney David Whitaker read the ordinance.

This item was left on the second reading.

C-PZD 08-2894 (Park Centre): An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans

Park Entry Drive, containing approximately 8.58 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Assistant City Attorney David Whitaker read the ordinance.

Jeremy Pate gave a brief description of the item. He stated staff recommended approval of this project as did the Planning Commission. There are 39 conditions of approval. I believe the street improvements were something that was discussed the most and deserves your consideration. For this particular project there is an existing agreement in place. The agreement that was reached with City Council approval is that the City would write the developer a check for roughly \$42,000 for acquisition of right of way and also agree not to assess for any other street improvements. I originally reported that those street improvements were estimated around \$67,000. In discussion with the City Engineer the amount is roughly \$114,000. I want to correct the number that I presented to you. The City agreed to not assess \$114,000 and only look at \$42,000 as the maximum assessment for that development. Staff is recommending that the original agreement be held.

Alderman Thiel: So are you saying that the developer is not going to pay the City back \$42,000?

Jeremy Pate: That is what staff is recommending. That is ultimately your decision.

Alderman Thiel: So the only improvements they are actually making are building a public street through their project.

Jeremy Pate: That is the only physical improvements.

Alderman Thiel: Plus the City has paid them \$42,000 for right of way.

Jeremy Pate: That is correct. The City is obviously constructing the street improvements for Zion Road as part of the bond program.

Alderman Thiel: Does staff feel like that is in line with what other projects of this impact had to pay?

Jeremy Pate: From our perspective the agreement is from the City Council the resolution is included in your packet. That decision was made before hand, that no further assessments beyond that \$42,000 for street improvements adjacent to this project would be required. I think it is relatively clear in that agreement that whatever improvements that would normally be required of the developer along Zion Road in front of his project would not be required because the City needed this right of way before the development occurred.

Ron Petrie: The reason we had to do the agreement was because from a legal standpoint it was questionable whether we could come back and make an assessment after the project, Zion Road had already started. That is why we had this agreement. We felt it was a win win to both sides.

Alderman Ferrell: What was the cost before the right of way and the building of the double lane public street down to the city park?

Jeremy Pate: I don't know if we know the cost for sure. There is a cost estimate in your packets. That is not something that we have necessarily reviewed in detail. What they have estimated is that the total additional construction expense for the public street is roughly \$68,466. The total additional land expense for a public street is \$146,906.

Alderman Ferrell: If traffic signalization is put there would you say that would benefit the City immediately as opposed to benefiting the development when the project is more complete?

Jeremy Pate: I would say so even if this project wasn't constructed.

Alderman Allen: On the issue of compatibility did you say it was resolved by the tree buffer?

Jeremy Pate: We did a comparison to our residential office zoning and looked at the separation from these property lines. This would exceed that separation distance. The developer should be given credit for trying to extend the park into the development as opposed to simply putting a development right beside the park. The tree preservation area extends into the property and there are certain areas set aside. The park like setting will not be lost and that will help contribute to the overall compatibility in transition for this development.

Alderman Allen: I wondered if the Ward 3 Alderman had any responses to this project.

Alderman Ferrell: I haven't had any public responses. I have visited with one of the owners and builders about their thoughts on it.

Roger Boskus with Miller Boskus Lack Architects: The staff has been great to work with. We have gone through this process and really put together what is an outstanding development for the City. The Zion Road improvements and the prior agreement to Zion Road, that is its own thing. What we are really asking tonight is that you consider the amount of cost of the public street that goes through the property. It is really not required. We chose to do this street to put together a better development and project for the City and a better connection to the park. The cost that Jeremy referred to is the difference in cost to go from a private street to a City street. We asking for the cost difference of going from a private street to a public street be shared and credited back to our development. We are asking that the \$68,000 difference be paid by the City and we will provide the land for the street.

Alderman Ferrell: There is going to be a lot of green space in this development. You really want to be able to have a connection to better serve the clients and the people that are going to go through the park. Is that correct?

Roger Boskus: That is correct.

Alderman Thiel: I appreciate the developers working to make this a good project and I support it as it is. I feel they have gotten a fair deal from the City. There is going to be an impact from this project and because of that having the public street through their project is going to benefit them. I wouldn't support any changes to it.

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

Assistant City Attorney David Whitaker read the ordinance.

Alderman Gray moved to suspend the rules and go to the third and final reading. Alderman Rhoads seconded the motion. Upon roll call the motion passed 6-1. Alderman Cook voting no. Alderman Lucas was absent.

Assistant City Attorney David Whitaker read the ordinance.

Alderman Ferrell: I would like to amend this to the cost for building a private road. The developer is saying the difference in the cost would be \$68,000 between them building a private road and a public road.

Ron Petrie: Are you saying they should also pay us \$42,000 and we pay them \$36,000 so there is approximately \$10,000 they owe us?

Alderman Ferrell: No.

Alderman Cook: I am not prepared to vote on this and if we move forward I will probably vote against it. I have not had a chance to get clear on it.

Roger Boskus: I think the clearest way to say it is \$34,000. Have the City pay us back half of the cost of the difference of improving the road. We would not be asking for \$68,000, we would be asking for \$34,000 which is half the difference in the cost of upgrading the road from a private street to a public street.

Alderman Ferrell moved to amend the ordinance to pay the developer \$34,000 the cost difference between the private and public street. Alderman Rhoads seconded the motion. Upon roll call the motion failed 4-3. Alderman Rhoads, Ferrell, Jordan and Gray voting yes. Alderman Cook, Allen and Thiel voting no. Alderman Lucas was absent.

The amendment failed.

Mayor Coody: I am not clear enough to make a decision on this either so I am not going to vote on this. We could hold this on the third reading until we come back and get some more information. We want to be fair and do right but at the same time we want to make sure we are fully informed on the impact of the tax payer on this decision.

A discussion followed on whether or not the ordinance needed to be tabled.

Alderman Ferrell moved to table the ordinance to the May 6, 2008 City Council Meeting. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

This ordinance was tabled to the May 6, 2008 City Council Meeting.

Amend Chapter 96 Noise Control: An ordinance to amend Chapter 96: Noise Control of the Code of Fayetteville to enact §96.09 to restrict the use of a compression release engine brake also known as "Jake Brake."

Assistant City Attorney David Whitaker read the ordinance.

Alderman Thiel: I brought this forward a few years ago and at that time the Council favored letting the Police Department try using other measures to control the problem. Those measures have not worked because we still have citizens complain who live in the vicinity of Highway 265 and 15th Street. Fayetteville is about the only City in the area which doesn't have this restriction. We are asking the Council to reconsider this ordinance.

Don Oliver, a resident of 2614 Wyman Road spoke in favor of the ordinance. He stated I have spoke to a lot of people over there and it is getting bad.

Alderman Thiel: I visited with the Police Chief before we brought this forward again and he is in support of it. It would make it easier for them to enforce.

Police Chief Greg Tabor: I am in support of this. It makes it much easier for us to enforce. I know there are some issues with the mufflers. The current ordinance is difficult to enforce, if you say no engine compression brakes it is much simpler and easier to enforce.

Mayor Coody: You can hear jake brakes for a mile. This needs to be at least as serious of an offense as a loud stereo at 30 feet.

Alderman Allen: I wondered if someone could explain if there might be some occasions where jake brakes are really necessary.

Dave Duncan, resident of Ward 1: The jake brake was invented to reduce the wear and tear on the brake system and not for safety. The safety issue comes into play with gasoline tankers and you could look at that as an exemption. In our mountainous regions they would have serious problems with brakes catching on fire and tires catching on fire. Mainly they were invented to reduce the wear and tear on the brake systems.

Alderman Ferrell: Mr. Duncan I am assuming you were or are a trucker?

Dave Duncan: I use to be.

Alderman Ferrell: Did you say gasoline tanker trucks require inspections in their brakes quite often?

Dave Duncan: I am not familiar with the current regulations but they use to have to stop ever so many hours to check the brakes and tires. The gasoline tankers don't fool around with the straight pipes anyway. I hear trucks everyday and night on 15th Street with mufflers working the jake brakes. There is really not a whole lot of difference in the sound when they flip the switch.

Mayor Coody: If someone got into trouble and their brakes started to go out they would hit the switch and the jake brakes would kick in?

Dave Duncan: It kicks in but it doesn't make a whole lot of difference in slowing you down depending on the amount of grade. Depending on the amount of grade the Jake brake can keep a truck from gaining speed but if the grade is great the Jake brake doesn't make much of a difference because the truck could run away with itself.

Alderman Allen: My questions about Jake brakes are covered in the ordinance. I don't see this as being problematic I just wanted to understand whether there would be times where that would be hazardous for a driver.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Assistant City Attorney David Whitaker read the ordinance.

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

Ordinance 5132 as Recorded in the office of the City Clerk

R.W. Beck, Inc: A resolution approving a contract with R.W. Beck, Inc. in the amount of \$110,700.00 to conduct a recycling study for the City of Fayetteville; and approving a budget adjustment in the amount of \$10,700.00.

Brian Pugh, Waste Reduction Coordinator: This study will help us define how we want our recycling program to look into the future. The staff feels that this recycling program is a vital service to Fayetteville. The pressures that we are getting to expand our recycling programs, this study will help us to thoughtfully and carefully examine those options and make our program much better in the future.

Alderman Jordan: Were there any companies that were local that bid on it?

Brian Pugh: Yes, Springline Consulting out of Fayetteville.

Alderman Jordan: So you did have a company bid out of Fayetteville.

Alderman Thiel: Yes, I was on that selection committee.

Alderman Jordan: Why did you pick the one from Austin over the one from Fayetteville?

Alderman Thiel: I don't really want to go into depth as to why we picked one over the other. I would say that we selected the best group for what we wanted. Their response in the RFP was

what we were asking for. There were four firms that we interviewed and this was the one we decided on. This firm had a great deal of experience. I agree with you Lioneld that anytime we should use local firms. I like to use local firms but I think sometimes you get more expertise and experience.

Brian Pugh: R. W. Beck is a nationally known consulting firm specializing in solid waste issues and they have done studies all around the country. They have a lot of experience and that is the main reason we chose them.

Alderman Thiel: The budget adjustment is coming from buildings and grounds maintenance?

Brian Pugh: The reason is that we had some money left over in that part of our budget.

Alderman Thiel: It is a part of the Solid Waste buildings and grounds maintenance?

Brian Pugh: Yes. We had some funds there to use.

Alderman Thiel: I just wanted to make sure that it was coming out of Solid Waste.

Alderman Allen: I am glad to hear that it is not coming out of the General Fund. I continue to make comments about consultants in the lean years, however I feel that this is something that we are all committed to and a very important thing to do. I agree with Alderman Jordan that it is always best to do it locally and I think maybe we can try to find ways to partner with the University on these kinds of issues in the future. I think this is a necessary adjustment because it is so important.

Alderman Cook: Is this a not to exceed number? They are going to provide deliverables based on this number?

Brian Pugh: That is correct. That is the final number.

Alderman Thiel moved to approve the resolution. Alderman Gray seconded the motion. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 86-08 as Recorded in the office of the City Clerk

Fayetteville Municipal Airport Name Change: A resolution adopting the recommendation of the Airport Board and renaming the Fayetteville Municipal Airport.

Ray Boudreaux, Aviation and Economic Development Director recognized Bob Nickell, Dave Bowman and Dr. Vaughn Decoster, members of the Airport Board who were present. He stated we would be happy to answer any questions.

Alderman Thiel: It is probably important that the name be changed.

Alderman Allen: I went to their board meeting and I completely understand why they feel this change is necessary.

Alderman Cook: How fast does this change take effect?

Ray Boudreaux: We will be using it in the marketing program right away. The idea is for Millionaire to be able to market their product and be able to sell to the flying public. It will take a little while to get the highway sign changed so when people come down there they know it is really not where the airlines are going to be.

Mayor Coody: I bet you still get those folks down there but I hope that number drops.

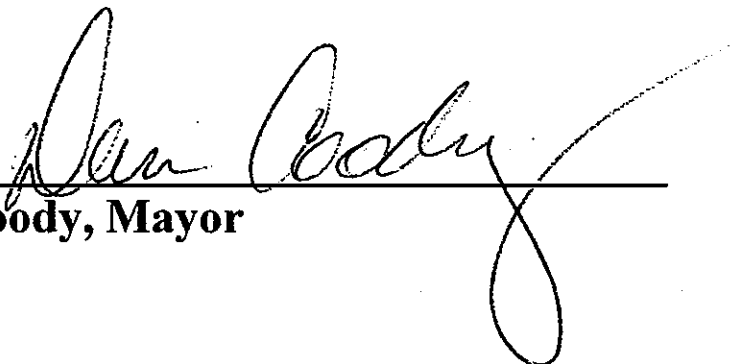
Alderman Cook: For lack of a better description are there flying maps and does it change on them?

Ray Boudreaux: It really doesn't, the flying maps will just say Drake Field.

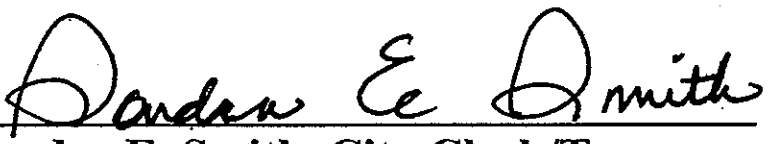
Alderman Ferrell moved to approve the resolution. Alderman Jordan seconded the motion. Upon roll call the resolution passed 7-0. Alderman Lucas was absent.

Resolution 87-08 as Recorded in the office of the City Clerk

Meeting adjourned at 7:35 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Monday, May 5, 2008

City Clerk's Office,

We would like to request a postponement of our "sign" item on the agenda for Tuesday's City Council meeting as Julian Archer will not be in town until next week. Kindly postpone it until the May 20 meeting.

Thank you,

Jane Archer

Attn: Lisa fax # 718-7695

RECEIVED

MAY 05 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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- **DEVALUATION OF PROPERTY**
- **POROUS PAVEMENT & LOW IMPACT DEVELOPMENT**

OPENING STATEMENT

We the residents of Stonebridge Meadows subdivision have consistently protested the proposed Bridgedale Plaza proposal since its inception. We are not obstructionists! We are not tree huggers. We are a neighborhood that has taken pride in living in the nicest neighborhood in South Fayetteville and would like to keep it that way.

In speaking with a lot of the residents here, almost all chose this subdivision for its quality, its country setting and the added value of living on a golf course. We feel like we escaped the sprawl of the city, but are a mere minutes from everything.

As you know this project was turned down by the planning commission on the grounds that a storage building facility did not belong in a residential neighborhood. Mr. McDonald has tried to sell this as a really nice facility, with green aspects such as water collection and low level lighting. He is also selling this project as part of City Plan 2025, mixed use development. All good points for him.

In this packet of information, you will find a lot of facts and figures that support our contention that this facility does not need to be built. We have submitted a petition with 232 signatures from 146 homes that are against this. This represents over 80% of the homes here. We would ask you to carefully consider all the factors in this development.

Mr. McDonald will bring up the following arguments:

- Fayetteville needs this. It will be an asset to the neighborhood. He may even use the term "facelift".**
- The proposed houses will be affordable.**
- His houses in Bridgedale will not sell because there are no amenities in the neighborhood.**

You will find our rebuttal inside:

- Fayetteville has over 20 storage facilities. Four within 5 miles of this neighborhood. Most are well below rental capacity. Storage buildings bring added traffic, safety concerns and potential for more crime.**

- The houses he proposes will sell at over \$160,000, if he follows through with how he says he will build them. We believe they will be rental property within two years of being built.
- This packet contains a two page list of amenities all within 3.7 miles.
- City Plan 2025 does call for mixed use development, but it also calls for preservation of existing neighborhoods.

Mr. McDonald promised the buyers and builders of Bridgedale, that phase 2 in this vacant field would be more houses like phase 1. He even sold his home in Bridgedale to a family who asked him, point blank, what are your plans for this property? He told them also, it would be more houses just like they were buying.

There is a "retention pond" in Bridgedale that has not been dry in over two years. He has stated that he will fix this mosquito pit. To date no plans have been put forth to make any attempt to fix this problem. We have had consistent drainage problems for over two years. What will it be like when we add a whole new development of concrete and asphalt?

Mr. McDonald is promising porous pavement in his proposal. Please look into our cost data on this. Also look at the constant level of upkeep this takes to preserve it. He has not shown to be a man of his word.

In summary, please do not allow this development to take place. We have all worked very hard to be able to move into a neighborhood of this setting and house size. For a lot of us, it was a dream come true.

We would ask each of you on the city council:

Would you be happy if this was going up in your neighborhood?
How would this affect the value of your home?

If you approve this one, you allow all developers to do the same thing next to where you live. You will set a very dangerous precedent.

Respectfully,

The Stonebridge Meadows community

A BRIEF HISTORY

OF

STONEBRIDGE MEADOWS

A BRIEF HISTORY OF STONEBRIDGE MEADOWS

Stonebridge Meadows Golf Course was established in 1997. It has been voted in the top 10 of public golf courses in Arkansas nearly every year since its inception. It has also been on the Natural State Golf Trail for the past few years. It has hosted a USGA championship for the last 5 years.

In short, Stonebridge Meadows Golf Course is on the short list of all the golf courses in the state that are a must play.

Shortly after the golf course opened, Phase 1 of the Stonebridge Community was developed. The standards were pretty high, especially for this area of town. The houses had building covenants which required, 2200 square foot minimum, 80% brick exterior, minimum 2 car garages.

The area really did not develop until around 2003. At that time, the other "hot" areas on the east side of town were booming. Savannah, Brook Berry, Ridgemont, Covington, Barrington and Timber Crest to name a few.

As these subdivisions began to fill up, the builders looked for other areas in town to build the size and quality of home they were used to building to gain their margins they sought. Phase 1 of Stonebridge only had 3 or 4 houses built on it in this time frame. Then in 2003, phase 1 sold out in just a manner of a few months.

Once phase 1 sold out, development of the infrastructure of Phase 2 and 3 began. Before all the pavement was even done, building began and phase 2 nearly sold out in the first year. Phase 3 is now over 90% developed. Phase 4 and 5 are now developed and are beginning to fill in.

This was marketed as a golf club community. The club was designed to be public and hopefully will stay that way. The houses were built upscale, but middle of the road when compared to Savannah or Ridgemont. They are however very comparable to Covington, Barrington and Timber Crest. Just as nice a

neighborhood, but with a championship golf course running through part of it.

In talking with a lot of neighbors through the years, most bought and built out here because it was on a golf course. It was outside of town. It was away from a lot of the sprawl of the city. It had a golf course on one side, a river on the other and a large vacant field bordering the West side of Phase 1.

In summary, we, the residents of Stonebridge feel like we are out in the country, but only a 5 minute drive to the city. This is a very quiet neighborhood. Now that most of the building is done in the first three phases, the only traffic we see in this neighborhood is local residents.

BRIEF HISTORY OF

BRIDGEDALE

SUBDIVISION

A BRIEF HISTORY OF THE BRIDGEDALE DEVELOPMENT

- Started in spring of 2005
- 14 houses with 2,705 square foot minimum
- California demographics, large house on small lot
- To date, less than half have sold. Still three lots available and all three have been heavily discounted.
- October 4th, 2007, Clint McDonald calls meeting with Aldermen, Brenda Thiel and Adella Gray. Residents of Stonebridge Meadows and Bridgedale and Press are present. The overwhelming consensus was, this does not fit in our neighborhood.
- February 25th, 2008 - Bridgedale Plaza goes to Planning Commission. It is tabled and reset for first meeting in March. Tabled again. Mr. McDonald was told point blank by Jill Anthes that she could not approve a storage building in a residential neighborhood.
- Final appearance before Planning Commission Monday March 24th. Turned down by a narrow 5-4 vote from Commission. Planning Staff did not recommend this project due to storage buildings not fitting in with existing neighborhood.
- Press Release from Clint McDonald appears in various news outlets the day of planning commission meeting. This was before it was turned down.
- Clint McDonald and other small developers had a meeting on Thursday March 27th to express their displeasure in City Planners and Planning Commission. Mr. McDonald is quoted as saying he did not know the storage buildings were going to be a problem and was misled.

REAL DEALS

A look at important real estate transactions

McDonald Creates New East Fayetteville Mixed-Use Space



Katie Stockstill

Clinton McDonald has announced plans to develop a 16.14-acre mixed-use development on the corner of Arkansas Highway 16 and River Meadows Drive in east Fayetteville. The development, named **Bridgedale Plaza**, will be valued at \$16 million upon completion.

Clinton purchased 15.8 acres for the project in 2005 and 2006 for a total of \$1.25 million.

The development will have 27 residential lots that will be about 0.20 acres each. The homes will range in size from 1,600 SF to 2,200 SF. They will be Craftsman style and will be either one or two stories.

Four office/residential and two commercial buildings will be located north of the residential portion.

There will be two 3,000-SF, single-story office/residential buildings; one 6,000-SF, two-story office/residential building; one 7,500-SF, two-story office/residential

building; one 12,660-SF, seven-unit commercial building and one 4,480-SF, single-unit commercial building.

Two climate-controlled storage buildings and eight mini-storage buildings will be located east of the residential section of the development.

A 20-foot, 0.62-acre green belt will surround the storage buildings to help hide them from residents' view.

The exterior of the climate-controlled buildings will match the facade of the commercial buildings.

A 1.10-acre green belt will surround the entire development.

Cisterns and rain barrels will be located

throughout the development to collect rainwater, which will be re-used in the property's drip irrigation system.

Jorgensen and Associates is the engineering firm for the project. A general contractor for the project has not been named.

Wal-Mart Constructs Neighborhood Market

Wal-Mart Stores Inc. purchased a \$3.97 million building permit for the construction of a 40,000-SF **Neighborhood Market** located at 3553 Robinson Ave. in Springdale.

Wal-Mart Stores is the general contractor for the project. Wal-Mart also handles

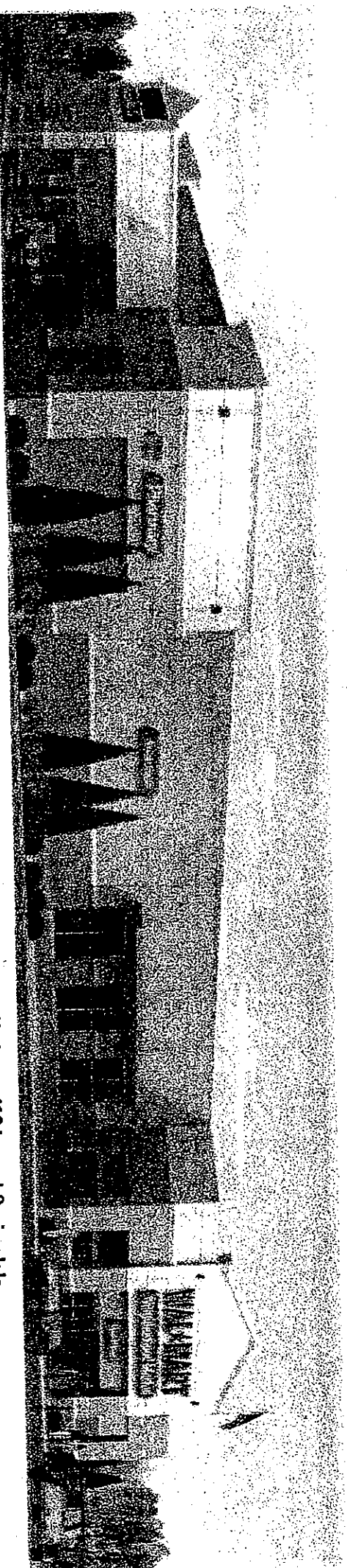
all of the subcontractor work.

The store will incorporate a number of Wal-Mart's energy-efficient concepts.

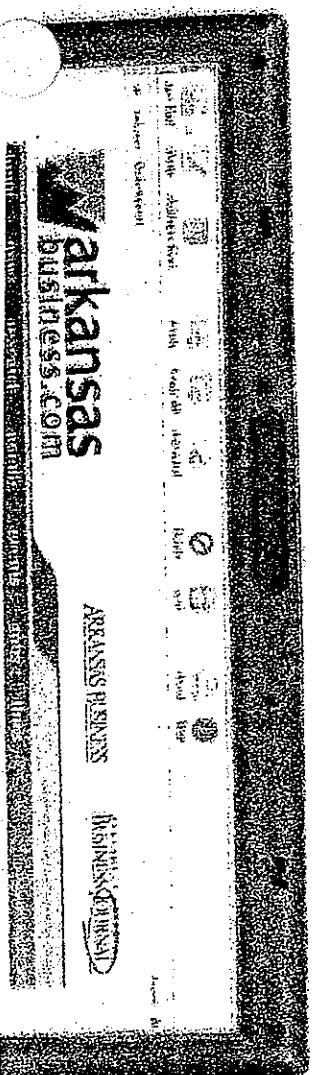
The Springdale Neighborhood Market will utilize sustainability and high efficiency technologies. For example, the rejected heat from the rooftop units providing refrigeration to the refrigerated cases will be captured and put back into the air handlers to pre-condition the air to heat the store.

The refrigerated cases will use LED lights, which are turned off automatically by the use of motion sensors. The lights over the sales floor will also have a lower wattage.

The store will be open 24 hours daily

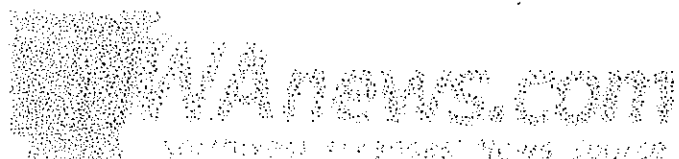


Wal-Mart Stores Inc. has begun construction on a 40,000-SF energy-efficient Neighborhood Market located on U.S. Highway 412 in east Springdale.



The Most

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NORTHWEST ARKANSAS TIMES

Developers vent frustrations with planning process

BY SUSANNAH PATTON Northwest Arkansas Times

Posted on Friday, March 28, 2008

URL: <http://www.nwanews.com/nwat/News/63568/>

Local developers are fed up with the way the city's planning process works and are devising a strategy to let their concerns be known.

A group of developers met Thursday to discuss some of their grievances with the process and their own experiences with the Fayetteville Planning Commission and staff. The group plans to draft a letter and have it signed by members of the community, sending a message to the city that if something doesn't change, the city's financial situation will get worse.

Real estate consultant and local developer Jeff Collins said several developers have expressed disappointment in the way the process works and have been told by city officials that things are going to get better.

"If things had been fixed, we would not need to be here today," he said.

Collins said he thinks the letter will be a good first step.

"It will give people the chance to go on record and say enough is enough," he said.

Developer Hank Broyles said one of his biggest problems with the process is the off-site improvements required of the developer.

Broyles said he spent nearly \$2 million on off-site improvements for his subdivision development near Stonebridge Meadows.

"The off-site improvements are just getting ridiculous," he said. "They're sitting up there saying, 'You guys are developers; you've got deep pockets.'"

Collins agreed that there is a lack of predictability, or a lack of systems in place to determine the cost share that will be borne by the developer.

"It's a project-by-project, ad hoc process," he said.

The improvements have to be paid for somehow, Collins said, but what is the appropriate distribution of the burden.

"I think the consensus here is that the cost is disproportionately borne by the developer," he said.

Collins said the cost is often unknown until the developer has already put a lot of money

into the development.

“ By the time you get to the end of (the process) they’ve got you, ” he said.

City Director of Current Planning Jeremy Pate was not at the meeting, but he addressed developers’ issues in an interview Thursday afternoon.

Pate said impact fees were brought up as an attempt by the city to address the concern introduced by Broyles.

“ The impact fee would have provided a known variable upfront, ” he said.

The impact fee ordinance, which would apply fees to new construction to finance related street improvements, was defeated by a single vote last April.

Proponents of the fees maintained that they would level the field for developers by making the process by which they are charged for infrastructure improvements more equitable.

Those against the fees said they would drive away new business.

Developers also complained about the inconsistency of the Planning Commission.

Even if a developer does ever ything that’s asked by the planning staff, the commission can still turn down a project using the loose term compatibility as a reason for denial, Collins said.

Developer Clint McDonald organized the Thursday meeting, which took place at the Fayetteville Chamber of Commerce. He said he spent nearly eight months working with the planning staff, and close to \$ 40, 000, making suggested changes to his proposal for Bridgedale Plaza, a mixed-use development on the corner of Huntsville Road and River Meadows Drive.

“ We made every change they requested, ” he said. “ Then I found out on the Friday before the Monday meeting that the staff was not going to support it. It blew me away. ”

McDonald said the project was denied by the Planning Commission because it included storage units next to a residential use.

“ Why didn’t they tell me that on day one ? ” he said. “ Why lead me down this road ? ”

Collins said there is the sense that the rules change at the last minute.

“ We’ll play by the rules if you just tell us what the rules are, ” he said.

Pate countered McDonald’s complaint.

“ I feel very confident that we informed the applicant and his consultants that the mini-storage portion of the project was an issue, ” he said.

Steve Fineberg, a Realtor who specializes in commercial properties, said he gets the impression that the Planning Commission has the perception of “ it’s us against the

developer. ”

Commissioners need to somehow turn it around and look at development as a benefit to the city, he said.

Collins agreed that there is a perception that the developer is just “ out to make a buck. ”

“ The minute you get to the Planning Commission, it’s like the boxing gloves come on, ” he said.

Pate said he thinks the planning process is fair and efficient. The percentage of denials is low, he said, with the highest around 9 percent and the lowest about 3 percent over the past four to five years.

“ I think it’s a much more predictable process than where we were six or seven years ago, ” he said. “ We have a better vision and better understanding of where we want to go in the city. It’s always hard to implement a vision, but I think we’ve come a long way. ”

Mayor Dan Coody, who also wasn’t at the meeting, agreed with Pate and said he thinks the planning process maintains a balance in the city between regulation and managed growth and that comments from developers regarding the city’s reputation as too tough are unfounded.

“ The comments we get from developers in the outside world are that Fayetteville is easy to develop in; it’s much easier and much quicker, ” he said.

The idea that Fayetteville is perceived as a difficult place to do business is a “ completely bogus perspective, ” he said. “ We’re recognized nationally as a more livable community and a good place to do business. ”

Fayetteville was recently ranked 82 nd in the 2008 Fortune Small Business top 100 places to live and launch a business.

“ We must be doing something very right, ” Coody said.

Some developers said the process gets political once it gets to the City Council, and even if it’s been endorsed by the planning staff and approved by the Planning Commission, it can be denied by the council based on the comments of a few citizens.

Coody agreed that the process can become a political game when it reaches the City Council, and if one or two people complain the whole thing gets denied.

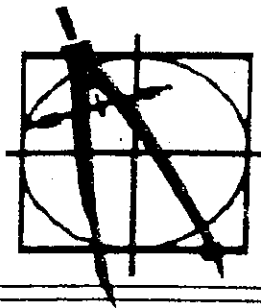
“ But there is no way that should be laid off on staff, ” he said.

Coody said he addressed that problem in his 2008 state of the city address, where he said, “ If a few individuals oppose any part of the project we will thwart the will of all the citizens who designed the plan, all the creative massaging of the planning and engineering staff, the citizens’ subcommittees and the Planning Commission. In being hyper-responsive to the individual, we completely discount the majority. ”

“ Don’t get me wrong, ” he continued in the address. “ I am not saying that we should

just rubber-stamp everything that comes in the door. But if we could approve the creative, innovative, new-urban design that fits our plan as quickly and easily as we approve the bad developments, it would be a vast improvement for the future of our city and our reputation. ”

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Contact: webmaster@nwanews.com



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.

1/10/08

Attached herewith please find a concept plat on Bridgedale Plaza. This project is currently being planned and is located adjacent to or near your property.

Please note that this consists of a single family, 24 lot subdivision, a self storage area, a residential office area and a commercial area at the corner of River Meadows Drive and Hwy 16 East.

This was presented at a Ward meeting on October 4th at 6:00p.m. at City Hall and you may have attended this meeting. As a result of this meeting and several other meetings with the City, we have changed our original plan. We still have the same general concept however we have placed a park in the middle of the residential area with a round about for traffic calming. Also we now have a combination of shared drives and rear access drives. We will maintain the trees on the perimeter and also plant additional. We also plan to implement low impact development features that include rain gardens, rain barrels, and drip irrigation. The storage building will be very attractive with downward, low impact lights.

This will be presented to the Fayetteville Planning Commission on February 25th at 5:30 p.m. at City Hall.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

THIS SITE CONSISTS OF FOUR PLANNING AREAS

DISPATCH DEVELOPMENT NOTES

**PLANNING A
NEIGHBORHOOD
COMMERCIAL
1.98 ACRES**

PLANNING AREA #3
RESIDENTIAL OFFICE
1.98 ACRES

**PLANNING AREA #1
SINGLE FAMILY
5.64 ACRES**

PLANNING AREA #
PLANNING AREA #
SELF STORAGE

6.38 ACRES

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Willie's son, Bobby?

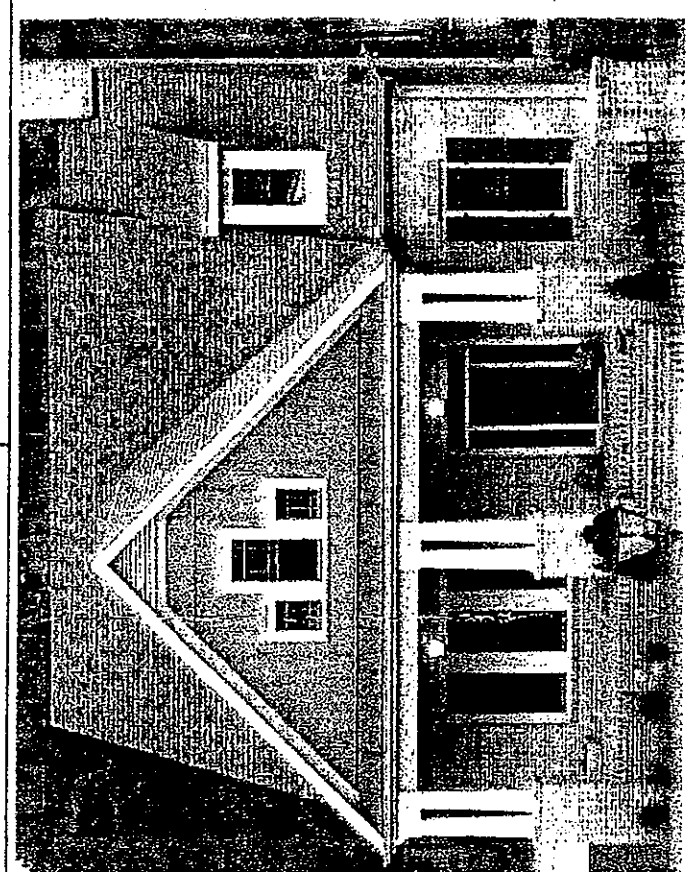
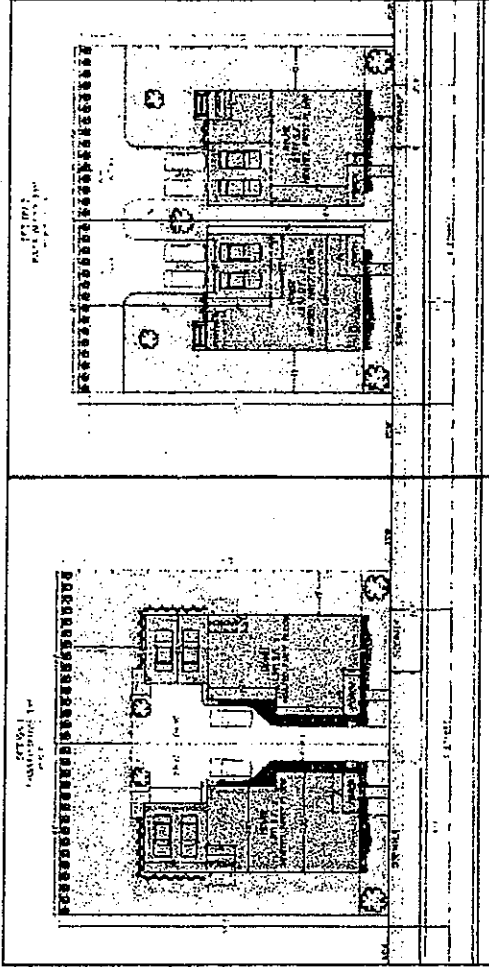
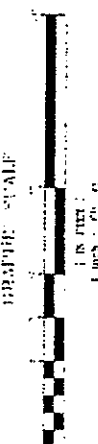
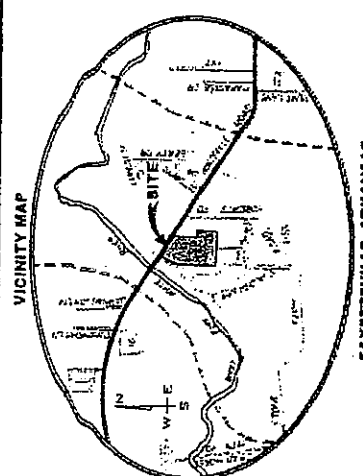
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FLOODPLAIN NOTE

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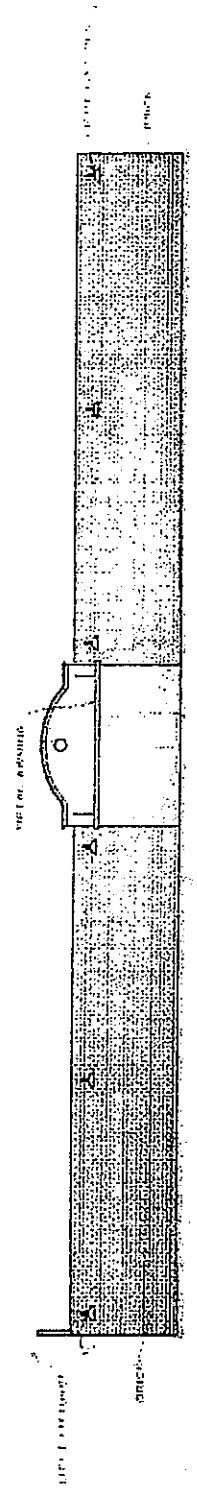
BRIDGEPALE PLAZA, 1
MASTER DEVELOPMENT PLAN, 1

JORGENSEN & ASSOCIATES





STORAGE BUILDING NORTH ELEVATION



STORAGE BUILDING WEST ELEVATION

STORAGE BUILDINGS

AN OVERVIEW OF STORAGE BUILDINGS

This unit contains:

- A brief history of self storage buildings
- A warning to owners and operators from California Attorney General's office
- An email from a 15 year veteran law enforcement officer outlining his experiences

Fayetteville has over **20** storage facilities. **There are four within 4 miles of the Stonebridge Meadows subdivision.** One is East one mile on Highway 16. One is West about 2.5 miles by Walker Park. One is just south of the 265 and 45 intersection (3.7miles). One is 1 mile East on Highway 45 (Tower Mini Storage, 4.7 miles).

We interviewed the owners of Tower Self Storage and Arkansas Self Storage. Both expressed almost identical views and issues. First, Tower Storage has 56 climate controlled units available with only 1 reservation.

- Both discussed the need for good lighting for security purposes. When told Mr. McDonald proposed low level lighting, they both scoffed and said it would never happen. Without being well lit, other people can break into spaces not their own.
- Even though their offices are open 9:00 am to 6:00 pm, they allow 24 hour access with key codes. They have fishermen coming and going at very early hours of the day and late hours in the night.
- They do not allow toxic substances, but admit that they really have no way of controlling it. They do not perform background checks on any applicants.
- They have people setting up office space in some of their units and actually running a business out of them.
- Trash is a constant problem. People empty out their storage spaces and just throw trash all over the grounds.
- Boats, RV's and campers are generally parked outside in full view of everybody in various states of disrepair. Some are not moved for months and collect lots of dirt and leaves on them.
- They both agreed that storage buildings have no place in a residential setting. They need to be confined to an industrial area.



NATION'S BUILDING NEWS

The Official Online Weekly Newspaper of NAHB

Sponsored by McGraw-Hill Construction and Freddie Mac

Week of April 17, 2006



NAHB

NATIONAL ASSOCIATION
OF HOME BUILDERS

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- Take Steps to Avoid the West Nile Virus

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- Trade Associations Are Well Worth Your Time
- New Home Sales a Sweet Success

At Barely 30, Self Storage Comes of Age

By Tim Dietz, Self Storage Association

An industry barely three decades old has become one of the most popular kids on the block. But what lies ahead?

Plenty of Americans have found self storage a useful way to "declutter" their lives — about 27 million households or about 9%, and more than a few businesses, according to a study about self storage demand by the Self Storage Association (SSA) released last year.

The self storage industry had annual revenues of more than \$15 billion last year. In contrast, the U.S. motion picture industry had annual revenues of \$10 billion.

Of all the Real Estate Investment Trusts (REITs) in 2005, self storage posted the largest returns of any real estate sector — 23% — beating malls by 4%, multifamily residences by nearly 10% and hotels by 13%.

Construction of self storage facilities does not show any sign of flattening either, although many in the industry will quietly tell you that some areas have an "over-inventory" or are over-saturated.

During the past 15 years, the self storage industry has witnessed 5%-8% growth annually, and currently boasts 45,365 primary facilities and 9,585 secondary storage businesses. (The SSA classified limited storage operations opened by service stations, auctioneers and other like-minded businesses as "secondary" storage businesses.)

The breadth of the industry certainly indicates that self storage is no longer flying under the radar. Initially operated by a few farsighted entrepreneurs, now just about everyone — from Prudential Securities to boxer Oscar De La Hoya — wants a piece of storage's remarkable returns.

Prudential's entrée into the action was the largest deal in the self storage industry's history — \$2.3 billion for the acquisition of the Storage USA portfolio from General Electric in partnership with Utah's Extra Space Storage. De La Hoya entered the ring with Golden Boy Self Storage, which will be opening facilities in Southern California.

Very Humble Beginnings

Richard Tanner, executive vice president at Extra Space Storage, which was founded in Utah in 1977, said the industry in the early years was tied together with chained link fences. "It really grew out of a need and an opportunity," said Tanner. "Sometimes you'd pull up to a place and see units cordoned off by chicken wire. There wasn't much to it."

The chicken wire has given way to steel and concrete structures, and to security systems that would make the CIA proud. And, today, the industry is an eclectic mix of large REITs, mid-size partnerships and small "mom and pop" facilities.

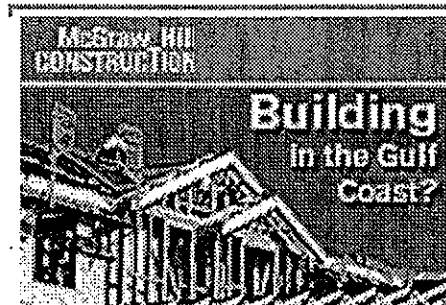
But as the industry has become more sophisticated, it has also struggled to find — and define — itself. For instance, should the industry be classified as warehousing or retail? The classification impacts legal, regulatory and tax issues, as well as companies' bottom lines, and the Self Storage Association has been fighting a growing proliferation of states that consider the rental of storage property as a taxable retail service — something that the multifamily and commercial sectors are not burdened with.



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The Self Storage Food Chain

Acquisition has become a large part of the industry. The sheer size of portfolios and money at play in the industry today is titanic, largely because development takes time and can be costly. In March 2005, Public Storage CEO Ronald Havner, Jr. advised investors,

"The easy money on the development side is gone," said Havner. "You have to allow six-to-eight months for zoning, six-to-10 months for building and two-to-four years to fill it up. In the short-term, I see the repackaging pipeline more than I see the development pipeline."

Among REITs last year, U-Store-It completed a \$212 million National Self Storage acquisition, Extra Space Storage joined with Prudential to acquire Storage USA and Public Storage acquired Shurgard.

Small- and mid-sized operators were also active, with properties changing hands frequently. As REITs added hundreds, partners and others added dozens. The institutional funding made the opportunities too great for many small existing operators who, appreciatively, cashed in and sent their facilities up the food chain.

But all this activity leaves storage professionals wondering if they can continue to tempt fate and buck the commercial and housing real estate trends in 2006 as they did in 2005. "It is reasonable to assume that the percentage of institutional ownership of storage facilities nationwide will continue to increase; however, this percentage increase in ownership will be predominantly in the investment grade facilities," said Jim Davies of Buchanan Storage Capital.

The notion of investment grade facilities, and the recognition of their reciprocal value to institutional players, may well be the difference between the muddled styles of property and strategies of yesteryear and the contemporary models.

Investment grade facilities can be defined loosely by such criteria as 50,000 rentable square feet (minimally), a location on a major thoroughfare with direct access to traffic, concrete block or tilt-up construction, and certain population benchmarks. Non-investment grade facilities will likely continue in the comfortable, fragmented model that was the hallmark of the industry until the last decade or so.

H. James Knuppe of RAS Management Co. in Castro Valley, Calif. and an original industry founder, is working with NAHB's National Commercial Builders Council on its niche manual, "Mini Storage Revisited." The handbook is expected to be reissued later this year.

Tim Dietz is the vice president of communications and government relations for the Self Storage Association. For more information, e-mail Dietz, or visit the association's Web site at www.selfstorage.org.

'Moving to Commercial Construction' Available at BuilderBooks.com

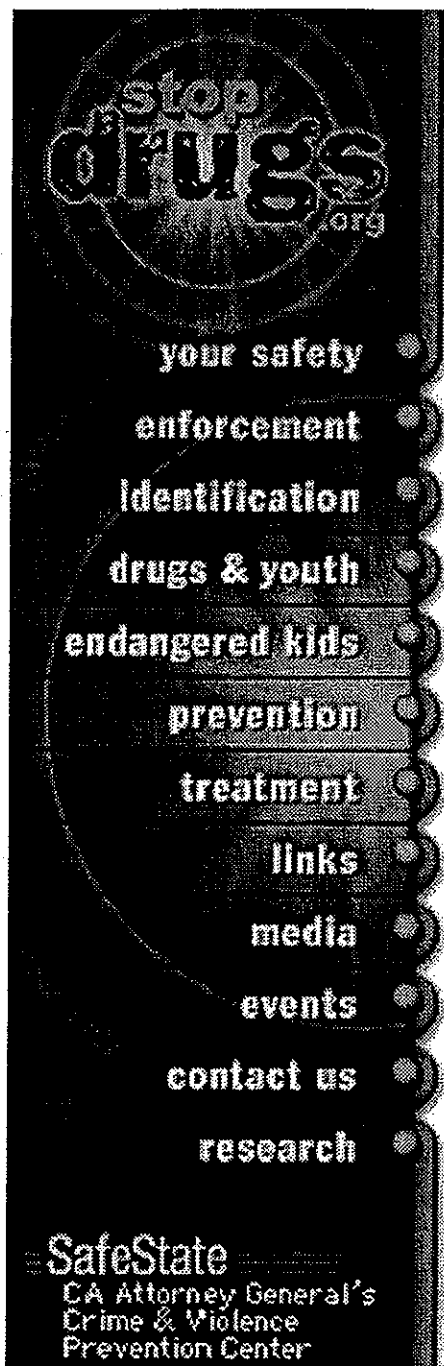
"Moving to Commercial Construction," available through BuilderBooks.com, offers the general contractor, subcontractor and designer several step-by-step methods that will make the move from residential to commercial building a successful one.



To view or purchase this publication online, click [here](#), or call 800-223-2665.

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CLICK HERE FOR MORE INFORMATION: [CA Department of Justice: StopDrugs.org](http://www.stopdrugs.org)
 "Approximately 11 million American youth under the age of 21 drink alcohol. Nearly half of them drink to excess..."
 -American Medical Association

RESOURCE

Attention: Self Storage and Mini Storage Operators and Managers!

During the course of numerous clandestine laboratory investigations throughout California, several clandestine laboratories, some boxed, some operating, have been seized at self storage and mini storage facilities.

It is common knowledge in law enforcement circles, that persons involved in the illegal manufacture of controlled substances will use storage and mini storage facilities to store the hazardous chemicals, laboratory glassware and apparatus used in their illegal activity. On some occasions the individuals will actually "cook" inside the storage facility. These individuals do this to avoid detection by law enforcement and to keep these hazardous chemicals and the "cooking" process away from their residence. The Department of Justice has come up with the following guidelines and a basic profile of Methamphetamine manufacturers to assist all storage and mini storage personnel in identifying these individuals. By being aware of this profile, not only can you help prevent the spread of dangerous drugs in our community, but you can protect your customers from potentially damaging chemicals.

Please remember that these are only guidelines and may vary with individuals:

1. Age Group - Generally 25 to 35 years old, but persons in their 60's have been involved.
2. There is no specific ethnic group, subjects from all the various ethnic groups have been involved in this type of activity. Currently, however, a large influx of Mexican National persons have become involved in the drug business and extensively use storage locker facilities.
3. May look like "biker type" individuals with dirty, longish hair, and various tattoos.
4. Vehicles utilized are usually older model pickup trucks, vans and rental/moving vans.
5. Subjects may rent two or more storage lockers at one time.
6. Will probably pay in cash and may pay several months in advance.
7. May want 24 hours access to the locker(s).
8. Makes many unusual and seemingly unnecessary trips to and from the storage locker(s).
9. Often they will bring other persons to the locker to help them move large chemical containers and to act as a "look out" while chemical containers and contraband is loaded into and out of their vehicles.
10. They usually keep items covered up in their vehicle when coming and going from the facility
11. They may seem unusually nervous or paranoid.
12. They may smell of chemicals odors.
13. Look for placards on boxes and drums, i.e. corrosive,

- flammable, poison placards
- 14. Chemical odors may be coming from the storage locker itself.
- 15. The items stored in the locker will not look like normal household items and persons may close the storage locker door when they are approached by the facility personnel.
- 16. Look for laboratory glassware.

We would appreciate any help you can provide in this area. We are facing a major problem in California which is of concern to all of us. If you have any questions or information regarding a person fitting the profile, please call your local police agency. Please take no action on your own, except to contact your local law enforcement.

Source: California Department of Justice, Advanced Training Center

Back To The Meth Crisis

[Recursos en Español]
[site map]

YOUR SAFETY | ENFORCEMENT | IDENTIFICATION | DRUGS & YOUTH | ENDANGERED KIDS
PREVENTION | TREATMENT | LINKS | MEDIA | EVENTS | THE FIGHT

From: bob stocking (cw1512003@yahoo.com)
To: jluper24@yahoo.com
Date: Monday, April 7, 2008 7:10:57 PM
Subject: storage units

A little known and often over looked fact about storage units is the lack of control the owner/manager actually has over what is placed in the storage unit. The rentee is generally required to sign a contract stating they will not store any hazardous materials or utilize the unit for illegal activity. Unfortunately all too often the units are utilized for storing an assortment of hazardous chemicals/items and providing a semi-secure area for people to conceal illegal activity.

I have worked in the law enforcement community for 15 years and have had the unique opportunity to work on the local, state and federal level. I can sure you the type of storage facilities proposed for this area will attract people with less than honest ideas about the usage of the storage facilities. I have personally been involved in locating an abundant amount of stolen property from storage units. Criminals often rent the storage units in an associates name to distance themselves from the stolen property. The property is stored at the location to create a degree of separation from the criminal and the property. Narcotics traffickers have historically utilized storage units to store large and small amounts of narcotics. Since arriving in this area in 2005 I have been involved in several investigations which have led to the discovery of storage units utilized by narcotics traffickers. Not only do narcotics distributors utilize storage units for the storage of illegal narcotics but also for the actual clandestine manufacturing of narcotics. Routinely investigations reveal narcotics transactions occurring at storage facilities, it is a safe haven away from a narcotics distributors residence.

Storage facilities do have a place in metro areas and while there are valid uses for them, they are undesirable to a neighborhood. The criminal element, which I have seen first hand attracted to these facilities, will be quiet literally in our backyard.

E. Watson
1296 St Andrews
Fayetteville, AR

You rock. That's why Blockbuster's offering you one month of Blockbuster Total Access, No Cost.

Tower
Tower

123222

Help

Rooms Available

56 AVAILABLE

1016219 - 1016219

Date: 4/1/2008

Display By: Size		Download To: Display On Screen				
Size	Description	Sq/Cu Ft	Rooms	Rate	Move-In Rate	Deposit
5X10X10	1 DRIVE UP OUTSIDE NON-CLIMATE ROLLUP	50/500	AA22	\$39.00	\$39.00	\$20.00
Total Rooms: 1				Total Reservations: 0		
10X10X10	1 DRIVE UP OUTSIDE NON-CLIMATE ROLLUP	100/1000	4B401 , 8B812	\$45.00	\$45.00	\$20.00
Total Rooms: 2				Total Reservations: 0		
10X15X10	1 DRIVE UP OUTSIDE NON-CLIMATE ROLLUP	150/1500	9C906 , 9C910 , 9C923	\$59.00	\$59.00	\$20.00
Total Rooms: 3				Total Reservations: 0		
10X15X10	0 INTERIOR STREET CLIMATE ROLLUP	150/1500	2C206C , 2C209C , 4C436C , 8C855C , 8C857C , 8C858C , 8C862C , 8C867C , 9C938C , 9C945C , 9C946C , 9C947C , 9C948C , 9C949C , 9C950C , 9C951C , 9C953C , 9C954C , 9C955C , 9C956C , 9C957C , 9C958C , 9C959C	\$80.00	\$80.00	\$20.00
Total Rooms: 23				Total Reservations: 0		
10X15X8	0 OFFICE SPACE STREET CLIMATE W/ELECT SWING	150/1200	DC01 , DC02	\$85.00	\$85.00	\$20.00
Total Rooms: 2				Total Reservations: 0		
10X20X10	1 DRIVE UP OUTSIDE NON-CLIMATE ROLLUP	200/2000	3D302 , 3D303 , 3D310 , 3D311 , 3D312 , 4D406 , 4D410 , 5D504 , 5D510 , 5D517 , 6D605 , 6D609 , 7D709 , AD05 , CD72 , CD76	\$74.00	\$74.00	\$20.00
Total Rooms: 16				Total Reservations: 1		
10X20X10	0 INTERIOR STREET CLIMATE ROLLUP	200/2000	1D114C , 2D210C , 2D215C , 4D422C , 8D843C , 8D850C , 8D851C , 8D852C , 8D854C	\$105.00	\$105.00	\$20.00
Total Rooms: 9				Total Reservations: 0		
15X15X10	1 DRIVE UP OUTSIDE NON-CLIMATE ROLLUP	225/2250	BF53	\$84.00	\$84.00	\$20.00
Total Rooms: 1				Total Reservations: 0		

Arkansas SELF STORAGE, LLC
 WEBSITE - ARKANSASSELFSTORAGE.COM



2325 N. Gregg Ave.
 Fayetteville, AR 72703
 P 479-571-3800
 F 479-443-2587

CLIMATE CONTROL

	<u>Monthly</u>	<u>Semi-Annual</u>	<u>Annual</u>
9 x 10 cc	86.00	516.00	1,032.00
10 x 10 cc	91.00	546.00	1,092.00
10 x 15 cc	112.00	672.00	1,344.00
10 x 20 cc	136.00	816.00	1,632.00

STANDARD

9 x 5	42.00	252.00	504.00
X 5 x 10	46.00	276.00	552.00
X 10 x 5	46.00	276.00	552.00
10 x 10	56.00	336.00	672.00
10 x 15	70.00	420.00	840.00
X 10 x 20	81.00	486.00	972.00
X 10 x 25	97.00	582.00	1,164.00
10 x 30	107.00	642.00	1,284.00
10 x 40	147.00	882.00	1,764.00
14 x 40	224.00	1,344.00	2,688.00
20 x 20	147.00	882.00	1,764.00
20 x 40	264.00	1,584.00	3,168.00
40 x 175	2,500.00	15,000.00	30,000.00

OPEN

X 12 x 30	36.00	216.00	432.00
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** Prices current as of Nov. 2005 ** Prices subject to change.
 ** Computerized Access with your own Personal Code
 ** Office Hours: 9:00 am - 6:00 pm • Mon.-Fri. • 9:00 am - 12:00 pm • Sat. • Office Closed Holidays

AMENITIES

SUMMARY OF AMENITIES FOR STONEBRIDGE AND BRIDGEDALE

One of the reasons you will hear why this development is needed is lack of amenities for this neighborhood. For the record, a large majority of us built or bought out here because we wanted to escape a lot of the high traffic commercial areas. We also get the feeling of being out in the country and away from the hustle and bustle.

And yet, we have nearly every amenity we could possibly need within less than 4 miles from our neighborhood. The following pages will show in detail and in summary, what amenities are within our 5-6 minute reach.

Please note also that there are several vacant commercial and office spaces. In addition to the two storage spaces listed on this sheet, there is one approximately one mile East towards Elkins and one West by Walker Park, about 3 miles away.

That is four storage facilities all less than 4 miles away.

AMENITIES FOR STONEBRIDGE MEADOWS

¼ mile

Gas and Convenience Store Fast Boy's

½ mile

Flea Market, Antiques, Used Furniture

7/10ths of a mile

Future Commercial Property at corner of Stonebridge Road and 16

8/10ths of a mile (Intersection of 265 and 16)

First Care Doctors Clinic

Rolling Pin Café

Guardian Angel Daycare

Arvest ATM

Flash Market Convenience Store (Gas)

Ozark Orthopedic Clinic

Medical Arts Pharmacy

Car Wash

3.7 miles (Intersection of 45 and 265) Southeast Corner

Harps' Plaza

Movie Gallery

Tanning Salon

Harp's Grocery Store and Deli

Abernathy Clinic

H & R Block

Huntington Learning Center

Salon Professionals

Designs by Dana (Flower Shop)

Karate Kids World

Impressions Gift Shop

Ozark Cleaners

Tru-Value Hardware

Century 21

Postal Center

Back Stage Dance Company

Crossover Liquor

Bank of Fayetteville

(2) Vacant Offices

Restaurants

McDonalds

Taco Bell

La Huerta

Bizy's Grill

Arsaga's Coffee Shop

Northeast Corner

BP Gas Station (Also sells propane)
Bank of the Ozarks
Feed, Seed & More
Four Seasons Cleaners
Snip 'n Clip
Daylight Donuts

Southwest Corner(Crossover Court)

Arvest Bank
Arvest Asset Management
Penguin Ed's Barbecue
Bratton Veterinary Clinic
Metropolitan Bank

Northeast Corner of 45 & 265

Wal-Mart Neighborhood Market
First Security Bank
ANB Financial
First Federal
Walgreen's (Under Construction)
Access Urgent Care Clinic
Focused Family Eye Care
The Dental Spa
Nails First
Body Reflections (Tanning Salon)
House Special Interiors
Friday's Flowers & Gifts

(6) Vacant Office Spaces and Retail Shops

Burnett's Fitness Center (Currently out of business and vacant)

½ mile West on 45

Westwood Gardens (Nursery)

Just South of Crossover Court

Car Wash/ Chambers Bank ATM
Sonic
Express Car Care (Oil Change)
Vacant Building for Lease
American National Insurance
Groovy Signs
Dog Watch
(2) vacant office suites
Crossover Mini Storage

Restaurants

Pass Your Plate
Cable Car Pizza
Firehouse Subs
Wing Stop
El Sol

1 mile East on 45(4.7 miles)

Hwy 45 Tower Mini Storage

Summary of Amenities within 4.7 miles of Stonebridge

Doctors/Dentists/Veterinary	(5)
Banks/ATM's	(9)
Salons/Tanning	(5)
Flowers & Gifts	(3)
Cleaners	(2)
Restaurants/Fast Food	(14)
Pharmacy	(3)
Gas	(3)
Mini-Storage	(2)
Vacant Commercial Spaces	(11)
Groceries	(2)

BRIDGEDALE

COVENANTS

BRIDGEDALE SUBDIVISION COVENANTS

The covenants document is over 20 pages long. Due to the constraints of this packet, we have only included a few pages of interest.

ARTICLE V USE AND BUILDING RESTRICTIONS

5.9 Nuisances

"...nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood."

"...no odors or noxious fumes shall be permitted to emanate therefrom so as to render any Lotor portion thereof, unsanitary, unsightly, offensive or detrimental to any other lot or its occupants. ...no excessive exterior lights."

5.24 Outside Lighting

"...no spotlights, floodlights or similar type high intensity lighting (including mercury vapor or sodium vapor lighting) shall be placed or utilized upon any lot which in any way will allow light to be reflected on any other lot ..."

It would appear that Mr. McDonald will violate at least two of his own covenants which he created.

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR BRIDGEDALE SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BRIDGEDALE SUBDIVISION is made this 18 day of August, 2005, by MCDONALD, LLC, an Arkansas limited liability company (hereinafter "Developer");

WITNESSETH:

WHEREAS, Developer owns certain real property described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, Developer has executed and filed with the Recorder of Deeds for Washington County, Arkansas a plat for the subdivision of the Property to be known as Bridgedale Subdivision (the "Subdivision") which is composed, together with the Common Areas, of the following-described lots:

Lots 1 through 25 of Bridgedale Subdivision in the City of Fayetteville, Washington County, Arkansas, according to the recorded plat thereof; and

WHEREAS, Developer intends to develop the Property as a private residential subdivision and desires to provide for the orderly development of the Property by placing certain restrictions on the Property which shall be for the use and benefit of the Developer, its future grantees, successors and assigns; and

WHEREAS, the Developer desires to provide for the preservation and enhancement of value when and as the Property is improved and desires to subject the Subdivision to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Subdivision and each and every owner of any and all parts thereof; and

WHEREAS, the Developer has deemed it desirable, for the efficient preservation of the value and amenities in the Subdivision, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Areas (as hereinafter defined), administering and enforcing the covenants and restrictions governing the same

same manner as any other restriction contained herein. No pet or animal shall be allowed to run loose or unsupervised within the Subdivision.

5.4 **Antennas.** No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Subdivision without the approval of the Architectural Control Committee; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals upon any other Lot or Common Area, provided, however, that digital satellite system receivers not more than 18 inches in diameter shall be allowed provided they are not visible from the street.

5.5 **Construction of Residence, Improvements and Alterations.** No building, residence, fence, wall, swimming pool, drive, Exterior Structure or other structure or improvement shall be commenced, constructed, improved or altered, without the prior written approval of the Architectural Control Committee as set forth herein.

5.6 **Trailers and Motor Vehicles.** All vehicles, and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. Recreational vehicles and equipment, including but not limited to boats, motor homes, travel trailers, campers and the like shall not be parked or stored within the subdivision. Small boats may be stored in owner's garage or behind privacy fence as long as boat is not visible by neighbors or not visible from the street. The Board may provide in the Rules such other and further restrictions, prohibitions and conditions pertaining to the storage, maintenance, keeping and use of such motor vehicles, trailers, boats and watercraft which shall be deemed incorporated herein by reference and as effective and binding as set forth expressly herein.

5.7 **Inoperative Vehicles.** No vehicle, bus, tractor, or other conveyance or rig, other than a lawn grass apparatus, shall be left inoperative on any lot for a period of more than 3 days.

5.8 **Common Area Lawns and Plantings.** Developer or the Association shall have the right at any time, to plant, replace, maintain, and cultivate shrubs, trees, grass, and plantings within the Common Areas and on such easements as may be granted to or reserved by the Developer or the Association over and across each Lot. No Owner or other Person shall remove, alter, injure or interfere in any way with such shrubs, trees, grass and plantings without the prior approval of the Developer or the Board. The Developer or the Association shall have the right to enter any Lot at any reasonable time, for the purpose of maintaining, placing or replacing such shrubs, trees, grass and plantings.

* 5.9 **Nuisances.**

(a) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot, and no odors or noxious fumes shall be permitted to emanate therefrom so as to render any Lot, or

said improvements are not completed within said one (1) year period, the Developer shall have the option to repurchase said Lot for a sum equal to the original purchase price.

* 5.24 **Outside Lighting.** Except as may be initially installed by a Builder or Developer, no spotlights, floodlights or similar type high intensity lighting (including mercury vapor or sodium vapor lighting) shall be placed or utilized upon any Lot which in any way will allow light to be reflected on any other Lot or the improvements thereon or upon the Common Areas or any part thereof without the written authorization of the Architectural Control Committee. Other types of low intensity lighting which do not cast excessive light onto adjoining Lots are allowed. No lighting shall be installed on or around the Common Area, except that deemed necessary by the Developer. Christmas lights must be removed from houses by January 31st of each year.

5.25 **Mailboxes.** To enhance the appearance of the Subdivision as much as possible with United States Postal Service regulations, mailboxes in the Subdivision will be located as required by the United States Postal Service. A decorative mailbox will be supplied and installed by the Builders (of design materials and specifications approved by the Architectural Control Committee) within 2 feet of the nearest property line. All mailboxes will be the same. See developer and/or Architectural Control Committee for type of mailbox. With respect to Lots with frontage on a cul-de-sac, Developer may, in its discretion, require that one or more residences located on such Lots locate their respective mailbox on a common pedestal or structure shared with other mailboxes for other residences located on such cul-de-sac.

5.26 **Roofs.** All roofs shall have an exterior surface that shall be approved by the Architectural Control Committee, in its sole discretion. All gables must have a pitch of at least 10/12 and consist of architectural roofing shingles or other roofing material specifically approved by the Architectural Control Committee. No standard 3-tab roofing material will be allowed.

5.27 **Swimming Pools.** Accessory buildings, in-ground swimming pools, cabana structures and gazebos may be built within the building area on any Lot subject to the approval of the Architectural Control Committee. The approval requirements outlined in subsection 6.2 for buildings shall apply to these structures. Permanent and semi-permanent above-ground swimming pools shall be prohibited.

5.28 **Solar Collectors.** The construction, installation and location of solar collectors shall be permitted only upon advance approval by the Architectural Control Committee.

5.29 **Building Limitations.** The building codes of Fayetteville, as appropriate, as they presently exist or are herein after amended, shall be and are hereby made applicable to all Lots. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions.

5.30 **Home Occupations.** Home occupations and professions shall be prohibited, notwithstanding the allowance of such by Fayetteville or other governmental authority.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand and seal this 18 day of August, 2005.

MCDONALD, LLC

By: [Signature]
Printed Name: CLINT McDONALD
Title: PRES.

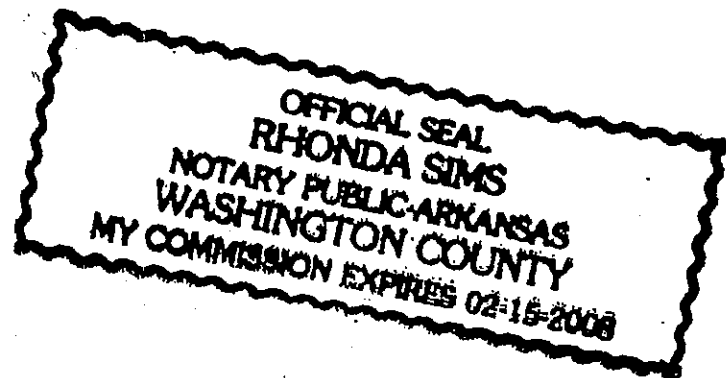
STATE OF ARKANSAS)
) SS
COUNTY OF WASHINGTON)

On this the 18th day of August, 2005, before me, Rhonda Sims, the undersigned officer, personally appeared Clint McDonald, who acknowledged himself to be the President of McDonald, LLC, an Arkansas limited liability company and that he, as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself as Clint Mc Donald.

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

[Signature: Rhonda Sims]
Notary Public

My commission expires:
2-15-2008



DEVALUATION OF PROPERTY

DEVALUATION OF PROPERTY

Our main concern as residents of Stonebridge is reduced property value. We have spoken to several real estate agents about how this development would affect our property values. Each and every one has stated that a storage facility in our neighborhood would absolutely lower our property values.

Due to the sensitive nature of being quoted in a City Council dispute, all were very hesitant to put it in writing and sign their name to it. We did not force the issue. So we have a list of quotes from Realtor.com. They all basically say that a rezoning or major change in your neighborhood will affect your value.

The mini-storage proposed just does not belong here. It makes no sense except for a developer. The proposed houses are much smaller than what is here in both neighborhoods. You would have three neighborhoods adjoined that do not match at all. The proposed housing by Mr. McDonald could and probably will turn into rental property. Renters do not have the same standards for living that people who own their own home have.

Both Stonebridge and Bridgedale have building covenants that require at least 80% brick. There will be no such requirement on the proposed development.

There are approximately 180 homes in Stonebridge Meadows. That is over 350 registered voters whose property could be devalued by allowing this development to happen as planned.

Based on an average value of \$250,000, a 10% reduction in value would amount to around \$200 yearly reduction in real estate taxes. A 20% reduction would be about \$400 yearly.

If all 180 homes applied for a reassessment if this development happened, Real Estate taxes collected could be reduced up to \$70,000.

“Keep in mind, too, future zoning plans. A home may have a higher value when it’s first built and has wonderful green-space views. But if zoning allows for that green-space to turn into a shopping mall 10 years down the road, you can expect the home’s value to decrease when the view changes to delivery trucks and parking lots.” – Realtor.com

“Another way to increase a home’s value is to advocate for the neighborhood. Are there properties on your block that are not well kept? If so, they’ll detract from your own home’s value. Talk to the homeowners or city code enforcement officers about ways to boost those homes’ appearance. Are the schools declining or overcrowded? Work with the school board to turn that situation around. A Neighborhood Watch program can help nip crime in the bud, making your block more appealing. Keeping an eye on the city’s zoning plans can help assure that your street isn’t expanded to four lanes or that an adjacent undeveloped block isn’t going to become the ugly, unappealing back of a strip mall.” – Realtor.com

“What Can Negatively Affect House Values in My Area?”

Zoning. Will all the neighborhood streets remain quiet, or does the city or county have plans to widen streets to accommodate more traffic – using your neighborhood as a path from one side of town to another? Will that block of decrepit homes nearby be redeveloped into pretty new houses, or will your city put a strip mall or convention center or low-income apartments there?” -- Realtor.com

“If a house exactly like yours – same size, same age, same condition - on the other side of town is selling for \$200,000, don’t think you’re made in the shade at the same price. A host of things in your own neighborhood can affect your home’s price – the quality of schools, the crime rate, or the street you live on. For instance, you may have a stellar home, but if it’s on a busy street, its value will undoubtedly be less than a comparable home on a road less traveled. Potential rezoning of adjacent areas also can affect comps: If that lovely forest behind your home is due to become a sea of condominiums, your home’s value is likely to be less than a similar home that will retain its forest view.” – Homeinsight.com

POROUS PAVEMENT &

LOW IMPACT

DEVELOPMENT

POROUS PAVEMENT/ LOW IMPACT DEVELOPMENT SUMMARY

A summary of the following ten pages:

- Ideal application is for a low traffic or overflow parking area.
- Requires regular maintenance, without which leads to a failure rate of over 75% over two years.
- Monthly maintenance needs: 1) Ensure paving area is clean of debris, 2) Ensure that paving dewaterers between storms, 3) Ensure that the area is clean of sediments.
- Needs 3-4 times per year: Vacuum Sweep frequently to keep surface free of sediment
- Porous Pavement is significantly more expensive than traditional asphalt. Traditional asphalt is .50 to \$1.00 per sq foot. While porous can range from \$2 to \$3 per sq foot.

Our questions here are obvious:

- (1) Great promise, but who will maintain to ensure integrity of pavement?
- (2) Does developer have money set aside to ensure this goes in?
- (3) What happens when it is totally eroded and new traditional asphalt has to be laid?

Stormwater Management Fact Sheet: Porous Pavement

Description

Porous pavement is a permeable pavement surface with an underlying stone reservoir that temporarily stores surface runoff before infiltrating into the subsoil. This porous surface replaces traditional pavement, allowing parking lot runoff to infiltrate directly into the soil and receive water quality treatment. There are several pavement options, including porous asphalt, pervious concrete, and grass pavers. Porous asphalt and pervious concrete appear the same as traditional pavement from the surface, but are manufactured without "fine" materials, and incorporate void spaces to allow infiltration. Grass pavers are concrete interlocking blocks or synthetic fibrous grid systems with open areas designed to allow grass to grow within the void areas. Other alternative paving surfaces can help reduce the runoff from paved areas but do not incorporate the stone trench for temporary storage below the pavement (see the [Green Parking Fact Sheet](#)). While porous pavement has the potential to be a highly effective treatment practice, maintenance has been a concern in past applications of the practice.

Application

The ideal application for porous pavement is to treat a low traffic or overflow parking area. Porous pavement may also have some application on highways, where it is currently used as a surface material to reduce hydroplaning (see the [Bridge and Roadway Maintenance Fact Sheet](#)).

Regional Applicability

Porous pavement can be applied in most regions of the country, but the practice has unique challenges in cold climates. Porous pavement cannot be used where sand is applied to the pavement surface because the sand will clog the surface of the material. Care also needs to be taken when applying salt to a porous pavement surface since chlorides from road salt may migrate into the groundwater. For block pavers such as "grasscrete[®]", plowing may be challenging because the edge of the snow plow blade can catch the edge of the blocks, damaging the surface. This is not to say that it is impossible to use porous pavement in cold climates. Porous pavement has been used successfully in Norway (Stenmark, 1995), incorporating design features to reduce frost heave. Furthermore, some experience suggests that snow melts faster on a porous surface because of rapid drainage below the snow surface (Cahill Associates, 1993). Another concern in cold climates is that infiltrating runoff below pavement may cause frost heave, although design modifications can reduce this risk.

Ultra Urban Areas

Ultra urban areas are densely developed urban areas in which little pervious surface exists. Porous pavement is a good option for these areas because they consume no land area. They are not ideal for high traffic areas, however, because of the potential for failure due to clogging (Galli, 1992).

Stormwater Hotspots

Stormwater hotspots are areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. These areas include: commercial nurseries, auto recycle facilities, commercial parking lots, fueling stations, fleet storage areas, industrial rooftops, marinas, outdoor container storage of liquids, outdoor loading/unloading facilities, public works storage areas, hazardous materials generators (if containers are exposed to rainfall), vehicle service and maintenance areas, and vehicle and equipment washing/steam cleaning facilities. Since porous pavement is an infiltration practice, it should not be applied on stormwater hotspots due to the potential for groundwater contamination.

Stormwater Retrofit

A stormwater retrofit is a stormwater management practice installed after development has occurred, to improve water quality, protect downstream channels, reduce flooding, or meet other watershed restoration objectives. Since porous pavement can only be applied to relatively small sites, use porous pavement as a primary or widespread method for watershed retrofitting would be expensive. The best application of porous pavement for retrofits is on individual sites where a parking lot is being resurfaced.

Porous pavement can help to reduce the increased temperature commonly associated with increased impervious cover. Stormwater runoff ponds on the surface of conventional pavement, and is subsequently heated by the sun and hot pavement surface. By rapidly infiltrating rainfall, porous pavement can reduce the time that stormwater is exposed to the sun and heat.

Siting Considerations

Porous pavement has site constraints as other infiltration practices (see [Infiltration Trench Fact Sheet](#)). A potential porous pavement site needs to meet the following criteria:

- Soils need to have a permeability between 0.5 and 3.0 inches per hour.
- The bottom of the stone reservoir should be completely flat so that infiltrated runoff will be able to infiltrate through the entire surface.
- Porous pavement should be located at least 2 to 5 feet above the seasonally high groundwater table, and at least 100 feet away from drinking water wells.
- Porous pavement should be located only on low traffic or overflow parking areas, which are expected to be not sanded during wintertime conditions.

Five basic features should be incorporated into all porous pavement practices: *pretreatment*, *treatment*, *conveyance*, *maintenance reduction*, and *landscaping* (for more information see the Manual Builder Category).

In most porous pavement designs, the pavement itself acts as pretreatment to the stone reservoir below. Because the surface serves this purpose, frequent maintenance of the pavement surface is critical to prevent clogging. Another pretreatment element is a fine gravel layer above the coarse gravel treatment reservoir. The effectiveness of both of these pretreatment measures are marginal, which is one reason frequent vacuum sweeping is needed to keep the surface clean.

One design option incorporates an "overflow edge," which is a trench surrounding the edge of the pavement. The trench connects to the stone reservoir below the surface of the pavement. Although this feature does not in itself reduce maintenance requirements, it acts as a backup in case the surface clogs. If the surface clogs, stormwater will flow over the surface and into the trench, where some infiltration and treatment will occur.

The stone reservoir below the pavement surface should be composed of layers of small stone directly below the pavement surface, and the stone bed below the permeable surface should be sized to attenuate storm flows for the storm event to be treated. Typically, porous pavement is sized to treat a small event, such as the *water quality storm* (i.e., the storm that will be treated for pollutant removal) which can range from 0.5" to 1.5". Like *infiltration trenches*, water can only be stored in the void spaces of the stone reservoir.

Water is conveyed to the stone reservoir through the surface of the pavement, and infiltrates into the ground through the bottom of this stone reservoir. A geosynthetic liner and sand layer should be placed below the stone reservoir to prevent preferential flow paths and to maintain a flat bottom. Designs also need some method to convey larger storms to the storm drain system. One option is to set storm drain inlets slightly above the surface elevation of the pavement. This allows for temporary ponding above the surface if the surface clogs, but bypasses larger flows that are too large to be treated by the system.

Maintenance Reduction

One non-structural component that can help ensure proper maintenance of porous pavement is the use of a carefully worded maintenance agreement that provides specific guidance to the parking lot, including how to conduct routine maintenance, and how the surface should be repaved. Ideally, signs should be posted on the site identifying porous pavement areas.

Landscaping

The most important landscaping objective for porous pavements is to ensure that its drainage area is fully stabilized, thereby preventing sediment loads from clogging the pavement.

Design Variations

Treat Other Sources

In one design variation, the stone reservoir below the filter can also treat runoff from other sources such as rooftop runoff. In this design, pipes are connected to the stone reservoir to direct flow throughout the bottom of the storage reservoir (Cahill Associates, 1993; Schueler, 1987). If used to treat off-site runoff, porous pavement should incorporate pretreatment, as with all structural management practices.

Regional Adaptations

In cold climates, the base of the stone reservoir should extend below the frost line to reduce the risk of frost heave.

Limitations

In addition to the relatively strict site constraints for porous pavement, a major limitation to the practice is the poor failure rate it has experienced in the field. Several studies indicate that, with proper maintenance, porous pavement can retain its permeability (e.g., Goforth et al., 1983; Gburek and Urban, 1980; Hossain and Scofield, 1991). When porous pavement has been implemented in communities, however, the failure rate has been as high as 75% over two years (Galli, 1992).

Maintenance

Porous pavement requires extensive maintenance compared with other practices. In addition to owners not being aware of porous pavement on a site, not performing these maintenance activities is the chief reason for failure of this practice. Typical requirements follow below:

Table 1. Typical Maintenance Activities for Porous Pavement (Source: WMI, 1997)	
Activity	Schedule
• Avoid sealing or repaving with non-porous materials	N/A
• Ensure that paving area is clean of debris • Ensure that paving dewater between storms • Ensure that the area is clean of sediments	Monthly
• Mow upland and adjacent areas, and seed bare areas • Vacuum Sweep frequently to keep the surface free of sediment • (Typically three to four times per year)	As needed

Inspect the surface for deterioration or spalling	Annual
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Effectiveness

Porous pavement can be used to provide groundwater recharge and to reduce pollutants in stormwater runoff. Some data suggest that as much as 70% to 80% of annual rainfall will go toward groundwater recharge (Gburek and Urban, 1980). These data will vary depending on design characteristics and underlying soils. They both suggest high pollutant removal, although it is difficult to extract these results to all applications of the practice.

Pollutant	Pollutant Removal (%)¹
TSS	95
TP	65
TN	82
NOx	NA
Metals	98 - 99
Bacteria	NA

1: Data based on fewer than five data points

Cost Considerations

Porous pavement is significantly more expensive than traditional asphalt. While traditional asphalt is approximately 50¢ to \$1.00 per square foot, porous pavement can range from \$2 to \$3 per square foot, depending on the design (CWP, 1998; Schueler, 1987). Subtracting the cost of traditional pavement, this amounts to approximately \$45,000 and \$100,000 per impervious acre treated, which would be quite expensive. On the other hand, porous pavement can create savings in terms of storm drain costs and land consumption. In addition, the cost of vacuum sweeping may be substantial if a community does not already perform vacuum sweeping operations.

References

Cahill Associates. 1993. Stormwater Management Systems: Porous Pavement with Underground Recharge Beds. West Chester, PA

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Gburek, W. and J. Urban, 1980. Storm Water Detention and Groundwater Recharge Using Porous Asphalt - Experimental Site. For: USDA-SEA-AR Northeast Watershed Research Center, University Park, PA. International Symposium on Urban Storm Runoff. University of Kentucky.

Goforth, G., E. Diniz, and J. Rauhut. Stormwater Hydrological Characteristics of Porous and Conventional Paving Systems. Prepared for: US EPA Office of Research and Development. Cincinnati, OH.

Hossain, M. and L. Scofield, 1991. Porous Pavement for Control of Highway Runoff. Arizona Department of

Transportation. Phoenix, AZ

Schueler, T. 1987. Controlling Urban Runoff: A Practical manual for Planning and Designing Urban BMPs. Metropolitan Washington Council of Governments. Washington, DC

Stenmark, C. 1995. An Alternative Road Construction for Stormwater Management. Water Science and Technology, 32(1): 79-84.

Watershed Management Institute (WMI). 1997. Operation, Maintenance, and Management of Stormwater Management Systems. Prepared for: US EPA Office of Water. Washington, DC.



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Low Impact Development Fact Sheet: Permeable Paving

Click here for a print-ready PDF version of this document. To request hard copies of this document, please e-mail lid@mapc.org.

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[Applications and Design Principles](#)
[Benefits and Effectiveness](#)
[Limitations](#)
[Maintenance](#)
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Overview:

Since impervious pavement is the primary source of stormwater runoff, Low Impact Development strategies recommend permeable paving for parking areas and other hard surfaces. Permeable paving allows rainwater to percolate through the paving and into the ground before it runs off. This approach reduces stormwater runoff volumes and minimizes the pollutants introduced into stormwater runoff from parking areas.



A parking lot with conventional asphalt aisles and paving stone parking stalls. Paving stones are most appropriate for low-speed, low-traffic areas. Photo: Lower Columbia River Estuary Partnership

Management Objectives

All permeable paving systems consist of a durable, load bearing, pervious surface overlying a crushed stone base that stores rainwater before it infiltrates into the underlying soil. Permeable paving techniques include porous asphalt, pervious concrete, paving stones, and manufactured "grass pavers" made of concrete or plastic. Permeable paving may be used for walkways, patios, plazas, driveways, parking stalls, and overflow parking areas.

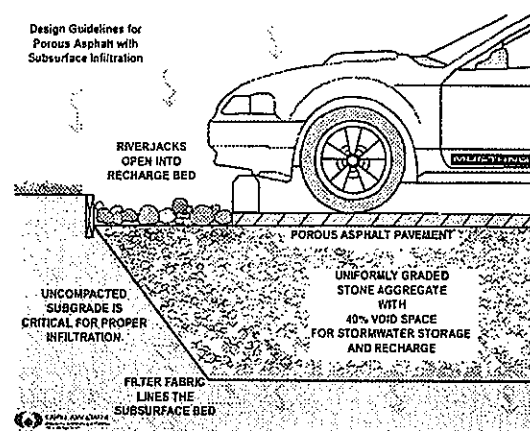
- Reduce stormwater runoff volume from paved surfaces
- Reduce peak discharge rates.
- Increase recharge through infiltration.
- Reduce pollutant transport through direct infiltration.
- Improve site landscaping benefits (grass pavers only.)

Applications and Design Principles

Permeable paving is appropriate for pedestrian-only areas and for very low-volume, low-speed areas such as overflow parking areas, residential driveways, alleys, and parking stalls. It can be constructed where the underlying soils have a permeability of at

least 0.3" per hour. Permeable paving is an excellent technique for dense urban areas because it does not require any additional land. With proper design, cold climates are not a major limitation; porous pavement has been used successfully in Norway, incorporating design features to reduce frost heave.

Permeable paving is not ideal for high traffic/high speed areas because it has lower load-bearing capacity than conventional pavement. Nor should it be used on stormwater "hotspots" with high pollutant loads because stormwater cannot be pretreated prior to infiltration. Heavy winter sanding may clog joints and void spaces.



A schematic cross section of permeable paving. In some applications, the crushed stone reservoir below the paving is designed to store and infiltrate rooftop runoff as well. Image: Cahill Associates, Inc. 2004

There are three major types of permeable paving:

- *Porous asphalt and pervious concrete* appear to be the same as traditional asphalt or concrete pavement. However, they are mixed with a very low content of fine sand, so that they have 10%-25% void space and a runoff coefficient that is almost zero.
- *Paving stones* (aka unit pavers) are impermeable blocks made of brick, stone, or concrete, set on a prepared sand base. The joints between the blocks are filled with sand or stone dust to allow water to percolate downward. Runoff coefficients range from 0.1 – 0.7, depending on rainfall intensity, joint width, and materials. Some concrete paving stones have an open cell design to increase permeability.
- *Grass pavers* (aka turf blocks) are a type of open-cell unit paver in which the cells are filled with soil and planted with turf. The pavers, made of concrete or synthetic, distribute the weight of traffic and prevent compression of the underlying soil. Runoff coefficients are similar to grass, 0.15 to 0.6.

Each of these techniques is constructed over a base course that doubles as a reservoir for the stormwater before it infiltrates into the subsoil. The reservoir should consist of uniformly-sized crushed stone, with a depth sufficient to store all of the rainfall from the design storm. The bottom of the stone reservoir should be completely flat so that infiltrated runoff will be able to infiltrate through the entire surface. Some designs incorporate an "overflow edge," which is a trench surrounding the edge of the pavement. The trench connects to the stone reservoir below the surface of the pavement and acts as a backup in case the surface clogs.

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Benefits and Effectiveness

- Porous pavement **provides groundwater recharge and reduces stormwater runoff volume**. Depending on design, paving material, soil type, and rainfall, permeable paving can infiltrate as much as 70% to 80% of annual rainfall.
- Porous pavement can **reduce peak discharge rates** significantly by diverting stormwater into the ground and away from the pipe-and-pond stormwater management system.
- Grass pavers can **improve site appearance** by providing

vegetation where there would otherwise be only pavement.

- Porous paving **increases effective developable area** on a site because portions of the stormwater management system are located underneath the paved areas, and the infiltration provided by permeable paving can significantly reduce the need for large stormwater management structures on a site.

Limitations

- Permeable paving can be **prone to clogging** from sand and fine sediments that fill void spaces and the joints between pavers. As a result, it should be used carefully where frequent winter sanding is necessary because the sand may clog the surface of the material. **Periodic maintenance is critical**, and surfaces should be cleaned with a vacuum sweeper at least three times per year.
- In cold climates, the **potential for frost heave** may be a concern for the use of permeable paving. Some design manuals recommend excavating the base course to below the frost line, but this may not be necessary in rapidly permeable soils. In addition, the dead air and void spaces in the base course provide insulation so that the frost line is closer to the surface.
- Permeable paving **should not receive stormwater from other drainage areas**, especially any areas that are not fully stabilized.
- Permeable paving **can only be used on gentle slopes (<5%)**; it cannot be used in high-traffic areas or where it will be subject to heavy axle loads.
- **Snow plows** can catch the edge of grass pavers and some paving stones. Rollers should be attached to the bottom edge of a snowplow to prevent this problem.

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Maintenance

- Post signs identifying porous pavement areas.
- Minimize use of salt or sand during winter months
- Keep landscaped areas well-maintained and prevent soil from being transported onto the pavement.
- Clean the surface using vacuum sweeping machines monthly. For paving stones, periodically add joint material (sand) to replace material that has been transported.
- Monitor regularly to ensure that the paving surface drains properly after storms.
- Do not reseal or repave with impermeable materials.
- Inspect the surface annually for deterioration or spalling.
- Grass pavers may require periodic reseeding to fill in bare spots.

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Cost:

On most sites, permeable paving costs more than conventional asphalt or cement paving techniques. In the case of porous asphalt and pervious concrete, construction costs may be 50% more than conventional asphalt and concrete. Construction costs of paving stones and grass pavers varies considerably and will depend on the application. As with any site improvement or stormwater management structure, property owners should provide a budget for maintenance of permeable paving, at an annual rate of 1%-2% of construction costs.

Permeable paving reduces the need for stormwater conveyances and treatment structures, resulting in cost savings elsewhere. Permeable paving also reduces the amount of land needed for stormwater management and may satisfy requirements for greenspace, allowing more development on a site.

Local Case Study

West Farms Mall – West Hartford, CT

Grass pavers were installed at the West Farms Mall off of I-84 at exit 40, to handle peak-season overflow parking associated with a mall expansion. Over four acres of reinforced turf was designed to accommodate 700 spaces of overflow parking for the peak shopping seasons. There are a few drains installed in the reinforced turf but are only used during very heavy storms. Because the reinforced turf works so well the existing storm drainage system did not have to be enlarged for the additional parking. The overflow parking area needs to be mowed on a regular basis and treated like a regular lawn. The area also needs to be plowed as any parking area would be. Rollers were fit to the bottom of the snow plow so the reinforced turf would not be damaged. The manager of the Westfarms facility is satisfied with the turf.

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Design Details

- For all permeable paving, base course is a reservoir layer of 1"-2" crushed stone; depth to be determined by storage required and frost penetration.
- Permeable paving require a single-size grading of base material in order to provide voids for rainwater storage; choice of materials is a compromise between stiffness, permeability, and storage capacity. Use angular crushed rock material with a high surface friction to prevent traffic compaction and rutting.
- The design may also include a 2" thick filter course of 1/2" crushed stone, applied over the base course. A geotextile fabric may be laid at the top of the filter layer to trap sediment and pollutants.
- For grass pavers, use deep-rooted grass species whose roots can penetrate the reservoir base course. Irrigation may be required but should be infrequent soakings so that the turf develops deep root systems. Grass pavers are not suitable for every day, all day parking because the grass will get insufficient sunlight. Better for use as occasional overflow parking.
- The introduction of dirt or sand onto the paving surface, whether transported by runoff from elsewhere or carried by vehicles, will contribute to premature clogging and failure of the paving. Consequently, permeable paving should be constructed as one of the last items to be built on a development site, after most heavy construction vehicles are finished and after the majority of the landscaping work is completed.

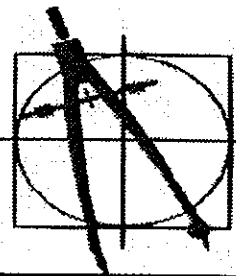
References:

Be sure to check the [Links](#) page for a more comprehensive list of resources.

- [University of New Hampshire Center for Stormwater Technology Evaluation and Verification](#); this research group tests and evaluates stormwater BMPs on the UNH campus.
- An article about the use of permeable pavers at the [Westfarms Mall in Connecticut](#).
- [Case Studies](#) from Uni-Group USA, a block paver manufacturer.
- The [Nonpoint Education For Municipal Officials](#) program at the University of Connecticut has been involved in numerous permeable paving pilot projects.

- Permeable paver specifications courtesy of the Low Impact Development Center.
- Porous pavement design and operational criteria from the US Environmental Protection Agency, which also publishes a Low Impact Development Page. Also see this report on a Field Evaluation of Permeable Pavements for Stormwater Management (PDF).
- An article about permeable paving from the journal Stormwater.

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Bridgedale Plaza Appeal
5-6-08 City Council Meeting

JORGENSEN & ASSOCIATES

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

May 6, 2008

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

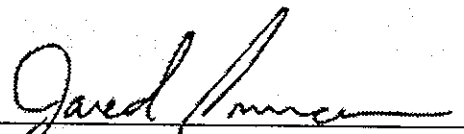
Attn: Brenda Thiel and Adella Gray,
Re: Bridgedale Plaza PZD

Attached herewith please find a petition of local residents in the area of the proposed Bridgedale Plaza who are in favor or unopposed to this development. This petition was compiled over the past few days. There have been rumors that possibly the misrepresentation of facts of Bridgedale Plaza could have affected the outcome of the other petition opposing the development. For example: the proposed homes would be in the eighty to ninety-thousand dollar range, which would decrease existing home values. This is not true. The homes will range in the two-hundred to two-hundred-and-fifty dollar range with nice amenities. It has also been stated, that the personal storage would create an environment for criminal activity, when in fact, personal storage has one of the lowest crime rates. Please see Page 53, of the Bridgedale Plaza Booklet provided, under "Addressing Additional Concerns" for more information.

Please call concerning any questions you may have.

Thank you for your time.

Sincerely,


Jared S. Inman, E.I.

Bridgedale Plaza Development

(Proposed Mix-Use Development on the corner of HWY 16 & River Meadows Dr.)

Ward 1-Fayetteville, AR

The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

Name:

Date:

Address:

<u>[Signature]</u>	<u>5/5/08</u>	<u>201 Roberts Rd</u>
<u>Carol W. Caciun</u>	<u>5/6/08</u>	<u>10205 River Meadows</u>
<u>[Signature]</u>	<u>5/6/08</u>	<u>10205 River Meadows</u>
<u>Aren Fletcher</u>	<u>5/5/08</u>	<u>4069 Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4067 Huntsville</u>
<u>Theta Mitchell</u>	<u>5/5/08</u>	<u>4125 E Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4129 E. Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1385 Roberts Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1439 Roberts Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2015 S. Pumpkin Ridge</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>" " "</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2010 S. Pumpkin Ridge</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1949 Pumpkin Ridge</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4037 Huntsville</u>
<u>Ramon [Signature]</u>	<u>5/5/08</u>	<u>Clayborne</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2350 HUNT LANE</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2350 HUNT LANE</u>

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<u>Jeff Parikh</u>		<u>4292 E. Broomage Dr.</u>
<u>Nary Parikh</u>		<u>" "</u>
<u>Peter Nelson</u>		<u>4293 E Broomage Dr</u>
<u>Joe Smith Carrier</u>		<u>4293 E Broomage Dr.</u>
<u>Janie Bagg</u>		<u>4367 E Falcon Dr.</u>
<u>Angela Henderson</u>		<u>4383 Falcon Dr</u>
<u>[Signature]</u>		<u>4380 Falcon Dr</u>
<u>[Signature]</u>		<u>4438 E Falcon Dr.</u>
<u>Sandra Butterfly</u>		<u>4454 E Falcon dr.</u>
<u>Jose Grahados</u>		<u>1045 LIBERTY</u>
<u>Mitzi Jones</u>		<u>4491 E. Falcon Dr.</u>
<u>Leslie Henry</u>		<u>963 S. Liberty Dr.</u>
<u>[Signature]</u>		<u>935 S. Liberty Dr</u>
<u>Monica Sigley</u>		<u>863 S. Liberty Dr.</u>
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Name:

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Address:

Natalie Doster

5-4-08

70 ACQUA X KING #2

Robert Bridwell

5/5/08

2567 Turtle Creek Dr

Godfrey White

5/5/08

2567 Turtle Creek Dr.

[Signature]

[Signature]

[Signature]

Jessie Belcher

2572 Turtle Creek Dr

2588 Turtle Creek Dr

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

JAMES A SMYTH

2620 E. Turtle Creek Dr.

2620 E. Turtle Creek Dr.

2620 E. Turtle Creek Dr.

115 N WINDY AVE

4286 E. LAUNDALE

4135 EAST POINT

4117 East Point

4103 EAST POINT

4085 EAST POINT

[Signature]

[Signature]

[Signature]

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Name:

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Address:

Angie Adams

4458 E Huntsville Rd

John E.

1140 S. Paradise Ln.

Shelly Roman

1140 S. Paradise Ln

Robt. B. Roman

4000 E HUNTSVILLE RD

Bob

1872 S. MALL WAGON

Mark Allen

121 N. Gen Trl Apt 12

Mark Allen

121 N. Gen Trl Apt 12

Mark Allen

121 N. Gen Trl Apt 11

W. Mackey

1135 S. Paradise Ln May 3

Jimmy Mackey

135 S. Paradise Ln

Kate Springer

1095 S. Liberty Dr

Donna Williams

1125 Liberty Dr. Fayetteville

Wright Williams

1125 Liberty Dr Fayetteville

Mary Kunda

1201 Roberts Rd

Heaven Kunda

1340 Lake Sequoyia Dr

Dennis M. Roberts

901 S. Liberty

John

18713 Lake Sequoyia Dr

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5263 Mills Way

John Beard 5/2/08

5263 Mills Way

M. H. Beard

1510 Lake Sequoyal

Jerry Kilby 5/2/08

18713 King Rd Fayetteville AR

Wiley Kilby 5/2/08

18713 King Rd Fayetteville AR

John Morgan

1388 Lake Sequoyal

Tom Morgan 5/2/08

1388 Lake Sequoyal

Matt O'Nabbs

1388 Lake Sequoyal

Michael O'Nabbs

2073 Cherry Hills

Carolyn Roberts

1197 Roberts Rd

Elden Roberts

1197 Roberts Rd

Doris Roberts

4199 E. Huntsville Rd

Donald Brannan

1356 S Roberts Rd

John Brannan

1356 S Roberts Rd

Ray Aldred

1160 Roberts Rd

Melba Aldred

"

Carl Aldred

9458 E. Huntsville Rd

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Mat Abbott	5/5/08	100 Tourmaline Way Apt #1
Matthew	5-5-08	100 Tourmaline Way #4 72701
Alicia Beckwith	5/5	68 Tourmaline Way #7 72701
Alexander Draz	5-5-08	
Talisha Gray	5-5-08	209 Lapis Lane Apt. 9
John S. Galt	5-5-08	161 Lapis Ln #9
Frank Cooper	5-5-08	" " "
Frank	5-5-08	107 N. Lapis Ln. #8
Frank	5-5-08	" "
Frank S. Gray	5/5/08	107 N. Lapis Lane #9
Jim Vandenberg	5/5/08	93 N. Lapis Ln. Apt #7
Connie Vandenberg	5/5/08	" " " "
Kae Wyland	5-5-08	93 Lapis Ln Apt. #1
Nicholas Bethioes	5-5-08	" " " "
Alanna Carter		145 N. Lapis Lane Apt 1
Bob Carter	5/5/08	145 Lapis Ln., Apt. 5

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938 S. Eastview

Samuel

938 S. Eastview

Fred Chaplin

891 EASTVIEW DR.

Kathy Smith

952 S. Eastview Dr.

Jim Hill

983 S. Eastview Dr.

Al Horne

↑

River McEllan

900 S. Eastview Dr.

Mike Smith

1017 S. Eastview Dr.

MMO

955 S. Regency Dr.

Demetri Horne

900 S. Regency Dr.

Jesse Santos

961 S. Regency Dr.

Don Rose

973 S. Regency Dr.

David Priddy

917 Parkwood St

Quint Jackson

897 S. PARKWOOD DR.

Langhorne

888 S. Parkwood Dr.

Dan Swan

261 S. Parkwood Dr.

B. J.

919 S. Regency Dr.

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<u>Name:</u>	<u>Date:</u>	<u>Address:</u>
<u>Denny Wiman</u>	<u>4/30/08</u>	<u>4264 E. Lauredale Dr</u>
<u>Janet Adams</u>	<u>4/30/08</u>	<u>4300 E. Lauredale</u>
<u>Mark Hughes</u>	<u>5/1/08</u>	<u>5510 E. Country Ridge</u>
<u>Tanner Francis</u>		<u>5572 Country Ridge</u>
<u>Joel Hughes</u>	<u>5-1-08</u>	<u>5620 Country Ridge</u>
<u>Jeri Redman</u>		<u>5652 Country Ridge</u>
<u>Cassie Shreve</u>	<u>05/01/08</u>	<u>5682 Country Ridge</u>
<u>JE</u>	<u>05/01/08</u>	<u>5682 Country Ridge</u>
<u>Amanda Edmen</u>	<u>5-1-08</u>	<u>5681 Country Ridge</u>
<u>Misty Seales</u>	<u>5-1-08</u>	<u>5681 Country Ridge</u>
<u>Ann Biggett</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayetteville AR</u>
<u>Kerry Bigge</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayetteville AR</u>
<u>LE PAOLO ESTORIAS</u>	<u>5-1-08</u>	<u>1298 DEERFIELD WAY</u>
<u>ERIN LUPAT</u>		<u>1300 DEERFIELD WAY</u>
<u>DINA HARRIS</u>		<u>5538 E COUNTRY RIDGE</u>
<u>Jane Waters-Showalter</u>		<u>1667 Tally Ho Drive</u>
<u>Cliff Shumaker</u>		<u>1667 Tally Ho Drive</u>

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Date:

Address:

W. K. R... 5/5/08

Geoffrey Jenkins 5/5/08

C. J. R... 5/5/08

Amanda J. J... 5/5/08

Karl Asch...

A. J. Smith

[Signature] 5/5/08

Ben L. Smith 5/5/08

Bruno E. W... 5/5/08

James R...

Dale R...

Amy Schillinger

Larry D...

Haley Barker

Louis L...

Josh Attoun

Shelly DeM...

1455 Lapis Ln, Fayetteville, AR 72701

201 Lapis Ln Fayetteville, AR 72701

1453 Lapis Ln Fayetteville, AR 72701

1401 Lapis Ln Fayetteville, AR 72701

1952 Spinel Ln Apt #1

1952 E. Spinel Ln Apt #7

1965 E Spinel Ln

122 Aqua Crossing #2

122 Aqua Crossing #2

122 Aqua Crossing #1

44 Aqua Crossing

78 Aqua Crossing Apt 7

78 Aqua Crossing Apt 8

78 Aqua Crossing #10

70 Aqua Crossing #9

70 Aqua Crossing #7

70 Aqua Crossing #3

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The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

Name:

Date:

Address:

CAJ

Christopher L. Morton

Jay Boston

Laren Boston

Hal Alderson

Hyde

Lance Swift

Ken Miller

Tripp Perry

Monica Smith

David D. May

Sam Netter

Ed Scott

Mike Wright

Deann

K. Martin

J. Orlic

1644 Tully Ho Dr

1644 Tully Ho

1615 S. Tallgrass

1615 S. Tallgrass

1602 S. Tallgrass Dr.

1602 S. Tallgrass Dr.

1664 S. Tallgrass Dr.

1604 S. Tallgrass Dr.

1743 Tallgrass Dr.

1795 Tallgrass Dr.

1792 Tallgrass

1740 Tallgrass

1725 Tallgrass Dr.

1725 Tallgrass Dr.

1917 RESCUE CT.

1945 S. Fergue St

5320 Midway

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The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

Name:

Date:

Address:

[Signature]

5/5/08

2229 Dead Horse Mt. Rd

[Signature]

5/5/08

4195 Eastport Drive

[Signature]

5/5/08

1365 Pinnacle Drive

[Signature]

5/6/08

1311 PINNACLE DR

[Signature]

5/6/08

1339 PINNACLE DR

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<u>David W. Caelisi</u>	<u>5/6/08</u>	<u>1020 S. River Meadows</u>
<u>[Signature]</u>	<u>5/6/08</u>	<u>1020 S. River Meadows</u>
<u>Aren Fletcher</u>	<u>5/5/08</u>	<u>4069 Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4067 Huntsville</u>
<u>Leta Mitchell</u>	<u>5/5/08</u>	<u>4125 E. Huntsville Rd.</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4129 E. Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1385 Robert Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1439 Roberts Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2015 S. Pumpkin Ridge</u>
<u>Dellay Grew</u>	<u>5/5/08</u>	<u>" " " "</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2010 S. Pumpkin Ridge</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>1949 Pumpkin Ridge</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4037 Huntsville</u>
<u>Ramon Carval</u>	<u>5/5/08</u>	<u>Clayborne</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>2350 HUNT LANE</u>
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<u>Sally Parikh</u>		<u>4293 E Broomage Dr.</u>
<u>Mary Parikh</u>		<u>" "</u>
<u>Peter Nelson</u>		<u>4293 E Broomage Dr.</u>
<u>Joe Smith Carrier</u>		<u>4293 E Broomage Dr.</u>
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<u>[Signature]</u>		<u>4380 Falcon Dr.</u>
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<u>Jose Granados</u>		<u>1045 LIBERTY</u>
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<u>[Signature]</u>		<u>935 S. Liberty Dr.</u>
<u>Monica Sigley</u>		<u>863 S. Liberty Dr.</u>
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5-4-08

70 ACORN Xing #2

Robert Bridwell

5/5/08

2567 Turtle Creek Dr

Goodrich White

4/5/08

2567 Turtle Creek Dr

[Signature]

[Signature]

[Signature]

Jessie Belcher

[Signature]

[Signature]

Alx Simpson

[Signature]

Jenni-Lynne

James A Smith

JAMES A SMITH

James Smith

James A Smith

2572 Turtle Creek Dr

2588 Turtle Creek Dr

2620 E. Turtle Creek Dr

2620 E. Turtle Creek Dr

2620 E. Turtle Creek Dr

115 N WENDELL AVE

4286 E. LAUNDALE

4135 EAST POINT

4117 East Point

4103 EAST POINT

4085 EAST POINT

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<u>Gay Alden</u>		<u>4458 E. Huntsville Rd</u>
<u>W. E.</u>		<u>1140 S. Paradise Ln</u>
<u>Shelly Eoman</u>		<u>1140 S. Paradise Ln</u>
<u>Robert E. Eoman</u>		<u>4000 E. HUNTSVILLE RD</u>
<u>Robert E. Eoman</u>		<u>1872 S. MALLY WAGON</u>
<u>Mark Allen</u>		<u>121 N. Gen Trl Apt 12</u>
<u>Mark Allen</u>		<u>121 N. Gen Trl Apt 12</u>
<u>Mark Allen</u>		<u>121 N. Gen Trl Apt 11</u>
<u>Mark Allen</u>		<u>1135 S. Paradise Ln May 3</u>
<u>Shirley Mackey</u>		<u>135 S. Paradise Ln</u>
<u>Kate Springer</u>		<u>1095 S. Liberty Dr</u>
<u>Dorothy Williams</u>		<u>1125 Liberty Dr Fayette</u>
<u>Wright Williams</u>		<u>1125 Liberty Dr Fayette</u>
<u>Mary Kuder</u>		<u>1201 Roberts Rd</u>
<u>Helen Kuder</u>		<u>1390 Lake Sequoyia Dr</u>
<u>Denise M. Roberts</u>		<u>901 S. Liberty</u>
<u>John</u>		<u>18713 Lake Sequoyia Dr</u>

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Judy Beard 5/2/08

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John Beard 5/2/08

5263 Mills Way

W. H. Baker

1510 Lake Sequoyia

Jerry Riley 5/2/08

18713 Kn. Rd Fayetteville AR

Wiley Riley 5/2/08

18713 Kn. Rd Fayetteville AR

Turner Morgan

1388 Lake Sequoyia

W. C. S. 5/2/08

1388 Lake Sequoyia

Matt Gabbas

12110 Turner Hill Rd

Michael Gabbas

2073 Cherry Hills

Carolyn Roberts

1197 Roberts Rd

Elden Roberts

1197 Roberts Rd

Doris Roberts

4199 E Huntsville

Donald Biannan

1356 S Roberts Rd

Ray Bean

1356 S Roberts Rd

Ray Albright

1161 Roberts Rd

Melba Albright

"

Cecil Albright

"

Cecil Albright

9458 E. Huntsville Rd

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Mat Abbott	5/5/08	100 Tourmaline Way Apt #1 72701
Matthew	5-5-08	100 Tourmaline Way #4 72701
Alicia Palmer	5/5	68 Tourmaline Way #7 72701
Alicia Palmer	5-5-08	
Talisha Gray	5-5-08	209 Lapis Lane Apt. 9
Johny Sabin	5-5-08	161 Lapis Ln #9
Frank Cooper	5-5-08	" " "
Frank Cooper	5-5-08	107 N. Lapis Ln. #8
Frank Cooper	5-5-08	" "
Frank Cooper	5-5-08	107 N. Lapis Ln. #9
Jim Vandenberg	5/5/08	93 N. Lapis Ln Apt #7
Connie Vandenberg	5/5/08	" " " "
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Nicholas Bettioes	5-5-08	" " " "
Alanna Carl		145 N. Lapis Lane Apt 1
Alanna Carl	5/5/08	145 Lapis Ln., Apt. 5

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David

938 S. Eastview

Fred Chaplin

891 EASTVIEW DR.

Kathy Smith

952 S. Eastview Dr.

Jim Hill

983 S. Eastview Dr.

John

↑

River McElaine

900 S. Eastview Dr.

Michael

1017 S. Eastview Dr.

MM

955 S. Regency Dr.

Demetrius

900 S. Regency Dr.

James

961 S. Regency Dr.

Don

973 S. Regency Dr.

David

917 Parkwood St

Quint

897 S. Parkwood Dr.

Lang

888 S. Parkwood Dr.

Dan

961 S. Parkwood Dr.

B

919 S. Regency Dr.

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<u>Janet Adams</u>	<u>4/30/08</u>	<u>4300 E. Landale</u>
<u>Mark Hughes</u>	<u>5/1/08</u>	<u>5510 E. Country Ridge</u>
<u>Tanner Francis</u>		<u>5572 Country Ridge</u>
<u>Joel Hughes</u>	<u>5-1-08</u>	<u>5620 Country Ridge</u>
<u>Jeri Redman</u>		<u>5652 Country Ridge</u>
<u>Cassie Shreve</u>	<u>05/01/08</u>	<u>5682 Country Ridge</u>
<u>JE</u>	<u>05/01/08</u>	<u>5682 Country Ridge</u>
<u>Amanda Edman</u>	<u>5-1-08</u>	<u>5681 Country Ridge</u>
<u>Misty Seales</u>	<u>5-1-08</u>	<u>5681 Country Ridge</u>
<u>Anna Biggett</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayette AR</u>
<u>Kerry Biggett</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayette AR</u>
<u>LEO PAOLO ESTORNES</u>	<u>5-1-08</u>	<u>1298 DEERFIELD WAY</u>
<u>Erin Luper</u>		<u>1308 DEERFIELD WAY</u>
<u>DINA HARRIS</u>		<u>5538 E COUNTRY RIDGE</u>
<u>Jane Waters-Shawalter</u>		<u>1667 Tally Ho Drive</u>
<u>Cliff Shawalter</u>		<u>1667. Tally Ho Drive</u>

Bridgedale Plaza Development

(Proposed Mix-Use Development on the corner of HWY 16 & River Meadows Dr.)

Ward 1-Fayetteville, AR

The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

<u>Name:</u>	<u>Date:</u>	<u>Address:</u>
Mike Ross	5/5/08	1455 Lapis Ln, Fayetteville, AR 72701
Geoffrey Jenkins	5/5/08	201 Lapis Ln Fayetteville, AR 72701
Carol	5/5/08	1453 Lapis Ln Fayetteville, AR 72701
Amanda Jones	5/5/08	1401 LAPIS LN #4 Fayetteville, AR 72701
Karl Aschli		1952 Spinel Link Apt #1
Aly Smith		1952 E. Spinel Link #7
[Signature]	5/5/08	1965 E Spinel Link
Barth Luth	5/5/08	122 Aqua Crossing #2
Breanne E. Lindstrom	5/5/08	122 Aqua Crossing #2
Jane Page		122 Aqua Crossing #1
Rylee Allen		44 Aqua Crossing
Amy Schillinger		78 Aqua Crossing Apt?
Larry Dwyer		78 44 Aqua Crossing
Haley Barker		78 Aqua Crossing #10
Lois Lintz		70 Aqua Crossing #9
Josh Attoun		70 Aqua Crossing #7
Shelly DeMoss		70 Aqua Crossing #7

Bridgedale Plaza Development

(Proposed Mix-Use Development on the corner of HWY 16 & River Meadows Dr.)

Ward 1-Fayetteville, AR

The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

Name:

Date:

Address:

CAJ

Christopher L. Morton

Jay Boston

Laren Boston

Hal Alderson

Yvette

Lance Swift

Jan Hill

Tripp Perry

Marica Smith

David D. May

Paul Netter

Kelly Scott

Wade Wright

Deann

K. Martin

J. Drice

1644 Tally Ho Dr

1644 Tally Ho

1615 S. Tallgrass

1615 S. Tallgrass

1602 S. Tallgrass Dr.

1602 S. Tallgrass Dr.

1664 S. Tallgrass Dr.

1604 S. Tallgrass Dr.

1743 Tallgrass Dr.

1795 Tallgrass Dr.

1792 Tallgrass

1740 Tallgrass

1725 Tallgrass Dr.

1725 Tallgrass Dr.

1942 Rescue Ct.

1945 S. Rescue Ct

5320 Millway

Bridgedale Plaza Development

(Proposed Mix-Use Development on the corner of HWY 16 & River Meadows Dr.)

Ward 1-Fayetteville, AR

The following are in FAVOR or UNOPPOSED to Bridgedale Plaza

Name:

Date:

Address:

[Signature]

5/5/08

2229 Dead Horse Mt. Rd

[Signature]

5/5/08

4195 Eastport Drive

[Signature]

5/5/08

1365 Pinnacle Drive

[Signature]

5/6/08

1311 PINNACLE DR

[Signature]

5/6/08

1339 PINNACLE DR

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 06, 2008**

A meeting of the Fayetteville City Council will be held on May 06, 2008 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

Agenda Session Presentations:

1. Site Approval and Inspection Process - Steve Cattaneo, Building Safety Inspector - Informational Only.
2. Discussion of First Quarter Operating Results – Paul Becker, Finance Director

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Quarterly Report of Financial Condition of the City

Agenda Additions:

A. Consent:

1. Approval of the April 15, 2008 City Council meeting minutes.

2. **2008 Community Development Block Grant:** A resolution approving a budget adjustment in the amount of \$20,047.00 to reflect a like reduction in the 2008 Community Development Block Grant Revenues.
3. **Farmington Cost-Share Agreement - Farmington Lift Station:** A resolution to approve a cost share agreement with Farmington in which Fayetteville pays \$482,078.52 (with credit to be given for some equipment), Farmington pays \$1,215,802.48, and Fayetteville authorizes a \$30,000.00 contingency for the Farmington Lift Station.
4. **Oscar Renda Change Order # 3:** A resolution approving Change Order # 3 to the contract with Oscar Renda Contracting, Inc. in the amount of \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4.
5. **Black & Veatch Corporation Amendment No. 2:** A resolution approving Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line – Rehabilitation Study.
6. **TIF District Interest Income:** A resolution to approve a budget adjustment in the amount of \$20,119.00 to recognize interest income from the TIF Project Fund and allocate it to sidewalk improvements in the TIF District.
7. **Anaconda Sports:** A resolution to award a bid to Anaconda Sports in the amount of \$22,043.00 with a contingency of \$3,000.00.
8. **Arkansas Department of Aeronautics Grant:** A resolution to approve an application for Federal Assistance and an Arkansas Department of Aeronautics matching grant to help fund Task Order # 3 in the amount of \$128,337.00 of the total task order cost of \$158,700.00 and to accept the grants when awarded.
9. **Arkansas Recreational Trails Grant:** A resolution approving an Agreement of Understanding with the Arkansas Highway and Transportation Department for the acceptance of an Arkansas Recreational Trails Grant to utilize \$33,600.00 in federal-aid funds to replace the Mud Creek Trail Bridge near Front Street; and approving a budget adjustment in the amount of \$69,320.00.
10. **Thompson Culvert Company:** A resolution approving the purchase under Bid # 08-15 of one (1) prefabricated weathering steel pedestrian bridge for Mud Creek Trail from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax.
11. **Kinco Contractors, LLC Change Order # 1:** A resolution approving Change Order # 1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one (1) trail bridge for Mud Creek Trail; and approving a 15% project contingency in the amount of \$5,550.00.
12. **Arkansas Historic Preservation Program Grant:** A resolution approving an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the increased grant revenue.

- 13. PetSmart Grant:** A resolution authorizing the Fayetteville Animal Services Division to accept a grant from PetSmart Charities in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries; and approving a budget adjustment to recognize the grant revenue.
- 14. BNSF Railway Co.:** A resolution approving the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail.
- 15. Gordon Backhoe and Dozer Service Inc.:** A resolution to approve a bid contract with Gordon Backhoe and Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00 and to approve a budget adjustment in the amount of \$19,068.00.

B. Unfinished Business:

- 1. Hiring Freeze:** Hiring Freeze Appeals:
- 2. RZN 08-2937 (Mountain Ranch Ph. III):** An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre. *This ordinance was left on the Second Reading at the April 15, 2008 City Council meeting.*
- 3. C-PZD 08-2894 (Park Centre):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans Park Entry Drive, containing approximately 8.58 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Third Reading and then Tabled at the April 15, 2008 City Council meeting.*

C. New Business:

- 1. RZN 07-2708 (Fire Stations):** An ordinance amending Ordinance Number 5074 to attach the correct Hansen Number to the exhibits of said ordinance.
- 2. RZN 08-2934 (Newell/Morton):** An ordinance rezoning a portion of property described in rezoning petition RZN 08-2934, for approximately 0.37 acres, located at 1141 Hendrix from RSF-4, Residential Single Family, 4 units per acre, to RSF-8, Residential Single Family, 8 units per acre.
- 3. R-PZD 08-2915 (Hill Place):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915, Hill Place, located at the southwest corner of 6th Street and Hill Avenue; containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 4. VAC 08-2951 (Shoppes at Wedington):** An ordinance approving VAC 08-2951 submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road, to vacate a utility easement on the subject property, a total of 5,997 square feet.

- 5. Amend Chapter 97 Parks and Recreation:** An ordinance to amend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.
- 6. Repeal and Replace §158.03 Maintenance:** An ordinance to repeal §158.03 Maintenance of the Unified Development Code and to enact a replacement §158.03 Maintenance.
- 7. Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances.
- 8. Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with amendments proposed by The Board of the Downtown Off-Street Parking Improvement District.
- 9. Pratt Place Inn Appeal:** An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670, Pratt Place Inn, located at 2115 W. Markham Road, containing approximately 72.00 acres, to allow a monument sign in Planning Area 2 in-lieu of a sign in Planning Area 3, as described herein.
- 10. Bridgedale Plaza Appeal:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Announcements:

- 1. City Council Tour: May 05, 2008**

Adjournment:

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

6-May-08
City Council Meeting Date

Yolanda Fields CR Operations
Submitted By Division Department

Action Required:

Approval of a budget adjustment in the amount -20,047.00 for the 2008 Community Development Block Grant (CDBG). Grant amount for 2008 CDBG was \$635,930.00 which reflects a reduction of 20,047.00 in estimated funding amount.

Cost of this request \$0.00	Category/Project Budget	Program Category / Project Name
Account Number	Funds Used to Date	Grant Revenue
Project Number	Remaining Balance \$ -	Program / Project Category Name Community Development

Budgeted Item ☒ Budget Adjustment Attached ☒

[Signature] 4.2.08
Department Director Date

[Signature] 4/17/08
City Attorney Date

Paul A. Bahr 4-17-08
Finance and Internal Service Director Date

[Signature] 4/18/08
Mayor Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

Received in City Clerk's Office



Received in Mayor's Office

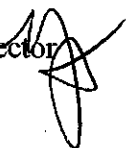


Comments: Staff recommends approval of the budget adjustment.

CITY COUNCIL AGENDA MEMO

To: Mayor and Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, CR Director 

Date: April 2, 2008

Subject: Budget Adjustment – 2008 Community Development Block Grant (CDBG) Funding

RECOMMENDATION

Staff recommends approval of budget adjustment for the 2008 Community Development Block Grant.

BACKGROUND

Grant amounts vary each year dependent on funding levels authorized by Congress through the annual federal budget process. The award for 2008 is \$635,930.00 Grant funding detail:

Administration	\$127,000
Housing Rehabilitation	\$306,289
EOA of Washington County	\$ 10,848
Fayetteville Public Library	\$ 2,800
Just Communities	\$ 8,683
LifeSource	\$ 10,669
Parks & Recreation	\$ 22,000
Peace at Home	\$ 15,000
Code Compliance	\$ 42,641
Elizabeth Richardson Center	\$ 10,041
Life Styles	\$ 45,020
Peace at Home	\$ 19,760
YouthCan!	<u>\$ 15,179</u>
Grant Total	\$635,930

DISCUSSION

Budget adjustment for the 2008 Community Development Block Grant is being submitted for approval.

BUDGET IMPACT

\$20,047.00 reduction to 2008 grant revenue for CDBG.

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$20,047.00 TO REFLECT A LIKE REDUCTION IN THE 2008 COMMUNITY DEVELOPMENT BLOCK GRANT REVENUES.

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 to reflect a like reduction in the 2008 Community Development Block Grant Revenues.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 2
2008 Community Development Block Grant
Page 4 of 6

Budget Year 2008	Department: Community Development Revenue Division: Program:	Date Requested	Adjustment Number
--------------------------------	---	-----------------------	--------------------------

Project or Item Added/Increased: 2008 CDBG Grant funding reduced	Project or Item Deleted/Reduced: Housing - Contract Services Admin. - Public Notification
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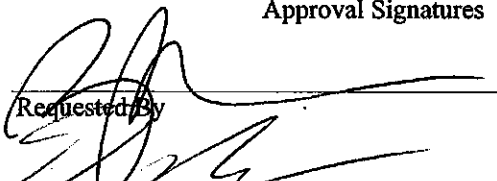
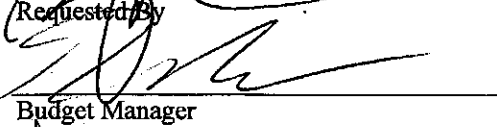
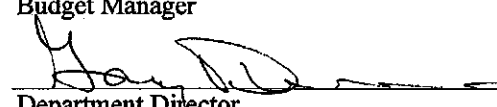
Justification of this Increase: HUD FY 2008 allocation has been reduced	Justification of this Decrease: The entitlement grant from the US Dept. of HUD was reduced for the 2008 grant year
---	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Grant funding CDBG	2180 0918 4320 00	20,047	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Public notification	2180 4930 5301 00	3,249	
Contract services	2180 4940 5315 00	16,798	

Approval Signatures  Requested By 4/1/08 Date  Budget Manager 4/2/08 Date  Department Director 4/2/08 Date Finance & Internal Services Director Date Mayor Date	Budget Office Use Only Type: A B C <u>D</u> E Posted to General Ledger Initial Date Posted to Project Accounting Initial Date Entered in Category Log Initial Date
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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Little Rock Field Office, Region VI
Office of the Field Office Director
425 West Capitol Avenue, Suite 1000
Little Rock, AR 72201
Phone (501) 918-5700 - Fax (501) 324-6142
www.hud.gov espanol.hud.gov

RECEIVED

MAR 25 2008

**CITY OF FAYETTEVILLE
MAYOR'S OFFICE**

MAR 21 2008

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

Dear Mayor Coody:

I am pleased to inform you that the City of Fayetteville's Consolidated Plan/Annual Action Plan has been approved for fiscal year 2008 for the formula allocation of \$635,930 for the Community Development Block Grant (CDBG) program. The Program Year for these funds began on January 1, 2008.

It is noted that the Consolidated Plan/Annual Action Plan submitted for the use of these funds used a planning figure of \$653,244, which is more than the actual funding amount. Accordingly, please make the necessary corrections in your proposed budget and activities to reflect the actual funding received. Also, please provide this office with a copy of your revised budget within 15 days of the date of this letter.

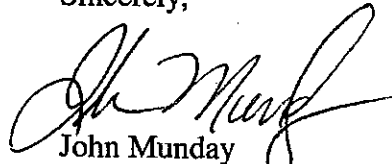
Enclosed are four copies of the Grant Agreement and Funding Approval form that have been executed by this office. This document constitutes the contract between the U. S. Department of Housing and Urban Development (HUD) and the City of Fayetteville for the CDBG program. Please sign all copies. After execution, please return three copies to this office as soon as possible. The third copy should be retained in the City's files.

HUD Form 7015.15, Request for Release of Funds and Certification (RROF), under the provision of 24 CFR Part 58 (Environmental Review Procedures for the Community Development Block Grant Program) for program year 2008 activities was received in this office on November 16, 2007. It appears that activities scheduled for 2008 do not require the preparation and dissemination of an environmental impact statement. An executed Form HUD 7015.16, Notice of Removal of Grant Conditions, is enclosed. Funds for these activities may be obligated/expended upon receipt of this form.

The special condition in your Grant Agreement and Funding Approval concerning the review procedures under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs and HUD's implementing regulations at 24 CFR Part 52, restricts the obligation or expenditure of funds for the planning or construction of water or sewer facilities until the completion of the review process and receipt of written notification of release of funds from HUD. Since you have not submitted your Consolidated Action Plan (CP) for review under E.O. 12372, we assume you do not propose to use funds for activities subject to review. However, the condition requires that in the event you amend or otherwise revise your CP to use funds for the planning or construction of water or sewer facilities, you must receive written release of funds from HUD before obligating or expending funds for such activities.

On behalf of the Department, I wish the City of Fayetteville much success in the use of these resources to implement the City's community development initiatives. If you have any questions or if we may be of any assistance to the City in the implementation of its CDBG program, please contact me at (501) 918-5700, or Rhonda Shannon, Community Planning and Development Representative, at (501) 918-5732.

Sincerely,



John Munday
Acting Field Office Director

Enclosures

cc:

Ms. Yolanda Fields

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

A. 3
Farmington Cost-Share Agreement -
Farmington Lift Station
Page 1 of 36

6-May-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Imprv Project
Division

Water/Wastewater
Department

Action Required:

Approval of a cost-share with Farmington in the amount of \$482,078.52 for a contract with J.L. Bryson for Fayetteville's share of construction of the Farmington Lift Station, WSIP Subproject WL-12, Bid 08-02, and approve a 6% contingency of \$30,000.

\$ 512,079
Cost of this request

\$ 48,836,390
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520-9520-5801.00
Account Number

\$ 26,318,836
Funds Used to Date

Water and Wastewater
Program / Project Category Name

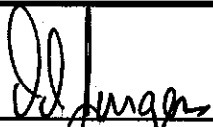
02133.0412
Project Number

\$ 22,517,554
Remaining Balance

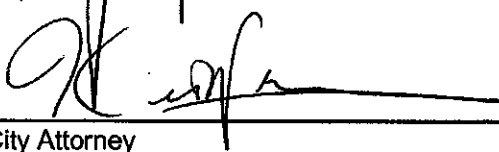
Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director 11 APR 08
Date

Previous Ordinance or Resolution # _____


City Attorney 4/11/08
Date

Original Contract Date: _____

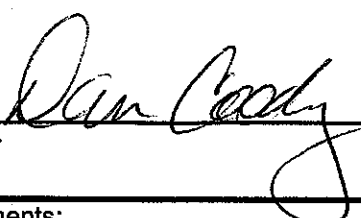
Original Contract Number: _____

Paul A. Bush
Finance and Internal Service Director 4-14-08
Date

Received in City Clerk's Office

ENTERED

4/11-08 WJB

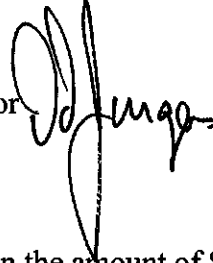

Mayor 4/15/08
Date

Received in Mayor's Office

Comments:

To: Fayetteville City Council

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee



Date: 8 April 2008

Subject: Approval of a cost-share with Farmington in the amount of \$482,078.52 for a contract with J.L. Bryson for Fayetteville's share of construction of the Farmington Lift Station, WSIP Subproject WL-12, Bid 08-02, and approve a 6% contingency of \$30,000.

RECOMMENDATION

City Administration recommends approval of a cost-share with Farmington in the amount of \$482,078.52 for a contract with J.L. Bryson for construction of the Farmington Lift Station, WSIP Subproject WL-12, Bid 08-02, and approve a 6% contingency of \$30,000.

BACKGROUND

This project includes the construction of a submersible lift station that contains three pumps and provision for two future pumps. Work includes odor control and back-up power. The generator, one pump and related controls are being provided from other City of Fayetteville lift stations, with the fair market value being credited to Fayetteville. The project is located on the north side of Farmington, 511 North Double Springs Road, near the intersection of Goose Creek Rd (RT 66) and North Double Springs Rd (RT 27).

DISCUSSION

This cost share and the Fayetteville percentage of the cost was agreed to and established in the Fayetteville-Farmington Wastewater Agreement of April 3, 2007 which included the projected population served by this lift station. The cost share is split based on the population. Fayetteville will have a deduction based on the value of the generator, pump and controls. These values will be determined after the bids are opened and the items are refurbished.

The Cities received bids on 8 April, 2008 for this project:

Contractor	Total Bid	Fayetteville Share
J. L. Bryson (low bid)	\$1,697,881.00	482,078.52
Crossland Heavy Contractors	\$1,744,650.00	495,357.62
Garney Companies Inc	\$2,056,000.00	583,759.07
BRB Contractors Inc	\$2,105,081.00	597,694.62
McInnis Brothers Construction Inc	\$2,122,000.00	602,498.42
LJB Construction Inc	\$2,250,000.00	638,841.40
Township Builders Inc	\$2,418,838.00	686,779.49
Engineer's Estimate	\$1,864,150.00	529,287.20

RJN, the Engineers, has approved the bid and recommends approval. Approval from the Arkansas Natural Resources Commission, which is providing Farmington RLF funding for the project, is expected soon. Although J. L. Bryson has not performed any WSIP work, their references were excellent.

BUDGET IMPACT

Funds are available in the WSIP project budget.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A COST SHARE AGREEMENT WITH FARMINGTON IN WHICH FAYETTEVILLE PAYS \$482,078.52 (WITH CREDIT TO BE GIVEN FOR SOME EQUIPMENT), FARMINGTON PAYS \$1,215,802.48, AND FAYETTEVILLE AUTHORIZES A \$30,000.00 CONTINGENCY FOR THE FARMINGTON LIFT STATION

WHEREAS, Fayetteville and Farmington agreed on April 13, 2007 to cost share the construction costs of the replacement Farmington List Station pursuant to the population of both cities to be served by the Farmington List Station; and

WHEREAS, seven construction companies submitted sealed bids to construct this lift station with J.L. Bryson being the low bidder of \$1,697,881.00 (about 10% below our engineer's estimate); and

WHEREAS, the City of Fayetteville's portion of this bid price is \$482,078.52 and the City will receive credit for a generator, pump and related controls provided from other lift stations.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the bid and contract of J.C. Bryson in the amount of \$1,697,881.00 to construct a Farmington Lift Station and agrees to pay Farmington the sum of **\$482,078.52** (less credit for a generator, pump and controls) as Fayetteville's share of this construction contract.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves \$30,000.00 as its share of the contingency for this project.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



Excellence through Ownership

April 11, 2008

Mr. Dave Jurgens, P.E.
City of Fayetteville
Director Water and Wastewater
113 West Mountain Street
Fayetteville, AR 72701

Subject: Bid 08-02
Fayetteville WL-12, Double Springs Lift Station, Farmington, AR
RJN# 18-1875-02

Dear Mr. Jurgens:

RJN has reviewed and processed the Contractor Bids for the above referenced project. All bids are correct as submitted by each contractor. JL Bryson, Inc is certified to be the low bidder with a total bid amount of one million six hundred ninety-seven thousand eight hundred eighty-one and no cents (\$1,697,881.00).

RJN has checked references supplied by JL Bryson, Inc. All references checked have stated that JL Bryson's work has been excellent, on schedule and would like to have them work on future projects.

JL Bryson, Inc. has completed projects of similar nature, ranging in cost from \$3,172,574 to \$1,038,800.

RJN recommends that the contract for Bid 08-02 in the amount of \$ 1,697,881.00 be awarded to the low bidder, JL Bryson, Inc. Attached are the documents submitted by JL Bryson, Inc. that demonstrate a good faith effort in utilizing MBE/WBE firms.

Should you have any further questions, please call me at (314) 588-9764, x325.

RJN Group, Inc.

Kevin White
Project Manager

xc: H. Kelso
R. Januska

CITY OF FAYETTEVILLE FAYETTEVILLE WASTEWATER SYSTEM IMPROVEMENT PROJECT DOUBLE SPRINGS LIFT STATION, FARMINGTON - CONTRACT WL-12																					
				Contractors																	
				RIN Group Employees Estimate		J.L. Brown P.O. Box 1419 508 Madison Huntsville, AL 37240 Office: 478-927-3220 Fax: 478-927-3313		Coastland Heavy PO Box 350 Columbus, MS 39275 Office: 601-429-4140 Fax: 601-282-2877		Gentry Construction 1333 NW Vision Rd Kansas City, MO 64118 Office: 816-746-7223 Fax: Mo. 816-746-7288		BRB Contractors, Inc. 3805 NW 25th Street Tampa, FL 33607 Office: 786-232-1245 Fax: 786-235-8045		McIntire Brothers Constr 1118 Pearl Street Tulsa, LA 71055 Office: 318-371-8134 Fax: 318-371-8156		LJB Construction, Inc. 8628 Golf Creek Drive Rogers, AR 72757 Office: 479-869-6140 Fax: 479-898-8141		Township Builders, Inc P.O. Box 7252 Little Rock, AR 72217 Office: 501-684-2036 Fax: 501-684-3538			
Item No.	Quantity	Unit	Item Description																		
1	1	LS	Trench or Excavation Safety	6,000	5	4,009.00	5	5,000.00	5	10,009.00	5	5,000.00	5	5,000.00	5	5,000.00	5	5,000.00	5	5,000.00	
2	1	LS	Modding	16,000	5	48,700.00	5	50,000.00	5	100,000.00	5	30,000.00	5	121,986.00	5	42,986.00	5	74,974.20	5	121,986.00	
3	1	LS	Site Preparation	13,000	5	2,100.00	5	5,000.00	5	10,000.00	5	17,000.00	5	17,000.00	5	17,000.00	5	46,977.43	5	17,000.00	
4	1	LS	Dewatering	10,000	5	13,100.00	5	23,000.00	5	10,000.00	5	6,000.00	5	13,100.00	5	23,000.00	5	16,014.20	5	13,100.00	
5	1	LS	Soil Excavation	90,000	5	52,800.00	5	12,600.00	5	46,000.00	5	88,000.00	5	175,000.00	5	210,000.00	5	70,127.71	5	175,000.00	
6	1	LS	Rock Excavation	90,000	5	43,310.00	5	59,000.00	5	116,000.00	5	360,000.00	5	148,000.00	5	401,000.00	5	133,937.43	5	401,000.00	
7	1	LS	Structural - Re-enforced Concrete	82,000	5	307,246.00	5	352,000.00	5	866,000.00	5	703,892.00	5	548,500.00	5	460,000.00	5	609,848.20	5	460,000.00	
8	1	LS	Structural - Rock Anchors	50,000	5	31,259.00	5	86,000.00	5	180,000.00	5	60,000.00	5	60,000.00	5	60,000.00	5	63,400.28	5	60,000.00	
9	1	LS	Structural - Metals	45,000	5	11,322.00	5	8,100.00	5	16,000.00	5	20,000.00	5	20,000.00	5	20,000.00	5	23,492.86	5	20,000.00	
10	1	LS	Structural - Heliades	15,000	5	14,323.00	5	124,000.00	5	140,000.00	5	50,000.00	5	160,000.00	5	160,000.00	5	198,000.00	5	160,000.00	
11	1	LS	Piping - Pumps to Foreman Header Check Valve	725,000	5	87,653.00	5	88,000.00	5	300,000.00	5	100,000.00	5	70,000.00	5	85,000.00	5	97,391.88	5	70,000.00	
12	1	LS	Piping - Yard Piping to Foreman Header Check Valve	75,000	5	585,896.00	5	328,000.00	5	228,000.00	5	150,000.00	5	250,000.00	5	275,000.00	5	238,428.20	5	250,000.00	
13	1	LS	Electrical and Controls	250,000	5	289,424.00	5	250,500.00	5	75,000.00	5	20,000.00	5	60,000.00	5	60,000.00	5	77,258.00	5	60,000.00	
14	1	LS	Pumps	75,000	5	71,606.00	5	84,000.00	5	20,000.00	5	20,000.00	5	20,000.00	5	20,000.00	5	21,851.43	5	20,000.00	
15	1	LS	Asphalt Paving	50,000	5	51,800.00	5	72,000.00	5	10,000.00	5	8,000.00	5	8,000.00	5	8,000.00	5	15,444.67	5	8,000.00	
16	1	LS	Concrete Paving	50,000	5	7,589.00	5	10,000.00	5	10,000.00	5	20,000.00	5	60,000.00	5	60,000.00	5	60,556.71	5	60,000.00	
17	1	LS	Landscaping	50,000	5	62,000.00	5	58,100.00	5	75,000.00	5	10,000.00	5	10,000.00	5	10,000.00	5	11,747.14	5	10,000.00	
18	1	LS	Fencing	12,000	5	11,730.00	5	18,161.00	5	20,000.00	5	6,000.00	5	20,000.00	5	20,000.00	5	17,762.86	5	20,000.00	
19	1	LS	Labor & Material Bond	25,000	5	23,228.00	5	13,200.00	5	20,000.00	5	10,000.00	5	20,000.00	5	20,000.00	5	2,000.00	5	20,000.00	
20	1	LS	Materials Bond	10,000	5	15,500.00	5	10,000.00	5	10,000.00	5	10,000.00	5	10,000.00	5	10,000.00	5	6,428.57	5	10,000.00	
21	1	LS	Other	15,150	2	3	16,500.00	4	5,000.00	5	15,000.00	5	-	7	55,995.00	5	13,195.43	5	55,995.00	5	13,195.43
TOTAL PROJECT				\$3,851,160		\$1,097,981.00		\$1,724,560.00		\$2,756,000.00		\$2,105,091.00		\$2,122,000.00		\$2,250,000.00		\$2,218,935.00		\$2,085,182.10	
Difference from C&M						-461,789.00		-356,118.00		-407,200.00		-424,115.00		-552,115.00		-720,957.00					
Notes: 1 Complete asides included in Item 10																					

City Of Fayetteville (Not a Purchase Order)

Vendor Number: 3112	Vendor Name: City of Farmington, Arkansas	Requestion No.:	Date: 4/11/2008
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Address: P O Box 150	City: Farmington, AR	State: AR	Zip Code: 72730-0150	Requester's Employee #: 490	Project/Supported #: 02133-0412	Inventory #	Fixed Asset #
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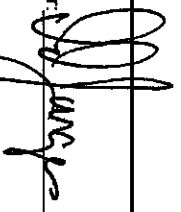
City: Farmington	State: AR	Requester: David Jurgens	Extension: 330	Division Head Approval:	Quotes Attached	No:
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Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Supported #	Inventory #	Fixed Asset #
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1	WSIP, WL-12, Farmington Lift Station	1	EA	\$482,078.52	\$482,078.52	4520-9520-5801-00	02133-0412		
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				

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	

Subtotal:	\$482,078.52
Tax:	\$0.00
Total:	\$482,078.52

Approvals: Mayor: _____ Department Director: 

Finance & Internal Services Director: _____ Budget Manager: _____ IT Manager: _____

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

DOCUMENT 00400 - BID FORM

Project Name: Wastewater System Improvement Project
Contract Name: Double Springs Lift Station
Contract No.: WL-12

BID TO:

Owner: The City of Farmington, Arkansas
324 West Main Street
Farmington, Arkansas 72730

BID FROM:

Bidder: JL BRYSON INC.
P.O. BOX 1479
596 MADISON 2110
HUNTSVILLE, AR 72740

ARTICLE 1 - INTENT

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with Owner in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

ARTICLE 2 - TERMS AND CONDITIONS

- 2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 90 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of Owner's Notice of Award.

DOCUMENT 00400 - BID FORM (continued)

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bid Documents, and the following Addenda, receipt of all which is hereby acknowledged:

<u>Number</u>	<u>Date</u>
# 1	4-1-08

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, performance, and furnishing of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

DOCUMENT 00400 - BID FORM (continued)

- E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder and safety precautions and programs incident thereto.
- F. Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports, and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- I. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.
- K. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any

DOCUMENT 00400 - BID FORM (continued)

other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over Owner.

- L. Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 - Subpart P - Excavations.

ARTICLE 4 - BID PRICE

4.01 Lump Sum Price

- A. Bidder will complete the Work in accordance with the Contract Documents for the lump-sum price of

ONE MILLION SIX HUNDRED TWENTY EIGHT THOUSAND EIGHT HUNDRED TWENTY ONE AND NO/100
~~ONE MILLION SIX HUNDRED TWENTY SEVEN~~ Dollars (\$ 1,697,881.00)

- B. Provide a breakdown of the above lump sum bid per the following:
(Note: The sum of this section to equal total lump sum price)

1. Trench or excavation safety systems complying with OSHA Part 1926 - Subpart P \$ 8409.00
2. Mobilization \$ 48,700.00
3. Site Preparation \$ 20,100.00
4. Dewatering \$ 13,100.00
5. Excavation:
 - a. Soil \$ 52,800.00
 - b. Rock \$ 42,310.00 43,310.00
6. Structural:
 - a. Re-enforced Concrete
\$ 307,546.38
(Rebar, mud slab, walls, floors, roof, equipment pads, etc)
 - c. Rock Anchors \$ 37,538.00

DOCUMENT 00400 - BID FORM (continued)

- b. Metal \$ 44,050.00
(supports, handrails, etc.)
- c. Hatches \$ 11,325.00
7. Piping:
- a. From pumps to Force Main header check valve
\$ 143,238.00
- b. Yard Piping exterior to Lift Station
\$ 82,533.00
8. Electrical and Controls: \$ 352,886.00
9. Equipment and Installation of:
- a. Pumps \$ 263,484.00
- b. Odor Control \$ 74,506.00
10. Asphalt Paving \$ 51,930.00
11. Concrete Paving \$ Ø
12. Antenna \$ 7568.00
13. Painting and Coatings \$ 62,000.00
14. Landscaping \$ 11,730.00
15. Fencing \$ 20,400
16. Labor & Material Bond \$ 23,228.00
17. Maintenance Bond \$ 15,500.00
18. 'Other' not included above \$ Ø

Describe other:

ARTICLE 5 - CONTRACT TIMES

- 5.01 Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.

DOCUMENT 00400 - BID FORM (continued)

- 5.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified in the Agreement.

ARTICLE 6 - BID CONTENT

- 6.01 The following documents are attached to and made a condition of this Bid:
- A. Required Bid security in the form of a certified or bank cashier's check or a Bid Bond and in the amount of 5%
Dollars (\$_____).
 - B. Required Bidder's Qualification Statement with supporting data
(DOCUMENT 00140 - Bidder's Qualification Statement).
 - C. Manufacturer's data where called for in Specifications
(DOCUMENT 00450 - Equipment Questionnaire).
 - D. DOCUMENT 00430 - List of Subcontractors.
 - E. Contractor's Act of Assurance Form, RLF-52.
 - F. MBE / WBE Compliance Evaluation Form, RLF-96.

ARTICLE 7 - COMMUNICATIONS

- 7.01 Communications concerning this Bid shall be addressed to the Bidder as follows:

J L BRYSON INC
P.O. Box 1479
HUNTSVILLE, AL 35894
Phone No. 1-479-927-3220
FAX No. 1-479-927-3313

DOCUMENT 00400 - BID FORM (continued)

ARTICLE 8 - TERMINOLOGY

8.01 The terms used in this Bid which are defined in the GENERAL CONDITIONS or Instructions to Bidders will have the meanings assigned to them.

SUBMITTED on April, 2008.

Arkansas State Contractor License No. 0032810307

If Bidder is:

An Individual

Name (type or printed): _____

By: _____ (SEAL)

(Individual's Signature)

Doing business as: _____

Business address: _____

Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____

(Signature of general partner - attach evidence of authority to sign)

Name (type or printed): _____

Business address: _____

Phone No.: _____ FAX No.: _____

DOCUMENT 00400 - BID FORM (continued)

A Corporation

Corporation Name: J L BRYSON INC. (SEAL)

State of Incorporation: ARKANSAS

Type (General Business, Professional, Service, Limited Liability): _____

Sub Chapter S

By: Justin Bryan

(Signature - attach evidence of authority to sign)

Name (type or printed): JUSTIN BRYAN

Title: OWNER / PRESIDENT

(CORPORATE SEAL)

Attest: _____

(Signature of Corporate Secretary)

Business address: P.O. Box 1479 - 596 Madison 2110

HUNTSVILLE, AR 72740

Phone No.: 479-927-3220 FAX No.: 479-927-3313

END OF DOCUMENT 00400

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we:

JL Bryson, Inc.

(Here insert full name and address or legal title of Contractor)

P.O. Box 1479, Huntsville, Arkansas 72740

as Principal, hereinafter called the Principal, and
United Fire & Casualty Company

(Here insert full name and address or legal title of Surety)

P.O. Box 73909, Cedar Rapids, Iowa 52407

a corporation duly organized under the laws of the State of Iowa

as Surety, hereinafter called the Surety, are held and firmly bound unto

(Here insert full name and address or legal title of Owner)

City of Farmington

Farmington, Arkansas

as Obligor, hereinafter called the Obligor, in the sum of

Five Percent of Bid Amount Dollars (\$5

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

(Here insert full name, address and description of project)

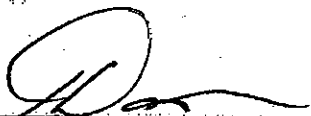
Double Springs Lift Station, Farmington, AR

NOW, THEREFORE, if the Obligor shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligor in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligor the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligor may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this

8th

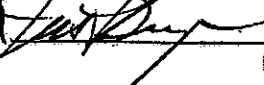
day of April, 2008


(Witness)

JL Bryson, Inc.

(Principal)

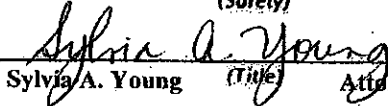
(Seal)


PRESIDENT
(Title)
(Witness)

United Fire & Casualty Company

(Surety)

(Seal)


Sylvia A. Young

(Title)

Attorney-In-Fact



UNITED FIRE & CASUALTY COMPANY
HOME OFFICE - CEDAR RAPIDS, IOWA
CERTIFIED COPY OF POWER OF ATTORNEY

A-3
Farmington Cost-Share Agreement -
Farmington Lift Station
Page 16 of 38

(Original on file at Home Office of Company - See Certification)

KNOW ALL MEN BY THESE PRESENTS, That the UNITED FIRE & CASUALTY COMPANY, a corporation duly organized and existing under the laws of the State of Iowa, and having its principal office in Cedar Rapids, State of Iowa, does make, constitute and appoint MICHAEL D. HALTER, OR KEVIN M. BRUICK, OR RICHARD R. IRVIN, OR SHERRY L. JAGGERS, OR CARLA S. HOLLIS, OR CHARLES ALLEN, OR BOB SMITH, OR DALE TEMPLE, OR SYLVIA A. YOUNG, OR TIMOTHY P. FARRELL, OR ROLFE KENNEDY, ALL INDIVIDUALLY OF LITTLE ROCK AR

its true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature as follows: Any and All Bonds and to bind UNITED FIRE & CASUALTY COMPANY thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of UNITED FIRE & CASUALTY COMPANY and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by UNITED FIRE & CASUALTY COMPANY.

This power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by Board of Directors of the Company on April 18, 1973:

"Article V - Surety Bonds and Undertakings"

Section 2. Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Company may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Company in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Company by their signature and execution of any such instruments and to attach the seal of the Company thereto. The President or any Vice President, the Board of Directors or any other officer of the Company may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the UNITED FIRE & CASUALTY COMPANY has caused these presents to be signed by its Vice president and its corporate seal to be hereto affixed this 26th day of September, 2007.



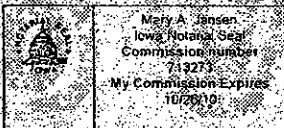
UNITED FIRE & CASUALTY COMPANY

By Dennis J. Richmann
Vice President

State of Iowa, County of Linn, ss:

On 26th day of September, 2007, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say, that he resides in Cedar Rapids, State of Iowa, that he is a Vice President of the UNITED FIRE & CASUALTY COMPANY, the corporation described in and which executed the above instrument, that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal, that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

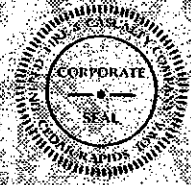


Mary A. Jensen

Notary Public

I, the undersigned officer of the UNITED FIRE & CASUALTY COMPANY, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the by-laws of said Company as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID COMPANY, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Company this 26th day of April 2008



David A. Gorge

Secretary

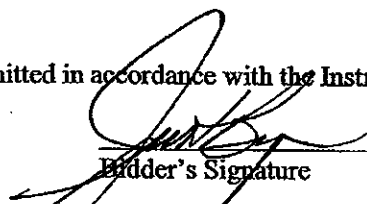
DOCUMENT 00430 - LIST OF SUBCONTRACTORS

In compliance with the Instructions to Bidders and other Contract Documents, the undersigned submits the following names of Subcontractors to be used in performing the Work for Project No. WL-12, Double Springs Lift Station.

Bidder certifies that all Subcontractors listed are eligible to perform the Work. List any subcontractors not described.

Subcontractor's Work	Subcontractor's Name	License No.	Work. Comp. EMR	% of Contract Value
Excavation/Grading	JL Bryson			6%
Concrete	SEVEN VALLEY'S	01630908108		10%
Painting/Coatings	EVANS INDUSTRIAL	0029320408		3.8%
Metal Fabrication	JL Bryson			2.7%
Electrical	LIGHTIZING	0092180408		22%
Instrumentation	LIGHTIZING JL BRYSON	↓		↓
Piping	JL BRYSON			15%
Fence	MODERN			1%
Landscaping	CONCEPTS			5%
Pumps	JL Bryson			20%

NOTE: This form must be submitted in accordance with the Instructions to Bidders.


Bidder's Signature
END OF DOCUMENT 00430

RLF-52
(R-7/01)

CONTRACTOR'S ACT OF ASSURANCE FORM

As the authorized representative of the individual, incorporation, or corporation (hereinafter referred to as the company) bidding on or participating in the Revolving Loan Fund (RLF) financed project, I certify that I have read and understand the requirements of the Revolving Loan Fund Supplemental Conditions and that the principles, agents and employees of the company will comply with these requirements including all relevant statutes and regulations issued pursuant thereto. I further certify as the authorized agent of the company that:

MBE/WBE During the bid process and throughout the performance of the Contract, whenever subcontracts are to be awarded, I will take the 6 affirmative steps described in the Supplemental Conditions to utilize minority and women's business enterprise (MBE/WBE) firms wherever possible. I will document to the borrower and ASWCC all efforts to secure MBE/WBE participation including follow-up efforts and will report to the Owner the dollar value of all MBE/WBE contracts and subcontracts awarded.

EQUAL OPPORTUNITY I will comply with all requirements of 41 CFR Chapter 60 and Executive Orders 11246 and 11375, including inclusion of all required equal opportunity clauses in each sub-contract awarded in excess of \$10,000 and I will furnish a similar statement from each proposed subcontractor, when appropriate. I will also comply with all Equal Employment Opportunity requirements as defined by Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; and Section 13 of the Federal Water Pollution Control Act Amendments of 1972 regarding sex discrimination.

NONSEGREGATED FACILITIES The company that I represent does not and will not maintain any facilities provided for its employees in a segregated manner, or permit its employees to perform their services at any location under company control where segregated facilities are maintained; and that the company will obtain a similar certification prior to the award of any subcontract exceeding \$10,000 which is not exempt from the equal opportunity clause.

LABOR STANDARDS I will comply with the Labor Standards Provisions contained in the RLF Supplemental Conditions and furnish weekly payrolls and certifications as may be required by the Owner to affirm compliance. I will also require that weekly payrolls be submitted to the Owner for all subcontracts in excess of \$2,000.

OSHA REQUIREMENTS I will comply with the Department of Labor Safety and Health Regulations promulgated under Section 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-333) in the performance of the contract.

PROCUREMENT PROHIBITIONS As required by Executive Order 11738, Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, I certify that I will not procure goods and services from persons who have been convicted of violations of either law if the goods or services are to be produced by the facility that gave rise to the violation.

RLF-52
(R-7/01)

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.

AUTHORIZED REPRESENTATIVE

COMPANY NAME:

JL Bryson Inc.

SIGNATURE:

[Signature]

DATE:

4-7-08

PRINTED NAME:

KUSTIN BRYNN

TITLE:

PRESIDENT/OWNER

MBE/WBE COMPLIANCE EVALUATION FORM
SUPPLEMENTAL CONDITIONS OF THE REVOLVING LOAN FUND
(Bid Package Documentation)

Bidders are to complete this form and submit with the bid proposal. A condition for remaining in competition for award is the satisfactory completion of this form. The undersigned submits the following data with respect to the firm's efforts to meet the Arkansas Soil and Water Conservation Commission's goal for MBE/WBE participation.

1. Name of Project: Wastewater System Improvement Project
Contract No.: WL-6 RLF Project No. CS-050808-03
2. Name of General Contractor: J L BRYSON INC
3. MBE/WBE Firm: McCORMICK ASPHALT PAVING & EXCAVATING
(Name) (Complete a separate form for each MBE/WBE to be used as a subcontractor)
1925 SOUTH ROSEVILLE ST, OZARK, AR 72949
(Address) (City, State, Zip Code)
479-468-2514 479-468-2096
(Phone Number) (Fax Number)

4. Describe Work to be performed by the MBE/WBE, provide dollar amount of the subcontract.
ASPHALT PAVING

DOCUMENTATION OF AFFIRMATIVE STEPS TAKEN TO OBTAIN MBE/WBE PARTICIPATION
(TO BE COMPLETED IF THE MBE/WBW GOALS ARE NOT OBTAINED)

5. Documentation that MBE/WBE quotes were solicited through direct mail and other advertising sources, documentation of follow-up action for firms not responding; and documentation of responses received (both positive and negative responses).

6. What sources were used to identify potential MBE/WBE firms. (Arkansas Highway and Transportation Department; Arkansas Industrial Development Commission's Minority Business Development Division; U.S. Small Business Administration; other sources, please specify and provide documentation)
ARKANSAS HIGHWAY & TRANSPORTATION DEPT

7. Describe steps taken to divide work items into small tasks in an effort to maximize MBE/WBE participation.

8. List reasons for rejecting a MBE/WBE that indicated a desire to participate and/or submitted bids.

The undersigned hereby certified, having provided responses or documentation to the questions in the foregoing affirmative steps taken to obtain MBE/WBE participation, that they are true and correct to the best of her/her knowledge, information and belief.

Name of General Contractor: J L BRYSON INC

Signature: [Signature]

Title/Date: PRESIDENT 4-7-08

 *** TX REPORT ***

TRANSMISSION OK

JOB NO. 1234
 DESTINATION ADDRESS 14794682096
 PSWD/SUBADDRESS
 DESTINATION ID
 ST. TIME 03/26 14:54
 USAGE T 00' 17
 PGS. 1
 RESULT OK

PHONE 479-468-2514

Follow-up Call - 3-27 10:30 - They will review
 Follow-up Call 3-27 2:00 - Sent plans
 4-7
 4-8 will return call

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR. 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Martha Moore
COMPANY:	McCormick Asphalt Paving & Excavating
FAX NUMBER:	479-468-2096
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID**RE: BID QUOTATION - DOUBLES SPRINGS ROAD LIFT STATION**

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the Asphalt Paving that pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
 26 E. Meadow, Suite 8
 Fayetteville, Ar 72701
 Phone: (479) 444-6119
 Fax: (479) 444-6119
 Contact Name: Kevin White

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR. 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Martha Moore
COMPANY:	McCormick Asphalt Paving & Excavating
FAX NUMBER:	479-468-2096
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID

RE: BID QUOTATION - DOUBLESPRINGS ROAD LIFT STATION

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the Asphalt Paving that pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
26 E. Meadow, Suite 8
Fayetteville, Ar 72701
Phone: (479) 444-6119
Fax: (479) 444-6119
Contact Name: Kevin White

Thank you for your consideration in this matter.

Yours sincerely,

Justin Bryan

MBE/WBE COMPLIANCE EVALUATION FORM
SUPPLEMENTAL CONDITIONS OF THE REVOLVING LOAN FUND
(Bid Package Documentation)

Bidders are to complete this form and submit with the bid proposal. A condition for remaining in competition for award is the satisfactory completion of this form. The undersigned submits the following data with respect to the firm's efforts to meet the Arkansas Soil and Water Conservation Commission's goal for MBE/WBE participation.

1. Name of Project: Wastewater System Improvement Project
Contract No.: WL-6 RLF Project No. CS-050808-03
2. Name of General Contractor: JL Bryson Inc
3. MBE/WBE Firm: FENCECO, INC.
(Name) (Complete a separate form for each MBE/WBE to be used as a subcontractor)
9815 DIGBY DRIVE GENTRY, AR 72734
(Address) (City, State, Zip Code)
479-444-8550 479-267-4084
(Phone Number) (Fax Number)

4. Describe Work to be performed by the MBE/WBE, provide dollar amount of the subcontract.

FENCING

DOCUMENTATION OF AFFIRMATIVE STEPS TAKEN TO OBTAIN MBE/WBE PARTICIPATION
(TO BE COMPLETED IF THE MBE/WBW GOALS ARE NOT OBTAINED)

5. Documentation that MBE/WBE quotes were solicited through direct mail and other advertising sources, documentation of follow-up action for firms not responding; and documentation of responses received (both positive and negative responses).
6. What sources were used to identify potential MBE/WBE firms. (Arkansas Highway and Transportation Department; Arkansas Industrial Development Commission's Minority Business Development Division; U.S. Small Business Administration; other sources, please specify and provide documentation)
ARKANSAS HIGHWAY TRANSPORTATION DEPT
7. Describe steps taken to divide work items into small tasks in an effort to maximize MBE/WBE participation.
8. List reasons for rejecting a MBE/WBE that indicated a desire to participate and/or submitted bids.
Price not competitive

The undersigned hereby certified, having provided responses or documentation to the questions in the foregoing affirmative steps taken to obtain MBE/WBE participation, that they are true and correct to the best of her/her knowledge, information and belief.

Name of General Contractor:

Signature:

Title/Date:

JL Bryson Inc
[Signature]
PRESIDENT 4-7-08

*** TX REPORT ***

TRANSMISSION OK

JOB NO. 1233
 DESTINATION ADDRESS 14792674084
 PSWD/SUBADDRESS
 DESTINATION ID
 ST. TIME 03/26 14:43
 USAGE T 00'17
 PGS. 1
 RESULT OK 479-444-8550

Called 3-26-08 Expressed Interest - will call back
 Follow-up 4-7-08 Talked - Will Bid

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR. 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Tom Tenbrook
COMPANY:	Fenceco, Inc.
FAX NUMBER:	479-267-4084
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID

RE: BID QUOTATION - DOUBLESPPRINGS ROAD LIFT STATION

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the Chain Link Fence pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
 26 E. Meadow, Suite 8
 Fayetteville, Ar 72701
 Phone: (479) 444-6119
 Fax: (479) 444-6119
 Contact Name: Kevin White

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR. 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Tom Tenbrook
COMPANY:	Fenceco, Inc.
FAX NUMBER:	479-267-4084
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID

RE: BID QUOTATION – DOUBLESPRINGS ROAD LIFT STATION

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

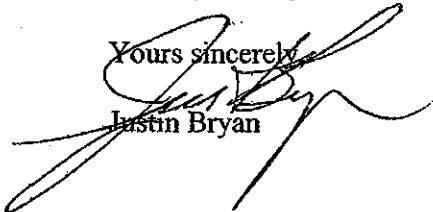
For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the Chain Link Fence pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
26 E. Meadow, Suite 8
Fayetteville, Ar 72701
Phone: (479) 444-6119
Fax: (479) 444-6119
Contact Name: Kevin White

Thank you for your consideration in this matter.

Yours sincerely,


Justin Bryan

MBE/WBE COMPLIANCE EVALUATION FORM
SUPPLEMENTAL CONDITIONS OF THE REVOLVING LOAN FUND
(Bid Package Documentation)

Bidders are to complete this form and submit with the bid proposal. A condition for remaining in competition for award is the satisfactory completion of this form. The undersigned submits the following data with respect to the firm's efforts to meet the Arkansas Soil and Water Conservation Commission's goal for MBE/WBE participation.

1. Name of Project: Wastewater System Improvement Project
Contract No.: WL-6 RLF Project No. CS-050808-03
2. Name of General Contractor: JL BRYSON INC.
3. MBE/WBE Firm: DIAMONDBACK STEEL CO. INC.
(Name) (Complete a separate form for each MBE/WBE to be used as a subcontractor)
419 S CHEROKEE ST MUSKOGEE, OK 74403
(Address) (City, State, Zip Code)
918-686-6340
(Phone Number) (Fax Number)

4. Describe Work to be performed by the MBE/WBE, provide dollar amount of the subcontract.
REBAR

DOCUMENTATION OF AFFIRMATIVE STEPS TAKEN TO OBTAIN MBE/WBE PARTICIPATION
(TO BE COMPLETED IF THE MBE/WBW GOALS ARE NOT OBTAINED)

5. Documentation that MBE/WBE quotes were solicited through direct mail and other advertising sources, documentation of follow-up action for firms not responding; and documentation of responses received (both positive and negative responses).

6. What sources were used to identify potential MBE/WBE firms. (Arkansas Highway and Transportation Department; Arkansas Industrial Development Commission's Minority Business Development Division; U.S. Small Business Administration; other sources, please specify and provide documentation)
ARKANSAS HIGHWAY TRANSPORTATION DEPT

7. Describe steps taken to divide work items into small tasks in an effort to maximize MBE/WBE participation.

8. List reasons for rejecting a MBE/WBE that indicated a desire to participate and/or submitted bids.
PRICE WAS NOT COMPETITIVE

The undersigned hereby certified, having provided responses or documentation to the questions in the foregoing affirmative steps taken to obtain MBE/WBE participation, that they are true and correct to the best of her/her knowledge, information and belief.

Name of General Contractor:

Signature:

Title/Date:

JL BRYSON INC.

[Signature]

PRESIDENT 4-7-08

 *** TX REPORT ***

TRANSMISSION OK

 JOB NO. 1237
 DESTINATION ADDRESS 19186866341
 PSWD/SUBADDRESS
 DESTINATION ID
 ST. TIME 03/27 10:51
 USAGE T 00' 15
 PGS. 1
 RESULT OK

918-686-6340

Calls - Talked to Scott - They intend to bid
 Follow-up - 4-7-08 Will Bid

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR, 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Keith Wright
COMPANY:	Diamondback Steel Company, Inc
FAX NUMBER:	918-686-6341
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID

 RE: BID QUOTATION - DOUBLES SPRINGS ROAD LIFT STATION

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the fabricated structural rebar that pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
 26 E. Meadow, Suite 8
 Fayetteville, Ar 72701
 Phone: (479) 444-6119
 Fax: (479) 444-6119
 Contact Name: Kevin White

J L Bryson, Inc

P.O. BOX 1479 HUNTSVILLE, ARKANSAS 72740 Ph. (479) 927-3220 Fax. (479) 927-3313

UPS / FED-EX DELIVERY ADDRESS: 596 MADISON 2110, HUNTSVILLE, AR. 72740

FACSIMILE

DATE:	Wednesday, March 26, 2008
TO:	Keith Wright
COMPANY:	Diamondback Steel Company, Inc
FAX NUMBER:	918-686-6341
TOTAL PAGES (Inc Cvr):	1

INVITATION TO BID

RE: BID QUOTATION - DOUBLESPRINGS ROAD LIFT STATION

Dear Sir,

It is the intention of J L Bryson, Inc, General Contractors, to submit a Bid for the construction of the Double Springs Road Lift Station for the City of Farmington, Arkansas.

This Facility is due to bid on April 8th, 2008

For relevant requirements of this Facility, we seek your expression of interest to provide J L Bryson, Inc a Bid Quotation for the supply of the fabricated structural rebar that pertains to this project.

The Engineers for the Project are:

The RJN Group, Inc.
26 E. Meadow, Suite 8
Fayetteville, Ar 72701
Phone: (479) 444-6119
Fax: (479) 444-6119
Contact Name: Kevin White

Thank you for your consideration in this matter.

Yours sincerely,

Justin Bryan

Completed Contracts of Similar Nature

Job	Engineer	Contract Amount	Surety	% By JL
1 Community Water System Water Treatment Plant	McLaughlin Eng.	\$3,172,573.93	Mild - Continent Tulsa, OK	75%
Zenon Membrane Water Treatment Plant	Little Rock Arkansas			
Greers Ferry, Arkansas				
Contact Todd Burgess	Charley McLaughlin			
2 City of Huntsville	McGoodwin, Williams and Yates	\$1,115,222.00	Mild - Continent Tulsa, OK	75%
Huntsville Wastewater Plant Improvements	Fayetteville, Arkansas			
Huntsville, Arkansas	Jeff Richards			
Contact Lerry Garrett				
3 City of Springdale	McGoodwin, Williams and Yates	\$1,038,809.00	Mild - Continent Tulsa, OK	85%
Robinson Lane Lift Station	Fayetteville, Arkansas			
Springdale, Arkansas	Brad Hammond			
Contact Rick Pulverenti				

Bonded Contracts of Similar Nature

Job	Engineer	Contract Amount	Completion
1 Highfill Wastewater Treatment Plant	ESI	\$1,978,000.00	Jul-08
Highfill Arkansas	Springdale, Ar Phil Humbar		
2 Highfill Lift Stations	ESI	\$784,000.00	Jul-08
Highfill Arkansas	Springdale, Ar Phil Humbar		

10100 HWY 412 East Huntsville, Ar. 72740 479-841-2613 hdjbryson@aim.com

Hobie Davis

Experience 01/21/03 thru Current J.L. Bryson Inc. Huntsville, Ar.

Superintendent

- Supervise and manage construction projects including ; waste water treatment plant , water treatment plant , utility installation ,residential development

08/10/02 thru 01/20/03 Patch Construction Raleigh, N.C.

Superintendent

- Supervise fabrication and installation of pipe and pipe supports for water and chemical feed to FT8 power generation plant

02/01/02 thru 08/08/02 NEPCO McAdams Ms.

Gen. Foreman

- Supervise fabrication and installation of pipe and pipe supports for HRSG power generation plant

06/01/99 thru 08/10/01 NEPCO Sacramento, Ca.

Superintendent

- Supervise alternative energy projects from steam driven power generation plants to wind driven turbine farms

References References are available on request.

DOCUMENT 00450 - EQUIPMENT QUESTIONNAIRE

The Bidder shall enter in the spaces provided the names of the manufacturers of equipment which Bidder proposes to furnish, and shall submit this Equipment Questionnaire with its Bid. Owner will review and evaluate the information before award of the Contract.

Only one manufacturer's name shall be listed for each item of equipment. Upon award of a contract, the named equipment shall be furnished. Substitutions will be permitted only if named equipment does not meet the requirements of the Contract Documents, the manufacturer is unable to meet the delivery requirements of the construction schedule, or the manufacturer is dilatory in complying with the requirements of the Contract Documents. Substitutions shall be subject to concurrence of Owner and shall be confirmed by Change Order.

Preliminary acceptance of equipment listed by manufacturer's name shall not in any way constitute a waiver of the specifications covering such equipment; final acceptance will be based on full conformity with the Contract Documents.

Failure to furnish all information requested or entering more than one manufacturer's name for any item in this Equipment Questionnaire may be cause for rejection of the Bid.

	<u>Equipment</u>	<u>Manufacturer/Model</u>
1.	<u>130-hp Submersible Pumps</u>	<u>FLYCHT</u>
2.	<u>Sump Pump</u>	<u>GOULDS</u>
3.	<u>Surge Relief Valves</u>	<u>G.A. TWP.</u>
4.	<u>PLC</u>	
5.	<u>Variable-Frequency Drives</u>	
6.	<u>Odor Control</u>	<u>S.E.P.</u>
7.	<u>8 inch Valves</u>	<u>VALMATEC</u>
8.	<u>Transfer Switch</u>	
9.	<u>Antenna Tower</u>	<u>TRYLON TSF TITAN</u>

END OF DOCUMENT 00450

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT:

Project Name: Farmington Wastewater System Improvement Project
Contract Name: Double Springs Lift Station
Contract No.: WL-12
RLF Project No.: 00584-CWRLF-L
Date: 4-8-08

SUBMITTED TO:

The City of Farmington, Arkansas
354 West Main
Farmington, Arkansas 72730

SUBMITTED BY:

Company J L BRYSON INC
Name JUSTIN BRYAN
Address P.O. Box 1479
Principal Office HUNTSVILLE, AR
Corporation, partnership, individual, joint
venture, other Corporation
Arkansas State General Contractor's License Number
0032810307

EXPERIENCE STATEMENT

1. Qualification of Bidders
 - a. It is the intention of the City of Farmington to award a Contract only to a Bidder who furnishes satisfactory evidence that he has the requisite experience and ability and that he has sufficient capital, facilities, and plant to enable him to prosecute the work successfully and promptly, and to complete the work within the time specified in the Contract Documents.

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

- b. Each Bidder shall submit with his Bid the executed Bidder's "Statement of Experience" form contained in this document. Each bidder shall also submit documented evidence that he has, with his own forces, completed a minimum of three Lift Station projects similar to this one with a construction cost of at least \$1,500,000 during the past three years and one with a construction cost of at least \$3,000,000 in the past five years.
 - c. The City of Farmington reserves the right to require the three lowest Bidders to file proof within seven (7) calendar days of the Bid opening of their ability to finance and execute the project. This proof shall include, but not be limited to, a financial statement certified by a CPA for the last three years, a list of equipment owned by Bidder, a backlog of jobs under contract and amounts, and a record of successful completion of similar projects.
 - d. The successful Bidder shall conform to the Rules and Regulations of Arkansas Department of Finance and Administration concerning nonresident contractor's notice and bond requirements.
 - e. The successful Bidder must meet the statutorily prescribed requirements before Award of Contract by the City of Farmington.
 - f. In order to perform public work, the successful Bidder shall, as applicable, hold or obtain such Contractor's and Business Licenses as required by State statutes and the Rules and Regulations of the Arkansas Contractor's Licensing Board.
 - g. All contracts shall be interpreted under Arkansas Law.
2. Bidder has been engaged as a General Contractor in construction for 20 years and has performed work of the nature and magnitude of this Contract for 10 years. Bidder has been in business under its present name for 5 years.
3. Bidder now has the following bonded projects under contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and estimated completion

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

date.) This sheet shall be inserted directly after this page or otherwise securely fastened to the back of this page.

4. Bidder has completed the following (list minimum of 3) contracts consisting of work similar to that proposed by this Contract: (On a separate sheet, list project name, owner, name of owner contact, engineer / architect, name of engineer/architect contact, amount of contract, surety, and date of completion and percentage of the cost of the Work performed with Bidder's own forces.)

5. Has Bidder ever failed to complete any project? If so, state when, where, and why.

No

6. Bidder normally performs the following work with his own forces:

Excavation - Piping - Mechanical

7. Construction experience of key individuals in the organization is as follows
(continued on attached sheets if needed):

NOBIE DAVIS

JUSTIN BRYAN

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

8. In the event the Contract is awarded to Bidder, the required surety Bonds will be furnished by the following surety company and name and address of agent (NOTE: all insurance and bonding must be through a company whose agents are licensed to do business in the State of Arkansas):

UNITED FIRE & CASUALTY CO.
P.O. Box 73909, CEDAR RAPIDS, IOWA 52407
RAMSEY, KNUCK, FARRELL & LENSING
8315 CANTRELL ROAD SUITE 300 LITTLE ROCK

9. Bidder's Workmen's Compensation Experience Modifier Factor is: _____.

FINANCIAL STATEMENT

Bidder possesses adequate financial resources as indicated by the following:

1. Assets and Liabilities: Attach a financial statement, audited if available, including Bidder's latest balance sheet and income statements showing the following items:
 - a. Current assets (cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory, and prepaid expenses).
 - b. Net fixed assets.
 - c. Other assets.
 - d. Current liabilities (accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).
 - e. Other liabilities (capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).
 - f. Name of firm preparing financial statement and date thereof:

DOCUMENT 00140 – BIDDER'S QUALIFICATION STATEMENT: (CONTINUED)

If financial statement is not for identical organization named herein, explain relationship and financial responsibility of the organization furnished.

2. Current Judgments: The following judgements are outstanding against Bidder:

	<u>Judgment Creditors</u>	<u>Where Docketed and Date</u>	<u>Amount</u>
a.	_____	_____	\$ _____
b.	_____	_____	\$ _____

Bidder hereby represents and warrants that all statements set forth herein are true and correct.

Date: 4-8-08, 20__

(OFFICIAL SEAL)

Name of Organization:

J L Bryson Inc
By Justin Bryan
Title President

(If Bidder is a partnership, the partnership name shall be signed, followed by the signature of at least one of the partners. If Bidder is a corporation, the corporate name shall be signed, followed by the signature of a duly-authorized officer and with the corporate seal affixed.)

END OF DOCUMENT 00140

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

6-May-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Improv Proj
Division

Water/Wastewater
Department

Action Required:

Approval of Change Order # 3 to the construction contract with Oscar Renda, for \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4.

\$ 115,749.41
Cost of this request

\$ 48,836,390.00
Category/Project Contingency

Wastewater System Imp Project
Program Category / Project Name

4520.9520.5801.00
Account Number

\$ 26,318,836.00
Funds Used to Date

Water and Wastewater
Program / Project Category Name

02133.0312
Project Number

\$ 22,517,554.00
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 15 APR 08
Department Director Date

Previous Ordinance or Resolution # 58-06

Original Contract Date: 1-Mar-06

[Signature] 4/21/08
City Attorney Date

Original Contract Number: 1033

Paul a. Bahr 4-21-08
Finance and Internal Service Director Date

Received in City Clerk's Office
4/15/08
ENTERED 90.

[Signature] 4/22/08
Mayor Date

Received in Mayor's Office
4/21/08
ENTERED PA

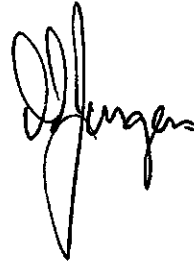
Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody

From: David Jurgens, Water and Wastewater Director
Fayetteville Sewer Committee



Date: April 15, 2008

Subject: Approval of Change Order # 3 to the construction contract with Oscar Renda, for \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4.

RECOMMENDATION

Staff recommends approval of Change Order # 3 to the construction contract with Oscar Renda, for \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4.

BACKGROUND

The project involves constructing approximately 24,751' of 8" - 48" gravity sewer main (mostly 48"), 3,876' of 30" force main, 75 manholes, 2,188 of 48 - 72" encasement, and related work along Clabber Creek, from the Gregg Avenue Lift Station to the new Hamestring Lift Station. The contract was awarded in May, 2006. The pipeline is substantially complete.

DISCUSSION

This change order identifies the final reconciled unit quantities within the contract, and allows for changes based on those locations where the actual ground and underground circumstances found on the project differed from what was anticipated. The largest factor was the amount of rock that was estimated versus that found underground. Full details are itemized in the change order. The time increase of 120 days is due to the additional work items and one unavoidable delay due to a utility conflict. This time increase has no impact on the overall WSIP schedule and the startup of the West Side Wastewater Treatment Plant. This change order has been reviewed by RJN, the Engineer; they concur and recommend approval.

BUDGET IMPACT

\$4,903.74 is available within the approved contract contingency; an additional \$110,845.67 is required to complete this project. Funds are available within the WSIP project contingency. WSIP west pipeline contracts have been completed well under the approved contingency, shown below. WL-4 is the only project to exceed the approved contingency.

Project	Contract Cost	Contingency		
		Approved	Used	Unused
WL-1 & 3	\$ 7,014,948	\$ 280,000	\$ 172,009	\$ 107,991
WL-2	\$ 4,413,664	\$ 220,683	\$ 13,205	\$ 207,478
WL-4	\$ 10,441,319	\$ 418,000	\$ 528,846	\$ (110,846)
WL-5	\$ 4,752,287	\$ 183,000	\$ 169,750	\$ 13,250
Total	\$ 26,622,218	\$ 1,101,683	\$ 883,810	\$ 217,873

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #3 TO THE CONTRACT WITH OSCAR RENDA CONTRACTING, INC. IN THE AMOUNT OF \$115,749.41 FOR CONSTRUCTION OF THE GRAVITY SEWER LINES FROM GREGG AVENUE TO THE HAMESTRING LIFT STATION, WSIP SUBPROJECT WL-4.

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 Change Order #3 to the contract with Oscar Renda Contracting, Inc. in the amount of \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4. A copy of the Change Order, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS



CHANGE ORDER

Sheet 1 of 4
Change
Order No. 3

Contract Number WL-4
Gregg Ave. Lift Station to Hamestring Lift Station
RLF Project Number CS-050808-03

CONTRACTOR: Oscar Renda Contracting, Inc.

Date: February 18, 2008

I. Description of changes involved:

1. Final quantity reconciliation.
2. Remove and haul off box culvert and add rip-rap
3. Re-mobilization remove and dispose of manhole bases

II. Description of Bid Item Changes

Item	Original Quantity	New Quantity	Units	Description	Unit Price	Original Amount	New Amount
2	30857	32282	LF	Construction Staking	\$ 5.00	\$ 154,285.00	\$ 161,410.00
10	25945	26097	LF	48" Sewer Pipe and Embedment	\$ 184.00	\$ 4,773,880.00	\$ 4,801,848.00
15	3905	3421	LF	Trench Excavation & Backfill (0-8 feet)	\$ 15.00	\$ 58,575.00	\$ 51,315.00
18	6729	6946	LF	Trench Excavation & Backfill (16-20 feet)	\$ 45.00	\$ 302,805.00	\$ 312,570.00
22	17069	18258	CY	Rock Excavation	\$ 40.00	\$ 682,760.00	\$ 730,320.00
36	62	133.33	SY	Asphalt Concrete Replacement	\$ 100.00	\$ 6,200.00	\$ 13,333.00
39	148857	114186	SY	Hydromulch Seeding	\$ 0.20	\$ 29,771.40	\$ 22,837.20
51	0	1	EA	Remove and Replace Brick Columns	\$ 1,000.00	\$ 0.00	\$ 1,000.00
59	0	1	LS	Box Removal & Rip Rap (PCM#15)	\$ 8,092.61	\$ 0.00	\$ 8,092.61
60	0	1	LS	Re-mobilization and MH base haul off (PCM#16)	\$ 21,300.00	\$ 0.00	\$ 21,300.00
TOTAL:						\$ 6,008,276.40	\$ 6,124,025.81
TOTAL INCREASE TO CONTRACT THIS CHANGE ORDER:							\$ 115,749.41

Change Order No. 3
City of Fayetteville, Arkansas
Gregg Ave. Lift Station to Hamestring Lift Station Sewer

Sheet 2 of 4
Change
Order No. 3

III. CHANGE ORDER CONDITIONS:

1. Any additional work to be performed under this Change Order shall be carried out in compliance with the Specifications included in the preceding Description of Changes involved, with the Supplemental Contract Drawings designated as n/a , and under the provisions of the Original Contract, including compliance with applicable Equipment Specifications, General Specifications, and Project Specifications for the same type of work.
2. This Change Order unless otherwise provided herein does not relieve the Contractor from strict compliance with the guarantee provisions of the Original Contract, particularly with those pertaining to performance and operation of equipment.
3. Contractor agrees there will be no additional extensions of contract time and no additional increase in Contract Price granted for this Change Order or any previous Change Orders.
4. The Contractor expressly agrees that he will place under coverage of his Performance, Labor and Material, and Maintenance Bonds, and Contractor's Insurance all Work covered by this Change Order. The Contractor will furnish to the Owner evidence of increased coverage of his Performance, Labor and Material, and Maintenance Bonds for the accrued value of all Change Orders which exceeds the Original Contract Price by twenty percent (20%).

Change Order No. 3
City of Fayetteville, Arkansas
Gregg Ave. Lift Station to Hamestring Lift Station Sewer

Sheet 3 of 4
Change
Order No. 3

IV. ADJUSTMENTS IN CONTRACT TIME

1. Substantial Completion Date
of Original Contract October 14, 2007
2. Final Completion Date
of Original Contract December 13, 2007
3. Net change due to all
previous Change Orders 7 days
4. Substantial Completion Date not including
this Change Order No. 3 October 21, 2007
4. Final Completion Date not including
this Change Order No. 3 December 20, 2007
5. Addition to Contract Time due
this Change Order No. 3
 - a. Avoidable Delay Extension 0 Days
 - b. Unavoidable Delay Extension 120 Days
7. Substantial Completion Date including
this Change Order No. 3 February 18, 2008
7. Final Completion Date including
this Change Order No. 3 April 18, 2008

Change Order No. 3
City of Fayetteville, Arkansas
Gregg Ave. Lift Station to Hamestring Lift Station Sewer

Sheet 4 of 4
Change
Order No. 3

V. ADJUSTMENTS IN AMOUNT OF CONTRACT:

1.	Amount of Original Contract	\$10,441,319.20
2.	Net (Addition)(Reduction) due to all previous Change Orders	\$413,096.26
3.	Amount of Contract not including this Change Order	\$10,854,415.46
4.	(Addition) (Reduction) to Contract due to this Change Order	\$115,749.41
5.	Amount of Contract including this Change Order	\$10,970,164.87

RECOMMENDED FOR ACCEPTANCE: RJN Group, Inc.

By: _____

Senior Project Manager

(4/11/08)
Date

ACCEPTED: CONTRACTOR: Oscar Renda Contracting, Inc.

By: _____

Signature of Authorized Representative

(4/8/08)
Date

OWNER: City of Fayetteville, Arkansas

By: _____

Signature of Authorized Representative

()
Date

Distribution: Owner (4)
Contractor
Engineer

Change Order No. 3
City of Fayetteville, Arkansas
Gregg Ave. Lift Station to Hamstring Lift Station Sewer

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

A. 5
Black & Veatch Corporation
Amendment No. 2
Page 1 of 8

6-May-08
City Council Meeting Date

Shannon Jones
Submitted By

Engineering
Division

Water & Wastewater
Department

Action Required:

Approval of Amendment No. 2 to the agreement for professional engineering services with Black and Veatch Corporation in the amount of \$36,000, for construction phase services of Fayetteville Existing 36-inch Water Transmission Line - Rehabilitation Study. The fee of \$36,000 will be deducted from the payment due to Alpha Utilities. There is a net zero budget impact.

\$ 38,000.00
Cost of this request

\$ 532,461.00
Category/Project Budget

36" Waterline Improvements
Program Category / Project Name

5400.5600.5808.00
Account Number

\$ 489,171.10
Funds Used to Date

Water and Wastewater
Program / Project Category Name

03018.20
Project Number

\$ 43,289.90
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒ XX

Budget Adjustment Attached ☐

[Signature]
Department Director 8 APR 08
Date

Previous Ordinance or Resolution # 193-05

[Signature]
City Attorney 4/21/08
Date

Original Contract Date: 4/16/2003

Original Contract Number: 900

Paul A. Bush
Finance and Internal Service Director 4-21-08
Date

Received in City Clerk's Office
4-11-08 ENTERED

[Signature]
Mayor 4/22/08
Date

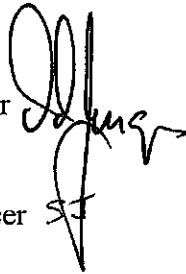
Received in Mayor's Office
4/21/08 ENTERED

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Dan Coody
David Jurgens, Water & Wastewater Director
Fayetteville Sewer Committee



From: Shannon Jones, Water & Wastewater Engineer

Date: April 3, 2008

Subject: Approval of Amendment No. 2 to the agreement for professional engineering services with Black and Veatch Corporation in the amount of \$36,000, for construction phase services of Fayetteville Existing 36-inch Water Transmission Line – Rehabilitation Study.

RECOMMENDATION

Staff recommends approval of Amendment No. 2 to the agreement for professional engineering services with Black and Veatch Corporation in the amount of \$36,000, for construction phase services of Fayetteville Existing 36-inch Water Transmission Line – Rehabilitation Study.

BACKGROUND

This project involves the installation of multiple pressure sustaining/pressure reducing and flow isolation valves on the City's 36" and 42" water transmission mains in northern Fayetteville and Springdale. This work is required in order to comply with Safe Drinking Water Act provisions and Health Department regulations. The original contract with Black and Veatch, covering a corrosion evaluation study and the resulting design work, was awarded in 2003. The construction contract was awarded to Alpha Utilities in November, 2006.

DISCUSSION

This amendment is for additional engineering services related to the construction management of the project with Alpha Utilities to construct the 36" & 42" Existing Transmission Main Modifications. There have been delays related to the Contractor that resulted in a suspension of the work during periods of high water usage during the summer and fall months of 2007. The Engineering fees related to construction management were based on the original contract times. The delays in the work have resulted in the City incurring additional fees from the Engineer for construction management. The additional engineering fees will be deducted from the payment due to Alpha Utilities. Therefore, the overall impact of the amendment results in a net cost to the City of zero dollars.

BUDGET IMPACT

There is a net zero impact on the budget. The additional engineering fees of \$36,000 from Black & Veatch will be deducted from the payment due to Alpha Utilities.

RESOLUTION NO. _____

A RESOLUTION APPROVING AMENDMENT No. 2 TO THE AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH BLACK & VEATCH CORPORATION IN THE AMOUNT OF \$36,000.00 FOR CONSTRUCTION PHASE SERVICES OF FAYETTEVILLE EXISTING 36-INCH WATER TRANSMISSION LINE - REHABILITATION STUDY.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line - Rehabilitation Study. A copy of Amendment No. 2, marked Exhibit "A" is attached hereto, and made a part hereof.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT NO. 2
TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
BETWEEN
CITY OF FAYETTEVILLE, ARKANSAS
AND
BLACK & VEATCH CORPORATION

WHEREAS, On April 16, 2003, the City of Fayetteville, Arkansas (**CITY OF FAYETTEVILLE**) and Black & Veatch Corporation of Kansas City, Missouri (**BLACK & VEATCH**) entered into an Agreement for engineering services in connection with the Fayetteville Existing 36-inch Water Transmission Line – Rehabilitation Study (**the “Project”**). The scope of the services for the Agreement included a Study. On September 20, 2005, Amendment No. 1 was issued to amend the scope of services. The scope of these services included Final Design Phase, Bidding Phase, Construction Phase, Post Construction Phase Services, and

WHEREAS, BLACK & VEATCH has proceeded with these services in accordance with the scope set forth in the Agreement, and

WHEREAS, CITY OF FAYETTEVILLE requests that the scope of BLACK & VEATCH 's services to be amended to provide Additional Services for Construction Phase for the **Project**, and

NOW THEREFORE, in consideration of the mutual covenants and Agreements herein contained, CITY OF FAYETTEVILLE and BLACK & VEATCH, the parties hereto, stipulate and agree that the Agreement for Engineering Services dated April 16, 2003 and as modified by Amendment No. 1, is hereby amended in the following particulars:

SECTION 2 - BASIC SERVICES OF BLACK & VEATCH

2.1 Construction Phase Services

Add the following tasks to Appendix D of the Agreement and as modified by Amendment No. 1.

D.3.8 ADDITIONAL OFFICE SUPPORT SERVICES DURING CONSTRUCTION. Supplemental construction phase services include additional office support services due to the Contractor's delay in meeting the original construction Substantial Completion Date, and an eleven month extension in the construction period. Additional tasks include:

D.3.8.1 **MANAGEMENT.** Additional supervision and coordination of the services provided by BLACK & Veatch, including the scheduling and assignment of personnel, invoicing additional consultation and coordination with CITY OF FAYETTEVILLE and monitoring of the work progress.

D.3.8.2 **OFFICE SUPPORT.** Perform additional reviews of Contractor submittals required by the construction contract documents, including the following:

- Additional updated construction schedules.
- Additional drawings and other shop drawings data submitted by the Contractor
- Additional Contractor monthly payment applications and supporting data.

D.4.8 ADDITIONAL FIELD SUPPORT SERVICES DURING CONSTRUCTION.

D.4.8.1 **MONTHLY PROGRESS MEETINGS.** Participate in three additional monthly progress meetings and distribute meeting minutes. While on-site, consult with the CITY OF FAYETTEVILLE and Contractor regarding problems and/or the progress of the construction.

D.4.8.2 **PERIODIC SITE VISITS.** Additional site visits are anticipated by BLACK & VEATCH's Resident Engineer to observe the work being performed at Highway 412 site. The site visits will be at intervals appropriate to the stages of the construction to observe the general progress and quality of the executed work. It is anticipated that up to twenty (20) additional site visits will be required, with each site visit consisting of up to eight (8) manhours to observe the work.

SECTION 4 - PERIOD OF SERVICE

Modify SECTION 5.3 of Amendment No. 1 to include an additional 340 calendar days to the completion date for Construction Phase Services as established by the Notice to Proceed to Contractor:

5.3 The services described in this Amendment No. 2 and previous Amendment No. 1 are expected to be completed in accordance with the following schedule:

Construction Phase Services

Completed within 460 days
From Notice to Proceed to
Contractor by CITY OF
FAYETTEVILLE

SECTION 6 - PAYMENTS TO BLACK & VEATCH

6.1 Compensation

Delete SECTION 6.1.3 of the Agreement and replace with the following:

6.1.3 Basic Services of Amendment No. 2

For the scope of Additional Services set forth in this Amendment No. 2, including Additional Services for Final Design Phase, Bidding Phase, and Construction Phase, the CITY OF FAYETTEVILLE agrees to pay BLACK & VEATCH and on an ACTUAL COST NOT-TO-EXCEED BASIS with the upper limit as set forth herein. The total payment to BLACK & VEATCH for these Additional Services shall not exceed thirty-six thousand dollars (\$36,000) except as provided for in Section 3 of the Agreement.

- 6.1.3.1 Subject to prior City Council approval, adjustment of the not-to-exceed upper limit may be made should BLACK & VEATCH 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 amend the duration of work from the time period specified in the amended Agreement for completion of work and such modification warrants such adjustment. Changes, modifications, or Amendments in scope, price, or fees to this Amendment No. 2 shall not be allowed without formal contract amendment approved by the Mayor and City Council in advance of the change in scope, cost, fees, or deliver schedule.
- 6.1.3.2 The CITY OF FAYETTEVILLE agrees that BLACK & VEATCH's not-to-exceed upper limit for this Amendment No. 2 is based on the duration indicated in Section 4 of this Amendment No. 2 and if the construction period is extended that BLACK & VEATCH shall be entitled to additional compensation.
- 6.1.3.3 Hourly billing rates plus reimbursable direct expenses shall be used as the basis of determining payment to BLACK & VEATCH for the costs incurred by BLACK & VEATCH while providing the services described in this Amendment No. 2. Costs are, but not limited to, the salaries and benefits paid to employees engaged directly in providing the Services and profit. The hourly billing rates are included as Appendix F of Amendment No. 1.

6.1.4 Delete Sections 6.1.4.2.2. of the Agreement and as modified by Amendment No. 1 and replace with the following:

6.1.4.2.2 Use of motor vehicles on a rental basis for assigned vehicles or on a mileage basis or rental cost basis for vehicles used for short periods. Mileage basis shall not exceed 50.5 cents per mile.

All other provisions of the original Agreement and as modified by Amendment No. 1 remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed this ____ day of _____, 20__.

CITY OF FAYETTEVILLE, ARKANSAS

By: _____
Mayor

ATTEST:

By: _____
City Clerk

BLACK & VEATCH CORPORATION

 _____

By: Michael G. Orth

Title: Associate Vice President

END OF AMENDMENT NO. 2 TO
AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

City Fayetteville, Arkansas
Existing 36-inch and 42-inch Water
Transmission Main Modifications

Additional Engineering Services - Amendment No. 2

3/6/08

	Project Manager	Engineering Manager	Project Secretary	Resident Project Representative	Project Account	Total Hours	Total Labor	Travel Expenses	Total Cost
	John Pruss	Katie Funderburk	Alicia Shoemaker	Brent Hauser	Marti Cambren				
Additional Construction Phase Services									
Office and Field Support Services									
Provide Additional Project Management & Office Services	8	34	10		12	64	\$ 8,749		\$ 8,749
Attend additional progress/coordination meetings	4	12	3			19	\$ 2,987	\$ 600	\$ 3,587
Review additional construction schedules	2	8	3			13	\$ 1,933		\$ 1,933
Process additional contractor monthly applications	4	15	5			24	\$ 3,631		\$ 3,631
Resident Engineering Services									
Provide Additional Resident Engineering Work Observation				160		160	\$ 17,600	\$ 500	\$ 18,100
Subtotal Hours	18	69	21	160	12				
Subtotal Billings	\$ 3,330	\$ 11,799	\$ 1,367	\$ 17,600	\$ 804				
Total						280	\$ 34,900	\$ 1,100	\$ 36,000

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

5/6/2008
City Council Meeting Date

Terry Gulley
Submitted By

Transportation
Division

Operations
Department

Action Required:

Approval of a budget amendment in the amount of \$20,119.00 to increase the Hwy. 71 East Square Redevelopment District #1 project budget to recognize prior year investment earnings.

\$ 20,119
Cost of this request

\$ 48,161.00
Category / Project Budget

Hwy 71 East Square Redevelopment
District #1

Program Category / Project Name

4490.9490.5814.00
Account Number

\$ 24,721.84
Funds Used to Date

Other Capital

Program / Project Category Name

05038.1

Project Number

\$ 23,439.16
Remaining Balance

TIF Capital Improvements

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☒

[Signature] 4-16-08
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

[Signature] 4-18-08
City Attorney Date

Original Contract Number: _____

Paul A. Behn 4-21-08
Finance Director Date

Received in City Clerk's Office
4-17-08 [Signature] **ENTERED**

[Signature] 4/22/08
Mayor Date

Received in Mayor's Office
4/18/08 [Signature] **ENTERED**

Comments:



City Council Agenda Item

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Terry Gulley, Transportation Manager *TG*

Date: May 6, 2008

Subject: Hwy. 71 East Square Redevelopment District #1

Recommendation: Transportation Division staff recommends the approval of a budget amendment in the amount of \$20,119.00 to utilize prior year investment earnings.

Background: A total of 7,275 linear feet of sidewalk was proposed to be repaired, replaced, and constructed by the City's Transportation Division in the Hwy. 71 East Square Redevelopment District. \$180,000.00 has been allocated for this project and was funded by a portion of the sale proceeds from the acquired property by the Redevelopment District to the developers of the Mountain Inn.

Discussion: The project is currently in progress and nearing completion. In order to expend the investment earnings acquired during prior years, a budget amendment will be necessary to allocate this funding to the capital project budget.

Budget Impact: Due to prior year investment earnings, there is \$20,119.00 in additional cash and investments remaining in the TIF Capital Improvements Fund. Staff requests that this funding be allocated to the Hwy. 71 East Square Redevelopment District #1 capital project.

RESOLUTION NO. _____

**A RESOLUTION TO APPROVE A BUDGET ADJUSTMENT
IN THE AMOUNT OF \$20,119.00 TO RECOGNIZE INTEREST
INCOME FROM THE TIF PROJECT FUND AND ALLOCATE IT
TO SIDEWALK IMPROVEMENTS IN THE TIF DISTRICT**

WHEREAS, interest earnings on the TIF Project Fund must be used for the TIF Project;
and

WHEREAS, a budget adjustment in the amount of \$20,119.00 representing that income
should be approved so that the City will remain in conformance with state law and the TIF
Project Plan.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves
the budget adjustment attached as Exhibit A in the amount of \$20,119.00 to be allocated to
sidewalk construction in the TIF District.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 6
TIF District Interest Income
Page 4 of 4

Budget Year 2008	Department: Citywide Division: Citywide Program: TIF Imp Fund Expense	Date Requested 5/6/2008	Adjustment Number
--------------------------------	---	---------------------------------------	-------------------

Project or Item Added/Increased: \$20,119 is requested in the Hwy 71 East Square Redevelopment District #1 capital project.	Project or Item Deleted/Reduced: None. \$20,119 from the TIF Capital Improvements Use of Fund Balance.
---	--

Justification of this Increase: The funding is needed to complete the improvement work planned in the Tax Increment Financing District.	Justification of this Decrease: Due to prior year investment earnings, there is \$20,119 in additional cash and investments remaining the TIF Capital Improvements Fund that is unallocated to the project.
---	--

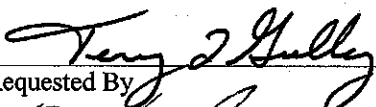
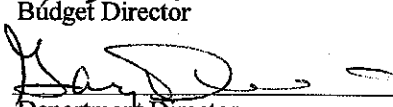
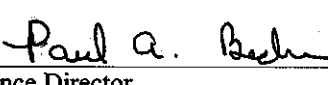
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Sidewalks	4490	9490	5814	00	20,119	05038	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of Fund Balance	4490	0949	4999	99	20,119		

Approval Signatures

	4-15-08
Requested By	Date
	4-17-08
Budget Director	Date
	4-16-08
Department Director	Date
	4-16-08
Finance Director	Date
Mayor	Date

Budget & Research Use Only

Type:	A	B	C	D	E
General Ledger Date					
Approval Date					
	Initial	Date			
Posted to General Ledger					
	Initial	Date			
Posted to Project Accounting					
	Initial	Date			

City of Fayetteville Staff Review Form

A. 7
Anaconda Sports
Page 1 of 12

**City Council Agenda Items
and
Contracts, Leases or Agreements**

5/6/2008

City Council Meeting Date
Agenda Items Only

Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

Award Youth Soccer Uniform RFP # 08-02 to Anaconda Sports at a cost of \$22,043 in the Fall of 2008 and \$3,000 in Spring 2009.

\$25,043

Cost of this request

\$

111,409.00

Category / Project Budget

Tournament Supplies and Awards

Program Category / Project Name

2250.9250.5200.05

Account Number

\$

22,697.73

Funds Used to Date

Parks Development

Program / Project Category Name

N/A

Project Number

\$

88,711.27

Remaining Balance

Parks Development

Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

[Signature] 4/16/2008
Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 4-18-08
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. Becker 4-21-08
Finance and Internal Service Director Date

Received in City Clerk's Office 4-17-08 [Signature]

[Signature] 4/22/08
Mayor Date

Received in Mayor's Office 4/18/08 [Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director *CE*
Date: April 17, 2008
Subject: **Resolution to approve a purchase of youth soccer uniforms from Anaconda Sports in the amount of \$22,043 for the Fall Season and \$3,000 in the Spring 2009 Season.**

RECOMMENDATION

Parks and Recreation Staff recommends City Council award RFP # 08 – 02 to Anaconda Sports for \$22,043 for the Fall Season and \$3,000 for the Spring 2009 Season. The amount for the Spring Season depends on the number of children who enroll in the program. Allowing the amount for the Spring Season enables the children who register to play only in the Spring Season to have the same uniforms design as the children who play in the Fall Season.

BACKGROUND

One of the fastest growing recreation programs in America is Youth Soccer. Fayetteville Parks and Recreation's Soccer Program is no exception. This past spring, 1,578 kids participated in Fayetteville's soccer program, making it the largest youth soccer program in Arkansas.

DISCUSSION

Currently, Fayetteville Parks and Recreation charges a registration fee ranging from \$45 to \$85 per participant, depending on age. Included in this registration fee is the price for uniforms, a secondary insurance fee, equipment, official's fees and other expenses associate with the program. More specifically, Parks and Recreation budgets \$16 per child for soccer uniforms. This includes a shirt, shorts and a pair of soccer socks.

In March, an RFP was released asking companies to submit possible uniforms for our program to use. The selection committee, consisting of Brenda Thiel, Susan Thomas, Kristen Atha, Chase Gipson, David Wright, Brad Johnson, and Gary Husnian. This group included two members from Youth Soccer Advisory Board, which is comprised of parents who help determine the direction of our youth program.

Five companies submitted a proposal for the uniform purchase. American Soccer submitted the lowest bid of \$12.70 per uniform. However, the selection committee chose Anaconda's Snake Eyes Uniform, at the cost of \$12.75 per uniform. The Anaconda uniform is the same as the 2007 – 2008 season. It was very popular among participants and parents and will allow Parks and Recreation to reuse several unused uniforms already in stock. Anaconda met the qualifications as submitted on the RFP and was able to service Parks and Recreation very well during the past year.

City Council Meeting of May 6

Agenda Item Number

BUDGET IMPACT

The 2008 Operational Budget includes \$27,097 for the purchase of Soccer Uniforms. This purchase will include an approximate payment of \$22,043 in 2008, and a payment of approximately \$3,000 in 2009. These expense figures depend on the amount of participants who register to play.

Attachments:

Anaconda RPF
Purchase Order

RESOLUTION NO. _____

**A RESOLUTION TO AWARD A BID TO ANACONDA
SPORTS IN THE AMOUNT OF \$22,043.00 WITH A
CONTINGENCY OF \$3,000.00**

WHEREAS, Anaconda Sports which provided well liked soccer uniforms in 2007 to the City of Fayetteville for its soccer program was selected through RFP 08-02, Soccer Uniforms by a City Selection Committee to provide approximately 1,800 uniforms at the cost of \$12.75 per uniform; and

WHEREAS, most of these uniforms will be needed in the fall at a cost of about \$22,043.00 with additional uniforms needed in the Spring with an estimated cost of \$3,000.00.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the bid by Anaconda Sports to supply soccer uniforms for the City's Soccer Program at a unit cost of \$12.75 per uniform for an estimated 1,800 uniforms in the fall (\$20,719.00) and an additional estimated 235 uniforms in the Spring of 2009 at a cost of \$3,000.00.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville
RFP 08-02, Soccer Uniforms
Proposer Information Form

VENDORS WHO DO NOT WISH TO RESPOND TO A BID ARE NOT REQUIRED TO DO SO.

THIS FORM MUST BE SUBMITTED WITH ALL PROPOSALS. FAILURE TO DO SO COULD RESULT IN YOUR PROPOSAL BEING REJECTED AND NOT CONSIDERED FOR SELECTION

Please Print or Type
Company Name:

ANACONDA SPORTS INC.

Address:

85 KATRINE LANE

LAKE KATRINE, NY 12449

1-800-327-0074

City:

State:

Zip Code:

Phone:

1-800-944-6319 x186

Fax:

845-336-5381

Email:

GCHERRY@ANACONDA-SPORTS.COM

Web Site:

WWW.ANACONDA-SPORTS.COM

Tax ID or SSN:

14-1563227

RFP NUMBER AND RFP OPENING DATE "MUST" BE NOTED ON OUTSIDE OF ENVELOPE.

**BIDS MAY NOT BE FAXED DIRECTLY TO THE CITY OF FAYETTEVILLE
IN RESPONSE TO THIS REQUEST FOR PROPOSAL.**

PROPOSAL MUST BE SIGNED IN INK OR IT WILL NOT BE CONSIDERED.

Name (Type or Print):

Signature:

GREGORY J. CHERRY

Gregory J. Cherry

Title:

Date:

ACCT. EXEC

3/3/08

**This section must be signed by an individual who has proper authority to sign documents on behalf of company submitting a proposal.*

\$12.75

8. Approximately 1,800 uniforms will be ordered for the duration of the soccer year. Uniforms should include **shirt, shorts and socks and have a wide variety of color choices.**
9. The City of Fayetteville reserves the right to deviate from estimated quantities.
10. Proposals should include shipping requirements and lag time between when the City of Fayetteville places the order and receives the order.
11. The City of Fayetteville requires all vendors and contractors doing business with the City not to discriminate against any person on the basis of race, age, color, religion, sex, ancestry, non-job-related handicaps, or national origin. The City requires the contractor to be familiar with and comply in every respect with Civil Rights Laws.
12. This RFP will be selected using the following evaluation criteria:

1. **Qualifications** **20%**

Qualifications in relation to project to be performed. Information reflecting qualifications of the proposer. Indicate specialized experience of the proposer in connection with the type of service required as outlined in the purchase.

2. **Quality, Design and Appearance** **25%**

Quality, design and appearance of the proposed uniform will be taken into consideration. The uniform will consist of shirt, shorts and socks. Uniforms need to be available in all sizes and colors. Sizes should range from Youth Small (YS) to Adult Extra Large (AXL). The variety of colors should range from 12 – 16 per style. Proposers are encouraged to present several possible uniform designs to the committee. Each proposed uniform should be supported with a sample.

3. **Proposed Work Method** **25%**

Proposed method of doing work is another consideration. This includes shipping prices and procedures. A proposed work plan of how Fayetteville Parks and Recreation and your organization will work. This includes organization's contact, ordering, customer service and the turn-around time between the order and the date the shipment is received. It is very important the proposer specify the length between actual order time and a ship date.

4. **Past Performance** **20%**

Previous evaluations shall be considered a significant factor. If previous evaluations with the City are not available, past performance records with others will be used, including quality of work, timely performance, diligence, ability to meet past budgets, and any other pertinent information. Proposer will provide a list of similar orders performed and person whom we can contact for information.

5. **Price** **10%**

\$ 12.75



Anaconda Sports Inc.

85 Katrine Lane
Lake Katrine, New York 12449
845-336-4024 ext. 186 fax 845-336-5381

Invoice No. Quote

INVOICE

Customer

Name CITY OF FAYETTEVILLE PURCHASING AGENT
Address ATTN: ANDREA FOREN 113 W MTN ST RM 306
City FAYETTEVILLE AR 72701
Phone 479-575-8220

Date 3/3/2008
Order No. _____
Rep Greg Cherny
FOB _____

Qty	Description	Unit Price	TOTAL
1800	ANACONDA YOUTH & ADULT SNAKE-EYE SOCCER UNIFORMS. EACH SET TO CONSIST OF: JERSEY, MATCHING COLOR SHORT, AND SOLID COLOR TUBE SOCK. 1 COLOR 8" # ON BACK 14 COLORS AVAILABLE YOUTH XSM-LGE, ADULT SML-XXL DELIVERY 30 DAYS ARO	\$12.75	

Payment Details

- ☐ Cash
☒ Check
☐ Credit Card

Name _____
CC # _____
Expires _____

SubTotal	
Shipping & Handling	
Taxes	
State	
TOTAL	\$22,950.00

Office Use Only

RFP 08-02, Addendum 1

Date: Thursday, February 21, 2008

To: All Prospective Vendors

From: Andrea Foren

RE: RFP 08-02, Soccer Uniforms



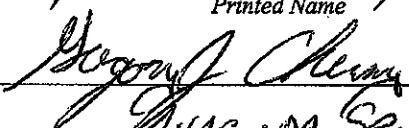
• **RFP 08-02, has the following modifications and clarifications:**

- 1.) All pricing should include numbering on the back of the uniforms before shipment. Numbering will be limited at two numbers per jersey. Numbering must be available in several colors to match uniforms accordingly and be a minimum of 7 inches in height.

Thank you,
Andrea Foren, CPPB
City of Fayetteville, Purchasing Agent
aforen@ci.fayetteville.ar.us
Phone: (479) 575-8220

Please acknowledge receipt of this addendum (RFP 08-02, Addendum 1) by signing below and submitting this document as part of your proposal:

By: GREGORY J. CHERNY
Printed Name

Signature: 

Name of Firm: ANACONDA SPORTS, INC.

Date: 3 / 3 / 08



VENDOR FORM

Please print or type

City of Fayetteville
Purchasing Division
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8256
Fax: (479) 575-8257

www.accessfayetteville.org

VENDOR INFORMATION	
1. Social Security Number - (Owner SSN required for sole proprietorship, DBAs, & individuals)	2. Taxpayer ID Number (Federal TIN used to file federal tax return)
	14-1563227
3. Payee Name (as shown on your tax return): ANACONDA SPORTS, INC	
4. Business Name (if different from above - include DBA's here):	
5. Business Address: 85 KATRINE LN	
6. City: LAKE KATRINE	7. State: NY
8. Zip Code: 12449	
9. Phone: 1-800-914-6319 x116	10. Fax: 245-336-5301
11. Contact Name: GREGORY S. CHERNY	
12. E-Mail Address: GCHERNY@ANACONDA-SPORTS.COM	13. Do you accept Visa as a method of payment? Please circle one: YES NO
VENDOR TAX ACKNOWLEDGEMENT	
14. What does your business provide (Check all that apply): ☒ Services ☒ Supplies	15. Is your business incorporated? ☒ Yes (skip to section 3) ☐ No (go to 16)
16. Is your business filed as an LLC (Limited Liability Corporation)? ☐ Yes (go to 16a) ☐ No (go to 17)	16a. What is your LLC formed as? ☐ Sole Proprietorship (go to 17) ☐ Partnership (go to 17) ☐ Corporation (skip to Section 3)
17. Business Type (LLC's must also fill out this section) - Box 1 in Section 1 must be filled in ☐ Sole Proprietorship: Enter Owners Name ☐ Operated as a "DBA": Enter Name ☐ Partnership: Enter name used on tax return	
VENDOR ADDRESS REMITTANCE INFORMATION	
18. MAILING ADDRESS: Please note if same as above Street: City: STATE State: Zip Code:	19. PAYMENT REMITTANCE ADDRESS: Please note if same as above Street: City: STATE State: Zip Code:
SIGNATURE & PAYEE ACKNOWLEDGEMENT	
Under penalties of perjury, I hereby certify the payee's above TIN is correct, the payee is not subject to backup withholding due to failure to report interest and dividend income, and that the payee is a U.S. person	
SIGN HERE	Signature of U.S. person: [Signature] Printed Name: GREGORY S. CHERNY Title: ACCT. EXEC
27508	
PURCHASING OFFICE ONLY	
VENDOR NUMBER	NAME OF REQUESTER: Vendor Mapping
DATE ENTERED	Please check one: ☐ New Vendor ☐ Vendor Change
DATE MAPPED	Request Date: 2-21-08
Entered by:	Requester Ext: 256
	Requester Dpt: Purch
	P-Card Vendor? circle one: YES NO

ANACONDA SPORTS INC.
85 KATRINE LANE
LAKE KATRINE, NY 12449
1-800-327-0074

FAXED 2/25/09

ANACONDA SPORTS INC.
85 KATRINE LANE
LAKE KATRINE, NY 12449
(845)-336-4024
Phone: 845-336-4024
Fax : 845-336-4848

Type : INVOICE Ref. No.: 1511316
Div. : KING Date : 03/03/08
Branch : ULST Customer: 237039
Page : 1 Ship To : SAME
Tr Type: IN Order # :

TO FAYETTEVILLE CITY OF	SHIP FAYETTEVILLE CITY OF
ACCOUNTS PAYABLE	TO ACCOUNTS PAYABLE
113 WEST MOUNTAIN	113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701	FAYETTEVILLE, AR 72701

Via : UPS-REG GROUND SRVC	P.O. No.: BID/GC	Sls ID : GENL
Terms: NET 30 DAYS	Job No. :	Taxable: N
FOB :	Taken By:	Tax ID : NONE
	Freight : PREPAID	Req'd :

LINE	SHIPPED UM	BACKORD	ITEM and DESCRIPTION	PRICE	PC	EXTENSION
10)	1	EA	SPECIAL	0.00	EA	0.00
			BID:RFP#08-02 SOCCER UNIFORMS			
20)	1	EA	SNKEYE-YS-LBNY-MED	0.00	EA	0.00
			YTH SNAKE EYE SOCCER SHORTS			
			LIGHT BLUE/NAVY-MED			
30)	1	EA	SNKEYE-YJ-LBNY-MED	0.00	EA	0.00
			YTH SNAKE EYE SOCCER JERSEY			
			LIGHT BLUE/NAVY-MED			
40)	1	PR	RTS00AS-NAVY-SML	0.00	PR	0.00
			SOLID TUBE SOCKS (5-8)			
			NAVY-SML			

INTEREST AT 1 1/2% PER MONTH
OR 18% PER YEAR ON PAST DUE
INVOICES. CLAIMS ON SHORTAGES
MUST BE MADE WITHIN 10 DAYS.
REQUESTS FOR RETURNS MUST BE
WITHIN 30 DAYS. ALL RETURNS
REQUIRE A RETURN AUTH NUMBER
CALL 1-800-327-0074. RETURNS
ARE SUBJECT TO 25% RESTOCKING
FEE. FEDERAL ID # 14-1563227

SUB TOTAL	0.00

TOTAL	0.00

USE AS PACKING SLIP

ANACONDA SPORTS INC. 85 KATRINE LANE LAKE KATRINE, NY 12449 (845)-336-4024 Phone: 845-336-4024 Fax : 845-336-4848	Type : INVOICE Div. : KING Branch : ULST Page : 1 Tr Type: IN	Ref. No.: 1511316 Date : 03/03/08 Customer: 237039 Ship To : SAME Order # :
--	---	---

TO FAYETTEVILLE CITY OF ACCOUNTS PAYABLE 113 WEST MOUNTAIN FAYETTEVILLE, AR 72701	SHIP FAYETTEVILLE CITY OF TO ACCOUNTS PAYABLE 113 WEST MOUNTAIN FAYETTEVILLE, AR 72701
--	---

Via : UPS-REG GROUND SRVC	P.O. No.: BID/GC	Sl's ID : GENL
Terms: NET 30 DAYS	Job No. :	Taxable: N
FOB :	Taken By:	Tax ID : NONE
	Freight : PREPAID	Req'd :

LINE	SHIPPED UM	BACKORD	ITEM and DESCRIPTION	PRICE PC	EXTENSION
10)	1	EA	SPECIAL BID:RFP#08-02 SOCCER UNIFORMS	0.00 EA	0.00
20)	1	EA	SNKEYE-YS-LBNY-MED YTH SNAKE EYE SOCCER SHORTS LIGHT BLUE/NAVY-MED	0.00 EA	0.00
30)	1	EA	SNKEYE-YJ-LBNY-MED YTH SNAKE EYE SOCCER JERSEY LIGHT BLUE/NAVY-MED	0.00 EA	0.00
40)	1	PR	RTS00AS-NAVY-SML SOLID TUBE SOCKS (5-8) NAVY-SML	0.00 PR	0.00

INTEREST AT 1 1/2% PER MONTH
OR 18% PER YEAR ON PAST DUE
INVOICES. CLAIMS ON SHORTAGES
MUST BE MADE WITHIN 10 DAYS.
REQUESTS FOR RETURNS MUST BE
WITHIN 30 DAYS. ALL RETURNS
REQUIRE A RETURN AUTH NUMBER
CALL 1-800-327-0074. RETURNS
ARE SUBJECT TO 25% RESTOCKING
FEE. FEDERAL ID # 14-1563227

SUB TOTAL	0.00
TOTAL	0.00

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

5/6/2008
City Council Meeting Date

Ray M. Boudreaux
Submitted By

Aviation & Economic Development
Division

General Government
Department

Action Required:

Action Required: Signature of Mayor, Application for Federal Assistance DOT/FAA. Resolution to approve AR Dept. Aeronautics match grant application and approve acceptance of grant funding, including future amendments, from both agencies.

REVENUE

\$ 128,337.00

Cost of this request
555.0955.6803.00

5555.0955.6820.36

Account Number

07039

Project Number

\$ 183,700.00

\$ 157,900.00

Funds Used to Date

\$ 25,800.00

Remaining Balance

Correct RW16 RSA

Program Category / Project Name

Airport Revenue

Program / Project Category Name

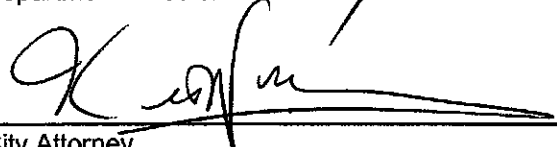
Airport

Fund Name

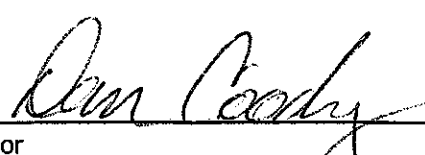
Budgeted Item ☐

Budget Adjustment Attached ☐

 4/16/08
Department Director Date

 4/18/08
City Attorney Date

 4-21-08
Finance and Internal Service Director Date

 4/22/08
Mayor Date

Previous Ordinance or Resolution # 204-07

Original Contract Date: 12/04/07

Original Contract Number: 917

Received in City Clerk's Office

4-17-08 

Received in Mayor's Office



Comments: Budget adjustment to be submitted upon notice of approval by funding agencies.

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and City Council

THRU: Staff/Contract Review Committee

FROM: Ray M. Boudreaux, Director, Aviation and Economic Development

DATE: November 16, 2007

SUBJECT: Approval of City Council for Aviation and Economic Development Department application and acceptance of FAA AIP Grant funding and Arkansas Department of Aeronautics Matching Grant funding to pay for Task Order #3, Runway 16 Safety Area Improvements, with McClelland Consulting Engineers for the Preliminary Alignment Study for highway 71 and Ernie Lancaster Rd. and the Environmental Assessment for the project.

RECOMMENDATION: Approve application and acceptance of FAA/AIP and Arkansas Aeronautics Grants to fund Task Order #3 in the amount of \$121,920.00 in Federal Funding and \$6,417.00 in State Funding. The remainder if the funding will be available in the next Federal Funding Year later this year. Total project amount is \$158,700.00 and is the first phase of many to complete the Runway 16 RSA Improvement Project

BACKGROUND: The City Council approved the project at their December meeting but the funding line had not been approved by the Federal Government so we waited to apply for the grants until directed to do so by our Southwest Region FAA Project Manager, Don Harris. This application is IAW his directions.

DISCUSSION: This project will encompass three years of FAA funding and support with additional support from the State Aeronautics Commission. The first project was to perform an Obstruction Survey and is very nearly complete. This phase designs the alignment of the roadways and accomplishes the Environmental Assessment. We will initiate the next phase this summer which will include final designs, bidding and initial earthwork. Final paving, fencing and RSA finish work will be don in the final phase to be complete in 2010.

BUDGET IMPACT: Primary funding is through the FAA. Support funding is from the State. Additional interim funding of approximately \$30,363.00 will be from the Airport Fund and will be replaced by FAA and State funding when the funds are released by the Congress.

Attachments: Staff Review Form
Grant Application

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 TO APPROVE AN APPLICATION FOR FEDERAL ASSISTANCE AND AN ARKANSAS DEPARTMENT OF AERONAUTICS MATCHING GRANT TO HELP FUND TASK ORDER #3 IN THE AMOUNT OF \$128,337.00 OF THE TOTAL TASK ORDER COST OF \$158,700.00 AND TO ACCEPT THE GRANTS WHEN AWARDED

WHEREAS, the FAA and the Arkansas Department of Aeronautics are providing the major funding for the Runway 16 RSA Improvement Project; and

WHEREAS, the City needs to complete its applications to the FAA and Arkansas Department of Aeronautics to receive funding for the early stages of the Highway 71 relocation 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 approves the Application For Federal Assistance (attached at Exhibit A) and authorizes Mayor Coody to sign said application and further authorizes his execution of an application to the Arkansas Department of Aeronautics for its matching grants for this project.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby authorizes the acceptance of the grants when awarded.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

April 16, 2008

Mr. Ray Boudreaux
Airport Director
Airport Department
4500 S. School, Suite F
Fayetteville, AR 72701

Re: Runway 16 Safety Area
Fayetteville Municipal

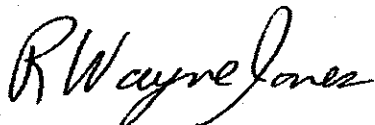
Dear Mr. Boudreaux:

Enclosed please find a copy of the Application to the Federal Aviation Administration for Phase I of the improvements to the runway 16 Safety Area to include the Alignment Study and Environmental Assessment at Fayetteville Municipal Airport, Drake Field.

If there are any questions regarding the application, please contact us.

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.



R. Wayne Jones, P.E.
Vice President

Enclosures: FAA Application

PART II

PROJECT APPROVAL INFORMATION
SECTION AItem 1.

Does this assistance request require State, local, regional, or other priority rating?

☐ Yes ☒ NoName of Governing Body _____
Primary Rating _____Item 2.

Does this assistance request require State, or local advisory, educational or health clearances?

☐ Yes ☒ No

Name of Agency or Board _____

(Attach Documentation)

Item 3.

Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?

☒ Yes ☐ No

(Attach Comments)

Item 4.

Does this assistance request require State, local, regional or other planning approval?

☐ Yes ☒ No

Name of Approving Agency _____

Date _____

Item 5.

Is the proposal project covered by an approved comprehensive plan?

☐ Yes ☒ NoCheck one: State ☐
Local ☐
Regional ☐

Location of Plan _____

Item 6.

Will the assistance requested serve a Federal installation?

☐ Yes ☒ No

Name of Federal Installation _____

Federal Population benefiting from Project _____

Item 7.

Will the assistance requested be on Federal land or installation?

☐ Yes ☒ No

Name of Federal Installation _____

Location of Federal Land _____

Percent of Project _____

Item 8.

Will the assistance requested have an impact or effect on the environment?

☐ Yes ☒ No

See instruction for additional information to be provided

Item 9.

Will the assistance requested cause the displacement of individuals families, businesses, or farms?

☐ Yes ☒ NoNumber of:
Individuals. _____
Families. _____
Businesses. _____
Farms. _____Item 10.

Is there other related Federal assistance on this project previous, pending, or anticipated?

☐ Yes ☒ No

See instructions for additional information to be provided.

PART II - SECTION C

The Sponsor hereby represents and certifies as follows:

1. Compatible Land Use. - The Sponsor has taken the following actions to assure compatible usage of land adjacent to or in the vicinity of the airport:

The Sponsor has adopted Drake Field Ordinance 2607, which regulates and restricts all land use activities in the vicinity of Fayetteville Municipal Airport, Drake Field. This ordinance was adopted January 20, 1980 and as amended.

2. Defaults. - The Sponsor is not in default on any obligation to the United States or any agency of the United States Government relative to the development, operation, or maintenance of any airport, except as stated herewith:

3. Possible Disabilities. - There are no facts or circumstances (including the existence of effective or proposed leases, use agreements or other legal instruments affecting use of the Airport or the existence of pending litigation or other legal proceedings) which in reasonable probability might make it impossible for the Sponsor to carry out and complete the Project or carry out the provisions of Part V of this Application, either by limiting its legal or financial ability or otherwise, except as follows:

4. Land. - (a) The Sponsor holds the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport, subject to the following exceptions, encumbrances, and adverse interests, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

The Sponsor holds fee simple title to Tract A and easements shown in Tract B of the attached property map, Exhibit "A". Title for Tracts A and B were approved under previous projects. Status has not changed since approval.

Land and easements acquired under AIP 3-0020-05-11 & 15 include easements, Tracts C, D, F, J, G, and K; Fee Simple Tract D, E, and H.

State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART II - SECTION C (Continued)

The Sponsor further certifies that the above is based on a title examination by a qualified attorney or title company and that such attorney or title company has determined that the Sponsor holds the above interests.

(b) The Sponsor will acquire within a reasonable time, but in any event prior to the start of any construction work under the Project, the following property interest in the following areas of land* on which such construction work is to be performed, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None.

(C) The Sponsor will acquire within a reasonable time, and if feasible prior to the completion of all construction work under the Project, the following property interest in the following areas of land* which are to be developed or used as part of or in connection with the Airport as it will be upon completion of the Project, all of which areas are identified on the aforementioned property map designated as Exhibit "A":

None.

5. Exclusive Rights. - There is no grant of an exclusive right for the conduct of any aeronautical activity at any airport owned or controlled by the Sponsor except as follows:

None.

State character of property interest in each area and list and identify for each all exceptions, encumbrances, and adverse interests of every kind and nature, including liens, easements, leases, etc. The separate areas of land need only be identified here by the area numbers shown on the property map.

PART III - BUDGET INFORMATION - CONSTRUCTION**SECTION A - GENERAL**

1. Federal Domestic Assistance Catalog No..... 20.106
2. Functional or Other Breakout.....

SECTION B - CALCULATION OF FEDERAL GRANT

Cost Classification	Use only for revisions		Total Amount Required
	Latest Approved Amount	Adjustment + or (-)	
1. Administration expense	\$	\$	\$ 800.00
2. Preliminary expense			
3. Land, structures, right-of-way			
4. Architectural engineering basic fees			135,100.00
5. Other Architectural engineering fees Surveys			22,800.00
6. Project inspection fees			
7. Land development			
8. Relocation Expenses			
9. Relocation payments to Individuals and Businesses			
10. Demolition and removal			
11. Construction and project improvement			
12. Equipment			
13. Miscellaneous			
14. Total (Lines 1 through 13)			158,700.00
15. Estimated Income (if applicable)			
16. Net Project Amount (Line 14 minus 15)			
17. Less: Ineligible Exclusions			
18. Add: Contingencies			
19. Total Project Amt. (Excluding Rehabilitation Grants)			158,700.00
20. Federal Share requested of Line 19			
21. Add Rehabilitation Grants Requested (100 Percent)			
22. Total Federal grant requested (lines 20 & 21)			121,920.00
23. Grantee share			30,363.00
24. Other shares (Ark Dept of Aeronautics)			6,417.00
25. Total Project (Lines 22, 23 & 24)	\$	\$	\$ 158,700.00

SECTION C - EXCLUSIONS

Classification	Ineligible for Participation (1)	Excluded From Contingency Provision (2)
a.	\$	\$
b.		
c.		
d.		
e.		
f.		
g. Totals	\$	\$

SECTION D - PROPOSED METHOD OF FINANCING NON-FEDERAL SHARE

27. Grantee Share	\$ 30,363.00
a. Securities	
b. Mortgages	
c. Appropriations (By Applicant)	\$
d. Bonds	
e. Tax Levies	
f. Non Cash	
g. Other (Explain)	
h. TOTAL - Grantee share	30,363.00
28. Other Shares	
a. State (Ark Dept of Aeronautics)	6,417.00
b. Other	
c. Total Other Shares	
29. TOTAL	\$6,417.00

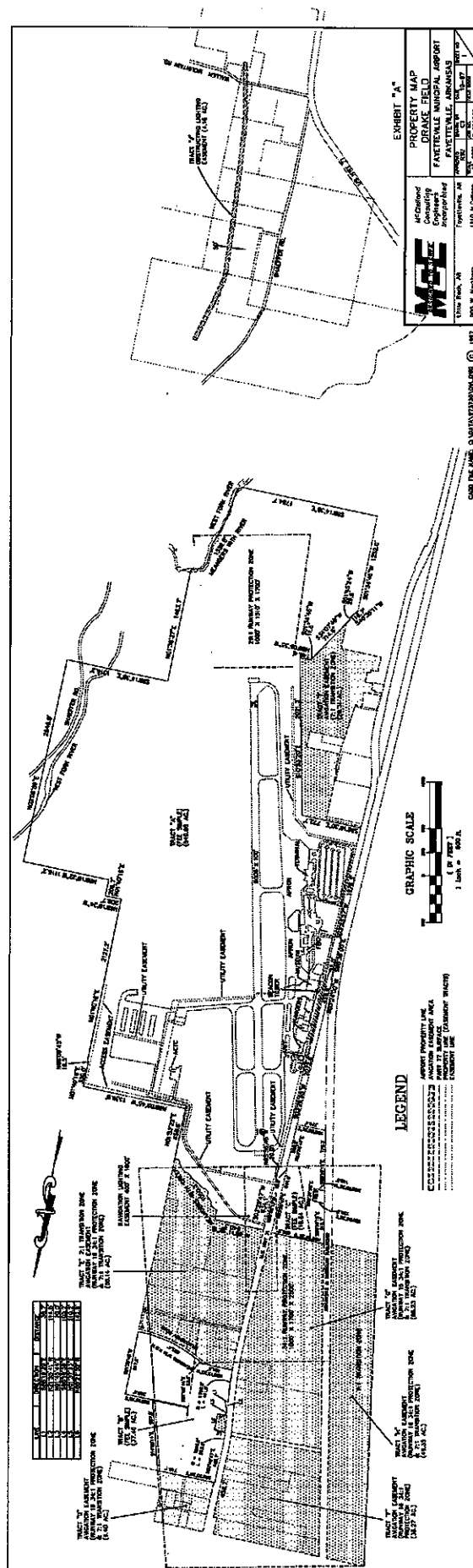
SECTION E - REMARKS**Standard DOT Part V Assurances:****Title IV Assurances, Dated: July 2005****Exhibit A, Dated: June 1991****PART IV PROGRAM NARRATIVE (Attach - See Instructions)**

Version 7/03

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED April 2008		Applicant Identifier FY072164	
Preapplication ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE		State Application Identifier	
		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier 3-05-0020-036-2008	

5. APPLICANT INFORMATION					
Legal Name: City of Fayetteville			Organizational Unit: Department: Airport Department		
Organizational DUNS: 134398903			Division:		
Address: Street: 4500 S. School, Suite F			Name and telephone number of person to be contacted on matters involving this application (give area code) Prefix: Mr. First Name: Ray		
City: Fayetteville			Middle Name:		
County: Washington			Last Name: Boudreaux		
State: Arkansas		Zip Code: 72701		Suffix: Director of Aviation	
Country: United States			Email: rboudreaux@ci.fayetteville.ar.us		
6. EMPLOYER IDENTIFICATION NUMBER EIN:					
7 1 - 6 0 1 8 4 6 2					
8. TYPE OF APPLICATION: ☒ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): (See back of form for description of letters)					
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER 2 0 - 1 0 6					
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): Washington County, Arkansas					
13. PROPOSED PROJECT					
Start Date Jan 2008		Ending Date February 2009			
15. ESTIMATED FUNDING					
a. Federal	\$	121,920	.00		
b. Applicant	\$		.00		
c. State	\$		.00		
d. Local	\$	30,633	.00		
e. Other	\$	6,417	.00		
f. Program income	\$		.00		
g. TOTAL	\$	158,700	.00		
16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS a. Yes. ☐ THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE: b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW					
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes" attach an explanation ☒ No					
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.					
a. Authorized Representative					
Prefix Mr.		First Name Dan			
Last Name Coody				Suffix	
b. Title Mayor				c. Telephone number (give area code) 479-575-8330	
d. Signature of Authorized Representative				e. Date Signed	



PART IV

PROGRAM NARRATIVE STATEMENT PHASE I, RUNWAY 16 SAFETY AREA

FAYETTEVILLE MUNICIPAL AIRPORT FAYETTEVILLE, ARKANSAS

The proposed project is located at Fayetteville Municipal Airport, Drake Field, Fayetteville, Arkansas. The objective of the project is to provide a clear extended Runway Safety Area for Runway 16, in accordance with the recently completed Master Plan Update (2008).

1. This first Phase of the project includes the alignment study for the relocation of US HWY 71 and Lancaster Drive from within the Runway 16 Safety Area, including survey work for design and Right-of Way determination.
2. The first Phase also includes the Environmental Assessment for the relocation of the roadways and stream adjustments required to provide a clear extended Runway Safety Area for Runway 16.

ASSURANCES Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of the grant offer by the sponsor, these assurances are incorporated in and become part of the grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in the grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of the grant agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification. The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹

- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49 ,U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Antikickback Act - 18 U.S.C. 874.¹
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

Executive Order 11246 - Equal Employment Opportunity¹
 Executive Order 11990 - Protection of Wetlands
 Executive Order 11998 – Flood Plain Management
 Executive Order 12372 - Intergovernmental Review of Federal Programs.
 Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New
 Building Construction¹
 Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1,2}

- m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance.¹
- o. 49 CFR Part 29 – Government wide debarment and suspension (non-procurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in the grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for the grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for the grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Sponsor Fund Availability.** It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under the grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in the grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in the grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of the grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in the grant agreement and shall insure that such arrangement also requires compliance therewith.

- 6. Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.
13. **Accounting System, Audit, and Record Keeping Requirements.**
 - a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of the grant, the total cost of the project in connection with which the grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
 - b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to the grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which the grant was given or used, it shall file a certified copy of such audit with

14. **Minimum Wage Rates.** It shall include, in all contracts in excess of \$2,000 for work on any projects funded under the grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.
15. **Veteran's Preference.** It shall include in all contracts for work on any project funded under the grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Veterans of the Vietnam era and disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.
16. **Conformity to Plans and Specifications.** It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into the grant agreement.
17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-
 - (1) Operating the airport's aeronautical facilities whenever required;
 - (2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - (3) Promptly notifying airmen of any condition affecting aeronautical use of the airport.Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

21. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical

activities, including commercial aeronautical activities offering services to the public at the airport.

- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - (1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - (2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or nontenants and signatory carriers and nonsignatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this

paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. **Fee and Rental Structure.** It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. **Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. Provided, however, that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. **Reports and Inspections.** It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of the grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - (i) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - (ii) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that-

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways,

taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities.

30. Civil Rights. It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of the Secretary, 1) be paid to the Secretary for deposit in the Trust Fund, or 2) be reinvested in an approved noise compatibility project as prescribed by the Secretary.
- b. (1) For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (a) upon application to the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (b) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.
(2) Land shall be considered to be needed for airport purposes under this assurance if (a) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (b) the revenue from interim

uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- c. Disposition of such land under (a) or (b) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
-
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.
 33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
 34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 7/1/99 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
 35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
 36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport, however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
 37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

STANDARD DOT TITLE VI ASSURANCES

City of Fayetteville (hereinafter referred to as the Sponsor) hereby agrees that as a condition to receiving Federal financial assistance from the Department of Transportation (DOT), it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and all requirements imposed by 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Regulations") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this agreement. Without limiting the above general assurance, the Sponsor agrees concerning this grant that:

1. Each "program" and "facility" (as defined in Section 21.23(a) and 21.23(b)) will be conducted or operated in compliance with all requirements of the Regulations.
2. It will insert the clauses of Attachment 1 of this assurance in every contract subject to the Act and the Regulations.
3. Where Federal financial assistance is received to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
4. Where Federal financial assistance is in the form or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over, or under such property.
5. It will include the appropriate clauses set forth in Attachment 2 of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Sponsor with other parties:
 - (a) for the subsequent transfer of real property acquired or improved with Federal financial assistance under this project; and
 - (b) for the construction or use of or access to space on, over, or under real property acquired or improved with Federal financial assistance under this Project.
6. This assurance obligates the Sponsor for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Sponsor or any transferee for the longer of the following periods:
 - (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - (b) the period during which the Sponsor retains ownership or possession of the property.
7. It will provide for such methods of administration for the program as are found by the Secretary of transportation of the official to whom he delegates specific authority to give reasonable guarantees that it, other sponsors, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the act, the Regulations, and this assurance.

STANDARD DOT TITLE VI ASSURANCES (Continued)

8. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining Federal financial assistance for this Project and is binding on its contractors, the Sponsor, subcontractors, transferees, successors in interest and other participants in the Project. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Sponsor.

DATED April , 2008

CITY OF FAYETTEVILLE
(Sponsor)

Dan Coody

Mayor
(Title)

RESOLUTION NO. 204-07

A RESOLUTION APPROVING TASK ORDER #3 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$183,700.00 FOR PLANNING TASKS ASSOCIATED WITH THE RUNWAY 16 SAFETY AREA IMPROVEMENTS AT DRAKE FIELD; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$183,700.00.

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 #3 with McClelland Consulting Engineers, Inc. in the amount of \$183,700.00 for planning tasks associated with the Runway 16 Safety Area Improvements at Drake Field.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$183,700.00.

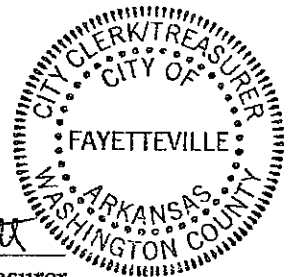
PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor

ATTEST:

By: *Sondra E. Smith*
SONDRA E. SMITH, City Clerk/Treasurer



City Council Agenda Items
and
Contracts, Leases or Agreements

5/6/2008

City Council Meeting Date
Agenda Items OnlyMatt Mihalevich
Submitted ByEngineering
DivisionOperations
Department

Action Required:

Staff requests a resolution approving the agreement of understanding between the City of Fayetteville and the Arkansas State Highway and Transportation Department for the acceptance the Arkansas Recreational Trails Grant to utilize \$33,600 in federal-aid funds and approval of budget adjustment for \$35,720 in park green space fee revenue for the replacement of the Mud Creek Trail bridge near Front Street.

\$ -	\$ 1,316,174.00	Trail Development
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5814.05	\$ 808,433.97	Transportation Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02016 / 0801	\$ 507,740.03	Sales Tax Capital Improvements
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

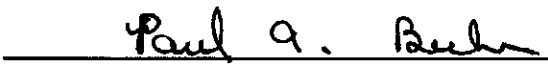
 4-18-08
Department Director Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

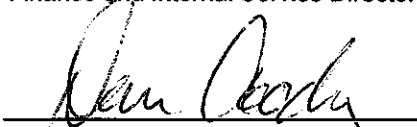
 4/22/08
City Attorney Date

Original Contract Number: _____

 4-22-08
Finance and Internal Service Director Date

Received in City
Clerk's Office

ENTERED
4/18/08
EJP

 4/22/08
Mayor Date

Received in
Mayor's Office

ENTERED
4/22/08
T.B.

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RSP*

From: Matt Mihalevich, Trails Coordinator

Date: April 18th, 2008

Subject: Mud Creek Trail Bridge AHTD state grant acceptance and budget adjustment

RECOMMENDATION

Staff requests a resolution approving the agreement of understanding between the City of Fayetteville and the Arkansas State Highway and Transportation Department for the acceptance the Arkansas Recreational Trails Grant to utilize \$33,600 in federal-aid funds and approval of budget adjustment for \$35,720 in park green space fee revenue for the replacement of the Mud Creek Trail bridge near Front Street.

BACKGROUND

Mud Creek Trail, from Front Street east to Kitty Creek, includes a dilapidated section of trail with a narrow bridge that is in need of replacement. This section of trail was installed more than 10 years ago by a private developer. The asphalt for the trail was installed without base material and is only 6 feet wide. The current trail bridge over the Mud Creek tributary is only 4' wide and has a large arch in the middle that does not comply with the Americans with Disabilities Act (ADA). The City applied for \$100,000 grant for the reconstruction this section of trail and replacement of the bridge and were awarded \$33,600 in March of 2008. Since the grant award is not sufficient to complete the project, the Parks Board approved budgeting an addition \$35,720 from park green space funds in the northeast quadrant for the new bridge during their April 7th, 2008 meeting. The remaining funds to complete the project will come from trail development capital improvement program. The Mud Creek Trail project will bring the entire Mud Creek Trail into compliance with the Americans with Disabilities Act.

DISCUSSION

In February of 2008, 6 trail bridges were competitively bid for Scull Creek Trail as Bid 08-15 for the manufacture of the trail bridge and Bid 08-16 for the of the bridge installation and abutment construction. The low bidder for Bid 08-15 was Thompson Culvert and the low bidder for Bid 08-16 was Kinco construction. The new Mud Creek Trail Bridge is identical to the Frisco Bridge for Scull Creek Trail. In order to simplify the process, staff proposes utilizing Bid 08-15 and Bid 08-16 for the Mud Creek Trail Bridge through a new purchase order and change order #1. These items are separate agenda items.

BUDGET IMPACT

Based on Bid 08-15 and 08-16, the total cost for the bridge will be \$90,969.60. \$33,600 will be federal aid funds through the Recreational Trails Grant. And additional \$35,720 has been approved by Parks Board allocated from the northeast park quadrant green space revenue. The remaining \$21,649.60 will be allocated from Trails Development Capital Improvement Program. The encumbrances for these expenses are listed in two separate agenda items.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AGREEMENT OF UNDERSTANDING WITH THE ARKANSAS HIGHWAY AND TRANSPORTATION DEPARTMENT FOR THE ACCEPTANCE OF AN ARKANSAS RECREATIONAL TRAILS GRANT TO UTILIZE \$33,600.00 IN FEDERAL-AID FUNDS TO REPLACE THE MUD CREEK TRAIL BRIDGE NEAR FRONT STREET; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$69,320.00.

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 Agreement of Understanding with the Arkansas Highway and Transportation Department for the acceptance of an Arkansas Recreational Trails Grant to utilize \$33,600.00 in federal-aid funds to replace the Mud Creek Trail bridge near Front Street.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$69,320.00 to recognize the grant revenue, and transfer \$35,720.00 of Park Greenspace Fee revenues to Trail Development.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



Recreational Trails Program Mud Creek Trail Reconstruction Project Site Plan



ARKANSAS STATE HIGHWAY COMMISSION



MARY P. "PRISSY" HICKERSON
CHAIRMAN
TEXARKANA

JONATHAN BARNETT
VICE CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
LITTLE ROCK

R. MADISON MURPHY
EL DORADO

JOHN ED REGENOLD
ARMOREL

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM
March 5, 2008

Mr. Matt Mihalevich
Trails Coordinator
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Mr. Mihalevich:

Reference is made to your application for trail development funding through the Arkansas Recreational Trails Program. Your project, Mud Creek Trail Improvements, has been approved to receive up to \$33,600.00 in Federal funding.

The Arkansas State Highway and Transportation Department (AHTD) will host a project administration workshop on April 1, 2008 starting at 1:00 PM. The steps necessary to develop and implement your project will be outlined in detail during the workshop. It is extremely important that someone familiar with your project attend this session. The workshop will be held in the auditorium of the AHTD headquarters building. We are located in southwest Little Rock at Exit 130 along Interstate 30.

We look forward to working with you to develop this project. If you have any questions regarding the Arkansas Recreational Trails Program or the workshop, please call Bill Bastress at (501) 569-2209.

Sincerely,

A handwritten signature in cursive script, reading "Dan Flowers", is written over a horizontal line.

Dan Flowers
Director of Highways
and Transportation

c: Commissioner Jonathan Barnett
Deputy Director and Chief Engineer
Assistant Chief Engineer – Planning
Planning and Research
District 4 Engineer

AGREEMENT OF UNDERSTANDING

BETWEEN

CITY OF FAYETTEVILLE

AND

THE ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

In Cooperation with the
U. S. Department of Transportation
Federal Highway Administration

RELATIVE TO

Implementation of Job 040507, Mud Creek Trail Improvements (hereinafter called "the project") as a recreational trail development or improvement project.

WHEREAS, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provides 80% Federal-aid funds for certain recreational trail projects, and

WHEREAS, the City of Fayetteville (hereinafter called "Sponsor") has expressed its desire to use Federal-aid funds for an eligible project, and

WHEREAS, funding participation for each phase of the project will be as follows:

	<u>Federal %</u>	<u>Sponsor %</u>
Project Design:	-0-	100%
Project Inspection	-0-	100%
Project Implementation:	80%	20% , and

WHEREAS, the Sponsor knows of no legal impediments to the completion of the project, and

WHEREAS, it is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary hereunder or to authorize anyone not a party to this agreement to maintain a suit or action for injuries or damage of any nature pursuant to the terms or provisions of this agreement, and

IT IS HEREBY AGREED that the Sponsor and the Department, in cooperation with the Federal Highway Administration, will participate in a cooperative program for implementation of the project and will accept the responsibilities and assigned duties as described hereinafter.

THE SPONSOR WILL:

1. Hold harmless the Department from all suits, actions, or claims of any character brought because of any damage sustained on account of the operations or actions of the said Sponsor; or because of any act of commission, omission, neglect of said Sponsor, or from any claims or amounts arising out of any act of commission, omission, neglect, or misconduct of said Sponsor or that is recovered under any law, ordinance, order or decree. The Sponsor and the Department shall at all times use their best efforts to protect the immunity from civil suits afforded the State of Arkansas and its several Agencies, Commissions and Departments as mandated by Article 5, § 20 of the Constitution of Arkansas, Ark. Code Ann. § 19-10-305, and the 11th Amendment of the Constitution of the United States.
2. The sponsor will comply with provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964, FHWA Recreational Trail Program Guidance, and any other Federal, State, and/or local laws, rules and/or regulations.

The Arkansas State Highway and Transportation (Department) complies with the Americans with Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964 and other federal equal opportunity laws and therefore does not discriminate on the basis of race, sex, color, age, national origin, religion or disability, in admission or access to and treatment in Department programs and activities, as well as the Department's hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the Department's nondiscrimination policies may be directed to James B. Moore, Jr., Section Head - EEO/DBE (ADA/504/Title VI Coordinator), P. O. Box 2261, Little Rock, AR 72203, (501) 569-2298, (Voice/TTY 711), or the following email address: james.moore@arkansashighways.com.

This notice is available from the ADA/504/Title VI Coordinator in large print, on audiotape and in Braille.

3. Be responsible for its portion of the total project cost, which will include project design, construction inspection services, appraisal and acquisition of right-of-way, relocation services (when required), and adjustment of all man-made improvements, including utilities.
4. Grant the right of access to Sponsor's records pertinent to this project and the right to audit by the Department and Federal Highway Administration officials. And be responsible for the inspection and certification of all work in accordance with the plans and specifications for Job 110485 and to retain all records relating to such inspections, certifications, any billing statements, and any other files necessary to document the performance and completion of the work. Such records shall be retained in accordance with the requirements of 49 CFR, Subtitle A, PART 18, Subpart C, Section 18.42 - Retention and access requirements for records.
5. Provide a copy of the registered deed or an appropriate certification, showing the Sponsor's clear and unencumbered title to any right-of-way to be used for the project.
6. Be responsible for 100% of all project costs incurred should the project not be completed as specified.
7. Be responsible for 100% of any and all expenditures which are declared non-participating in federal funds, including awards by the State Claims Commission.

8. Repay to the Department the federal share of the cost of any portion of this project if the Federal Highway Administration removes federal participation due to actions of the Sponsor, its agents, its employees, or its assigns, or the Sponsor's consultants or their agents. Such actions shall include, but are not limited to, federal non-participation arising from problems with design plans, construction, change orders, construction inspection, or contractor payment procedures.
9. Retain total, direct control over the project throughout the life of the improvements and **not, without prior approval from the Department:**
 - sell, transfer, or otherwise abandon any portion of the project;
 - change the intended use of the project as stated in the approved project application;
 - make significant alterations to any improvements constructed with Federal-aid funds; or
 - cease maintenance or operation of the project due to the project's obsolescence.
10. Be responsible for satisfactory maintenance and operation of all improvements and for adopting regulations and ordinances as necessary to ensure this. Failure to adequately maintain and operate the project in accordance with Federal-aid requirements may result in the Sponsor's repayment of federal funds and will result in withholding future Federal-aid.
11. Promptly notify the Department if the project is rendered unfit for continued use by an act of God or other cause.
12. Repay all federal funds if for any reason the Federal Highway Administration should determine this is necessary.
13. Complete all documentation necessary to obtain environmental, archeological, wetland and other clearances and transmit all necessary documentation pertaining to these clearances to the Department.
14. Construct the project in accordance to plans and specifications developed by the Sponsor, or the Sponsor's representative, and reviewed and approved by the Department prior to issuance by the department of a Notice to Proceed.
15. Notify the Department upon completion of various phases of the work in order that a Department representative may review the project before any payments for such work are made to the Contractor.
16. Refrain from any project construction for which the Sponsor expects monetary reimbursement until a Notice to Proceed is received from the Department.
17. Include all applicable federally required documentation in any contract entered into with third parties for construction services. Subject documentation will be provided by the Department. All such third parties whose work totals more than \$20,000 must be licensed by the Contractors' Licensing Board to perform work in Arkansas.
18. Provide the Department with all necessary documentation including a resolution of support from the Sponsor's governing body, approval from the State Historic Preservation Officer, proof of ownership, plans and specifications, and permits or rulings from the U.S. Army Corps of

Engineers, U.S. Fish and Wildlife Service, Environmental Protection Agency, or other applicable agencies within one calendar year of the date this Agreement of Understanding is signed by the Director of the Arkansas State Highway and Transportation Department. Extensions will not be granted. Funding for projects failing to provide this documentation will be withdrawn from this project and will be allocated to other eligible recreational trail projects.

THE DEPARTMENT WILL:

1. Be responsible for administering Federal-aid funds and for project approval and acceptance.
2. Review and approve environmental, archeological, wetland, or other necessary clearances.
3. Review plans and specifications for this project.
4. Conduct a final visual verification upon completion of the project.
5. Reimburse the Sponsor for all legitimate, documented costs in accordance with the final executed contract.
6. Provide the Sponsor with all applicable federal documentation to include in contracts entered into with third parties to provide construction services

IT IS FURTHER AGREED that should the Sponsor fail to fulfill its responsibilities and assigned duties as related in this Agreement, such failure may disqualify the Sponsor from receiving all future Federal-aid funds administered by the Department.

IT IS FURTHER AGREED that should the Sponsor fail to pay to the Department any required funds due for implementation of the project or fail to complete the project as specified in this Agreement or fail to adequately maintain or operate the project, the Sponsor hereby authorizes the Director of the Department of Finance and Administration to transfer from any of the Sponsor's State funds to the Department's RRA account such sums as the Director of Highways and Transportation shall certify as due the Department under terms of this Agreement.

IN WITNESS WHEREOF, the parties thereto have executed this Agreement on this _____
day of _____, 20__.

**ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT**

CITY OF FAYETTEVILLE

Dan Flowers
Director of Highways and Transportation

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

A. 9
Arkansas Recreational Trails Grant
Page 10 of 26

Budget Year 2008	Department: Citywide Division: Citywide Program: Sales Tax Capital Improvements	Date Requested 5/6/2008	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased:
\$69,320 is requested in the Trail Development project.

Project or Item Deleted/Reduced:
None. To recognize \$33,600 in State Grant Revenue and \$35,720 in Park Greenspace Fee Revenue.

Justification of this Increase:
The funding is for the Mud Creek Trail Improvements project. These funds are specifically needed to complete the reconstruction of a 0.22 mile section of Mud Creek Trail with a new 12 foot wide asphalt trail and 80 foot long prefabricated steel trail bridge.

Justification of this Decrease:
No decrease in funds will be necessary. This adjustment recognizes State Grant Revenue and Park Greenspace Fee Revenue. PRAB approved the use of requested Greenspace funds on April 7, 2008.

Increase Budget

Account Name	Account Number				Amount	Project Number	
Trails	4470	9470	5814	05	69,320	02016	0801

Decrease Budget

Account Name	Account Number				Amount	Project Number	
State Grants - Capital	4470	0947	4302	00	33,600	02016	0801
Greenspace Fees - NE	4470	0947	4419	01	35,720	02016	0801

Approval Signatures

Requested By *[Signature]* Date 4/14/08
 Budget Director *[Signature]* Date 4-22-08
 Department Director *[Signature]* Date 4-21-08
 Finance Director *[Signature]* Date 4-22-08
 Mayor *[Signature]* Date 4/22/08

Budget & Research Use Only

Type: A B C D E

General Ledger Date _____

Approval Date _____

Posted to General Ledger _____

Posted to Project Accounting _____

Initial _____	Date _____
Initial _____	Date _____
Initial _____	Date _____

PARK LAND DEDICATION ORDINANCE FUND REPORT

PRAB Meeting of March 2008

REPORT BY: TRACIE A. MARTIN

4/10/2008 14:01

NORTHWEST PARK DISTRICT

BALANCE	YEAR TO BE SPENT	Approved Remaining:	PRAB Date	Original Amount Approved	Project
\$ 61,859.06	2008	\$ 5,255.04	Multiple	\$ 155,705.00	Salem Meadows (8/1/05, 6/5/06 & 11/6/06)
\$ 99,050.38	2009	\$ 35,807.50	7/10/2006	\$ 60,000.00	Davis Park Playground replacement match
\$ 277,849.14	2010	\$ 325,000.00	8/6/2007	\$ 325,000.00	Davis Park Expansion
\$ 43,789.22	2011	\$ 35,000.00	4/7/2008	\$ 35,000.00	Gary Hampton Pavilion
\$482,347.80	Total 2008-2011	\$39,576.00		\$ 39,576.00	Red Oak Park/Gordon Long Funds
\$41,707.26	Total Unencumbered 2008-2011	\$440,640.54			Total Approved Expenditures

applying for 4/7 per city council

NORTHEAST PARK DISTRICT

BALANCE	YR TO BE SPENT	Approved Remaining:	PRAB Date	Original Amount Approved	Project
\$ 58,744.32	2008	\$ 59,215.00	5/7/2007	\$ 67,500.00	David Lashley Park
\$ 78,014.87	2009	\$ 67,000.00	8/6/2007	\$ 67,000.00	Gulley Park Pavilion
\$ 28,972.63	2010	\$ 35,720.00	4/7/2008	\$ 35,720.00	East Mud Creek Trail Bridge
\$165,731.82	Total 2008-2011	\$161,935.00			Total Approved Expenditures

applying for 4/7

SOUTHWEST PARK DISTRICT

BALANCE	YEAR TO BE SPENT	Approved Remaining:	PRAB Date	Original Amount Approved	Project
\$ 126,633.60	2008	\$ 69,000.00	6/5/2006	\$ 69,000.00	Wilson Park Trail and Walk Bridge
\$ 155,257.25	2009	\$ 8,700.04	Multiple	\$ 200,000.00	Harmony Pointe Park (10/2/06 & 1/8/07)
\$ 45,178.63	2010	\$ 217,000.00	8/6/2007	\$ 217,000.00	Wilson Trail Lights
\$ 2,314.20	2011	\$ 30,000.00	8/6/2007	\$ 30,000.00	Wilson Pool Rock Wall
\$329,383.68	Total 2008-2011	\$324,700.04			Total Approved Expenditures

SOUTHEAST PARK DISTRICT

BALANCE	YEAR TO BE SPENT	Approved Remaining:	PRAB Date	Original Amount Approved	Project
\$ 89,827.54	2008	\$ -	01/08/07	\$ 40,400.00	Walker Basketball/Tennis Lighting
\$ 6,237.72	2009	\$ 300.00	7/9/2007	\$ 300.00	Mt. Sequoyah Woods Trail Signage and posts
\$ 133,476.79	2010	\$ 100,000.00	08/06/07	\$ 100,000.00	Eagle Park
\$ 15,320.39	2011				
\$244,862.44	Total 2008-2011	\$100,300.00			Total Approved Expenditures

FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes April 7, 2008

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Chairman Wade Colwell at 5:32 p.m. on April 7, 2008 at the Botanical Gardens located at 4703 North Crossover Road, Fayetteville, Arkansas.

Present:

Park and Recreation Advisory Board members Davidson, Biendara, Waite, Hatfield, and Bitler, and Colwell were present; P. Jones and Mauritson were absent. Park Staff Edmonston, Wright, Thomas, C. Jones, Jumper, Trails Coordinator Mihalevich and the audience were in attendance.

1. Approval of March 3, 2008 PRAB Meeting Minutes

PRAB Motion: The approval of the minutes was tabled until the May PRAB meeting. The minutes need to be amended to include Hatfield's comments on the Park Center Development. Biendara motioned to table, and Hatfield seconded it. Motion passed 6-0-0 by voice vote.

2. Botanical Gardens Monthly Report: Walt Eilers, Board of Directors

Eilers discussed the monthly report.

Colwell commented that he would like to see every effort made to encourage foot traffic, because the trail is a big part of the Botanical Garden.

Eilers said that they had met with Mihalevich and Kevin Bennoch and laid out an alternate trail route.

Colwell said that he knows the original agreement ended at the pine trees. He would like to see all the rubble, etc. out of sight.

Eilers replied that a lot of the left over construction material is recycled, and used elsewhere in the Botanical Garden. Also, no chemicals are used in the garden. If soap and water won't solve the problem, the plant will be pulled.

Bitler asked Eilers when he anticipated the rerouting of the soft trail.

Eilers replied that it would be probably at the end of May.

Bitler wanted to know if the plan that PRAB saw for the trail was different than the actual trail.

Mihalevich said there has been basic modification. They are trying to recreate the Butterfield Stage Trail using the nature trail. It will open up the area.

3. Request from Washington County Juvenile Detention Center Outdoor Adventure Club: Jeff Courtway, Instructor

The request is to waive the fees for the Outdoor Adventure Club from the Juvenile Detention Center to boat and fish at Lake Fayetteville and Lake Sequoyah at no charge. This would require an amendment by the City Council to the Code of Ordinance Chapter 97.070, subsection B to allow reduced rates for a non profit and/or government sponsored rehabilitation programs. See attached letter from Jeff Courtway and Article V, Chapter 97.070 – Recreational Activities at Lakes Fayetteville, Sequoyah and Wilson.

Staff Recommendation: Approval of Request

Courtway is a teacher with the Fayetteville School System, and works with the Juvenile Detention Center. He gave out a pamphlet describing the Washington County Outdoor Adventure Club. He then talked about his request to waive the fees for the kids. He wants to let kids that are at risk participate in a well rounded outdoor program. He has kayaks and canoes that were donated to the program. He would like the fees waived for these kids at Lake Fayetteville and Lake Sequoyah. A staff member would always be with them.

Colwell said that he liked the idea. He wanted to know how much the Parks and Recreation Department would be giving up by letting non profit organizations not pay fees.

Edmonston replied that she didn't know, because no other group has requested a waiver.

Davidson asked how often the group would use Lake Fayetteville.

Courtway replied that, if approved, probably once a week, after school.

Hatfield asked how many kids would be assigned to a staff member.

Courtway said it would vary, but it would be around five kids per instructor.

Bitler asked if there would be any big groups.

Courtway said they had a paddling crew that may schedule at Lake Fayetteville.

A member of the audience that was with Courtway added that the kids pick up trash as a community service every place they go.

Colwell added that the parents are encouraged to come and stay at the outings, but most don't. He also said that after an outing, Staff could find out from the boat dock employees how many students are participating in each outing at the lake.

Edmonston said that Staff would have to take it to the City Council to approve.

Biendara asked if we could amend the wording in the resolution to change it to non profit.

Bitler said a lot of sports clubs are non profit, but the members are not in a situation that they couldn't pay. Other groups may misuse this. He wanted to know if an internal procedure be developed for non profit or governmental.

Edmonston said that an internal procedure would be developed.

Wright said that some non profits do pay now.

Edmonston said that it could be limited to government sponsored groups.

Bitler asked if there was something we could do to let Courtway's group go on.

Edmonston said that it had to go before the City Council. She has already talked to the City Attorney.

Hatfield asked if the group would come at a specified day and time with staff members.

Courtway said he would set up a day and time.

Colwell said that it could be limited to non profit and governmental, and could be a case by case discretion.

Davidson said that anyone with a 501C could request to be waived.

Hatfield asked if there was any way to say yes or no to groups.

Edmonston replied that there would be a procedure in place, and PRAB could deny a group.

Bitler said that he wants to see the language of the resolution.

Wright said that all sports clubs pay \$7-\$15 per head.

Davidson said the language says "reduced rates".

Colwell said his recommendation is to waive the fees completely.

Edmonston said that the City Council would decide the specific language. She asked what PRAB wanted.

Hatfield asked if the boat operators had made any comments.

Edmonston said she has not asked them.

Courtway said he would give a set schedule for lake visits for the group to PRAB.

Waite said it would be good if there was wording that trash would be picked up every time the group visits.

PRAB Motion: Colwell motioned to allow non profit or governmental groups free use of the lakes, with no fee charged to them. Waite seconded it. Motion passed 5-1-0, with Bitler casting the dissenting vote. Bitler commented that he thought the group was great, but he's afraid the resolution will be misused.

4. Naming of the newest trail at Lake Sequoyah

On Wednesday, March 12, 2008, the Sidewalk and Trails Task Force unanimously supported the naming of the newest trail at Lake Sequoyah as "Rookery Trail".

PRAB Motion: According to the Facility Naming Policy, the recommendation is tabled until the next PRAB meeting in order to allow for public input.

Mihalevich said that this portion of the trail needs a name. The Sidewalks and Trails Task Force liked the name "Rookery Trail".

Davidson asked which section of the trail it was.

Mihalevich said that it was from the southeastern part from the kiosk.

PRAB motion: Bitler motioned to accept the name "Rookery Trail" and to table it. Biendara seconded it. Motion passed by voice vote 6-0-0.

5. 2007 Parks and Recreation Advisory Board Annual Report: Connie Edmonston

According to Article II, Chapter 33.018 (B) in the Fayetteville Code of Ordinances, Parks and Recreation Advisory Board is to prepare an annual report to City Council. This report was handed out to PRAB at their last meeting. The Annual Report is included in the attachments.

Davidson said he was impressed with the annual report. He said that he should carry it around, so when someone asks him a question, he will have the answer.

Bitler said he liked all the new items on the report.

Biendara said she liked the way all the motions were listed.

PRAB Staff Recommendation: To approve the 2007 Annual Report

PRAB Motion: Colwell motioned to approve the annual report as is. Biendara seconded the motion. The motion passed 6-0-0 by voice vote.

**6. Dog Obedience Class: David Wright, Recreation Superintendent
See Attachment**

Wright talked about the class, and said that the Level I class had filled up. The instructor came to Parks and Recreation to request starting a class, because she had done a similar program elsewhere. The class starts Tuesday, April 8, 2008 at 6:30 p.m.

Biendara asked what the instructor's name was.

Wright said her name is Karen Valle.

Colwell said that he has attended a similar class. The class helps you think like a dog.

Davidson asked if the program was through Fayetteville Parks and Recreation.

Wright replied yes, it is.

Biendara said it would be nice if dog owners had a point of organization in this area.

Edmonston replied that the dog park is still on the list of things to do.

**7. Red Oak Park Streambank Improvement Project Update: Carole Jones,
Park Planner**

C. Jones gave a recap of the history of Red Oak Park Streambank Improvement Project. Between November 2006 and December 2007, Dave Evans, with the Arkansas Game and Fish Commission, designed a plan for improvement. It was presented to the Corps of Engineers. The plan was presented to City Council, and was denied. The revised plan was again presented to City Council. The Council wanted the Ward 4 residents to have input on the design. Several Ward 4 meetings were held, and on March 18, 2008, the City Council approved the design. The project will be started in the dry season, possibly in July.

8. Park Land Dedication Fund Requests:

Rotary Club Pavilion:

Alison Jumper, Park Planner

Staff is requesting approval of \$35,000 from the NW Park Land Dedication Fund to assist in funding the pavilion at Gary Hampton Softball Complex in the event the Arkansas Department of Parks and Tourism General Improvement grant funds are not awarded for the project. The Rotary Club is funding \$15,000 for the 24 foot pavilion to serve the Hampton Complex, neighborhood, Holcomb School, as well as the trailhead for Clabber Creek Trail. This project is scheduled to be completed by the FayRo Classic Girls Softball Tournament on June 14th, 2008.

Davidson asked how much confidence Parks and Recreation had that they would receive the grant.

Edmonston replied that it is not known whether the grant would be given to Parks and Recreation.

Wright said that many people would use the pavilion.

Bitler asked how many years were left on the lease.

Edmonston said that the lease lasted ten years, and there was nine years to go.

PRAB Motion: Colwell motioned to approve the pavilion. Waite seconded it. The motion passed 6-0-0 by voice vote.

East Mud Creek Trail Bridge:

Matt Mihalevich, Trails Coordinator

Staff is requesting approval of \$35,720 from the NE Park Land Dedication Fund to assist in funding replacement of the Mud Creek Trail bridge. (See attached bridge picture.) Grant funding in the amount of \$33,600 was awarded by the Arkansas Highway Recreational Trails Grant Program. Matt Mihalevich had requested \$100,000 for this grant. Cost of this project is \$69,320. This bridge has been a safety, as well as an ADA concern for a number of years. Cost breakdown is as follows:

Bridge - 80 foot long	\$44,320.00
Installation -	\$25,000.00
Total	\$69,320
Grant funds	-\$33,600
Remaining Funds needed	\$35,720

Mihalevich said the Mud Trail Bridge needs to be replaced. Available trail funds are going to be used on the Skull Creek Trail, so the grant was needed.

Bitler asked that if there were any funds are left, could they be used for the Mud Trail Bridge.

Mihalevich said that they would probably be short of funds for the Skull Creek Trail.

Davidson wanted to know who built the Mud Trail Bridge.

Mihalevich said that Lindsey built it.

PRAB Motion: Bitler motioned to approve the East Mud Creek Trail Bridge. Davidson seconded it. Motion was approved 6-0-0 by voice vote.

9. Regional Park Update: Connie Edmonston, Park & Recreation Director

Edmonston said at this time there was nothing to report.

10. Other Business:

On February 20th, 2008 at the annual Arkansas Recreation and Parks Association meeting, Fayetteville Parks and Recreation was awarded the 2008 Program of the Year for the Outdoor Adventure Camp. See attached picture.

Colwell commented that on the front page of Monday's NWA Times, there was an article about the Parks and Recreation summer camps.

Wright said that there would be eight counselors with five kids apiece. The different types of camps are at various locations. At this time, there are still openings.

Edmonston gave a handout to everyone with three possible locations for the Hoover sculpture. She wanted PRAB's blessing on the choices before it went to the Arts Council.

Colwell asked Edmonston to talk about the tree giveaway. Edmonston said that there were 1,100 trees and shrubs, and they were given away within an hour. This giveaway was in conjunction with the Farmer's Market and the Square renovation.

Mihalevich said that on April 16, 2008, the Sidewalks and Trails Task Force will have a trash pickup from Poplar to Gordon Long.

11. Adjournment

Adjournment was at 6:53 p.m.

Minutes taken by Melanie Thomas.

ARKANSAS STATE HIGHWAY COMMISSION



MARY P. "PRISSY" HICKERSON
CHAIRMAN
TEXARKANA

JONATHAN BARNETT
VICE CHAIRMAN
SILOAM SPRINGS

CARL S. ROSENBAUM
LITTLE ROCK

R. MADISON MURPHY
EL DORADO

JOHN ED REGENOLD
ARMOREL

DAN FLOWERS
DIRECTOR OF
HIGHWAYS AND TRANSPORTATION

P.O. Box 2261
LITTLE ROCK, ARKANSAS 72203-2261
PHONE (501) 569-2000 FAX (501) 569-2400
WWW.ARKANSASHIGHWAYS.COM
March 5, 2008

Mr. Matt Mihalevich
Trails Coordinator
City of Fayetteville
113 W. Mountain Street
Fayetteville, AR 72701

Dear Mr. Mihalevich:

Reference is made to your application for trail development funding through the Arkansas Recreational Trails Program. Your project, Mud Creek Trail Improvements, has been approved to receive up to \$33,600.00 in Federal funding.

The Arkansas State Highway and Transportation Department (AHTD) will host a project administration workshop on April 1, 2008 starting at 1:00 PM. The steps necessary to develop and implement your project will be outlined in detail during the workshop. It is extremely important that someone familiar with your project attend this session. The workshop will be held in the auditorium of the AHTD headquarters building. We are located in southwest Little Rock at Exit 130 along Interstate 30.

We look forward to working with you to develop this project. If you have any questions regarding the Arkansas Recreational Trails Program or the workshop, please call Bill Bastress at (501) 569-2209.

Sincerely,

A handwritten signature in cursive script, reading 'Dan Flowers'.

Dan Flowers
Director of Highways
and Transportation

- c: Commissioner Jonathan Barnett
Deputy Director and Chief Engineer
Assistant Chief Engineer – Planning
Planning and Research
District 4 Engineer

City of Fayetteville Staff Review Form

A. 9
Arkansas Recreational Trails Grant
Page 20 of 26
Mud Creek Trail Grant
Page 1 of 6

City Council Agenda Items and Contracts, Leases or Agreements

8/21/2007

City Council Meeting Date
Agenda Items Only

Matt Mihalevich
Submitted By

Engineering
Division

Operations
Department

Action Required:

Staff requests a resolution approving the Engineering Division to submit an application to the Arkansas Highway and Transportation Department for consideration of an 80/20 matching grant through the Arkansas Recreational Trails Program for an award of up to \$100,000.00.

\$ 2,000.00
Cost of this request

\$ 2,201,264.00
Category / Project Budget

Trail Development
Program Category / Project Name

4470-9470-5814.05
Account Number

\$ 1,014,700.47
Funds Used to Date

Transportation Improvements
Program / Project Category Name

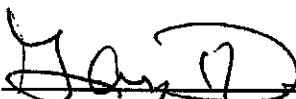
02016 / 1
Project Number

\$ 1,186,563.53
Remaining Balance

Sales Tax Capital Improvements
Fund Name

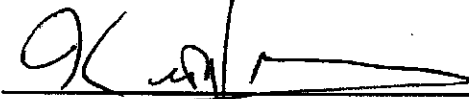
Budgeted Item ☒

Budget Adjustment Attached ☐

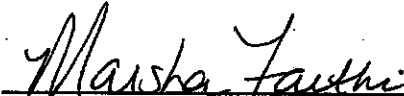

Department Director 8-3-07
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____


City Attorney 8-3-07
Date

Original Contract Number: _____


Finance and Internal Service Director 8/3/07
Date

Received in City
Clerk's Office

ENTERED

8/3/07

Mayor _____
Date

Received in
Mayor's Office

ENTERED

8/3/07

Comments:



City Council Agenda Item

August 21st Meeting

To: Mayor and City Council

Thru: Ron Petrie, City Engineer
Gary Dumas, Director of Operations

From: Matt Mihalevich, Trails Coordinator

Date: August 2, 2007

Subject: Request for a resolution approving the Engineering Division to submit an application for an 80/20 matching grant through the Arkansas Recreational Trails Program.

Recommendation: Staff requests a resolution approving the Engineering Division to submit an application to the Arkansas Highway and Transportation Department for consideration of an 80/20 matching grant through the Arkansas Recreational Trails Program for an award of up to \$100,000.00.

Background: Mud Creek Trail, from Front Street east to Kitty Creek, includes a dilapidated section of trail with a narrow bridge that is in need of replacement. This section of trail was installed more than 10 years ago by a private developer. The asphalt for the trail was installed without base material and is only 6 feet wide. The current trail bridge over the Mud Creek tributary is only 4' wide and has a large arch in the middle that does not comply with the Americans with Disabilities Act (ADA). The reconstruction of this important section of trail waited on the replacement of a sewer line associated with the City of Fayetteville's new Westside wastewater treatment plant project. Now that the new sewer line is installed along this section of trail we are now ready to reconstruct this section of Mud Creek Trail and use this opportunity to bring the trail into compliance with the Americans with Disabilities Act.

Discussion: If awarded, the funding would be used to complete the reconstruction of the above mentioned .22 mile section of Mud Creek Trail with a new 12 feet wide asphalt trail and 80' long prefabricated steel trail bridge. Mud Creek is 2.1 miles long and experiences a great amount of use for recreation and as an alternative transportation route connecting nearby commercial, residential, office and a senior citizens community. With the exception of this section, the remainder of the trail is 12 feet wide and is completely ADA accessible.

A resolution from the City of Fayetteville is required to apply for funding through the Arkansas Recreational Trails Program. To comply with the grant application requirements, the resolution must include specific criteria and language. A sample provided by the Arkansas Highway and Transportation Department has been included, as an attachment to this memorandum.

Budget Impact: If approved by City Council, the grant application will be submitted for a total amount of \$100,000.00. The terms of this grant require a local sponsor or municipality to provide funding for 20% of the total project cost. Upon receipt of an official Notice to Proceed from the Arkansas Highway and Transportation Department, the project would be reimbursable at the rate of 80%, which for this project would be estimated at a total reimbursement amount of \$80,000.00. Sufficient funding for the City's portion of this project has been budgeted in the Trail Development Project, within the Sales Tax Capital Improvement Fund.

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO UTILIZE FEDERAL-AID MONEYS AND APPLY FOR AN 80/20 GRANT IN THE AMOUNT OF \$100,000.00 TO REBUILD AND IMPROVE A SECTION OF THE MUD CREEK TRAIL

WHEREAS, the City of Fayetteville has agreed to apply for funding through the Arkansas Recreational Trails Program to develop or improve the Mud Creek Trail; and

WHEREAS, the Fayetteville City Council is willing and able to provide the required 20% of the total project cost; and

WHEREAS, the City of Fayetteville understands that Federal-Aid Funds are available for this project on a reimbursable basis, requiring work to be accomplished and proof of payment prior to actual monetary reimbursement; and

WHEREAS, the City of Fayetteville understands that there will be no reimbursement for any work accomplished prior to the issuance by the Arkansas State Highway and Transportation Department of an Official Notice To Proceed; and

WHEREAS, this project, using federal funding, will be open and available for use by the general public and maintained by the City of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves the Engineering Division's request to submit an application for an 80/20 matching grant from the Arkansas Highway And Transportation Department through the Arkansas Recreational Trails Program for an award of up to \$100,000.00 which would require up to \$20,000.00 City funds.

Section 2: That the City Council of the City of Fayetteville, Arkansas, hereby agrees that Fayetteville will participate in accordance with its designated responsibility including maintenance of this project, and authorizes the mayor to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project.

Section 3: That the City Council of the City of Fayetteville hereby pledges its full support and authorizes the City of Fayetteville to cooperate with the Arkansas State Highway and Transportation Department to initiate action to implement this project.

PASSED and APPROVED this 21st day of August, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

A RESOLUTION EXPRESSING THE WILLINGNESS OF

insert sponsor's name

TO UTILIZE FEDERAL-AID MONEYS

WHEREAS *(insert sponsor's name)* applied for funding through the Arkansas Recreational Trails Program to develop or improve *(insert project name)*, and

WHEREAS *(insert sponsor's governing body)* is willing and able to provide the required twenty percent (20%) of the total project cost, and

WHEREAS *(insert sponsor's name)* understands that Federal-Aid Funds are available for this project on a reimbursable basis, requiring work to be accomplished and proof of payment prior to actual monetary reimbursement, and

WHEREAS *(insert sponsor's name)* understands that there will be no reimbursement for any work accomplished prior to the issuance by the Arkansas State Highway and Transportation Department of an official Notice to Proceed, and

WHEREAS this project, using federal funding, will be open and available for use by the general public and maintained by the applicant.

NOW, THEREFORE, BE IT RESOLVED BY *(insert sponsor's governing body)* THAT:

SECTION I. *(insert sponsor's name)* will participate in accordance with its designated responsibility, including maintenance of this project.

SECTION II. *(insert title of sponsor's CEO/CAO)* is hereby authorized and directed to execute all appropriate agreements and contracts necessary to expedite the construction of the above stated project.

SECTION III: *(insert sponsor's governing body)* pledges its full support and hereby authorizes the *(insert sponsor's name)* to cooperate with the Arkansas State Highway and Transportation Department to initiate action to implement this project.

THIS RESOLUTION adopted this _____ day of _____, 2007.

Signed: _____
(insert sponsor's CEO/CAO)

ATTEST: _____

(seal)

City of Fayetteville Staff Review Form

A. 10
Thompson Culvert Company
Page 1 of 8City Council Agenda Items
and
Contracts, Leases or Agreements

5/6/2008

City Council Meeting Date
Agenda Items OnlyMatt Mihalevich
Submitted ByEngineering
DivisionOperations
Department

Action Required:

Staff requests a resolution approving the purchase of 1 prefabricated weathering steel pedestrian bridge for Mud Creek Trail under Bid #08-15 from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax for a total of \$48,419.60.

\$ 48,419.60

Cost of this request

\$ 1,316,174.00

Category / Project Budget

Trail Development

Program Category / Project Name

4470-9470-5814.05

Account Number

\$ 808,433.97

Funds Used to Date

Transportation Improvements

Program / Project Category Name

02016 / 0801

Project Number

\$ 507,740.03

Remaining Balance

Sales Tax Capital Improvements

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☒

Department Director

4.18.08

Date

Previous Ordinance or Resolution #



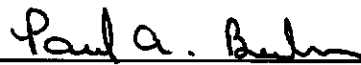
City Attorney

4/21/08

Date

Original Contract Date:

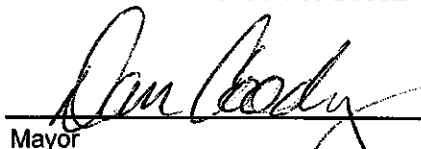
Original Contract Number:



Finance and Internal Service Director

4-21-08

Date

Received in City
Clerk's Office

Mayor

4/22/08

Date

Received in
Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Matt Mihalevich, Trails Coordinator

Date: April 18th, 2008

Subject: Mud Creek Trail Bridge – Bridge purchase

RECOMMENDATION

Staff requests a resolution approving the purchase of 1 prefabricated weathering steel pedestrian bridge for Mud Creek Trail under Bid #08-15 from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax for a total of \$48,419.60.

BACKGROUND

Mud Creek Trail, from Front Street east to Kitty Creek, includes a dilapidated, narrow bridge that is in need of replacement. The current trail bridge over the Mud Creek tributary is only 4' wide and has a large arch in the middle that does not comply with the Americans with Disabilities Act (ADA). The City applied for \$100,000 in grant funds for the replacement of the bridge and was awarded \$33,600 in March of 2008. The Mud Creek Trail project will bring the entire Mud Creek Trail into compliance with the Americans with Disabilities Act. The proposed bridge will be 80 feet in length and 12 feet wide.

In February of 2008 the City competitively bid 6 trail bridges for Scull Creek Trail as Bid 08-15 for the manufacture of the bridge and the low bidder was Thompson Culvert. The new Mud Creek Trail Bridge is identical to the Frisco Bridge for Scull Creek Trail. In order to simplify the process, staff proposes utilizing the Frisco Bridge price from Bid 08-15 for the Mud Creek Trail Bridge through a new purchase order and a change order. This price includes abutment design.

DISCUSSION

The style of bridges will match the recently installed Town Branch Trail Bridge (see photo below) and the recently purchased Scull Creek Trail Bridge. The bridges will be fabricated from Weathering Steel (also known as COR-TIN Steel). This type of steel alloy will rust on the outside while forming a protective layer that will never require painting or any maintenance.

The fabrication of the bridges was advertised on January 17th, 2008 as bid number 08-15 with official bids on February 8th, 2007. The official bid tab is attached.

BUDGET IMPACT

Based on Bid 08-15 and 08-16, the total cost for the bridge will be \$90,969.60. \$33,600 will be federal aid funds through the Recreational Trails Grant. And additional \$35,720 has been approved by Parks Board allocated from the northeast park quadrant green space revenue. The remaining \$21,649.60 will be allocated from Trails Development capital improvement program funds.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE UNDER BID #08-15 OF ONE (1) PREFABRICATED WEATHERING STEEL PEDESTRIAN BRIDGE FOR MUD CREEK TRAIL FROM THOMPSON CULVERT COMPANY IN THE AMOUNT OF \$44,320.00 PLUS \$4,099.60 IN SALES TAX.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of one (1) prefabricated weathering steel pedestrian bridge for Mud Creek Trail from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax.

PASSED and APPROVED this 6th day of May, 2008.

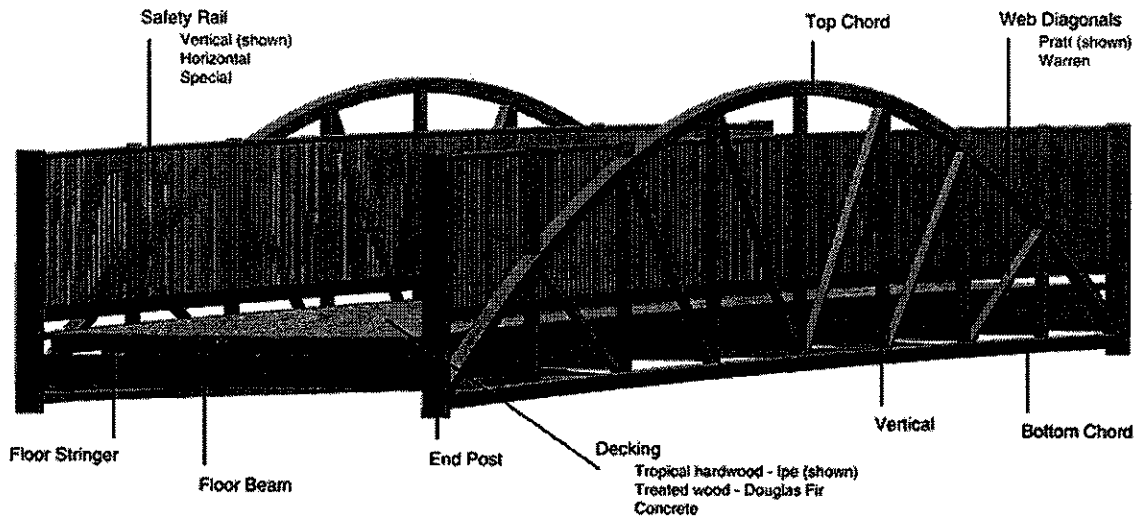
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

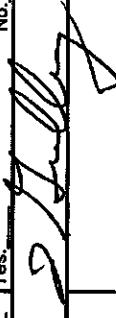
BRIDGE STYLE



Example of the bowstring style bridge proposed



50' long Town Branch Creek Bridge near the intersection of Razorback and 15th.

City of Fayetteville									
Vendor #: 17406		Vendor Name: Thompson Culvert Company		Requisition No.:		Date: 5/8/2008			
Address: 4151 East Kearney		Fob Point:		P.O. Number:		Expected Delivery Date: ASAP			
City: Springfield		State: Missouri		Zip Code: 65803		Ship to code: 104			
Requester: Ginny Apperson		Requester's Employee #: 2283		Account Numbers: 4470-9470-5814.05		Division Head Approval: 		No: X	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Project/Subproject #	Inventory #	Fixed Asset #	
1	Anderson Bridge (Per Specs) for Mud Creek Trail Improvements	1	Ea	44,320.00	\$44,320.00	02016 / 0801			
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:									
Per Bid #08-15 and Res # 27-08									
Subtotal:					\$44,320.00				
Tax:					\$4,099.60				
Total:					\$48,419.60				
Approvals:									
Mayor:		Department Director:		Purchasing Manager:					
Finance & Internal Services Director:		Budget Manager:		IT Manager:					
Dispatch Manager:		Utilities Manager:		Other:					



HOMPSON
Culvert Company

April 18, 2008

City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Attn: Matt Mihalavech
Andrea Foren

RE: Bid # 08-15
Scull Creek Trail Bridges
(equipment only)

Thompson Culvert Company will provide an additional 80' of pedestrian bridge for the above referenced project to the City of Fayetteville at the original bid price of \$44,320.00. The price shall include the bridge abutment design and the proposed bridge shall be identical to the Frisco Street Bridge. All specifications, provisions, terms and conditions shall be the same as that of the City of Fayetteville Bid 08-15 Scull Creek Trail Bridges (equipment only), including addendums 1, 2, 3, & 4. For this bridge, Thompson Culvert Company shall not be required to supply a shop drawing, and the contract completion days shall begin on the day Thompson Culvert Company receives the purchase order.

Thank you for allowing Thompson Culvert Company to supply your bridge needs.

Sincerely,

Brad Worthy
Sales

BID: 08-15
DATE: 2/8/2008
2:00 PM
CITY OF FAYETTEVILLE



Bid 08-15, Scull Creek Trail Bridges - Equipment Only

Item	Description	Contech Bridge Solutions, Inc.	Echo Bridge, Inc.	Excel Bridge Company	Thompson Culvert Company	US Bridge	Wheeler Lumber, LLC
1	CMN Bridge Manufacturer Model	\$39,860.00 Contech Bridge Keystone	\$43,234.00 Echo Bridge, Inc Steel Bowstring	\$43,000.00 Excel Bridge Pratt "Bowstring" Truss	\$33,120.00 Anderson Bridge Per Specs		\$32,700.00 Wheeler Lumber, LLC Bowstring
2	Ash Street Bridge Manufacturer Model	\$40,600.00 Contech Bridge Keystone	\$44,629.00 Echo Bridge, Inc Steel Bowstring	\$42,000.00 Excel Bridge Pratt "Bowstring" Truss	\$34,120.00 Anderson Bridge Per Specs		\$33,975.00 Wheeler Lumber, LLC Bowstring
3	Sycamore Bridge Manufacturer Model	\$25,565.00 Contech Bridge Keystone	\$26,498.00 Echo Bridge, Inc Steel Bowstring	\$33,000.00 Excel Bridge Pratt "Bowstring" Truss	\$23,120.00 Anderson Bridge Per Specs		\$23,250.00 Wheeler Lumber, LLC Bowstring
4	Bernice Drive Bridge Manufacturer Model	\$31,600.00 Contech Bridge Keystone	\$34,866.00 Echo Bridge, Inc Steel Bowstring	\$37,000.00 Excel Bridge Pratt "Bowstring" Truss	\$27,420.00 Anderson Bridge Per Specs		\$30,175.00 Wheeler Lumber, LLC Bowstring
5	Cleveland Street Bridge Manufacturer Model	\$31,600.00 Contech Bridge Keystone	\$34,866.00 Echo Bridge, Inc Steel Bowstring	\$37,000.00 Excel Bridge Pratt "Bowstring" Truss	\$27,420.00 Anderson Bridge Per Specs		\$30,175.00 Wheeler Lumber, LLC Bowstring
6	Frisco Street Bridge Manufacturer Model	\$58,000.00 Contech Bridge Keystone	\$55,785.00 Echo Bridge, Inc Steel Bowstring	\$62,500.00 Excel Bridge Pratt "Bowstring" Truss	\$44,320.00 Anderson Bridge Per Specs		\$42,725.00 Wheeler Lumber, LLC Bowstring
TOTAL BID PRICE		\$227,225.00	\$239,878.00	\$254,500.00	\$189,520.00	No Bid	\$193,000.00

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

CERTIFIED: P. Vice
P. VICE PURCH MGR

A. Zelen
WITNESS

2/8/08
DATE

RESOLUTION NO. 27-08

A RESOLUTION AWARDDING BID #08-15 AND APPROVING THE PURCHASE OF SIX (6) PREFABRICATED WEATHERING STEEL PEDESTRIAN BRIDGES FROM THOMPSON CULVERT COMPANY IN THE AMOUNT OF \$189,520.00 PLUS ALL APPLICABLE TAXES FOR SCULL CREEK TRAIL

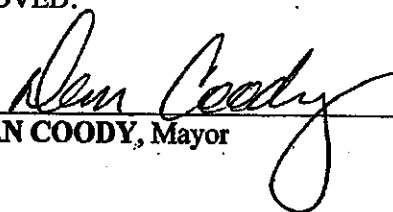
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-15 and approves the purchase of six (6) prefabricated weathering steel pedestrian bridges from Thompson Culvert Company in the amount of \$189,520.00 plus all applicable taxes for Scull Creek Trail.

PASSED and APPROVED this 19th day of February, 2008.

APPROVED:

ATTEST:

By: 

DAN COODY, Mayor

By: 

SONDRA E. SMITH, City Clerk/Treasurer



City Council Agenda Items
and
Contracts, Leases or Agreements

5/6/2008

City Council Meeting Date
Agenda Items OnlyMatt Mihalevich
Submitted ByEngineering
DivisionOperations
Department

Action Required:

Staff requests a resolution approving change order #1 to Resolution 28-08 for Bid # 08-16 with Kinco Contractors, LLC. in the amount of \$37,000.00 for the complete installation of the Mud Creek Trail Bridge; and approving a 15% project contingency in the amount of \$5,550.00.

\$ 42,550.00

Cost of this request

\$ 1,316,174.00

Category / Project Budget

Trail Development

Program Category / Project Name

4470-9470-5814.05

Account Number

\$ 808,433.97

Funds Used to Date

Transportation Improvements

Program / Project Category Name

02016 / 0801

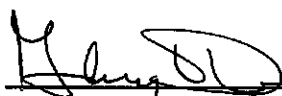
Project Number

\$ 507,740.03

Remaining Balance

Sales Tax Capital Improvements

Fund Name

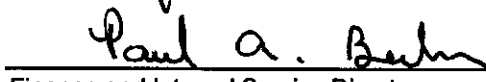
Budgeted Item ☐Budget Adjustment Attached ☒
Department Director4-18-08
Date

Previous Ordinance or Resolution #


City Attorney4/21/08
Date

Original Contract Date:

Original Contract Number:


Finance and Internal Service Director4-21-08
DateReceived in City
Clerk's OfficeENTERED
4/18/08
chp
Mayor4/22/08
DateReceived in
Mayor's OfficeENTERED
4/21/08
pH

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Matt Mihalevich, Trails Coordinator

Date: April 18th, 2008

Subject: Mud Creek Trail Bridge – Kinco Constructors, LLC Change Order #1

RECOMMENDATION

Staff requests a resolution approving change order #1 to Resolution 28-08 for Bid # 08-16 with Kinco Contractors, LLC. in the amount of \$37,000.00 for the complete installation of the Mud Creek Trail Bridge; and approving a 15% project contingency in the amount of \$5,550.00.

BACKGROUND

Mud Creek Trail, from Front Street east to Kitty Creek, includes a dilapidated, narrow bridge that is in need of replacement. The current trail bridge over the Mud Creek tributary is only 4' wide and has a large arch in the middle that does not comply with the Americans with Disabilities Act (ADA). The City applied for \$100,000 in grant funds for the replacement of the bridge and was awarded \$33,600 in March of 2008. The Mud Creek Trail project will bring the entire Mud Creek Trail into compliance with the Americans with Disabilities Act. The proposed bridge will be 80 feet in length and 12 feet wide.

In February of 2008 the City competitively bid the installation and abutment construction of 6 trail bridges for Scull Creek Trail as Bid 08-16. The low bidder for Bid 08-16 was Kinco Constructors, LLC. The new Mud Creek Trail Bridge is identical to the Frisco Bridge for Scull Creek Trail. In order to simplify the process, staff proposes utilizing Bid 08-16 and adding Mud Creek Trail Bridge to the scope of work through change order #1. Kinco Constructors, LLC will be responsible for the excavation and construction of concrete bridge abutments. Once the abutments are complete, the contractor will install the prefabricated bridge (provided by the City) and pour a concrete deck.

DISCUSSION

The style of bridges will match the recently installed Town Branch Trail Bridge and the recently purchased Scull Creek Trail Bridges.

The installation of the bridges was advertised on January 18th and 25th, 2008 as bid number 08-16 with official bids on February 8th, 2007. The official bid tab is attached.

BUDGET IMPACT

Based on Bid 08-15 and 08-16, the total cost for the bridge will be \$90,969.60. \$33,600 will be federal aid funds through the Recreational Trails Grant. And additional \$35,720 has been approved by Parks Board allocated from the northeast park quadrant green space revenue. The remaining \$21,649.60 will be allocated from Trails Development Capital Improvement Program.

RESOLUTION NO. _____

A RESOLUTION APPROVING CHANGE ORDER #1 TO THE CONTRACT WITH KINCO CONTRACTORS, LLC IN THE AMOUNT OF \$37,000.00 FOR THE INSTALLATION OF ONE (1) TRAIL BRIDGE FOR MUD CREEK TRAIL; AND APPROVING A 15% PROJECT CONTINGENCY IN THE AMOUNT OF \$5,550.00.

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 Change Order #1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one (1) trail bridge for Mud Creek Trail. A copy of the Change Order, 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 15% project contingency in the amount of \$5,550.00.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



PURCHASE ORDER

Each Package Must Be Marked
Exactly As Shown Here
City of Fayetteville, Arkansas

PURCHASE ORDER #

08-0000292-001

VENDOR NO. 17497

Kinco Constructors LLC

12600 Lawson Rd
Little Rock AR 72210

DATE

3/05/08

FOB Fyv

TERMS

NET 30 DAY

Qty.	Unit of Issue	Qty. Received	Description and Account Number	Unit Price	TOTALS
1.00	LOT		a) Bridge Installation for Scull Cree Trail Development Contract #2028 Per Bid #08-16 Res #28-08 4520.9520.5814.05	240784.72	240784.72
				06036	1

Change Order #1

Please add Line Item B) Bridge Installation for Mud Creek Trail Development in the amount of \$37,000.00, using G/L Account number 4470-9470-5814.05 02016 / 0801 upon approval of a change order to Contract #2028 for this amount.

SHIP TO: Transportation Dept
1525 S Happy Hollow Rd

Fayetteville AR 72701

Apperson, G

Sales Tax Total: \$0.00
Purchase Order Total: 240784.72

DEPARTMENT VERIFICATION

RECEIVED

DEPT HEAD APPROVAL

AMOUNT TO PAY

AP VERIFICATION

PURCHASING VERIFICATION

PRICE CHANGE VERIFICATION

RETURN CHECK TO

SEND COPY TO

ADDITIONAL APPROVAL

CHECK #

DOES NOT MEET PURCHASING POLICY

CONTRACT PAYMENT

OTHER

APPROVED BY

PROJECT #:

THIS PAYMENT \$

PREVIOUS PAYMENT(S) \$

TOTAL PYMT(S) \$

BALANCE \$

DEPT COPY

RESOLUTION NO. 28-08

A RESOLUTION AWARDING BID #08-16 AND APPROVING A CONTRACT WITH KINCO CONTRACTORS, LLC IN THE AMOUNT OF \$240,784.72 FOR THE INSTALLATION OF SIX (6) TRAIL BRIDGES FOR SCULL CREEK TRAIL; AND APPROVING A 15% PROJECT CONTINGENCY IN THE AMOUNT OF \$36,117.71.

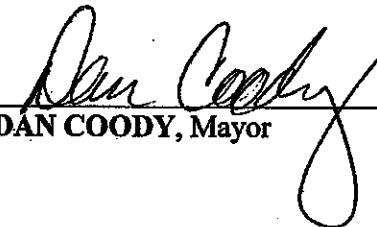
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-16 and approves a contract with Kinco Contractors, LLC in the amount of \$240,784.72 for the installation of six (6) trail bridges for Scull Creek Trail.

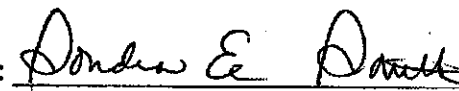
Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a 15% project contingency in the amount of \$36,117.71.

PASSED and APPROVED this 19th day of February, 2008.

APPROVED:

By: 
DAN COODY, Mayor

ATTEST:

By: 
SONDRA E. SMITH, City Clerk/Treasurer



BID: 08-16
 DATE: 02/08/08
 3:00 PM
 CITY OF FAYETTEVILLE



Bid 08-16, Scull Creek Trail Bridges Installation

BIDDER		TOTAL BASE BID
1	APAC-Arkansas, Inc.	\$380,052.25
2	Benchmark Construction of NWA	\$242,393.52
3	Crossland Heavy Contractors	\$358,997.00
4	Kinco Constructors, LLC	\$243,385.00
5	M.J. Lee Construction Company	\$467,289.55
6	Midland Construction, Inc.	\$298,111.25
7	Sweetser Construction, Inc.	\$342,896.00
8	Tomlinson Asphalt Company, Inc.	\$361,975.00
9	Township Builders, Inc.	\$256,927.00

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

CERTIFIED: P. Vice P. VICE PURCH MGR
A. Turner WITNESS
 DATE 2/8/08

Kinco
Constructors, LLC
Kinco Constructors, LLC

3803 Kelley Avenue
Springdale, AR 72762
Phone (479) 751-8606
Fax (479) 751-5659



12600 Lawson Road
Little Rock, AR 72210
Phone (501) 225-7606

"Building Excellence"

Estimated Proposal

Date: April 17, 2008

To: City of Fayetteville
Attn: Matt Mihalevich

Project: Mud Creek Bridge

Kinco Constructors, LLC is pleased to submit this estimated proposal for the above referenced project.

INCLUSIONS are based on our site visit and as clarified below. Kinco Constructors shall furnish all labor, materials and equipment unless otherwise noted, for the following specific scope of work:

1. All labor and materials needed for abutment wall construction
2. Erection and setting of bridge
3. Materials and labor for concrete bridge deck
4. Silt fencing and compliance with SWPP
5. Excavating and haul off needed for abutments
6. Backfilling and bringing site to grade

EXCLUSIONS from the scope of work in this proposal are as follows:

1. Rip-Rap
2. Concrete approaches to bridge
3. All demolition required for existing bridge and trail

Kinco

SCHEDULE for the above scope of work is based on regular working hours and shall not exceed **21 working days** from the receipt of long lead items. This schedule excludes delays due to access to work areas and weather conditions.

PAYMENT TERMS: Payments shall be made to Kinco Constructors, LLC no retainage withheld, in full no later than 20 days from the invoice date.

ESTIMATED PRICE OF THIS PROPOSAL.....\$ 37,257.00

This proposal excludes performance and payment bonds; asbestos or any other hazardous material removal, disposal, or encapsulation; services of licensed professionals such as attorneys, architects or engineers.

Respectfully Submitted:

Andrew Henry
Project Manager
Kinco Constructors, LLC



City of Fayetteville
Staff Review Form

Contracts

6-May-08

City Council Meeting Date

Karen Minkel

Submitted By

Planning & Development Mgmt.

Division

Operations

Department

Action Required:

Resolution to
Approval of an amendment to the Arkansas Historic Preservation Program Certified Local Government travel and training grant to increase the grant amount from \$3,000 to \$3,300.

\$0.00

Cost of this request

\$

3,000.00

Category/Project Budget

Historic Preserv. Travel and Training

Program Category / Project Name

1010.6310.5304.00

Account Number

\$

2,841.21

Funds Used to Date

n/a

Program / Project Category Name

06024.1

Project Number

\$

158.79

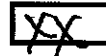
Remaining Balance

n/a

Fund Name

Budgeted Item

Budget Adjustment Attached



[Signature]
Department Director

4-21-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney
Paul A. Beck
FINANCE DIRECTOR

4/22/08
Date
4-21-08

Received in City Clerk's Office

4-18-08 *UAS*



Received in Mayor's Office



Mayor
[Signature]
Comments:

4/24/08
Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Karen Minkel, Senior Long Range Planner

Date: April 15, 2008

Subject: Approval of an amendment to the Arkansas Historic Preservation Program
Certified Local Government travel and training grant to increase the grant
amount from \$3,000 to \$3,300.

RECOMMENDATION

Staff recommends approval of an amendment to the Arkansas Historic Preservation Program Certified Local Government travel and training grant to increase the grant amount from \$3,000 to \$3,300.

BACKGROUND

The City of Fayetteville received \$3,000 for historic preservation travel and training during the 2007-2008 fiscal year from the State Historic Preservation office. Only \$158.79 remains of the original grant, which is not enough to pay for staff to attend the last Certified Local Government meeting in Little Rock. The State Historic Preservation Program office has offered to increase the grant by \$300 to pay for travel to this meeting.

DISCUSSION

None.

BUDGET IMPACT

The Historic Preservation Travel and Training budget will increase by \$300.

RESOLUTION NO. _____

A RESOLUTION APPROVING AN AMENDMENT TO THE 2007-2008 CERTIFIED LOCAL GOVERNMENT GRANT TO INCREASE THE AMOUNT BY \$300.00 TO FUND TRAVEL AND TRAINING FOR THE FAYETTEVILLE HISTORIC DISTRICT COMMISSION; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE INCREASED GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission.

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

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

**By: _____
DAN COODY, Mayor**

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



The Department of
**Arkansas
Heritage**

Mike Beebe
Governor

Cathie Matthews
Director

Arkansas Arts Council

Arkansas Natural Heritage
Commission

Delta Cultural Center

Historic Arkansas Museum

Mosaic Templars
Cultural Center

Old State House Museum



Arkansas Historic
Preservation Program

1500 Tower Building

323 Center Street

Little Rock, AR 72201

(501) 324-9880

fax: (501) 324-9184

tdd: (501) 324-9811

e-mail:

info@arkansaspreservation.org

website:

www.arkansaspreservation.com

An Equal Opportunity Employer



April 7, 2008

Karen Minkel, Senior Planner
City of Fayetteville
113 W. Mountain St.
Fayetteville, AR 72701

Dear Ms. Minkel:

This letter serves to confirm our recent conversations regarding Grant Agreement 07-CLG-14. **AHPP proposes increasing the grant amount by \$300 to a new total amount of \$3,300.** The scope of work, deadlines, and all other provisions of the Grant Agreement will remain unchanged.

If the City does not object to this change, it may be considered effective immediately. The City may invoice AHPP for the increased amount at this time.

We commend the City of Fayetteville for its continuing commitment to historic preservation, and we look forward to the successful completion of your grant projects.

Sincerely,

Boyd I. Maher
Certified Local Government Coordinator

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

A. 12
Arkansas Historic Preservation
Program Grant
Page 5 of 6

Budget Year 2008	Department: Operations Division: Planning & Development Management Program: Long Range Planning	Date Requested 5/6/2008	Adjustment Number
--------------------------------	---	---------------------------------------	-------------------

Project or Item Added/Increased: Increase the Travel and Training account in the Historic Preservation Project by \$300.	Project or Item Deleted/Reduced: Increase in the State Grants - Operational for \$300.
---	---

Justification of this Increase: Approval of an amendment to the Ark Historic Preservation Program CLG travel and training grant to increase the grant amount from \$3,000 to \$3,300.	Justification of this Decrease: To recognize the additional grant revenue received.
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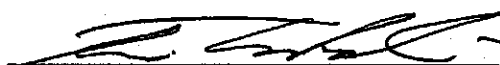
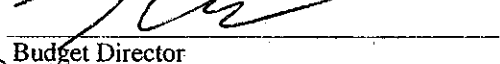
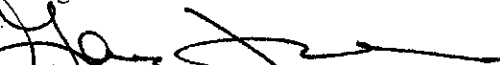
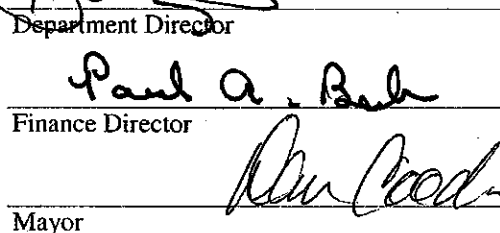
Increase Budget

Account Name	Account Number				Amount	Project Number	
Travel & Training	1010	6310	5304	00	300	06024	1

Decrease Budget

Account Name	Account Number				Amount	Project Number	
State Grants - Operational	1010	0001	4302	01	300	06024	1

Approval Signatures

	Date
Requested By	<u>4-15-08</u>
	Date
Budget Director	<u>4-18-08</u>
	Date
Department Director	<u>4-18-08</u>
	Date
Finance Director	<u>4-21-08</u>
	Date
Mayor	<u>4-21-08</u>

Budget & Research Use Only

Type:	A	B	C	<u>(D)</u>	E
General Ledger Date	<u>3/31/2008</u>				
Approval Date					
	Initial	Date			
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			

City of Fayetteville Staff Review Form

A. 13
PetSmart Grant
Page 1 of 8City Council Agenda Items
and
Contracts, Leases or Agreements

5/6/2008

City Council Meeting Date
Agenda Items Only

Jill Hatfield

Submitted By

Animal Services

Division

Police

Department

Action Required:

Approval of PetSmart Charities grant for pre-adoption spay/neuter surgeries. This grant, in the amount of \$10,000, is a non-matching grant that will be utilized to purchase anesthesia medications, surgical instruments and supplies, and a heart rate/oxygen level monitor. The grant is for an 18 month period.

Cost of this request

\$ 10,000.00

Category / Project Budget

Program Category / Project Name

1010 2730 5200 03

Account Number

\$ -

Funds Used to Date

Program / Project Category Name

Project Number

\$ 10,000.00

Remaining Balance

General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

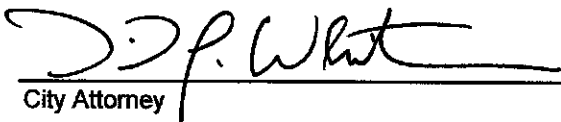
☒

Department Director

4-18-08

Date

Previous Ordinance or Resolution #



City Attorney

4/22/08

Date

Original Contract Date:

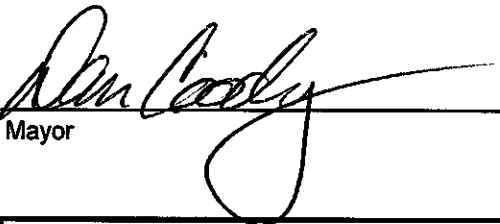
Original Contract Number:



Finance and Internal Service Director

4-22-08

Date

Received in City
Clerk's Office

Mayor

4-22-08

Date

Received in
Mayor's Office

Comments:

Departmental Correspondence

To: Mayor Dan Coody and Fayetteville City Council
Thru: Greg Tabor, Chief of Police
From: Jill Hatfield, Animal Services Superintendent 
Date: April 17, 2008
Re: PetSmart Charities Pre-Adoption Spay/Neuter Grant Approval

Recommendation

Staff recommends approval of the PetSmart Charities Grant for pre-adoption spay/neuter surgeries. The grant funds shall be used for the purchase of spay/neuter supplies to sterilize approximately 370 dogs and cats prior to adoption. Furthermore, staff requests that Jill Hatfield be the primary point of contact to provide supporting backup and financial documentation detailing with the use of the Grant funds.

Background

PetSmart Charities provides grants for shelters that provide spay/neutering services for dogs and cats prior to adoption and low cost spay/neuter opportunities to the local community. The PetSmart Corporation is committed to decreasing the pet overpopulation crisis by providing grant opportunities for shelters nation wide. The grant funding is \$10,000 and is awarded to shelters on a one time basis for a specific spay/neuter program or a multi-organizational collaboration.

Discussion

This grant award, in the amount of \$10,000, is a non-matching grant that will be utilized to purchase anesthesia medications, surgical instruments and supplies, and a heart rate/oxygen level monitor. The grant period is for 18 months. This will enable the shelter clinic to provide pre-adoption surgeries for approximately 370 pets without utilizing general funds.

Budget Impact

This grant provides 100% funding of expenses associated with 370 pre-adoption spay/neuter surgeries. This grant period is from April 1, 2008 through October 1, 2009. During this grant period the City will have \$10,000 available of non-matching grant funds for expenses associated with pre-adoption spay/neuter surgeries.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE FAYETTEVILLE ANIMAL SERVICES DIVISION TO ACCEPT A GRANT FROM PETSMART CHARITIES IN THE AMOUNT OF \$10,000.00 TO COVER COSTS ASSOCIATED WITH PRE-ADOPTION SPAY/NEUTER SURGERIES; AND APPROVING A BUDGET ADJUSTMENT TO RECOGNIZE THE GRANT REVENUE.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Fayetteville Animal Services Division to accept a grant from PETSMART CHARITIES in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries.

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

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 13
PetSmart Grant
Page 4 of 8

Budget Year 2008	Department: Police Division: Animal Services Program: Veterinarian/Clinic	Date Requested 4/17/2008	Adjustment Number
--------------------------------	---	--	-------------------

Project or Item Added/Increased: Grant funding in the amount of \$10,000 for vet supplies to spay/neuter approximately 370 dogs and cats prior to adoption.	Project or Item Deleted/Reduced:
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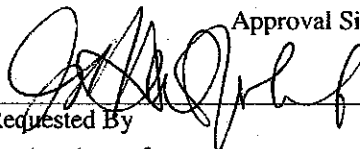
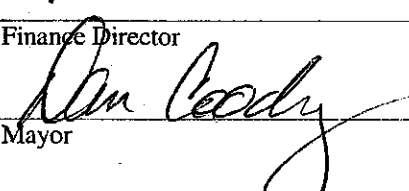
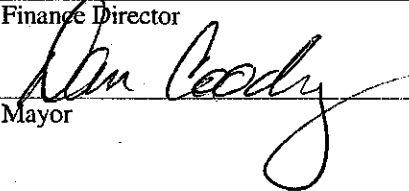
Justification of this Increase: Grant funding to assist with 2008 budget decrease in vet supplies.	Justification of this Decrease:
---	---------------------------------

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Veterinary Supplies	1010 2730 5200 03	10,000	03049 0801

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Commercial Grants	1010 0001 4305 00	10,000	03049 0801

Approval Signatures  Requested By 4/18/08 Date  Budget Director 4-18-08 Date  Department Director 4-22-08 Date  Finance Director 4/22/08 Date  Mayor 4/22/08 Date	Budget & Research Use Only Type: A B C <u>D</u> E General Ledger Date Approval Date Posted to General Ledger Initial Date Posted to Project Accounting Initial Date
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GRANT CONTRACT AGREEMENT

THIS GRANT AGREEMENT (the "Agreement") is effective this 1st day of April 2008, by and between PetSmart Charities, Inc. a 501(c)(3) company, whose place of business and address is 19601 N. 27th Avenue, Phoenix, AZ 85027 ("PetSmart Charities"), and, **Fayetteville Animal Shelter** ("Organization") whose address is 1640 Armstrong Rd., Fayetteville, AR 72701. Upon a fully executed version of this Agreement, PetSmart Charities shall award the Organization a grant in the amount of **\$10,000.00** ("Grant Funds"). The Grant Funds shall be used solely for purchase of spay/neuter supplies to sterilize approximately 370 dogs and cats prior to adoption at an average cost of \$27 each (the "Grant").

This Grant is subject to the following conditions:

1. The Organization will use the Grant Funds only for the purposes summarized above. In the event that the Organization cannot use the Grant Funds for the purposes described within 12 months the Organization must notify PetSmart Charities immediately. The Organization will use the Grant Funds only for charitable purposes. If PetSmart Charities determines at any time that any of the Grant Funds have been used for any purpose other than those summarized above; remain inappropriately unused by the Organization, relative to the expected time table; are not used in accordance with the terms and conditions of this Agreement; the Organization is involved in any investigation or engaged in any action that appears to be unprofessional, uncharitable, or inappropriate; or in PetSmart Charities' discretion, any such action or inaction that does not uphold the spirit of the grant, then PetSmart Charities may unilaterally change the terms of this grant and take such actions as PetSmart Charities deems appropriate to ensure the proper use of the Grant Funds. These actions may include, in the sole discretion of PetSmart Charities, the total revocation of the Grant and the immediate return of all Grant Funds.
2. PetSmart Charities makes the Grant on the condition that the Organization is and continues to be a city/county/state/tribal government entity. The Organization must notify PetSmart Charities immediately if: the Organization's tax-exempt status is withdrawn effective as of any date within two years of the date of this Agreement, or (b) if the Organization ceases operations effective as of any date within two years of the date of this Agreement. If the Organization's tax status changes, PetSmart Charities may change the terms of the Grant, including revoking the Grant and requiring a full refund of the Grant Funds to PetSmart Charities.
3. No part of the Grant Funds shall be used for lobbying or political activities.
4. By 18 months from the date of this Agreement, the Organization will provide to PetSmart Charities a narrative written response to the enclosed evaluation questions on the Grant Follow-up Report and provide sufficient supporting backup and financial documentation detailing the use of the Grant Funds. Additional grant funds will not be awarded until all requirements of this paragraph have been met as defined above.

5. PetSmart Charities may release information concerning the Grant in such ways as it deems appropriate. If the Organization is interested in publicizing the Grant and its efforts in helping homeless pets in the local media, please contact the PetSmart Charities' Communication Manager at: (623) 587-2872. All media materials (e.g. press releases, annual reports, newsletters, invitations, etc.) mentioning PetSmart Charities must be reviewed and pre-approved by PetSmart Charities. Failure to comply herewith will result in PetSmart Charities' immediate right to seek reimbursement from the Organization for the full amount of the Grant.

The Organization shall obtain the prior written consent from PetSmart Charities prior to granting any entity or individual with any publicity or sponsorship rights in connection with this Grant.

Should the Organization wish to use the PetSmart Charities' name for any type of recognition, including donor walls or any other permanent fixtures, it may not do so without PetSmart Charities' written consent and provided that it uses PetSmart Charities' official logo and is done so in a favorable light for PetSmart Charities.

The Organization hereby authorizes PetSmart Charities to use the Organization's name, logo, and photographs or other representation of the Organization's facilities and activities in its annual report and other PetSmart Charities' publications. The Organization waives any rights to inspect or approve of such annual report or other such publications. The Organization agrees to obtain for PetSmart Charities the written release of any individuals (for themselves and/or their pets) in such photographs in an appropriate form provided by PetSmart Charities.

6. PetSmart Charities may request at any time that the Organization produce a written report, in a form reasonably satisfactory to PetSmart Charities, detailing the Grant Funds expenditure and progress of the programs to date. The Organization will submit the written report to PetSmart Charities no later than five (5) days after the date of PetSmart Charities' written request. Additionally, upon written notice and during normal business hours, PetSmart Charities may audit the records of the Organization as they pertain to the Grant, Grant Funds or terms and conditions of this Agreement. The Organization will permit the audit no later than five (5) days after the date of PetSmart Charities' notice. If the report or audit reveals that: (i) the Grant Funds have not been used for the Grant, (ii) the Grant Funds remain inappropriately unused by the Organization, relative to the expected time table or (iii) the Grant Funds are not used in accordance with the terms and conditions of this agreement, then PetSmart Charities may, at its sole option, unilaterally change the terms of the Grant and the Organization may be required to immediately return to PetSmart Charities all Grant Funds.

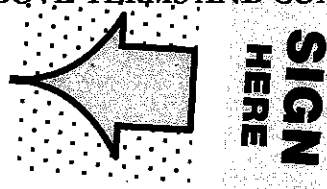
Please indicate, as an authorized representative of the Organization, the Organization's agreement with the conditions of the Grant by signing the bottom of this Agreement and returning it to PetSmart Charities within 45 days of the date of this Agreement, by facsimile, U.S. Mail or hand delivery. Upon PetSmart Charities' receipt of this original signed Agreement and PetSmart Charities' acceptance by signature of this Agreement, a check will be issued to the Organization as well as a copy of this fully executed Agreement.

This Agreement will be null and void if not executed and returned to PetSmart Charities after 45 days from the date of this Agreement.

WE HAVE REVIEWED AND AGREE TO THE ABOVE TERMS AND CONDITIONS:

By: _____
(Signature)

By: _____
(Print Name)



Title (Officer in Fayetteville Animal Shelter)

Date

PetSmart Charities

Date

Please make a copy of this document for your records and mail this signed original to:

**PetSmart Charities
Attn: GRANTS
19601 North 27th Avenue
Phoenix, AZ 85027**

City of Fayetteville Staff Review Form

A. 14
BNSF Railway Co.
Page 1 of 32City Council Agenda Items
and
Contracts, Leases or Agreements

5/6/2008

City Council Meeting Date
Agenda Items OnlyMatt Mihalevich
Submitted ByEngineering
DivisionOperations
Department

Action Required:

Staff requests a resolution approving a contract for the purchase of 6.0 acres of BNSF Railway Company property by the City of Fayetteville for \$73,180.00 plus associated closing costs for Scull Creek Trail.

\$ 73,180.00

Cost of this request

\$ 825,975.00

Category / Project Budget

Transportation Bond Trail Improvements

Program Category / Project Name

4520-9520-5805.00

Account Number

\$ 487,777.47

Funds Used to Date

Trail Improvements

Program / Project Category Name

06036 / 1

Project Number

\$ 338,197.53

Remaining Balance

Sales Tax 2006A Construction Fund

Fund Name

Budgeted Item ☒Budget Adjustment Attached ☐

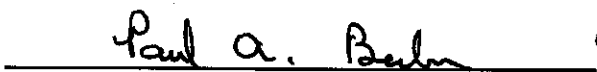
 4-18-08
Department Director Date

Previous Ordinance or Resolution #

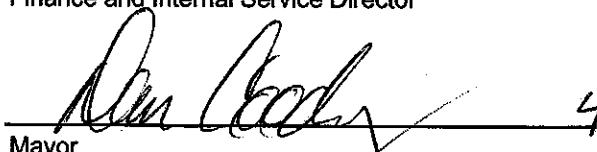
Original Contract Date:

Original Contract Number:

 4/22/08
City Attorney Date

 4-22-08
Finance and Internal Service Director Date

Received in City
Clerk's Office

 4/23/08
Mayor Date

Received in
Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Matt Mihalevich, Trails Coordinator

Date: April 18th, 2008

Subject: Burlington Northern Santa Fe Railway Company property purchase for Scull Creek Trail.

RECOMMENDATION

Staff requests a resolution approving a contract for the purchase of 6.0 acres of BNSF Railway Company property by the City of Fayetteville for \$73,180.00 plus associated closing costs for Scull Creek Trail.

BACKGROUND

As construction of Scull Creek Trail nears completion, acquisitions of only 4 properties remain including this proposed purchase. Utilization of the BNSF property is necessary to complete Scull Creek Trail to the Arkansas & Missouri Railroad right-of-way and along the east side of the tracks south to Dickson Street, utilizing the east edge of the railroad corridor. As staff researched the railroad property, it was discovered that Arkansas & Missouri Railroad purchased 25 feet each side of the existing railroad tracks from BNSF in 1985. Ownership of the remaining property along the railroad corridor has remained with BNSF Railway Company. (See attached map). A separate agreement is being prepared for access on Arkansas & Missouri Railroad property for the trail. Staff contacted BNSF Railway Company and asked if they would consider donating the property or granting a multi-use trail easement on the property. After several months of negotiations, they prefer to sell the property and have agreed upon a total price of \$73,180.00, or \$12,197 per acre.

DISCUSSION

Due to the great support from property owners along the Scull Creek Trail corridor, over 20 acres of property has been acquired for Scull Creek Trail at no cost. Working with the railroad company has been a bit of a different story. While staff could not get the railroad to agree to a donation of the property, we were able to reduce the purchase price down to well below the going rate for property in the center of town. After researching comparative sales for eight industrial properties in the southern part of Fayetteville, the average price is 0.41 cents per square foot (see attached comp sales). At a purchase price of \$73,180.00 for 6.0 acres or 263,435 square feet, the price comes to 0.35 cents per square foot. We feel this price is reasonable based on the comp sales and central location of the property.

One of the six trail bridges has been designed to be located on part of the 6.0 acres of BNSF property. The property also includes an approximately 100' by 200' platted lot west of Frisco Street that is not needed for construction of Scull Creek Trail and could potentially be sold in the future to recoup some of the cost of this purchase.

BUDGET IMPACT

If approved by City Council, funding for the property purchase will come from the trails portion of the Transportation Bond Program. Property acquisition has been budgeted for the bond funds and although the budget is tight, sufficient funding is currently available for this necessary purchase.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE PURCHASE OF APPROXIMATELY 6 ACRES OF REAL PROPERTY FROM BNSF RAILWAY CO. IN THE AMOUNT OF \$73,180.00 PLUS ASSOCIATED CLOSING COSTS FOR THE SCULL CREEK TRAIL.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



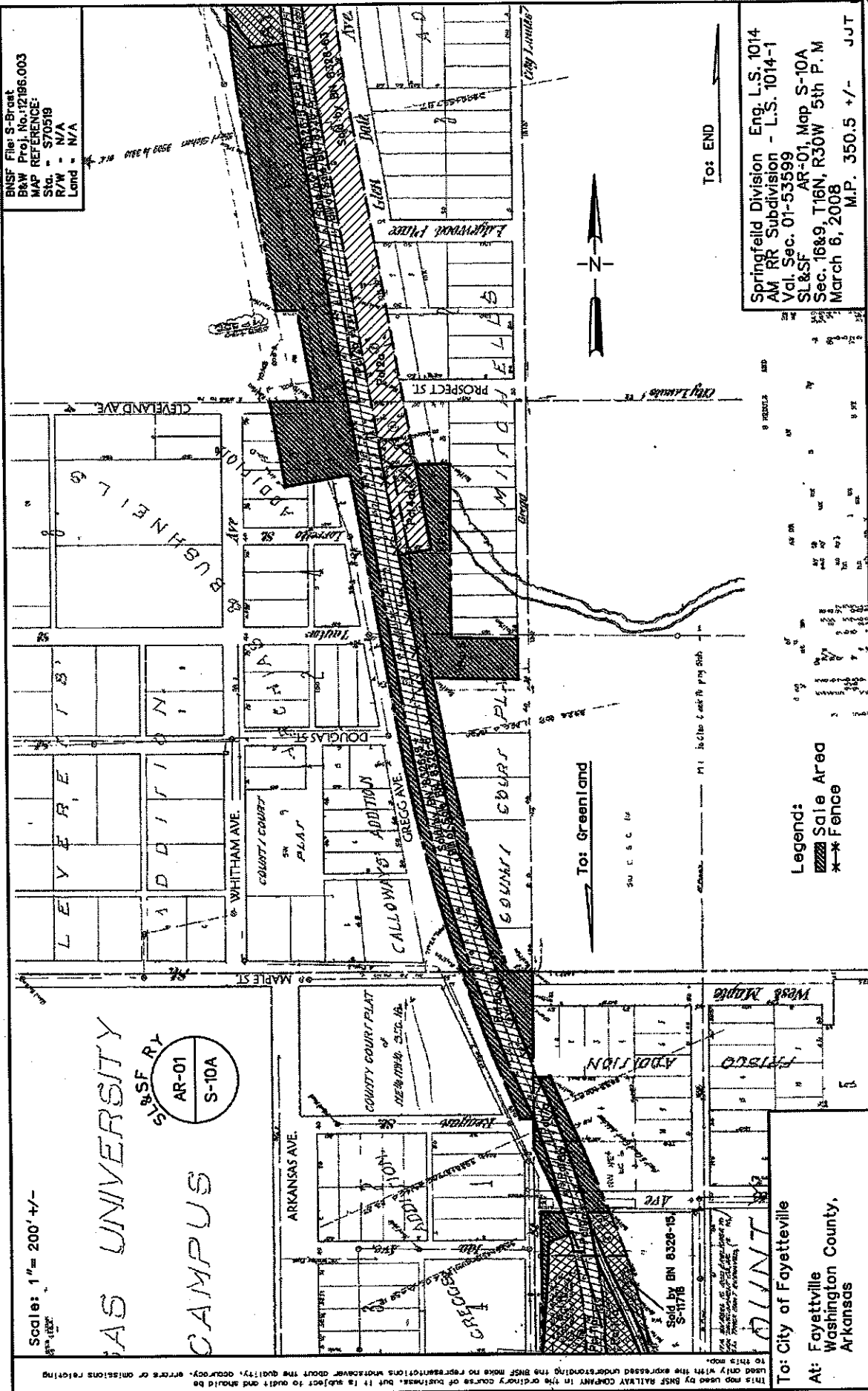
Fayetteville
ARKANSAS

EXHIBIT "A"

BNSF File: S-Broad
B&W Proj. No. 12196.003
MAP REFERENCE:
Sht. - S70519
R/W - N/A
Land - N/A

Scale: 1" = 200' +/-

AS UNIVERSITY
CAMPUS
BNSF RY
AR-01
S-10A



Springfield Division Eng. L.S. 1014
AM RR Subdivision - L.S. 1014-1
Vol. Sec. 01-53599
SL&SF AR-01, Map S-10A
Sec. 16&9, T16N, R30W 5th P. M
March 6, 2008
M.P. 350.5 +/- JJT

DRAWING NO. 3-43389

THIS MAP USED BY BNSF RAILWAY COMPANY IN THE ORDINARY COURSE OF BUSINESS, BUT IT IS SUBJECT TO QUALITY AND SHOULD BE USED ONLY WITH THE EXPRESSED UNDERSTANDING THAT THE BNSF MAKES NO REPRESENTATIONS WHATSOEVER ABOUT THE QUALITY, ACCURACY, OR OMISSIONS RELATING TO THIS MAP.

To: City of Fayetteville
At: Fayetteville
Washington County,
Arkansas

COMPARABLE PROPERTY SALES IN THE CITY OF FAYETTEVILLE
3/25/2008

Property Owner Name	Property Location	Year Purchased	Acres	Square Footage	Price Paid	Price Per Square Foot
Southpass Development Company, LLC	2973 S. Cato Springs Road	2005	885.39	38,567,588.40	\$8,250,000.00	\$0.21
C-Quad Development, LLC	2760 S. City Lake Road	2005	6.50	283,308.38	\$132,000.00	\$0.47
Verve, LLC	100 W. 19th Street	2005	22.32	972,111.00	\$563,000.00	\$0.58
Matrix Investment, LLC	889 E. Pump Station Road	2003	11.83	515,330.00	\$285,000.00	\$0.55
Matrix Investment, LLC	1640 S. Morningside Dr.	2007	60.24	2,624,068.00	\$1,600,000.00	\$0.61
Bhakta, Tom & Hansaben	1122 S. Futrell Dr.	2004	28.43	1,238,219.00	\$250,000.00	\$0.20
Levi Property LLC	1800 W. Pettigrew St.	2007	11.42	497,599.90	\$124,800.00	\$0.25

Average Price Per Square Foot \$0.41

Note: Price shown for Levi subtracts \$1,375,200 for the appraised value of the buildings

CHECK REQUEST

Date: 06-May-08

Manual Check

Vendor Number: 9723

Mail	Yes	No
1. I have a good idea of what I want to do.	☐	☒
2. I have a good idea of how to do it.	☐	☒
3. I have a good idea of what I need to do.	☐	☒
4. I have a good idea of how to get it done.	☐	☒
5. I have a good idea of what I can do.	☐	☒
6. I have a good idea of how to make it work.	☐	☒
7. I have a good idea of what I can do for others.	☐	☒
8. I have a good idea of how to help others.	☐	☒
9. I have a good idea of what I can do for myself.	☐	☒
10. I have a good idea of how to take care of myself.	☐	☒

Payable to: BNSF (Burlington Northern)
Property & Facilities Mgmt.
2500 Lou Menk Dr. AOB 3
Fort Worth, TX 76131-2830

Return Check to: Matt Milhalevich

Send Copy to: Ginny Apperson

For: Purchase of 6.0 acres of land for Scull Creek Trail development

Separate Check Code

Parcel # 765-08478-000 & 765-08481-000 Section 16 & 9, T16N, R30W

Bank Number	452
-------------	-----

Payable From:	Fund Name	Sales Tax Construction

Amount of Check	\$	73180.00
-----------------	----	----------

Charged as follows:

Account Name	Amount	Fund	Dept	Sub Dept	Base	Detail	Project	Sub Project
Land acquisition	73,180.00	4520	9520		5805	00	06036	1
TOTAL	\$73,180.00							

Additional
Approval: ☐ Does Not Meet Purchasing Policy ☐ Contract Payment ☒ Other

Approved: _____

Prepared by: Ginny Apperson / Matt Mihalevich

Approved by: _____

Entered: _____

Accounting Use - Receiving	
G/L Account Number	
Key Code	

BNSF RAILWAY COMPANY

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement ("Agreement") is entered into as of the Effective Date (defined below) between _____ the City of Fayetteville Arkansas ("Buyer") and BNSF RAILWAY COMPANY ("Seller"). This Agreement shall not be binding upon either party unless and until both parties have executed and delivered this Agreement. The submission of this document by Seller to Buyer shall not constitute an offer to sell by Seller.

In consideration of the mutual covenants set forth in this Contract and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

GENERAL TERMS AND DEFINITIONS

1. The following terms shall have the meanings set forth below:

Closing. The consummation of the transaction contemplated by this Agreement, which shall be deemed to have occurred when both parties have delivered the items contemplated in Section 4 of this Agreement.

Closing Date Notwithstanding, anything herein, this sale shall close on or before June 10 2008. Seller shall have the right to extend the closing up to ninety (90) days, at Seller's sole judgment.

Earnest Money The cash sum of Seven Thousand Three Hundred Eighteen and No/100 Dollars (\$7,318.00) made payable to JP Morgan Chase/Escrow Agent Apex Property and Track Exchange, Inc.

Effective Date The date of Seller's execution of this Agreement as indicated below Seller's signature hereto.

Property That parcel of land situated in or near the City of Fayetteville, County of Washington and State of Arkansas, shown on map marked Exhibit A dated March 6, 2008 attached hereto and made a part hereof, subject to revision as set forth below in Section 3.

Purchase Price The sum of Seventy Three Thousand One Hundred Eighty and No/100 Dollars (\$73,180.00).

Review Period The period commencing on the Effective Date and expiring at 5:00 p.m. central time on the date that is 10 days after the Effective Date.

PURCHASE AND SALE

2. (a) Subject to the terms and conditions set forth in this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase and accept from Seller, for the Purchase Price, all of Seller's right, title and interest (if any), in and to the Property.

(b) Seller reserves the right to assign this Agreement to Apex Property & Track Exchange, Inc. ("Apex") or another qualified intermediary within the meaning of Section 1031 of the Internal Revenue Code of 1986 for the purpose of completing a tax-deferred exchange under said Section 1031. Seller shall bear all expenses associated with the use of Apex, or necessary to qualify this transaction as a tax-deferred exchange, and, except as otherwise provided herein, shall protect, reimburse, indemnify and hold harmless Buyer from and against any and all reasonable and necessary additional costs, expenses, including, attorneys fees, and liabilities which Buyer may incur as a result of Seller's use of Apex or other qualified intermediary the qualification of this transaction as a tax-deferred transaction pursuant to Section 1031. Buyer shall execute the document attached as Exhibit B (the "Exchange Assignment") and shall cooperate with Seller with respect to this tax-deferred exchange, and upon Seller's request, shall execute any other documents as may be required to effect this tax-deferred exchange.

(c) Upon submission by Buyer to Seller of this Agreement signed by Buyer, Buyer shall deposit the Earnest Money with Apex (defined below) as escrow agent. Apex shall hold the Earnest Money in escrow pursuant to the terms and conditions of this Agreement. The Earnest Money shall be refunded to Buyer if this Agreement is not executed and delivered by Seller within forty five (45) days after the date Buyer delivers this agreement fully executed by Buyer and deposits the Earnest Money. Buyer shall not be entitled to any interest on the Earnest Money held by Apex pursuant to this Agreement. Buyer acknowledges that receipt by Apex of the Earnest Money shall not constitute acceptance of this Agreement or Buyer's offer provided, however, that Apex shall return the Earnest Money to Buyer if Seller does not execute and deliver this Agreement within forty-five (45) days after Buyer deposits the Earnest Money. Apex shall deliver the Earnest Money to the party entitled thereto pursuant to this Agreement, provided, however if there is a dispute between Buyer and Seller as to who is so entitled, Apex may deposit the Earnest Money with a court of competent jurisdiction pending resolution of such dispute.

(d) The balance of the Purchase Price shall be paid at Closing as provided below.

INSPECTION

3. (a) Seller will prepare a legal description of the Property and will forward such description to Buyer for Buyer's review. Buyer shall have ten (10) days following such delivery to notify Seller in writing if Buyer objects to such description. If Buyer does not so object then the description of the Property prepared by Seller shall be the definition of the Property for all purposes under this Agreement. If Buyer does so object then Buyer shall caused to be prepared a survey of the Property certified to Seller, Buyer and such other parties as Buyer may choose showing the boundaries of the Property and any improvements located thereon (the "Survey"). If Seller does not agree that the description of the Property contained on the Survey is the Property Seller wishes to sell or otherwise objects to the Survey then Seller may terminate this Agreement by written notice to Buyer in which case the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination. If Seller agrees in writing that the Survey description is accurate then the description thereon shall be the definition of the Property for all purposes under this Agreement. In the event a city, county, or other governing authority where the Property is located (a "Municipality") requires a survey or plat to convey the Property (a "Plat"), the Buyer shall obtain, at Buyer's sole cost and expense, such Plat and the approval of such Municipality. Seller's obligations hereunder are conditioned upon Seller's approval of the Plat approved by the Municipality. Buyer shall provide the proposed Plat to Seller prior to submission to the Municipality and prior to the expiration of the Review Period.

(b) Buyer shall have until the end of the Review Period to examine title to the Property. If Buyer elects to obtain a title commitment for the Property Buyer may deliver to Seller no later than the expiration of the Review Period written notice of any objections to the status of title or matters reflected on the Survey that

Buyer may have together with a copy of such title commitment, Survey and all matters referenced therein. Seller shall have no obligation to cure any such objection. If Seller notifies Buyer in writing that Seller will cure any such objection Seller (a) shall make good faith efforts to cure such matter by the Closing Date and if not cured by such date Buyer may terminate this Agreement in which case the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination, and (b) may effect such cure by causing the title company issuing the title commitment to remove such matter as an exception from coverage by paying additional premium therefor or otherwise. If Seller at any time notifies Buyer in writing that Seller is not willing or able to cure any of the such objections (including those which Seller has previously endeavored to cure) then Buyer or Seller may terminate this Agreement by written notice to the other delivered within five (5) days after Seller so notifies Buyer that Seller is unwilling or unable to cure such objection. In the event of such termination, the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination. If this Agreement is not so terminated, the parties shall proceed to Closing according to the remaining provisions of this Agreement.

(c) Prior to any entry upon the Property by Buyer, the surveyor preparing the Survey or other individuals on behalf of Buyer, Buyer shall execute and deliver to Seller an Entry and Confidentiality Agreement in the form attached hereto as Exhibit C and incorporated herein (the "**Entry Agreement**"). The terms and provisions of the Entry Agreement are incorporated herein, shall survive the Closing, shall not be merged into the Deed or any document delivered at Closing and shall survive any termination of this Agreement. Any breach by Buyer of its obligations under the Entry Agreement shall be deemed a breach by Buyer under this Agreement. Notwithstanding anything in this Agreement to the contrary, including the provisions of Section 6(a), nothing in this Agreement or the exercise of any remedy by Seller under this Agreement shall limit or affect in any manner any remedy available to Seller under the Entry Agreement in the event of a breach of Buyer's obligations under the Entry Agreement.

(d) Intentionally left blank.

(e) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to any judgment against Seller which may appear of record as a lien against the Property. Seller shall pay such lien if and when it is judicially determined to be valid, and Seller hereby indemnifies the Buyer for all loss arising out of Seller's failure to have a judgment lien so settled and satisfied.

(f) Notwithstanding the foregoing provisions of Section 3(b), Buyer shall not be entitled to object to the lien of any of Seller's mortgages. Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which Seller is obligated to pay within one hundred eighty (180) days after the first meeting of Seller's Board of Directors held after the Closing. In the event Seller shall be unable to obtain said releases for any reason, Seller shall have the right to repurchase the Property from Buyer for the Purchase Price and Buyer shall reconvey the Property to Seller free and clear of defects or objections arising after the Effective Date upon which this Agreement shall terminate and neither party shall have any further rights or obligations hereunder except those that expressly survive termination.

CLOSING

4. (a) Subject to the terms of this Agreement, the Closing shall occur on the Closing Date. On or before the Closing Date Buyer shall (1) pay the Purchase Price, less the Earnest Money to Seller in cash, by certified check made payable to JP Morgan Chase/Escrow Agent Apex Property and Track Exchange, Inc. or by wire transfer to Seller's account as designated by Seller and the Earnest Money shall become the property of Seller and no longer subject to the terms of this Agreement, and (2) such other affidavits or certificates as is reasonably necessary or customary to consummate the transaction. After Buyer has

delivered the foregoing items, Seller shall deliver to Buyer (1) a Quitclaim Deed in recordable form, subject to all matters of record and restating the exceptions and reservations set forth in Section 8 (the "Deed") conveying to Buyer Seller's interest, if any, in and to the Property, (2) counterparts of the Exchange Assignment, and (3) such other affidavits and certificates as is reasonably necessary or customary to consummate the transaction in form and substance acceptable to Seller.

PRORATIONS AND CLOSING COSTS

5. (a) Real estate taxes and assessments payable or paid in the year of Closing shall be prorated by Seller and Buyer as of the Closing Date on the basis of the most recent ascertainable taxes assessed against the Property. If the Property is not separately assessed for tax purposes then there shall be no proration of taxes between Buyer and Seller, the parties shall cooperate post-Closing to cause the Property to be separately assessed and each party shall indemnify the other for any failure to pay real estate taxes and assessments due with respect to the properties constituting the tax parcel to which the Property is a part. Notwithstanding the foregoing, there shall be no proration for taxes to the extent the payment of same has been assumed by a tenant under an existing lease to be assigned to Buyer. All outstanding assessments on the Property levied or due in the year of Closing and afterward shall be paid by Buyer.

(b) The parties shall cooperate so that utilities serving the Property that are not the responsibility of a tenant under a lease to be assigned to Buyer at Closing, to the extent feasible, shall be switched into the name of Buyer as of the Closing Date, so that a final statement can be issued to Seller for the billing period ending on the Closing Date, and so that the first day of the first billing cycle in Buyer's name can begin on the Closing Date. If, however, the final statement covering the final period of ownership by Seller also includes periods of ownership by Buyer, Buyer shall pay Seller at Closing the amount attributable to Buyer's period of ownership. Buyer shall be responsible to pay all utilities serving the Property due after Closing.

(c) Buyer shall pay all closing costs associated with Closing including, but not limited to, any escrow fees, documentary stamps and other recording costs associated with this transaction, excise taxes, the cost of any state, county or local transfer taxes, the cost of the Survey, and the costs associated with any title insurance obtained by Buyer.

(d) If any real estate broker or agent can establish a valid claim for commission or other compensation as a result of Buyer having used their services in connection with the purchase of the Property, all such commission or other compensation shall be paid by Buyer. Seller shall not be liable for any real estate commissions or finders fees to any party with respect to the sale of the Property, except amounts due to Staubach Global Services – RR Inc. ("Broker") pursuant to a separate agreement. Buyer acknowledges that Broker has advised, and hereby advises, Buyer that the Broker is acting as on behalf of the Seller, with the duty to represent Seller's interest, and Broker is not the agent of the Buyer. If a policy of title insurance is to be obtained, Buyer should obtain a commitment for title insurance which should be examined prior to closing by an attorney of Buyer's choice. Prior to the execution of this Agreement, Broker has advised and hereby advises the principals of this transaction, that this Agreement is binding on them, and the principals hereby acknowledge that they have been so advised. Broker has no authority to execute any document on behalf of Seller, make representations on behalf of Seller or bind Seller in any manner.

(e) The obligations of the parties in this Section 5, to the extent incurred, shall survive any termination of this Agreement.

DEFAULT AND REMEDIES

6. (a) In the event of a default by Buyer under the terms of this Agreement, Seller's sole and exclusive remedies shall be: (a) terminate this Agreement whereupon the parties shall have no further obligations hereunder except those that expressly survive termination, or (b) waive such default and proceed Closing, or (c) obtain specific performance of this Agreement. If Seller terminates this Agreement as provided in the previous sentence Seller shall be entitled to retain the Earnest Money. Notwithstanding the foregoing, nothing contained herein shall waive or diminish any right or remedy Seller may have at law or in equity for Buyer's default or breach of any obligation hereunder to be performed by Buyer after Closing. It is hereby agreed that Seller's damages in the event of a default by Buyer hereunder are uncertain and difficult to ascertain, and that the Earnest Money constitutes a reasonable liquidation of such damages and is intended not as a penalty, but as liquidated damages.

(b) In the event of a default by Seller under the terms of this Agreement, Buyer's sole and exclusive remedies hereunder shall be to terminate this Agreement and receive a refund of the Earnest Money plus an additional amount from Seller not to exceed ten percent of the Purchase Price equal to the out-of-pocket expenses (including attorneys' fees) incurred by Buyer in connection with this Agreement as evidenced by copies of third party invoices delivered to Seller. Upon such termination and the payment of such sums by Seller the parties shall have no further obligations hereunder except those that expressly survive termination. Notwithstanding the foregoing, nothing contained herein shall waive or diminish any right or remedy Buyer may have at law or in equity for Seller's default or breach of any obligation hereunder to be performed by Seller after Closing.

NATURE OF SALE

7. Buyer has been allowed to make an inspection of the Property. **BUYER IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM SELLER AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licensees, or other agreements, affecting the Property (collectively, the **"Condition of the Property"**). Buyer represents and warrants to Seller that Buyer has not relied and will not rely on, and Seller is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Seller, the manager of the Property, or any real estate broker or agent representing or purporting to represent Seller, to whomever made or given, directly or indirectly, orally or in writing. Buyer assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Buyer's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Seller and Seller's officers, directors, shareholders, employees and agents (collectively, **"Indemnitees"**) from any and all present or future claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and

judgments, and attorneys' fees) of any and every kind or character, known or unknown, which Buyer might have asserted or alleged against Indemnitees arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Seller remaining property or the operations or business of the Seller on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for injury or death of any person, and (d) Losses arising under any Environmental Law enacted after transfer. The rights of Seller under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Buyer to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term "**Environmental Law**" means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term "**Hazardous Substance**" means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions. The provisions of this Section 7 shall be binding on Buyer, and its heirs, successors and assigns, shall be included in the Deed and shall be covenants running with the land.

RESERVATIONS

8. The obligations in this Section 8 shall be binding upon Buyer and its heirs, successors and assigns, shall be included in the Deed and shall be covenants running with the land benefiting Seller and Seller's successors and assigns. For purposes of this Section 8, Grantor shall mean Seller and Grantee shall mean Buyer. Buyer may object to the reservations set forth in Section 8(a) below in accordance with the provision of Section 3 and if Seller is unwilling or unable to cure such objection either party may terminate this Agreement as set forth in Section 3.

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor shall have a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's licensees, permittees and customers. Grantor shall have a non-exclusive easement for the construction, maintenance and operation of one or more pipelines or fiber optic lines and any and all communications facilities as may be located in the future on the Property within 60 feet of the center line of any Main Track on or adjacent to the Property and as may be presently located on the Property.

(b) Grantee's interest shall be subject to a reservation to Grantor of all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights.

(c) Any improvements constructed or altered on the Property after the date Grantor quitclaims its' interest to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water away from any of Grantor's railroad tracks on nearby property.

(d) Within 90 days after closing, Grantee shall, at its sole cost and expense, construct a protective chain link fence a minimum of six (6) feet in height upon, over and across the Property as shown (--X—X—X-) on the attached Exhibit "A" and by this reference made a part hereof. Grantee shall thereafter repair, maintain and renew said fence, so as to keep same in good repair at the sole cost of the Grantee. If fence is not constructed within this time frame, Grantor may construct said fence at the sole cost of Grantee and Grantee shall pay Grantor all associated costs within 10 days of receipt of bills.

(e) Grantee acknowledges and affirms that Grantor may not hold fee simple title to the Property, that Grantor's interest in all or part of the Property, if any, may rise only to the level of an easement for railroad purposes. Grantee is willing to accept Grantor's interest in the Property, if any, on this basis and expressly releases Grantor, its successors and assigns from any claims that Grantee or its successors may have as a result of an abandonment of the line of rail running over or adjacent to any portion of the Property. In light of Grantor's disclosure that it may not hold a fee interest in all or part of the Property, Grantee agrees to indemnify, defend and hold Grantor harmless from any suit or claim for damages, punitive or otherwise, expenses, attorneys' fees, or civil penalties that may be imposed on Grantor as the result of any person or entity claiming an interest in any portion of the Property or claiming that Grantor did not have the right to transfer all or part of the Property to Grantee.

REPRESENTATIONS

9. Buyer represents and warrants to Seller that if Buyer is other than a natural person or persons that it is a validly formed Municipal Corporation under the laws of the State of Arkansas; that it is in good standing in the state of its organization and in the state in which the Property is located; that it has all requisite authorizations to enter into this Agreement; and that the parties executing this Agreement on behalf of Buyer are duly authorized to so do. Buyer represents and warrants to Seller that it is not subject to any bankruptcy proceeding. Seller represents and warrants to Buyer that it is a validly formed corporation under the laws of the State of Delaware; that it is in good standing in the state of its organization and in the state in which the Property is located; that it is not subject to any bankruptcy proceeding; that it has all requisite corporate authorizations to enter into this Agreement; and that the parties executing this Agreement on behalf of Seller are duly authorized to so do. It shall be a condition of each party's obligations to Close this transaction that the representations and warranties of the other party contained herein are true and accurate as of Closing, provided, however that if one party waives such condition by proceeding to Close with knowledge that any of the second party's representations or warranties are inaccurate, the second party shall have no liability with respect to such inaccuracy known by the first party.

MISCELLANEOUS

10. (a) Any notice under this Agreement must be written. Notices must be either (i) hand-delivered; (ii) placed in the United States certified mail, return receipt requested, addressed to the recipient; (iii) deposited with a nationally recognized overnight delivery service, addressed to the recipient as specified below; or (iv) telecopied by facsimile transmission to the party at the telecopy number listed below, provided that such transmission is followed with a copy sent by overnight delivery or regular mail to the address specified below. Any notice is effective upon deposit with the U.S. Postal Service or with the overnight delivery service, as applicable; all other notices are effective when received. All notices shall be addressed to the address of the recipient indicated below the signature of such party below. Either party may change its address for notice by proper notice to the other party.

(b) If the approval of any governmental agency is required for the sale of Seller's interest (if any) in the Property, it is understood and agreed that Seller's obligations under this Agreement are conditioned upon obtaining such approval and that both parties shall use their best efforts to obtain such approval. If such approval cannot be obtained by the Closing Date, Seller may elect to extend the Closing Date to a date no later than ninety (90) days after the original Closing Date. In the event said approval cannot be obtained by such extended date, either party may terminate this Agreement without liability to the other, except that the Earnest Money shall be refunded to Buyer and thereafter neither party shall have any obligation hereunder except those that expressly survive termination.

(c) Nothing in this Agreement shall prevent Seller from discontinuing service over any railroad line or lines by which rail service may be provided to the Property.

(d) If, prior to Closing, the Property or any portion thereof is destroyed or damaged, or becomes subject to a taking by virtue of eminent domain to any extent whatsoever then either party may terminate this Agreement by written notice to the other within thirty (30) days after notice of such fact (but in any event prior to Closing). If so terminated, the Earnest Money shall be refunded to Buyer and neither party shall have any further obligations hereunder except those that expressly survive termination. If not so terminated the parties shall proceed with the Closing.

(e) Time is of the essence of each of the party's respective obligations under this Agreement. Whenever a date specified in this Agreement falls on a Saturday, Sunday, or federal holiday, the date will be extended to the next business day.

(f) This Agreement and, to the extent executed, the Entry Agreement, contains the entire Agreement between Seller and Buyer with respect to the Property. Oral statements or prior written matters not specifically incorporated into this Agreement are superceded hereby. No variation, modification, or change to this Agreement or the Entry Agreement shall bind either party unless set forth in a document signed by both parties. No failure or delay of either party in exercising any right, power or privilege hereunder shall operate as a waiver of such party's right to require strict compliance with any term of this Agreement. The captions above the section numbers of this Agreement are for reference only and do not modify or affect this Agreement. Each party has had the opportunity to have counsel review this Agreement and the Entry Agreement and, therefore, no rule of construction that any ambiguities are to be resolved against the drafting party must not be employed to interpret this Agreement, the Entry Agreement or any closing document. This Agreement and the Entry Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute the same Agreement. This Agreement and the Entry Agreement are intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the Entry Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement and the Entry Agreement (to the extent executed) shall continue in full force and effect, but without giving effect to such term or provision.

(g) Buyer may not assign its interest in this Agreement or the Entry Agreement without Seller's prior written consent. The provisions of this Agreement and, to the extent executed, the Entry Agreement, shall bind Seller, the Buyer, and their heirs, executors, administrators, successors and assigns and shall inure to the benefit of the Seller, the Buyer and their heirs, executors, administrators, permitted successors and assigns. If Buyer is more than one person or entity, Buyer's obligations under this Agreement and, to the extent executed, the Entry Agreement, shall be joint and several.

(h) This Agreement relates only to land. Unless otherwise herein provided, any conveyance shall exclude Seller's railroad tracks and appurtenances thereto, Seller's buildings and any other improvements

on the Property, all of which may be removed by Seller within 90 days following conveyance of the Property, and if not removed, shall be deemed abandoned by the Seller without obligation on the Seller's part and shall thereafter be and become the Property of the Buyer in place. Notwithstanding the foregoing, Seller shall not have to remove any improvements or fixtures for which an easement has been reserved hereunder or in the deed.

(i) Seller is not a foreign person as the term is used and defined in Section 1445 of the Internal Revenue Code of 1954, as amended and the regulations promulgated thereunder. Seller shall, upon request of Buyer, complete an affidavit to this effect and deliver it to Buyer on or before closing of said sale.

(j) The provisions of Sections 5-8 and Section 10 of this Agreement shall survive Closing and shall not be merged into the Deed or any other document delivered at Closing. The provisions of Section 9 of this Agreement shall survive Closing for a period of one year and shall not be merged into the Deed or any other document delivered at Closing. Nothing in this section shall alter any requirement in any other Section of this Agreement for the provisions of such section to be incorporated into the Deed, such as Sections 7 and 8.

(k) If any action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, costs, and discovery or investigation expenses in addition to any other relief to which that party may be entitled.

(l) SELLER AND BUYER IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUITE OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Buyer and Seller have executed this Agreement to be effective as of the Effective Date.

BUYER:

CITY OF FAYETTEVILLE, ARKANSAS

Buyer's name as it is to appear on deed
(PRINTED/TYPED)

By: _____
DAN COODY, Mayor

Buyer's Address:

113 W. Mountain Street
Fayetteville AR, 72701

Attn: Matt Mihalevich

Fax: (479) 575-8202

Phone: (479) 444-3416

Buyer's SSN or EIN: 71 6018462

SELLER:

BNSF RAILWAY COMPANY

By: _____
Print Name: _____
Title: _____

Seller's Address:

c/o Staubach Global Services, Inc.

Attn: _____
3017 Lou Menk Drive, Suite 100
Fort Worth, Texas 76131-2800

Fax: 817-306-8129

Phone: 817-230-2600

Date of Seller's Execution (Effective Date)

EXHIBIT A

[Attach Map showing Property cross-hatched in black]

EXHIBIT B

ASSIGNMENT OF RIGHTS UNDER CONTRACT TO REAL ESTATE

ASSIGNMENT OF RIGHTS UNDER CONTRACT TO REAL ESTATE

APEX PROPERTY & TRACK EXCHANGE, INC., a Massachusetts corporation, of 2036 Washington Street, Hanover, Massachusetts 02339, (hereinafter called "Assignee"), **BNSF RAILWAY COMPANY**, a Delaware corporation, (hereinafter called "Exchangor"), and **the City of Fayetteville, Arkansas**, an Arkansas municipal corporation (hereinafter called "Buyer").

Whereas, Exchangor and Buyer heretofore entered into an Agreement dated _____, 200__ (the "Contract"), wherein Exchangor agrees to assign the rights to the Contract, but not the obligations and warranties over to Assignee, as it pertains to the following described Relinquished Property:

"See **EXHIBIT "A"** attached hereto and made a part hereof".

Now, Therefore, Exchangor hereby assigns to Assignee all of the Exchangor's rights under the Contract, as contemplated by Treasury Regulations Section 1.1031 (k)-1(g)(4)(v), including all deposits received prior to issuing a Deed transferring legal title. Exchangor's obligations and warranties under the Contract remain with the Exchangor, including the authority to issue a Deed transferring legal title to the Relinquished Property over to the Buyer.

Assignee previously represented, warranted and covenanted to Exchangor, under the Master Exchange Agreement dated January 1, 1997, that it will not transfer, assign, mortgage or hypothecate the rights that it is receiving from the Exchangor and that Assignee shall not amend, terminate, modify, supplement or otherwise alter any term, condition or other provision of the Contract. At the same time the Deed goes into effect transferring legal title to the Buyer, rights received under this Assignment of Rights are transferred to Exchangor.

Assignee is participating in this transaction only as a Qualified Intermediary and that for purposes of any dispute regarding the Relinquished Property, Exchangor and Buyer shall look solely to each other with respect to resolving any such dispute and neither one shall look to the Assignee. This shall be binding upon and shall inure to the respective heirs, successors and assigns of Exchangor and Buyer.

This instrument may be executed in any number of counterparts, each of which, when duly executed, shall constitute an original hereof.

In Witness Whereof, the parties hereto have executed this Assignment of Rights Under Contract, to be effective as of the date on which the last party hereto signs.

Exchangor:

BNSF RAILWAY COMPANY,
a Delaware corporation

By: _____ Date: _____
David P. Schneider
General Director-Land Revenue Management

Assignee:

APEX PROPERTY & TRACK EXCHANGE, INC.,
a Massachusetts corporation

By: _____ Date: _____

Buyer:

City of Fayetteville, Arkansas
a municipal corporation

By: _____ Date: _____
Name: **DAN COODY**
Title: Mayor

BNSF _____

EXHIBIT "A" to 1031 Assignment

EXHIBIT C

[ENTRY AND CONFIDENTIALITY AGREEMENT]

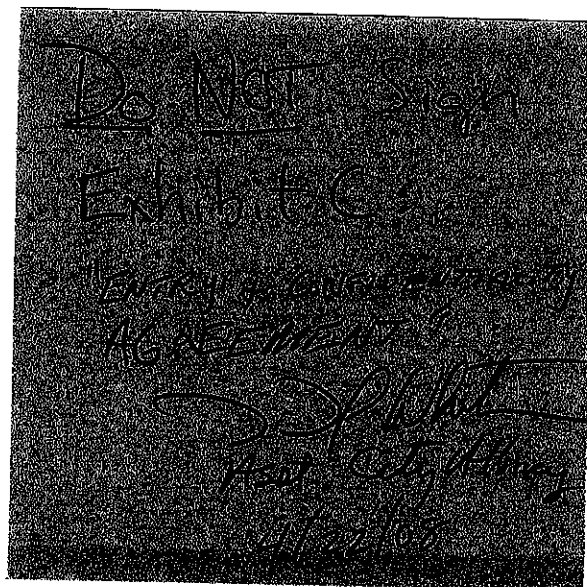


EXHIBIT C

[ENTRY AND CONFIDENTIALITY AGREEMENT]

ENTRY AND CONFIDENTIALITY AGREEMENT

THIS ENTRY AND CONFIDENTIALITY AGREEMENT ("**Agreement**") is made as of the Effective Date (defined below) by **BNSF RAILWAY COMPANY**, a Delaware corporation ("**Railroad**") and _____ ("**Permittee**").

WHEREAS, Permittee as Buyer and Railroad as Seller have entered into that certain Real Estate Purchase and Sale Agreement (the "**Sale Contract**") dated as of _____ [Insert Effective Date of Purchase and Sale Agreement] concerning the property(ies) set forth therein (the "**Property**"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Sale Contract.

WHEREAS, in order to evaluate the acquisition of the Property, Permittee has requested access to the Property to inspect the condition of the Property.

WHEREAS, Railroad is willing to permit such access only on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following:

1. **RIGHT OF ENTRY.** In accordance with the provisions of this Agreement, Railroad hereby grants Permittee a non-exclusive, revocable license, subject to all rights, interests, and estates of third parties including, without limitation, any leases, licenses, easements, liens, or other encumbrances, to enter the Property for the purpose of inspecting the Property for said potential acquisition and for no other purpose or use.

2. **RESTRICTIONS CONCERNING ENTRY.**

(a) Permittee shall enter the Property only during normal business hours and may inspect the condition thereof and conduct such surveys and to make such engineering and other inspections, tests and studies as Permittee shall determine to be reasonably necessary, all at Permittee's sole cost and expense. Notwithstanding the foregoing, Permittee shall not conduct or allow any physically intrusive testing of, on or under the Property and under no circumstances shall Permittee be permitted to conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on the Property unless Permittee has obtained prior written approval from Railroad, which approval may be withheld in Railroad's sole discretion.

(b) Permittee agrees to give Railroad notice at least five (5) business days prior to any such entry, examinations or surveys and Railroad has the right to be present during any such entry, examination or survey. Such notice shall be made to Railroad's Roadmaster at _____ [fill in address and phone # of Roadmaster]. Permittee agrees to conduct all examinations and surveys of the Property in a manner that will not interfere with the operations or improvements of Railroad or other lessees, Permittees or license holders and in such a manner and not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Railroad, or the safe operation and activities of Railroad.

(c) Permittee shall comply with, and cause its agents to comply with, any and all laws, statutes, regulations, ordinances, rules, orders, common law, covenants or restrictions ("**Legal Requirements**") applicable to the Property and their activities thereon and any and all safety requirements of Railroad and if ordered to cease any activities upon the Property by Railroad's personnel Permittee shall immediately do so. Notwithstanding the foregoing right of Railroad, the parties agree that Railroad has no duty or obligation to monitor Permittee's activities on the Property to determine the safe nature thereof, it being solely the Permittee's responsibility to ensure that Permittee's activities on the Property are safe. Neither the exercise nor failure by Railroad to exercise any rights granted in this Section will alter the liability allocation provided by this Agreement.

(d) Permittee shall not harm or damage the Property or cause any claim adverse to Railroad.

(e) Permittee shall promptly reimburse Railroad for any additional costs/expenses incurred by Railroad in connection with such safety requirements (including, but not limited to, furnishing a flagman if Railroad determines that furnishing a flagman is necessary during any such examinations or surveys).

(f) Permittee shall not contact any governmental or quasi governmental authorities concerning the Property without Railroad's prior written consent and Railroad shall have the right to be present during any such contacts.

(g) Permittee will not have more than 5 persons present on any individual Property at a one time. Any officer, employee, agent, contractor, consultant, lender, surveyor or attorney entering the Property on behalf of or at the direction of Permittee, shall be deemed agents of Permittee for purposes of this Agreement.

3. **TERM.** This Agreement shall commence on the date Railroad executes this Agreement as indicated below its signature (the "**Effective Date**") and shall be in effect until the earlier of the date the Sale Contract is terminated pursuant to its terms, or the Closing Date. No expiration or termination of this Agreement shall release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events occurring prior to the date of termination or expiration.

4. **INSURANCE.** Permittee shall obtain and maintain the insurance required below:

A. **Commercial General Liability Insurance.** This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$1,000,000 each occurrence and an aggregate limit of at least \$ 2,000,000. Coverage must be purchased on a post 1998 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:

- ◆ Bodily Injury and Property Damage
- ◆ Personal Injury and Advertising Injury
- ◆ Fire legal liability
- ◆ Products and completed operations

B. **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- ◆ Bodily injury and property damage
 - ◆ Any and all vehicles owned, used or hired
- C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:
- ◆ Permittee's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
 - ◆ Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

Other Requirements:

Permittee agrees to waive its right of recovery against Railroad and Indemnitees (defined below) for all Liabilities (defined below) that could be insured against by the insurance required to be maintained hereby. In addition, its insurers, through the terms of the policy or policy endorsement, must waive their right of subrogation against Railroad for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement. Permittee further waives its right of recovery, and its insurers also waive their right of subrogation against Railroad for loss of its owned or leased property or property under Permittee's care, custody or control.

All policy(ies) required above (excluding Workers Compensation) shall include a severability of interest endorsement and Railroad [*and Staubach Global Services, Inc.*] shall be named as an additional insured with respect to work performed under this agreement. Severability of interest and naming Railroad [*and Staubach Global Services, Inc.*] as additional insured shall be indicated on the certificate of insurance.

Prior to commencing the Work or entering the property, Permittee shall furnish to Railroad an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) shall contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance. In the event of a claim or lawsuit involving Railroad arising out of this agreement, Permittee will make available any required policy covering such claim or lawsuit.

Acceptance of a certificate that does not comply with this section shall not operate as a waiver of Permittee's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Permittee shall not be deemed to release or diminish the liability of Permittee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad shall not be limited by the amount of the required insurance coverage.

For purposes of this section, **Railroad** shall mean "Burlington Northern Santa Fe Corporation", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

5. **COMPLETION OF INSPECTION.** Upon completion of any inspection by Permittee or its agents on the Property or upon the expiration or termination of this Agreement, whichever shall occur first, Permittee shall, at its sole cost and expense:

- (a) remove all of its equipment from the Property;
- (b) report any damage to the Property arising from, growing out of, or connected with Permittee's entry upon the Property and restore the Property to their condition immediately prior to such entry by Permittee or its agents;
- (c) remedy any unsafe conditions on the Property created by Permittee or its agents; and

6. **INDEMNITY.** TO THE FULLEST EXTENT PERMITTED BY LAW, PERMITTEE SHALL INDEMNIFY, RELEASE, DEFEND AND HOLD HARMLESS RAILROAD AND RAILROAD'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEYS' FEES AND COSTS OF INVESTIGATION) (COLLECTIVELY "LIABILITIES") OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART):

- (a) ANY BREACH OF THIS AGREEMENT BY PERMITTEE INCLUDING, BUT NOT LIMITED TO, PERMITTEE'S OBLIGATION TO COMPLY AND CAUSE ITS AGENTS TO COMPLY WITH LEGAL REQUIREMENTS INCLUDING, BUT NOT LIMITED TO, WORKERS' COMPENSATION AND CERCLA,
- (b) ANY RIGHTS OR INTERESTS GRANTED PURSUANT TO THIS AGREEMENT,
- (c) PERMITTEE'S OR ITS AGENTS ACTIVITIES UPON OR USE OF ANY OF THE PROPERTY, OR
- (d) ANY ACT OR OMISSION OF PERMITTEE OR PERMITTEE'S AGENTS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER,

EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED TO, IN WHOLE OR IN PART, ANY NEGLIGENCE OF ANY INDEMNITEE. THE ONLY LIABILITIES WITH RESPECT TO WHICH PERMITTEE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES DOES NOT APPLY ARE LIABILITIES TO THE EXTENT PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF AN INDEMNITEE.

7. **CONFIDENTIALITY.** Except to the extent otherwise required by Legal Requirements, Permittee shall not disclose to any third parties any information Permittee discovers or obtains concerning the Property as a result of any inspections, surveys, tests or other activities conducted with respect to the Property ("**Confidential Information**") including, but not limited to, any oral, electronic or written information provided by Railroad or on Railroad's behalf. Notwithstanding the foregoing, Buyer may disclose Confidential Information to those of Buyer's agents directly involved with Permittee with respect

to the acquisition of the Property, provided such individuals and firms have agreed to maintain the confidentiality of Confidential Information pursuant to this Agreement and provided further that Permittee shall be liable hereunder for any breach by such parties of such obligation. Confidential Information shall not include information that is or becomes in the public domain other than as a result of a breach by Permittee or its agents. If Permittee or any of its agents receive a request to disclose any part of the Confidential Information, Permittee shall (a) notify Railroad immediately of the existence, terms and circumstances of such request, (b) consult with Railroad on the advisability of taking legally available steps to resist or narrow such requests, and (c) if disclosure of such Confidential Information is required to prevent Permittee being held in contempt or subject to other penalty, shall (i) furnish only such information as is legally required to be so disclosed, and (ii) use its best efforts to obtain an order or other reliable assurance that confidential treatment will be afforded to the disclosed Confidential Information. If the transaction contemplated in the Sale Contract does not close for any reason then Permittee shall, promptly upon Railroad's request, forward to Railroad all Confidential Information without keeping any copies thereof.

8. DEFAULT. Permittee acknowledges and agrees that in the event of a breach of this Agreement, Railroad would be irreparably harmed and could not be made whole by monetary damages. Accordingly, in addition to any other remedy to which it may be entitled at law, in equity or under this Agreement, Railroad shall be entitled to injunctive relief (without the posting of any bond and without proof of actual damages) to prevent such breach and/or to compel specific performance. Permittee and its agents shall not oppose the granting of such relief. In the event of any breach by Permittee or its agents under this Agreement, Railroad may terminate this Agreement and shall be entitled to any other remedy available at law, in equity or under this Agreement. No failure or delay of either party in exercising any right, power or privilege hereunder shall operate as a waiver of such party's right to require strict compliance with any term of this Agreement.

9. GOVERNING LAW, JURY WAIVER. All questions concerning the interpretation or application of provisions of this Agreement shall be decided according to the laws of the State of Texas without regard to principles of conflicts of law. Any action relating to this Agreement may be brought in the courts of Tarrant County, Texas, Permittee hereby consenting to the jurisdiction and venue of such courts. PERMITTEE AND RAILROAD IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUITE OR COUNTERCLAIM ARISING IN CONNECTION WITH, OUT OF OR OTHERWISE RELATING TO, THIS AGREEMENT.

10. SALE CONTRACT. The provisions of this Agreement shall be deemed incorporated into the Sale Contract, shall survive the closing thereunder and shall not be merged into the deed conveying the Property or any other closing document, provided, however that nothing in the Sale Contract shall limit or modify any remedy available to Railroad under this Agreement for a breach by Permittee of its obligations under this Agreement. All notices hereunder shall be delivered in the manner set forth in the Sale Contract.

Do NOT Sign
Exhibit C:
"ENTRY & CONFIDENTIALITY
AGREEMENT"

Asst. City Attorney
4/22/08

Agreement has been duly executed as of the Effective Date.

RAILROAD:

BNSF RAILWAY COMPANY

By: _____

Print Name: _____

Title: _____

Date of Execution by Railroad (Effective Date)

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

A. 15
Gordon Backhoe and Dozer Service, Inc.
Page 1 of 8

6-May-08
City Council Meeting Date

Tom Hubbard
Submitted By

Water/Wastewater Operations
Division

Water/Wastewater
Department

Action Required:

Approval of a contract with Gordon Backhoe and Dozer Service, Inc., in the amount of \$17,068, a contingency of \$2,000, and a budget adjustment to remove construction debris from the BioBased site at 1475 Cato Springs Road.

\$ 19,068

Cost of this request

\$ 100,000

Category / Project Budget

BioBase Debris Removal

Program Category / Project Name

1010.6600.5315.00

Account Number

\$ -

Funds Used to Date

Other

Program / Project Category Name

08051

Project Number

\$ 100,000

Remaining Balance

General

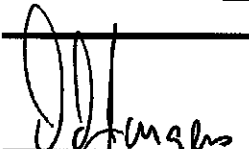
Fund Name

Budgeted Item

☐

Budget Adjustment Attached

XX


Department Director

18 Apr 08
Date

Previous Ordinance or Resolution # 4787

Original Contract Date: 11/4/2005


City Attorney

April 21, 08
Date

Original Contract Number:

Paul A. Becker
Finance and Internal Service Director

4-21-08
Date

Received in City Clerk's Office

Ses 4/18/08


Mayor

4/22/08
Date

Received in Mayor's Office

ENTERED
4/21/08
R.H.

Comments:

CITY COUNCIL AGENDA MEMO

To: Fayetteville City Council

Thru: Mayor Coody
David Jurgens, Water and Wastewater Director

From: Tom Hubbard, Water and Wastewater Operations Manager

Date: 18 April 2008

Subject: Approval of a contract with Gordon Backhoe and Dozer Service, Inc., in the amount of \$17,068, a contingency of \$2,000, and a budget adjustment to remove construction debris from the BioBased site at 1475 Cato Springs Road

RECOMMENDATION

City Administration recommends approval of a contract with Gordon Backhoe and Dozer Service, Inc., in the amount of \$17,068, a contingency of \$2,000, and a budget adjustment to remove construction debris from the BioBased site at 1475 Cato Springs Road.

BACKGROUND

This project is for the removal of fill dirt that is located at the new BioBased facility. BioBased purchased the old Water and Sewer Operations Center in November, 2005, with the sale proceeds deposited into the economic development fund. In the contract, some site cleanup was identified as City responsibility, with the exact requirements to be determined. The specific requirements have now been identified; BioBased is requesting that the above grade fill dirt that is on the southern portion of the former pipe yard be removed.

DISCUSSION

The City received three quotes for the work, which covers loading, hauling, and legally disposing of approximately 3,400 cubic yards of material. Three quotes were received. Staff also evaluated completing the work using the City's hauling bid (Bid # 08-03), with City forces loading the vehicles and cleaning up the disposal site.

Contractor	Bid per yard	Total Bid
Gordon Backhoe Svc (low bid)	\$ 5.02	\$ 17,068.00
Sweetser Construction	\$ 5.50	\$ 18,700.00
City with Hauling Bid	\$ 5.68	\$ 19,500.00
John Cole Excavating	\$ 6.20	\$ 21,080.00
Doss Const/Trucking	\$ 6.68	\$ 22,712.00

The cost of removing the fill dirt will be paid from the economic development fund that the sale proceeds were deposited to. All work including payment, contract hauling and equipment rental will be managed by the water and sewer division.

BUDGET IMPACT

Funds are available from the sale proceeds deposited in the economic development fund. A budget adjustment is required for \$19,068.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A BID CONTRACT WITH GORDON BACKHOE AND DOZER SERVICE, INC. IN THE AMOUNT OF \$17,068.00 WITH A CONTINGENCY OF \$2,000.00 AND TO APPROVE A BUDGET ADJUSTMENT IN THE AMOUNT OF \$19,068.00

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 the bid contract with Gordon Backhoe and Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00; and

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby approves the attached budget adjustment in the amount of \$19,068.00.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 15
Gordon Backhoe and Dozer Service, Inc.
Page 4 of 8

Budget Year 2008	Department: General Government Division: Miscellaneous Program: Miscellaneous	Date Requested 4/18/2008	Adjustment Number
--------------------------------	--	--	--------------------------

Project or Item Added/Increased: Funds are needed to remove fill dirt that was on the property at the previous water/sewer operations center at the time of sale to Bio-Base. Bio-Base is requesting the water/sewer remove the fill dirt at this time.	Project or Item Deleted/Reduced: Reduction in this account is to reduce the amount of sales proceeds from the water/sewer operations center to Bio-Base. The sales proceeds were deposited into this account--this expenditure of removing the dirt needs to reduce the amount of sales proceeds.
---	---

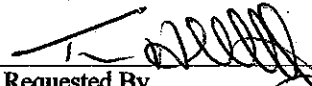
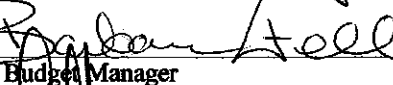
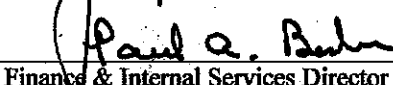
Justification of this Increase: Funds are needed to remove fill dirt that was on the property at the previous water/sewer operations center at the time of sale to Bio-Base. Bio-Base is requesting the water/sewer remove the fill dirt at this time.	Justification of this Decrease: Reduction in this account is to reduce the amount of sales proceeds from the water/sewer operations center to Bio-Base. The sales proceeds were deposited into this account--this expenditure of removing the dirt needs to reduce the amount of sales proceeds.
--	--

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Contract services	1010 6600 5315 00	19,068	08051

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Use of Designated Fnd Bal	1010 0001 4999 98	19,068	

Approval Signatures  Requested By  Budget Manager  Department Director  Finance & Internal Services Director Mayor 4-18-08 Date 4/18/08 Date 21 Apr 08 Date 4-21-08 Date Date	Budget Office Use Only Type: A B C D E Posted to General Ledger Posted to Project Accounting Entered in Category Log Initial Date Initial Date Initial Date
--	--

City Of Fayetteville (Not a Purchase Order)

Requisition No.: _____ Date: **4/18/2008**
 P.O. Number: _____ Expected Delivery Date: _____

Vendor Number: _____ Vendor Name: **Gordon Backhoe and Dozer Service, Inc.**

Address: **11279 Apple Hill Road** Fob Point: **1475 Cato Springs Rd, Fayetteville**

City: **Prairie Grove** State: **AR** Zip Code: **72753** Ship to code: _____

Requester: **Tom Hubbard** Requester's Employee #: **2238** Extension: **387**

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Construction Debris Removal, Cato Springs Rd	1	EA	17,068.00	\$17,068.00	1010-6600-5315.00	8051		
2					\$0.00				
3					\$0.00				
4					\$0.00				
5					\$0.00				
6					\$0.00				
7					\$0.00				
8					\$0.00				
9					\$0.00				
10					\$0.00				
	Shipping/Handling		Lot		\$0.00				
Special Instructions:									
					Subtotal:	\$17,068.00			
					Tax:	\$0.00			
					Total:	\$17,068.00			

Approvals:

Mayor: _____ Department Director: _____

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____

John Cole Excavations, Inc.

April 18th, 2008

City of Fayetteville

Atten: Tom Hubbard

Reference Clean Up:

Site: 1475 W. Cato Springs Road

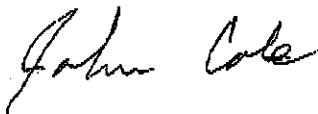
Scope of Work: We will load and haul off and dispose of dirt, asphalt, concrete, and gravel.

Proposal Bid: \$3,400 cubic yards @ \$6.20 per cubic yard

Total: \$21,080.00

Additional cubic yards will be \$6.25 per cubic yard

John Cole Excavations INC.



John Cole, President.

P.O. Box 28
Dardanelle, Arkansas 72834
Cell: 479.270.3138
Fax: 479.229.4178
Home: 479.229.4197
E-mail: chfcole@centurytel.net

Gordon Backhoe & Dozer Service Inc.
Ar. Licensed Contractors
11279 Applehill Rd.
Prairie Grove, Ar. 72753

Estimate

Date	Estimate #
4/18/2008	147

Name / Address
CITY OF FAYETTEVILLE

Item	Description	Qty		Cost	Total
REMOVAL O...	REMOVAL OF 3400 CUBIC YARDS WASTE MATERIAL AT 1475 CADO SPRINGS RD. FAYETTEVILLE, AR. @\$5.02 YARD	3,400		5.02	17,068.00
Thank you for considering us for you job.			Total \$17,068.00		
Phone #	Fax #	E-mail			
479-8462214	479-846-1528	bgordonbackhocinc@cox.net			

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

15-Apr-08
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 08-2937: (Mountain Ranch Ph III, 478): Submitted by Jorgensen & Associates for property located at the west portion of Mountain Ranch Phase III, south of Phase I. The property is zoned RSF-4, Residential Single Family, 4 units per acre, and contains approximately 26.9 acres. The request is to rezone the subject property to RSF-4, Residential Single Family, 4 units per acre.

Action Required:	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 3-27-08
Department Director Date

[Signature] 3-27-08
City Attorney

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Paul A. Buler 3-27-08
Finance and Internal Service Director Date

[Signature] 3/31/08
Mayor Date

Received in City Clerk's Office **ENTERED**
3-27-08

Received in Mayor's Office **ENTERED**
3/27/08

Comments:

Left on the second reading 4/15/08

City Council Meeting of April 15, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ✂

Date: March 25, 2008

Subject: Rezoning for Mountain Ranch Phase III (RZN 08-2937)

RECOMMENDATION

Staff and the Planning Commission recommended to approve rezoning the subject property from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single Family, 8 units per acre for approximately 26.9 acres located south of Persimmon, east of the future extension of Ruppel Road.

BACKGROUND

The property is currently vacant and is planned for development of Phase III of the Mountain Ranch Subdivision, containing approximately 26.87 acres. The applicant proposes to rezone the subject property from RSF-4 to RSF-8 to allow for a single-family neighborhood with more variety of building area and setback than those permitted within the RSF-4 zoning district. Allowable uses for the RSF-8 zoning district are the same as those for the RSF-4 zoning district, with single family dwellings by right and two-family dwellings by conditional use; however, the zoning change would allow for a varied lot/housing size within the same neighborhood, as the higher density would be surrounded on two sides (north and east) by the RSF-4 zoning districts. This situation is encouraged by the City's Future Land Use Plan in areas that can support the growth with adequate infrastructure.

This property is in an area that supports higher residential densities and residential services, which include Mountain Ranch Apartments, the Boys and Girls Club, Ruppel Row, and Owl Creek School. I-540 and other major transportation corridors and non-residential support services are in close proximity to this property.

DISCUSSION

This item was heard at the regular Planning Commission meeting on March 24, 2008. The Planning Commission voted 9-0-0 to recommend forwarding this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-2937, FOR APPROXIMATELY 26.9 ACRES, LOCATED SOUTH OF MOUNTAIN RANCH PHASE I AND PERSIMMON STREET, EAST OF THE FUTURE EXTENSION OF RUPPLE ROAD, FROM RSF-4, RESIDENTIAL SINGLE-FAMILY, 4 UNITS PER ACRE TO RSF-8, RESIDENTIAL SINGLE-FAMILY, 8 UNITS PER ACRE.

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

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

From RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

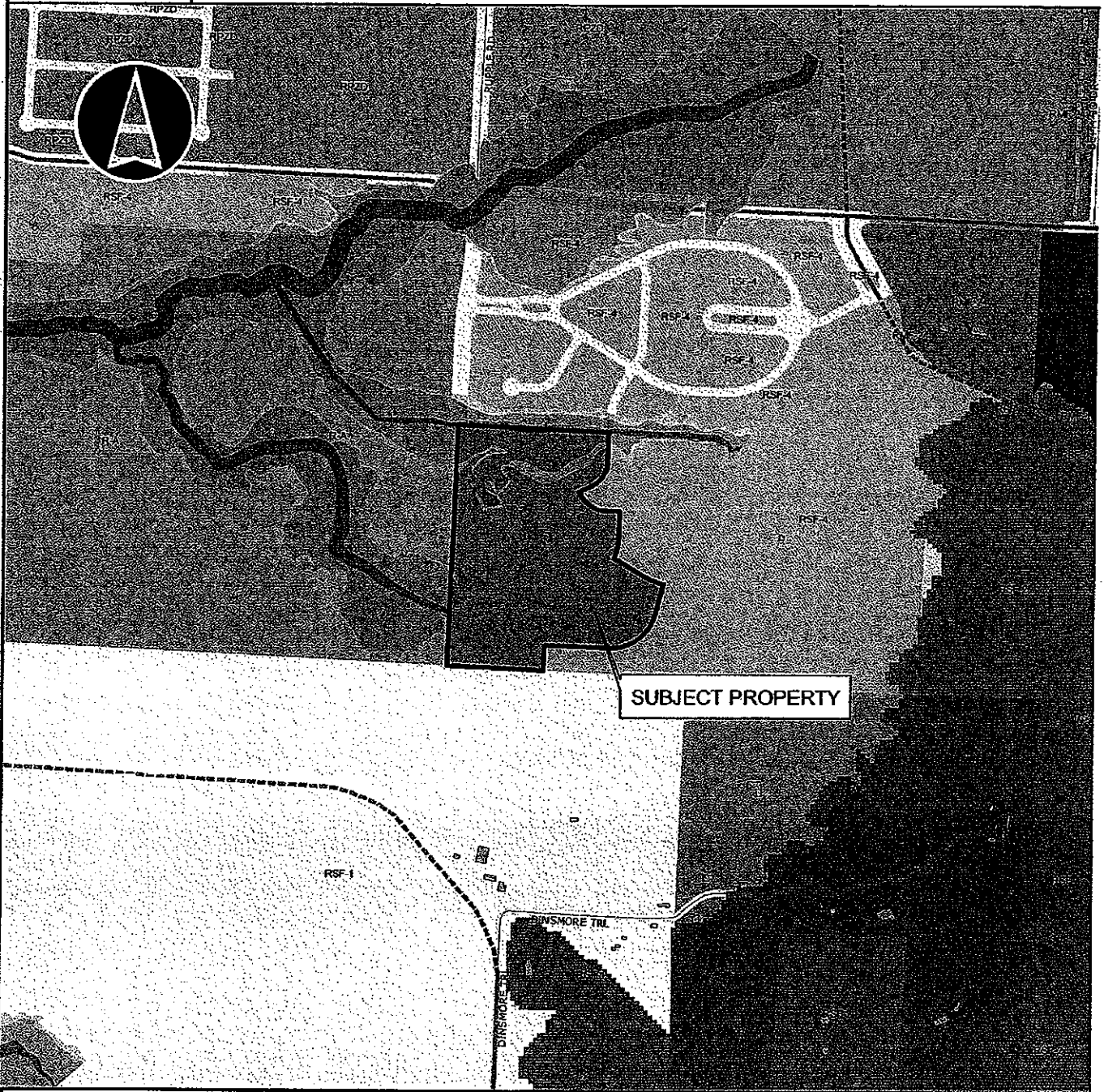
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN 08-2937

MOUNTAIN RANCH III

Close Up View



Overview



0 75 50 300 450 600
Feet

EXHIBIT "B"
RZN 08-2937

LEGAL DESCRIPTION: (RSF-4 TO RSF-8)

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 13, T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SW CORNER OF SAID SE1/4, NE1/4 THENCE N02°20'35"E 1318.83 FEET, THENCE S87°11'28"E 825.16 FEET, THENCE S02°20'35"W 160.97 FEET, THENCE ALONG A CURVE TO THE RIGHT 157.08 FEET, SAID CURVE HAVING A RADIUS OF 150.00 FEET AND A CHORD BEARING OF S32°20'35"W 150.00 FEET, THENCE S62°20'35"W 82.78 FEET, THENCE S27°39'25"E 22.93 FEET, THENCE ALONG A CURVE TO THE LEFT 157.08 FEET, SAID CURVE HAVING A RADIUS OF 150.00 FEET AND A CHORD BEARING OF S57°39'25"E 150.00 FEET, THENCE S87°39'25"E 83.07 FEET, THENCE S02°20'35"W 161.95 FEET, THENCE ALONG A CURVE TO THE RIGHT 79.51 FEET, SAID CURVE HAVING A RADIUS OF 250.00 FEET AND A CHORD BEARING OF S11°27'16"W 79.18 FEET, THENCE S20°33'58"W 20.95 FEET, THENCE ALONG A CURVE TO THE RIGHT 42.26 FEET, SAID CURVE HAVING A RADIUS OF 200.00 FEET AND A CHORD BEARING OF S63°22'52"E 42.18 FEET, THENCE S57°19'41"E 108.76 FEET, THENCE ALONG A CURVE TO THE LEFT 154.13 FEET, SAID CURVE HAVING A RADIUS OF 500.00 FEET AND A CHORD BEARING OF S66°09'32"E 153.32 FEET, THENCE S15°00'36"W 170.42 FEET, THENCE ALONG A CURVE TO THE RIGHT 337.43 FEET, SAID CURVE HAVING A RADIUS OF 250.00 FEET AND A CHORD BEARING OF S53°40'36"W 312.39 FEET, THENCE N87°39'25"W 346.76 FEET, THENCE S02°20'35"W 138.36 FEET, THENCE N87°17'40"W 530.91 FEET TO THE P.O.B.; CONTAINING 26.87 ACRES MORE OR LESS.



PC Meeting of March 24, 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: Dara Sanders, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 14, 2008~~ March 25, 2008

RZN 08-2937: (MOUNTAIN RANCH III, 478): Submitted by JORGENSEN & ASSOC for property located at THE W PORTION OF MOUNTAIN RANCH PHASE III, S OF PHASE I. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 26.87 acres. The request is to rezone 26.9 acres of the subject property to RSF-8, Residential Single Family, 8 units per acre.

Planner: Dara Sanders

BACKGROUND:

Property Description: The subject property is Mountain Ranch Phase III, zoned RSF-4, and contains 26.87 acres. It is located south of Mountain Ranch Phase I. This property is in an area that supports higher residential densities and residential services, which include Mountain Ranch Apartments, the Boys and Girls Club, Ruppel Row, and Owl Creek School. Surrounding land use and zoning is depicted in *Table 1*.

TABLE 1: SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North and East	Single family residential	RSF-4
South	Residential Agricultural	RSF-1
West	Vacant	R-A

Proposal: The property is currently vacant for development of Phase III of the Mountain Ranch Subdivision. The applicant proposes to rezone the subject property from RSF-4 to RSF-8 to allow for a single-family neighborhood with reduced building setbacks (15' front, 5' side and rear) than those permitted within the RSF-4 zoning district (25' front, 8' side, 20' rear). This would allow for a varied lot/housing size within the same neighborhood. The higher density would be surrounded on two sides (north and east) by the RSF-4 zoning districts.

Recommendation: Staff recommends approval of the rezoning based on findings stated herein. Development on this site will be regulated by the city allowing for a uniform and consistent development pattern. The higher density proposed in the interior of the Mountain Ranch Subdivision would transition with surrounding RSF-4 lots to the north and east in the subdivision. The RSF-8 designation allows the potential for a more traditional form of development with narrow lots and

homes closer to the street than would be allowed under a typical RSF-4 zoning. It also provides a greater opportunity to provide a variety of lot and house sizes within the same development, creating greater potential for an attainable housing product.

Public Comment: Staff has not received public comment.

INFRASTRUCTURE:

Streets: The site has access to Ruppel Road and Powderhorn Drive. Powderhorn is currently an improved two lane paved city street that was installed with Phase I of Mountain Ranch. Ruppel Road is constructed to the north property line of this development. In this area, Ruppel is a 4-lane boulevard. Street improvements will be evaluated with the proposed development.

Water: Public water is located along the property. There is an 8" water main stubbed out to this property from Phase One of Mountain Ranch along Ruppel and Powderhorn Drive. Water will need to be extended through the property at the time of development to meet the domestic and fire protection demands.

Sewer: Sanitary sewer is available to the site. There is an 8" sewer main stubbed out to this property from Mountain Ranch Phase I along Powderhorn 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

Drainage: Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Fire: This property will be covered by Engine 7 located at 835 Ruppel Road. It is 0.4 miles from the station with an anticipated response time of 2 minutes. The Fire Department anticipates that there will be 37 (24EMS-13 Fire/other) calls for service, per year, once this development is completed and maximum build out has occurred. The Fayetteville Fire Department does **not** feel this development will affect our calls for service or our response times.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density, create an undesirable increase in load on police services, or create an undesirable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates this site as **Residential Neighborhood Area**. Rezoning this property to RSF-8 in the interior of the Mountain Ranch Subdivision is compatible to the surrounding density of adjacent residential development and consistent with the surrounding land uses. The RSF-8 zoning would allow for a more traditional form of residential development with narrower lots and buildings closer to the street.

This would allow for a mix of lot sizes in an area that currently has a number of standard suburban neighborhoods, consistent with the City Plan 2025 policies. .

RECOMMENDATION:

Staff recommends approval of the requested rezoning based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☐ Approved	☒ Forwarded
		☐ Denied	
Motion:	Second:	Vote:	
Date: <u>March 24, 2008</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>April 15, 2008 (1st reading if recommended)</u>			

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 property is designated as Residential Neighborhood Area in City Plan 2025 Future Land Use Plan. The proposed RSF-8 zoning is consistent with the City's land use planning objectives, principles and policies to encourage compatible and livable neighborhoods indicated by the Residential Neighborhood Area designation, providing compatible housing options within a traditional neighborhood development.

The surrounding land to the north of the subject property has developed as medium to high density single-family residential use. Staff finds that the location of this property, adjacent to Ruppel Road, south of Persimmon Street (Collector Street) and surrounded by the RSF-4 zoning district to the north and east, is an appropriate location for the proposed RSF-8 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Future development with the proposed zoning is justified in order to provide for a variety of lot sizes and variation in development pattern consistent with City land use objectives and policies.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will generate additional traffic on the surrounding street system over the existing RSF-4 zoning. This rezoning could yield additional single family lots, subject to preliminary plat approval. Street improvements will be reviewed as part of the Mountain Ranch III preliminary plat to account for these additional vehicle trips.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase the potential for a higher population density in the area. However, this increase in single-family residences is consistent with land use, zoning, and development patterns in the immediate vicinity. Staff finds that the proposed zoning would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

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;

Finding: It is feasible to develop the property under the RSF-4 zoning classification. However, this property is in an area that has the potential to support higher residential densities and residential services. Staff finds that the proposal, surrounded by the RSF-4 zoning district on two sides, is appropriate at this location, as it will utilize the existing infrastructure and result in a single-family neighborhood with a variety of housing choices.

- 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: Not applicable. Staff recommends in favor of the requested zoning.

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.09 District RSF-8, Residential Single-Family – 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)

ENGINEERING DIVISION COMMENTS

RZN 08-2937: (MOUNTAIN RANCH III, 478): Submitted by JORGENSEN & ASSOCIATES for property located at THE W. PORTION OF MOUNTAIN RANCH PHASE III, S. OF PHASE I. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 26.87 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre. Planner: Dara Sanders

Public water is located along the property. There is a 8" water main stubbed out to this property from Phase One of Mountain Ranch along Ruppel and Powderhorn Drive. Water will need to be extended throughout the property at the time of development to meet the domestic and fire protection demands.

Sanitary sewer is available to the site. There is an 8" sewer main stubbed out to this property from Mountain Ranch Phase I along Powderhorn 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 Ruppel Road and Powderhorn Drive. Powderhorn is currently an improved two lane paved city street that was installed with Phase I of Mountain Ranch. Ruppel Road is constructed to the north property line of this development. In this area, Ruppel is a 4 lane boulevard. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 3/18/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **RZN 08-2937: (Mountain Ranch III, 478):** Submitted by **Jorgensen & Associates** for property located at the **W. portion of Mountain Ranch Phase III, S. 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. The property contains approximately 26.87 acres.

It is the opinion of the Fayetteville Police Department that this **RZN** will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This **RZN** will not create an appreciable increase in traffic danger and congestion. If the density of the other sections in this area is increased, we could see calls and traffic congestion start to increase.

Sincerely,

Captain William Brown
Fayetteville Police Department



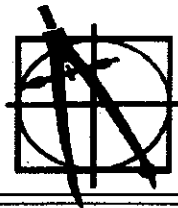
Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: March 14, 2008
Re: March 5, 2008 Zoning Review

RZN 08-2937 (Mountain Ranch III): Submitted by Jorgensen and Associates for property located at the W Portion of Mountain Ranch Phase III, S of Phase I. The property is zoned RSF-4, Single Family – 4 Units/acre and contains approximately 26.87 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre. This property will be covered by Engine 7 located at 835 Ruple Road. It is 0.4 miles from the station with an anticipated response time of 2 minutes. The Fire Department anticipates that there will be 37 (24EMS-13 Fire/other) calls for service, per year, once this development is completed and maximum build out has occurred. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times

Dale Riggins, Captain,
Fayetteville Fire Department



JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

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

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

2/7/08

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Attn: Jeremy Pate
Re: Rezoning of a portion of Mountain Ranch

Dear Jeremy;

Attached herewith please find the application for a rezoning of a portion of Mountain Ranch. The property to be rezoned consists of 26.87 acres located generally south of Mountain Ranch Phase 1. I have included the legal description along with a sketch that shows generally what out plan is.

The existing zone is RSF-4 and we wish to rezone to RSF-8. The reason for this request is as follows:

- 1) To allow for smaller lots. Some of our lots will be 50' wide.
- 2) To allow for a smaller front setback of 15' instead of 25'.
- 3) To allow for a smaller side setback of 5' instead of 8'.
- 4) To allow for a variety of lot sizes in this project.

In addition, we feel that this RSF-8 request will not be detrimental to the surrounding property and will actually fit with the neighborhood to the north. This property will be served by the new Owl Creek school, the new fire station at Ruppel Road and the Girls and Boys Club location ¼ mile to the north.

Water and sewer service are available in Mountain Ranch Phase 1.

Please call concerning any questions you may have.

Thank you.

Sincerely;


David L. Jorgensen, P.E.

One Mile View

MOUNTAIN RANCH III

 RZN08-2937

☐ Outside City

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 Miles

RZN 08-2937

MOUNTAIN RANCH III

Close Up View



Overview

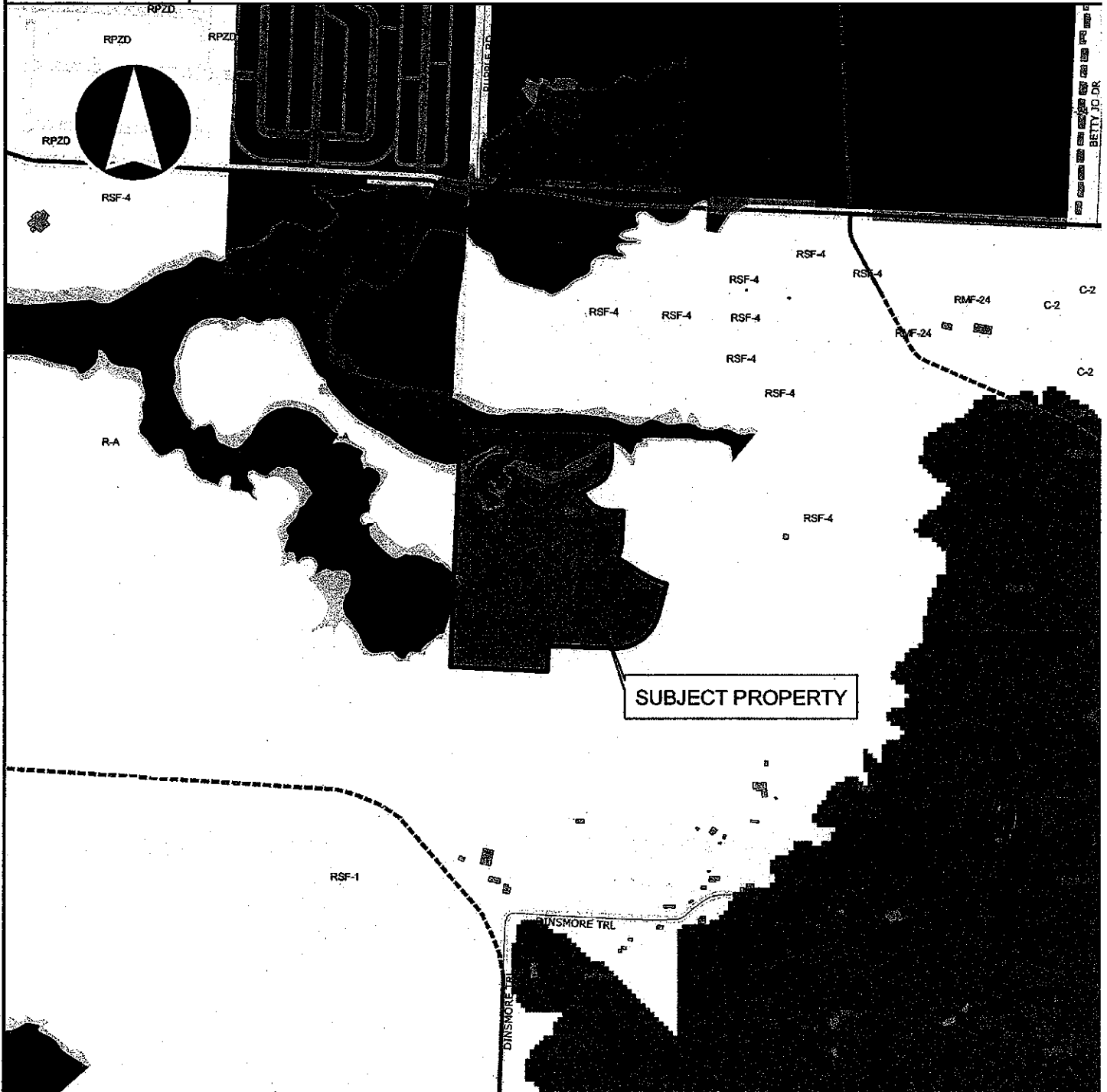


0 75 50 300 450 600
Feet

RZN 08-2937

MOUNTAIN RANCH III

Future Land Use



Overview



0 75 150 300 450 600
Feet

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

15-Apr-08
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

C-PZD 08-2894: Planned Zoning District (Park Centre, 136): Submitted by H2 Engineering, Inc. for property located at the northeast corner of Zion Road and Veterans Park entry drive and contains approximately 8.58 acres. The request is for approval of a Commercial Planned Zoning District with approximately 100,500 s.f. of office, retail and restaurant space and 15 residential units.

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 3-28-08
Department Director Date

Previous Ordinance or Resolution # n/a

[Signature] 3-28-08
City Attorney Date

Original Contract Date: n/a

Original Contract Number: n/a

Paul A. Bahr 3-31-08
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED
3/28/08
aw

[Signature] 3/31/08
Mayor Date

Received in Mayor's Office
ENTERED
3/31/08
[Signature]

Comments:

Table to May 6, 2008 4/15/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: March 27, 2008

Subject: Commercial Planned Zoning District for Park Centre (C-PZD 08-2894)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for Park Centre, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a mixed-use project on approximately 8.58 acres located on the north side of Zion Road, across the intersection of Zion Road/Vantage Drive, and adjacent to the entrance of Veteran's Park.

BACKGROUND

The subject property contains three parcels located at 1400, 1606 and 1520 Zion Road. The westernmost property line borders onto the access road to Veteran's Park and the northernmost property line borders Veteran's Park on the south shore of Lake Fayetteville. The property is zoned RSF-4 and R-A and contains three single family residences. The applicant requests rezoning, land use, and large scale development approval for a mixed use C-PZD consisting of approximately 100,500 square feet of office, retail, and restaurant space and 15 condominiums. The development proposes two one-story retail/restaurant buildings in the southern portion of the site facing Zion Road, and a six-story office/condo building in the northwest portion of the site. As recommended by the Park and Recreation Advisory Board, staff, and the Planning Commission, the development would extend Vantage Drive north through the development providing a new and improved public street connection to Veterans Park/Lake Fayetteville to the north. The existing vehicular access to Veteran's Park would be retained for non-vehicular access only. In addition, the Parks Board and Planning Commission both agreed that renaming Vantage Drive to Veteran's Park Boulevard, or something similar, would provide more recognition and knowledge of the park's whereabouts. This street name change would need to occur with a separate action.

DISCUSSION

On March 24, 2008 the Planning Commission voted 8-0-1 (Lack recused) in favor of forwarding this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 08-2894 PARK CENTRE, LOCATED AT THE NORTHEAST CORNER OF ZION ROAD/VETERANS PARK ENTRY DRIVE, CONTAINING APPROXIMATELY 8.58 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural to C-PZD 08-2894 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 , 2008.

APPROVED:

ATTEST:

By: _____

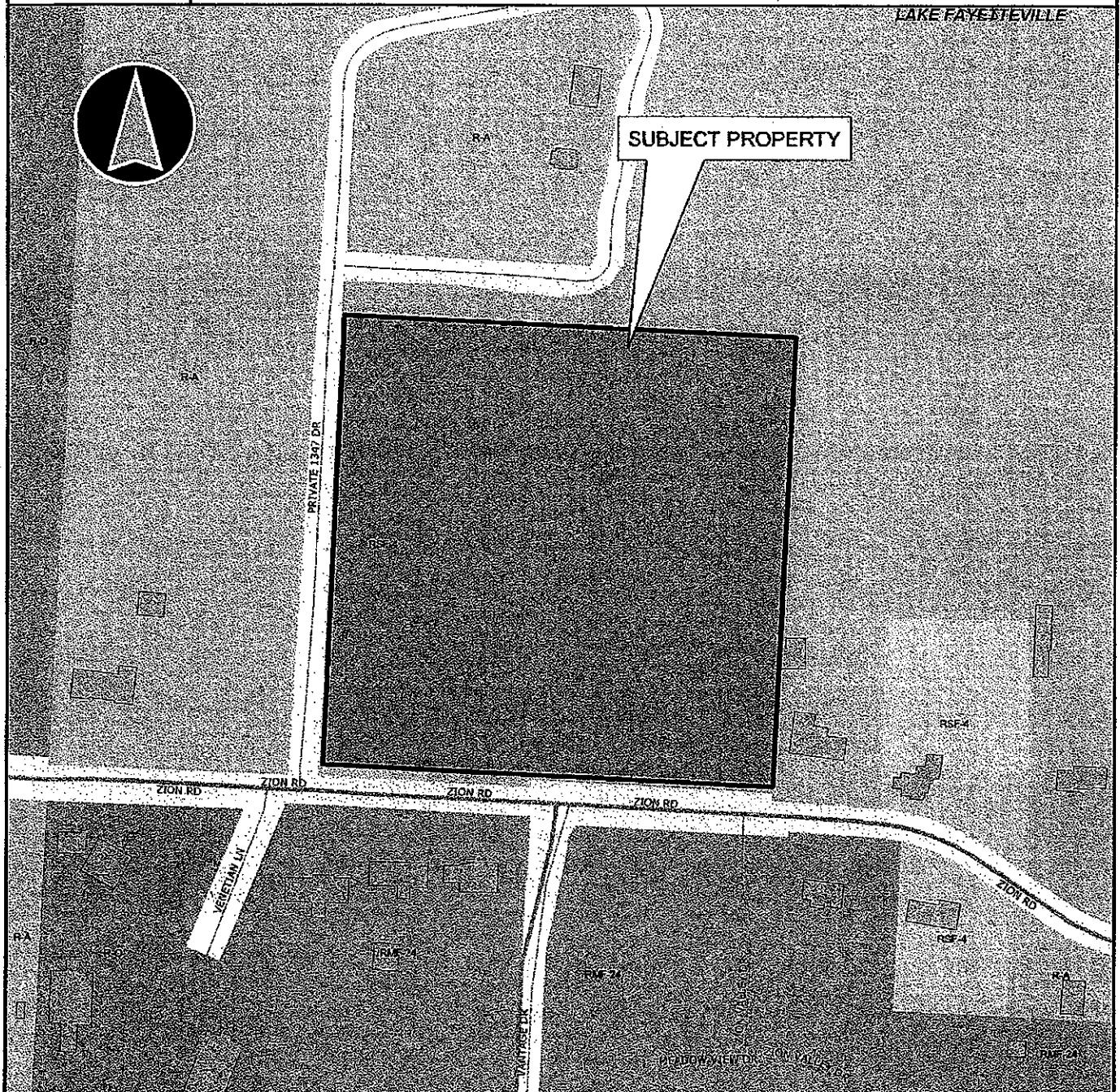
By: _____

EXHIBIT "A"

CPZD08-2894

Close Up View

PARK CENTRE



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
C-PZD 08-2894

PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 17 NORTH, RANGE 30 WEST OF THE FIFTH PRINCIPAL MERIDIAN, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE ABOVE SAID NORTHWEST 1/4 BEING A FOUND NAIL IN WOODEN FENCE POST; THENCE S87°15'19"E, ALONG THE NORTH LINE OF THE ABOVE SAID NORTHWEST 1/4, A DISTANCE OF 370.01 FEET TO A SET 5/8" REBAR W/CAP (PS 1496) BEING THE TRUE POINT OF BEGINNING; THENCE S87°15'19"E, CONTINUING ALONG THE ABOVE SAID NORTH LINE, A DISTANCE OF 612.62 FEET TO A SET 5/8" REBAR W/CAP (PS 1496); THENCE S02°44'41"W, LEAVING THE ABOVE SAID NORTH LINE, A DISTANCE OF 611.07 FEET TO THE NORTH RIGHT-OF-WAY LINE OF ZION ROAD FROM WHICH A SET 5/8" REBAR W/CAP (PS 1496) BEARS S02°44'41"W A DISTANCE OF 8.63 FEET; THENCE N87°10'36"W, ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 324.97 FEET TO A POINT FROM WHICH A FOUND 5/8" REBAR W/CAP (PS 1287) BEARS S02°31'47"W, A DISTANCE OF 7.30 FEET; THENCE N87°12'38"W, CONTINUING ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 135.11 FEET TO A POINT FROM WHICH A FOUND 5/8" REBAR W/CAP (PS 1287) BEARS S02°33'11"E, A DISTANCE OF 7.14 FEET; THENCE N87°10'47"W, CONTINUING ALONG THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 151.43 FEET TO A POINT FROM WHICH A 1/2" REBAR W/CAP (PS 1005) BEARS S02°38'22"W, A DISTANCE OF 6.65 FEET; THENCE N02°38'22"E, LEAVING THE ABOVE SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 610.32 FEET TO THE POINT OF BEGINNING AND CONTAINING 373,773 SQUARE FEET OR 8.58 ACRES, MORE OR LESS.

CONDITIONS OF APPROVAL:

C-PZD 08-2894

Page 1 of 6

Staff and the Planning Commission recommend the following conditions of approval associated with C-PZD 08-2894 (Park Centre).

Conditions of Approval:

1. Planning Commission determination of street improvements. Zion Road is currently being improved by the City adjacent to this property as part of the City's Bond Program Street Projects. This property is subject to Resolution No. 208-07 that specifies that the maximum for off-street improvements on Zion Road on this site is \$42,030.00, as the City paid that amount to the developer to purchase the right-of-way for the Zion Road widening. This agreement was provided to the City Council with the understanding that they [the developer] will in turn re-pay this same amount to the City if their development is approved prior to the completion of the Zion Road project. *Staff recommends in favor of payment of that amount back to the City prior to building permit, consistent with Resolution No. 208-07. A significant cost of improvements for which the developer normally would be responsible is being borne by the City, in its current construction project along Zion Road. The applicant also proposes to construct a new public street from Zion Road approximately 600 feet through the site connecting to Veteran's Park. The intersection of Zion Road/Vantage Drive will likely be signalized at some point in the future with the addition of traffic from this development and others in the area. With this development proposing to construct the new public street staff is not recommending an additional assessment be paid toward that signal.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE STREET IMPROVEMENTS AS STAFF RECOMMENDED, BUT WANTED TO LEAVE THE OPTION FOR THE APPLICANT TO DISCUSS CHANGING THE STREET IMPROVEMENT AGREEMENT WITH CITY COUNCIL (03/24/08).

2. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 166.08(C)(14) to allow for a portion of the new proposed street to have sidewalk only on one side when the Master Street Plan requires sidewalks on both sides of new streets. As proposed, sidewalks would be located along both sides of the new street from Zion Road to just north of the commercial buildings. No further development is proposed on the east side of the road north of this point. The applicant's waiver request discusses that having sidewalk only on the west side of the street through this area of the site helps transition from the retail area to office area and on into the thick tree canopy of the park, and preserves additional tree canopy. *Staff finds in favor of the applicant's waiver request and agrees with their justification for the waiver to help transition to the park and preserve trees, and also finds that sidewalk on the east side of the street is not needed because development and pedestrian activity is not anticipated in this area of the site.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS WAIVER (03/24/08).

3. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 171.02 requiring a 30' curb return radius at street intersections on a local street. The applicant proposes a 25' curb return radius on the west side of the project's new public street intersection with Zion Road. The applicant's waiver request discusses the 25' radius

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allows a better alignment of the new street with the existing alignment of Vantage Drive to the south. This waiver makes it easier to provide a three-lane entrance that the applicant feels is crucial to traffic circulation at this intersection. *Staff finds in favor of this waiver request agreeing with the applicant's justification for the waiver.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS WAIVER (03/24/08).

4. Planning Commission determination of commercial design standards.
 - a. Planning Area 2 (Office and Residential District). Staff finds that building 1 generally meets the intent of commercial design standards as it does not have unpainted block walls, does not have metal siding that dominates the main façade, and does not have out of scale signs with flashy colors. However the proposed structure is a square "boxlike" structure and the large amount of relatively blank glass over all four of the 84-foot high facades could be considered large blank, unarticulated wall surfaces in contrast to UDC Section 166.14(C). *Staff recommends incorporating additional materials and/or design features to break up these glass facades. One suggestion may be to provide greater relief in the vertical metal accents.*
 - b. Planning Area 1 (Market District). *Staff finds that buildings 2 and 3 are well-articulated and meet commercial design standards.*
 - c. Identifiable Theme. The proposed buildings provide a recurring, unifying theme throughout the site by utilizing similar materials and colors in the commercial/retail buildings and the medical office/residential building.
 - d. Cross-access. Cross-access is being provided for future development and to the park located directly north of the site.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF COMMERCIAL DESIGN STANDARDS AS PROPOSED BY THE APPLICANT (03/24/08).

5. Planning Commission discussion of site layout. *Staff has discussed in several meetings with the applicant concern with the site layout not completely fitting with the goals of the City Neighborhood Area (City Plan 2025) to encourage buildings to better relate to the street, by orienting the buildings to the street with pedestrian walks and hiding the large parking lots behind the buildings. To more fully comply with City Plan 2025 staff would recommend a full evaluation/discussion of the layout of the two buildings in Planning Area 2 (Market District) be oriented north-south to the new public street. The addition of the public street connecting to the park has greatly aided the layout, as opposed to the previous large parking lot layout.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE SITE LAYOUT AS PROPOSED (03/24/08).

6. 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.

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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.

7. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
8. Public water and sewer lines and other improvements shall be extended as required by city ordinance at the time of development.
9. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
10. Future non-residential conditional uses in the zoning criteria shall comply with the minimum standards for development in the Unified Development Code.
11. Phasing: This project is required to obtain all building permits for the entire development within five years of City Council approval, with the opportunity for a one time, one year extension.
12. Signage:
 - a. Planning Area 1 (Market District). Pole/pylon signs are prohibited. Freestanding and wall signs for this planning area are subject to the commercial requirements of Fayetteville Unified Development Code Chapter 174.
 - b. Planning Area 2 (Office and Residential). Pole/pylon signs are prohibited. Freestanding and wall signs for this planning area are subject to the residential-office requirements of Fayetteville Unified Development Code Chapter 174.
13. Prior to building permit the three existing parcels should be combined into one legal lot or record, or the property lines adjusted to create three lots that correspond to the proposed development. If the property is intended to be subdivided or property lines adjusted, each new future lot shall have access to public water and sewer service in compliance with City ordinance.
14. Prior to building permit the construction plans shall be reviewed and approved by the City Fire Department to ensure compliance with applicable City and State fire codes.
15. The PZD plats and LSD site plan should be revised to increase the curb return radius to 20' for the two private driveway entrances onto Zion Road in accordance with the Unified Development Code.

Tree Preservation Conditions:

16. Preserved canopy in the northeastern corner of this site must be placed within a Tree Preservation and Recreational Area. This area will be dedicated with the easement plat using

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the Tree Preservation and Recreational Area signature block for the Urban Forester.

17. All efforts should be made to preserve the trees as shown on the plan during construction. This includes, but is not limited to, the preserved trees around the detention basin within the tree preservation and recreational area, tree 141 near the construction entrance and tree 162 on the western edge of the site.
18. Mitigation will not be required as long as the preserved tree canopy remains at 25% or above. If the canopy falls below 25% during construction, mitigation will be required.
19. All revisions must be made to the Tree Preservation and Protection Plan before final approval.

Landscape Plan Conditions:

20. A vegetative buffer is required from the adjacent residential zoning districts. The buffer strip shall consist of a 12' area vegetated with a solid screening of trees and shrubs. The buffer strip shall extend the full length of the eastern and northern property boundary; existing preserved vegetation may be utilized for the buffer.
21. Street trees are required 1 every 30 feet unless there is existing preserved vegetation. If during the development process, any of the existing trees along the street are damaged or removed, additional trees may be warranted.
22. 15' of greenspace is required between parking lots and the right-of-way. Revise the landscape plan to label the right-of-way lines and add a 15' greenspace line, and provide 15' greenspace as needed.
23. All of the trees to be planted in urban tree wells shall utilize structural soil, and appropriate notes added to the plans.
24. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
25. It is understood that vegetation will not be removed within the detention area. Should vegetation be removed the detention area will need to be planted in accordance with City ordinance. The berms around the detention area to be stabilized and revegetated with a minimum of sod or hydroseed.
26. An estimate of material and labor is required for 150% the cost of the required landscape. Once this estimate is approved by the Urban Forester, a letter of credit, bond or check will be held until installation.
27. Chapter 177 requires street trees to be bonded for a 3-year term before final certificate of occupancy. This amount shall be held to ensure the maintenance of the required street trees.

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Trails Conditions:

28. The primary alternative transportation route between Lake Fayetteville and Mud Creek Trail occurs through this project and down Vantage Street. The new road included in this project will improve this important connection by realigning the Veterans Park Entrance road so it lines up with Vantage Street. Many bicycles will use the new road to access the park so bike symbol chevrons and share the road signs are recommended to be spaced every 300 feet along the new entrance road. See picture attached to the Trails Coordinator's memo.
29. In addition, the existing park entrance road shall be closed to vehicles and become a trail to provide another point of pedestrian and bicycle access to the park. If any part of this road remains open to vehicles from Zion Road, there will be a potential conflict between vehicles turning north off Zion and the pedestrians and bicycles using the future 10 foot wide sidewalk along Zion. It is recommended to place bollards across this entrance only allowing emergency vehicles to enter at this point, if necessary.

Parks Conditions:

30. Payment of parks fees in the amount of \$10,200.00 for 15 multi-family units shall be submitted prior to issuance of building permits for the residential units.
31. The diversion island located near the transition of the new public street and Veteran's Park shall be coordinated with Parks staff prior to building permit. Construction of the connection and diversion island shall be the responsibility of the developer, at the time the street is constructed.

Standard Conditions of Approval:

32. All mechanical and utility equipment on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening to the structure utilizing materials compatible with the supporting building. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. A note shall be added to all construction documents indicating as such.
33. Trash enclosures shall be screened on three sides 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.
34. 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.

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35. 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).
36. Provide a CD containing the proposed Large Scale Development drawings in AutoCAD or similar digital format.
37. 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.
38. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
39. 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.



Planning Commission Meeting
March 24, 2008

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: ~~March 18, 2008~~ Updated March 27, 2008

C-PZD 08-2894: Planned Zoning District (PARK CENTRE, 136): Submitted by H2 ENGINEERING, INC. for property located at THE NE CORNER OF ZION ROAD/VETERANS PARK ENTRY DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL, and contains approximately 8.58 acres. The request is for Zoning, Land Use and Development approval for a Commercial Planned Zoning District with approximately 100,500 s.f. of office, retail and restaurant space and 15 residential units.

Property Owner: Zion Properties, LLC
Planner: Andrew Garner

BACKGROUND:

Property Description: The subject property contains approximately 8.58 acres. The property is located on the north side of Zion Road, north of the intersection of Vantage Drive/Zion Road, and contains three parcels located at 1400, 1606, and 1520 Zion Road. The westernmost property line borders onto the paved access road to Veteran's Park and the northernmost property line borders Veteran's Park on the south shore of Lake Fayetteville. The property at 1400 Zion Road is zoned RSF-4 and contains a one-story frame house; the property at 1606 Zion Road is zoned R-A, Residential Agricultural and contains a one-story log house and two accessory structures; the property located at 1520 Zion Road contains a single family residence. The site is almost entirely covered with tree canopy. The surrounding zoning and land uses are listed in Table 1.

Table 1
Surrounding Land Use/Zoning

Direction from Site	Land Use	Zoning
North	Veteran's Park/Lake Fayetteville	R-A
South	Single- and Two-Family Residential	RMF-24
East and West	Single-Family Residential/Rural Residential	R-A

Previous Rezoning Request: On March 26, 2007 a request to rezone the western portion of this

property to R-O, Residential Office was tabled by the Planning Commission (RZN 07-2503 Moler). At that meeting the Planning Commissioners and staff discussed potential incompatible uses and development patterns that could under occur on this property in a typical Residential Office development. A PZD was suggested as a way to address concerns regarding the project and zoning issues.

Proposal: The applicant requests rezoning, land use, and large scale development approval for a mixed use project within a unique C-PZD zoning district on the subject property. The project would extend Vantage Drive north through the site providing a new and improved public street connection to Veterans Park/Lake Fayetteville to the north. The existing vehicular access to Veteran's Park would be retained for primarily non-vehicular access to the park. The development would consist of three buildings: two one-story retail/restaurant buildings in the southern portion of the site (Buildings 2 and 3 on the site plan), and one six-story medical office/condominium building in the northwestern portion of the site (Building 1 on the site plan). The size and uses proposed in the buildings are listed in *Table 2*. The land is not proposed to be subdivided at this time and would be under a common ownership, or property owner's association.

Table 2
Park Center PZD Uses and Buildings

Park Center 125-0000 and Buildings			
Planning Area	Building No.	Land Use	Square Feet/Number of Units
1- Market District	1	Medical Office	65,292
		Condominiums	15
2- Office and Residential	2	Retail	15,122
		Restaurant	4,000
	3	Retail	12,369
		Restaurant	4,000
TOTAL			100,783 SF/15 units

The project booklet and the plats provided give the zoning criteria in detail. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access and Connectivity: Access to the proposed development would be directly off of the new public street extending north from Zion Road through the site to Veteran's Park. A new curb cut onto Zion Road is proposed in the southeast corner of the site directly across from the Zion Valley/Bellafront Gardens development, and access is also proposed off of the existing access road to Veteran's Park adjacent to the west. The applicant also proposes two parking lot drive aisle stub-outs to the adjacent property to the east for future cross access. Parking lots would be constructed interior to the property providing adequate vehicular circulation through the site.

Park Recreation Advisory Board (PRAB): On March 3, 2008 the PRAB recommended accepting money in lieu of land for the residential units proposed with this development. The PRAB recommended the new improved street to the park as depicted on the site plan, and to retain the existing drive to Veteran's Park for non-vehicular access. The PRAB also recommended further evaluation of non-park traffic, development of more defined traffic flows, and reconfiguring the

“Y” in the road from this development connecting to Veteran’s Park to discourage the traffic from the development from entering the park unnecessarily. The PRAB also recommended renaming Vantage Drive to Veterans Memorial Boulevard from Joyce Boulevard to Veteran’s Park.

After considerable in depth discussion with the Parks Board, the Parks Division and Trails Coordinator do not recommend the driveway connection to this development off of the parks drive as shown on the site plan. Staff recommends utilizing only southern entrance as shown on the site plan to accommodate controlled emergency access only, and revising the drive on the west side of the parking area to accommodate emergency access through the site as determined by the Fire Department. The concern is that increased commercial vehicular traffic would conflict with the pedestrian/cyclist trail that the existing road will become. To utilize the southern portion of the parks drive for emergency access the drive will need to be improved to meet Fire Department standards. Should the Planning Commission determine the cross-access is desirable, staff would recommend the following:

- The drive shall be restricted to one-way, exit traffic only, and shall only utilize the southernmost entry.
- The developer shall improve the drive to provide a minimum paved width to meet Fire Code and parking lot drive aisle standards.
- A separated pedestrian path shall be provided from the sidewalk on Zion Road to the north of the proposed driveway. Incorporate design features to alleviate potential vehicular/non-vehicular conflicts such as a pavement markings or a sidewalk along the portion of the drive for vehicles, or bollards on one side of the drive allowing vehicles to exit only on one side and pedestrians protected on the other side. Bollards will be installed restricting traffic from entering the park at this location.
- The applicant shall provide sight distance calculations to verify safety of egress for the proposed drive. Should the drive not meet sight distance standards, the drive shall not be permitted for public use, unless otherwise determined by the Planning Commission.

Phasing: The applicant does not propose a specific phasing plan, but proposes that all building permits for all buildings in the development be obtained within five years from City Council approval, with the opportunity for a one-time, one year extension.

Water & Sewer: Water and sewer lines would be required to serve the development.

Adjacent Master Street Plan Streets: Zion Road (Collector Street)

Street Improvements: Zion Road is currently being improved by the City adjacent to this property as part of the City’s Street Bond Program. This property is subject to Resolution No. 208-07 that specifies that the maximum for off-street improvements on Zion Road for this site are \$42,030.00 (see attached). The applicant also proposes to construct a new public street from Zion Road approximately 600 feet through the site connecting to Veteran’s Park.

Tree Preservation: Existing Canopy: 92.7%
Preserved Canopy: 30.5.0%

Required Canopy: 25.0%
Mitigation Required: None required

Recommendation: Staff recommends forwarding **R-PZD 08-2894** to City Council recommending approval with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Zion Road is currently being improved by the City adjacent to this property as part of the City's Bond Program Street Projects. This property is subject to Resolution No. 208-07 that specifies that the maximum for off-street improvements on Zion Road on this site is \$42,030.00, as the City paid that amount to the developer to purchase the right-of-way for the Zion Road widening. This agreement was provided to the City Council with the understanding that they [the developer] will in turn re-pay this same amount to the City if their development is approved prior to the completion of the Zion Road project. *Staff recommends in favor of payment of that amount back to the City prior to building permit, consistent with Resolution No. 208-07. A significant cost of improvements for which the developer normally would be responsible is being borne by the City, in its current construction project along Zion Road. The applicant also proposes to construct a new public street from Zion Road approximately 600 feet through the site connecting to Veteran's Park. The intersection of Zion Road/Vantage Drive will likely be signalized at some point in the future with the addition of traffic from this development and others in the area. With this development proposing to construct the new public street staff is not recommending an additional assessment be paid toward that signal.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE STREET IMPROVEMENTS AS STAFF RECOMMENDED, BUT ALSO WANTED TO LEAVE THE OPTION FOR THE APPLICANT TO DISCUSS CHANGING THE STREET IMPROVEMENT AGREEMENT WITH CITY COUNCIL (03/24/08).

SUBDIVISION COMMITTEE REQUESTED STAFF TO PROVIDE EXAMPLES OF OTHER PROJECTS SIMILAR TO THIS WHERE AN INTERIOR PUBLIC STREET WAS CONSTRUCTED AND OFFSITE STREET IMPROVEMENTS WERE REQUIRED. (03/13/08)

Staff can discuss examples of several other projects in the vicinity where offsite street improvements in the form of road improvements and/or assessments were required in addition to constructing public streets within the development:

- *Timberlake Office Park Subdivision (improve Zion Road offsite and new onsite public street)*
- *Woodbury PZD/LSD (improve Zion Road offsite and several new onsite public streets)*
- *Lakewood Gardens PZD/PPL (improve Zion Road offsite and several onsite internal streets)*
- *Stearns Street Apartments LSD (extension of Shepherd Lane through the site and*

improvements to Vantage Drive offsite)

- *Bellafront LSD (Stearns Street extension offsite, assessment for all or a portion of two traffic signals offsite, improvements to Joyce Boulevard, Stearns Street, and Vantage Drive on and offsite)*
- *Vantage Center PZD (improvements to Frontage Road offsite and extension of Shepherd Lane through the site).*

The applicant commented at the March 13, 2008 Subdivision Committee that because they are building a public street into the site and connecting to Veteran's Park, they should not have to pay back the amount for right-of-way along Zion Road that was purchased by the City for the Zion Road widening. The applicant has also submitted a letter and cost estimate discussing the cost of constructing a public street through the site. Staff feels that for the applicant not to pay the \$42,030.00 back would be a change in the original agreement that would require City Council approval. The agreement addresses offsite work and does not address onsite improvements. In staff's opinion, mixing the offsite agreement with the proposed onsite street is not appropriate. The onsite proposed public street will be a benefit to the developer and the City, although it is difficult to say who will obtain the greater benefit. If the applicant is in disagreement with constructing the public street, and obtaining approval of the current project, they have the ability to resubmit their plans without it and propose a different layout.

2. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 166.08(C)(14) to allow for a portion of the new proposed street to have sidewalk only on one side when the Master Street Plan requires sidewalks on both sides of new streets. As proposed, sidewalks would be located along both sides of the new street from Zion Road to just north of the commercial buildings. No further development is proposed on the east side of the road north of this point. The applicant's waiver request discusses that having sidewalk only on the west side of the street through this area of the site helps transition from the retail area to office area and on into the thick tree canopy of the park, and preserves additional tree canopy. *Staff finds in favor of the applicant's waiver request and agrees with their justification for the waiver to help transition to the park and preserve trees, and also finds that sidewalk on the east side of the street is not needed because development and pedestrian activity is not anticipated in this area of the site.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS WAIVER (03/24/08).

SC RECOMMENDED IN FAVOR OF THIS WAIVER (03/13/08).

3. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 171.02 requiring a 30' curb return radius at street intersections on a minor street. The applicant proposes a 25' curb return radius on the west side of the project's new public street intersection with Zion Road. The applicant's waiver request discusses the 25' radius allows a better alignment of the new street with the existing alignment of Vantage Drive to the south. This waiver makes it easier to provide a three-lane entrance that the applicant feels is crucial to traffic circulation at this intersection. *Staff finds in*

favor of this waiver request agreeing with the applicant's justification for the waiver.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS WAIVER (03/24/08).

THE DETAILS OF THIS WAIVER WERE NOT YET AVAILABLE AT THE 03/13/08 SUBDIVISION COMMITTEE MEETING, ALTHOUGH THE COMMITTEE MEMBERS DISCUSSED THAT THEY WERE GENERALLY IN FAVOR OF WAIVERS NEEDED TO BETTER ALIGN THE INTERSECTION OF VANTAGE AND THE NEW PUBLIC STREET, AND WAIVERS NEEDED TO PROVIDE A THREE-LANE ENTRANCE (03/13/08).

4. Planning Commission determination of commercial design standards.

- a. Planning Area 2 (Office and Residential District). Staff finds that building 1 generally meets the intent of commercial design standards as it does not have unpainted block walls, does not have metal siding that dominates the main façade, and does not have out of scale signs with flashy colors. However the proposed structure is a square "boxlike" structure and the large amount of relatively blank glass over all four of the 84-foot high facades could be considered large blank, unarticulated wall surfaces in contrast to UDC Section 166.14(C). *Staff recommends incorporating additional materials and/or design features to break up these glass facades. One suggestion may be to provide greater relief in the vertical metal accents.*
- b. Planning Area 1 (Market District). *Staff finds that buildings 2 and 3 are well-articulated and meet commercial design standards.*
- c. Identifiable Theme. The proposed buildings provide a recurring, unifying theme throughout the site by utilizing similar materials and colors in the commercial/retail buildings and the medical office/residential building.
- d. Cross-access. Cross-access is being provided for future development and to the park located directly north of the site.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS WAIVER (03/24/08).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THE COMMERCIAL DESIGN STANDARDS AS PROPOSED (03/13/08).

5. Planning Commission discussion of site layout. *Staff has discussed in several meetings with the applicant concern with the site layout not completely fitting with the goals of the City Neighborhood Area (City Plan 2025) to encourage buildings to better relate to the street, by orienting the buildings to the street with pedestrian walks and hiding the large parking lots behind the buildings. To more fully comply with City Plan 2025 staff would recommend a full evaluation/discussion of the layout of the two buildings in Planning Area 2 (Market District) be oriented north-south to the new public street. The addition of the public street connecting to the park has greatly aided the layout, as opposed to the previous large parking lot layout.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THE SITE LAYOUT AS PROPOSED (03/24/08).

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THE SITE LAYOUT AS PROPOSED (03/13/08).

6. ~~Planning Commission recommendation of access and use of the existing drive to Veteran's Park along the western property boundary. The applicant proposes two vehicular connections to the existing drive connecting to Veteran's Park.~~

SUBDIVISION COMMITTEE RECOMMENDED IN FAVOR OF THE TWO VEHICULAR ACCESS POINTS TO THE DRIVE AS PROPOSED, AND ALSO REQUESTED ADDITIONAL INFORMATION FROM PARKS STAFF AND THE CITY TRAILS COORDINATOR REGARDING THE SAFETY OF UTILIZING THIS DRIVE FOR VEHICLES AND PEDESTRIANS (03/13/08).

~~The Park and Recreation Advisory Board recommended that with the construction of the new public street through this development, the existing Veteran's Park drive be utilized only for non-vehicular access, to decrease the potential for vehicle/pedestrian conflicts with the increased traffic from the development. Parks staff and the City Trails Coordinator recommend that if the drive is utilized as it is proposed there would be conflicts with pedestrians accessing the trail and drivers turning into the drive off Zion Road.~~

~~If the existing southern portion of Veteran's Park drive is utilized for vehicular access staff recommends the following conditions of approval:~~

- ~~A. The drive shall be restricted to one way, exit traffic only, and shall only utilize the southernmost entry.~~
- ~~B. The developer shall improve the drive to provide a minimum paved width to meet Fire Code and parking lot drive aisle standards.~~
- ~~C. A separated pedestrian path shall be provided from the sidewalk on Zion Road to the north of the proposed driveway. Incorporate design features to alleviate potential vehicular/non-vehicular conflicts such as a pavement markings or a sidewalk along the portion of the drive for vehicles, or bollards on one side of the drive allowing vehicles to exit only on one side and pedestrians protected on the other side. Bollards will be installed restricting traffic from entering the park at this location.~~
- ~~D. The applicant shall provide sight distance calculations to verify safety of egress for the proposed drive. Should the drive not meet sight distance standards, the drive shall not be permitted for public use, unless otherwise determined by the Planning Commission.~~

WITH THE REVISIONS SUBMITTED FOR PLANNING COMMISSION THE APPLICANT REMOVED CONNECTIVITY TO THE VETERAN'S PARK ACCESS DRIVE, AND PROPOSED A NEW CURB CUT/VEHICULAR ACCESS TO JOYCE BOULEVARD AS DEPICTED ON THE REVISED DRAWING PROVIDED TO THE PLANNING COMMISSION (03/24/08).

7. 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.
8. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
9. Public water and sewer lines and other improvements shall be extended as required by city ordinance at the time of development.
10. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
11. Future non-residential conditional uses in the zoning criteria shall comply with the minimum standards for development in the Unified Development Code.
12. Phasing: This project is required to obtain all building permits for the entire development within five years of City Council approval, with the opportunity for a one time, one year extension.
13. Signage:
 - a. Planning Area 1 (Market District). Pole/pylon signs are prohibited. Freestanding and wall signs for this planning area are subject to the commercial requirements of Fayetteville Unified Development Code Chapter 174.
 - b. Planning Area 2 (Office and Residential). Pole/pylon signs are prohibited. Freestanding and wall signs for this planning area are subject to the residential-office requirements of Fayetteville Unified Development Code Chapter 174.
14. Prior to building permit the three existing parcels should be combined into one legal lot or record, or the property lines adjusted to create three lots that correspond to the proposed development. If the property is intended to be subdivided or property lines adjusted, each new future lot shall have access to public water and sewer service in compliance with City ordinance.
15. The plats and booklets should be revised with the Planning Commission submittal to address the following items:
 - a. Booklet pg. 9 and pg. 12. Discussion on signage. Revise the discussion on signs to be consistent with the language on signage listed in Condition of Approval No. 12 of this report.
 - b. Booklet. Elevations. Building #2. Label the east and west elevations.
 - c. Booklet. Elevations/Site Plan. Retail Building #3. It appears that the westernmost end of the building has 2 tenant spaces on the site plan, but the elevations appear

- to show 3 tenant spaces. Please revise the site plan or elevations to be consistent.
- d. Plats. Label the centerline of the new public street, and add right-of-way dimensions and call-outs on the street at a couple of typical section points.
 - e. Plats. Extend curb/gutter all the way to the northern property line on the west side of the new public street.

Tree Preservation Conditions:

- 16. Please revise the tree canopy measurements on the Tree Preservation and Protection Plan to reflect the table on page one of this report.
- 17. Preserved canopy in the northeastern corner of this site must be placed within a Tree Preservation and Recreational Area. This area will be dedicated with the easement plat using the Tree Preservation and Recreational Area signature block for the Urban Forester.
- 18. All efforts should be made to preserve the trees as shown on the plan during construction. This includes, but is not limited to, the preserved trees around the detention basin within the tree preservation and recreational area, tree 141 near the construction entrance and tree 162 on the western edge of the site.
- 19. Mitigation will not be required as long as the preserved tree canopy remains at 25% or above. If the canopy falls below 25% during construction, mitigation will be required.
- 20. All revisions must be made to the Tree Preservation and Protection Plan before final approval.

Landscape Plan Conditions:

- 21. Expand the note on mulching to state that mulching is required around new trees and within landscape beds.
- 22. A vegetative buffer is required from the adjacent residential zoning districts. The buffer strip shall consist of a 12' area vegetated with a solid screening of trees and shrubs. The buffer strip shall extend the full length of the eastern and northern property boundary. Existing preserved vegetation may be utilized for the buffer.
- 23. Street trees are required 1 every 30 feet unless there is existing preserved vegetation. If during the development process, any of the existing trees along the street are damaged or removed, additional trees may be warranted.
- 24. 15' of greenspace is required between parking lots and the right-of-way. Revise the landscape plan to label the right-of-way lines and add a 15' greenspace line, and provide 15' greenspace as needed. It appears that the northernmost parking bay on the west side of the street, and the southernmost parking bay on the east side of the street have parking spaces within the 15' greenspace that must be removed.

25. Chapter 177 requires all parking areas between the building and right-of-way to be screened with shrubs. There are some areas of parking lots that need these additional screening shrubs along the new public street. The northernmost parking bay needs screening shrubs on the east side of the parking lot, there is a small section of parking lot just south of the tree preservation area and adjacent to the public street that needs screening shrubs.
26. All of the trees to be planted in urban tree wells shall utilize structural soil, and appropriate notes added to the plans.
27. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
28. It is understood that vegetation will not be removed within the detention area. Should vegetation be removed it the detention area will need to be planted in accordance with City ordinance. The berms around the detention area to be stabilized and revegetated with a minimum of sod or hydroseed.
29. An estimate of material and labor is required for 150% the cost of the required landscape. Once this estimate is approved by the Urban Forester, a letter of credit, bond or check will be held until installation.
30. Chapter 177 requires street trees to be bonded for a 3-year term before final certificate of occupancy. This amount shall be held to ensure the maintenance of the required street trees.

Trails Conditions:

31. The primary alternative transportation route between Lake Fayetteville and Mud Creek Trail occurs through this project and down Vantage Street. The new road included in this project will improve this important connection by realigning the Veterans Park Entrance road so it lines up with Vantage Street. Many bicycles will use the new road to access the park so bike symbol chevrons and share the road signs are recommended to be spaced every 300 feet along the new entrance road. See picture attached to the Trails Coordinator's memo:
32. In addition, the existing park entrance road is recommended to be closed to vehicles and become a trail to provide another point of pedestrian and bicycle access to the park. If any part of this road remains open to vehicles from Zion Road, there will be a potential conflict between vehicles turning north off Zion and the pedestrians and bicycles using the future 10 foot wide sidewalk along Zion. It is recommended to place bollards across this entrance only allowing emergency vehicles to enter at this point.

Parks Conditions:

33. Payment of parks fees in the amount of \$10,200.00 for 15 multi-family units shall be

submitted prior to issuance of building permits for the residential units.

34. The diversion island located near the transition of the new public street and Veteran's Park to be coordinated with Parks staff prior to building permit.

Standard Conditions of Approval:

35. All mechanical and utility equipment on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening to the structure utilizing materials compatible with the supporting building. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. A note shall be added to all construction documents indicating as such.
36. Trash enclosures shall be screened on three sides 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.
37. 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.
38. 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).
39. Provide a CD containing the proposed Large Scale Development drawings in AutoCAD or similar digital format.
40. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
41. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
42. 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:

43. _____

44. _____

Planning Commission Action: ☐ Tabled ☒ Forwarded to C.C.

Motion: Graves

Second: Ostner

Vote: 8-0-1 (Lack recused)

Meeting Date: March 24, 2008

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 C-PZD 08-2894 (Park Centre)

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 largely 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 City Neighborhood Area.

Proposed Land Uses: Rezoning this property to C-PZD 08-2894 with approximately 100,500 square feet of retail/commercial/office space and 15 residential condominiums is consistent with the future land use plan and compatible with the mix of land uses in the immediate vicinity including a City park, duplexes, single-family residential, and offices.

Proposed Development Pattern: The proposed form of development is largely not consistent with the City Neighborhood Area policies for traditional urban design. The development is generally a suburban form with large parking areas fronting the street and the buildings generally set well off of the right-of-way as in a typical suburban strip center or office park. The development does have the sides of the two retail buildings directly adjacent to the new interior public street, creating an approximately 80-foot corridor out of the new 600-foot long street (approximately 13% of the street) with an urban feel with buildings close to the street, wide sidewalks, and urban tree wells. The buildings along this corridor are 15-20 feet high, and the space in between the walls is approximately 80 feet wide, creating a height/width ratio of 1:4. This ratio combined with the trees lining the street along this 80-foot corridor should create a sense of enclosure and a traditional urban feel. Goal 3 of the City Plan 2025 is to make traditional town form the standard throughout the City where development is taking place, with street-oriented buildings, walkability considered first, and vehicle mobility second, where the street showcases the high quality buildings. This type of development pattern is also encouraged in the Guiding Policies for a City Neighborhood Area. The transition of the urban form to a more suburban form does incorporate measures for preserving tree canopy, which should aid in the transition to the park, which is very anti-urban in nature. This transition has created difficulty for development patterns in this area.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable

statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development. In addition, the City has begun construction of major infrastructure improvements along Zion Road adjacent to, and east and west of the property, at no cost to the developer.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow approximately 100,500 square feet of commercial/retail/office uses and 15 residential condominiums above the office space in the large office building. These uses are compatible with the surrounding land uses including the park, residential, and office uses in the vicinity. The appearance of the site would change dramatically from an almost entirely tree covered property with three small houses tucked back in among the trees, to a commercial node of development at the intersection of Zion/Vantage Roads, and an 84-foot high building adjacent to Lake Fayetteville park near the rear of the property. The uses in this vicinity quickly transition from the relatively high intense commercial corridor along Highway 71 B (College Avenue) to the west, to a mix of office and residential uses in the vicinity of this property, with non-residential uses operating out of several single family residences. The property along this immediate area of Zion Road is not highly developed and has dense, continuous tree canopy generally continuing from Zion Road north to Lake Fayetteville. The development proposes to preserve a large amount of tree canopy along Zion Road, maintain a large tree preservation area and vegetative buffer along the east property line, and have the large office building in the rear of the site away from the existing single family residences. The development also proposes to preserve several substantial clusters of the existing trees in large landscape islands in the parking lots. By preserving several large areas of trees along the perimeter of the property, land use impacts to surrounding residences should not be significant. Public users of Lake Fayetteville Park and drivers along Zion Road will see the large office building above the tree canopy with dark reflective glass. This building may present an incompatible appearance in the immediate area. However, as this area is designated as a City Neighborhood Area, staff finds that a six story building may be appropriate if placed and designed sensitively. The office building use is not incompatible with a park or development along Zion Road, but is rather a use that will encourage people to utilize the park and accentuate the difference in the built and natural environment. However, as discussed in Finding B.14, staff recommends some modification to the façades of the building to be more sensitive to public viewers and the natural environment.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The subject property was developed many years ago for three single family residences on the 8.58 acres. The site is almost entirely wooded with many large trees throughout the site, and the topography is relatively flat, with more slope to the northeast. The development proposes to reduce the tree canopy on the site from 92% to 30.5%. The development would preserve six existing trees along Zion Road, and several other large groupings throughout the site. With the density and intensity proposed, staff finds that the development does a good job of incorporating the trees into the site. 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 uses: commercial, office, and residential, will impact the existing traffic conditions. Zion Road is a Collector Street and is currently being improved by the City to its Master Street Plan standard along the project frontage. Zion Road provides a major east-west connection in this area of Fayetteville. Access to College Avenue, a Principal Arterial, is 0.3 mile to the west. State Highway 71b (College Avenue) is the major north-south transportation corridor in Fayetteville. In addition, Vantage Drive will be extended through this site, and is a Collector Street connection 0.6 mile south to Joyce Boulevard, which is an east-west Principal Arterial. This site will also be a major pedestrian connection for the Fayetteville Alternative Transportation Plan. Lake Fayetteville Trail is adjacent to the north, and there is an on-street trail connection along Vantage Drive linking with Mud Creek Trail providing other linkages to trails throughout the City. This development will link these two trails by providing a new public street and on-street shared bicycle lane from Vantage Drive north to Veteran's Park. Staff finds that with the agreed-upon assessment for improvements to Zion Road and the construction of the new public street through this development that the existing road network is suitable for intended development and will not create a traffic burden.

- (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 Park Centre PZD provides for appropriate commercial and residential development in an area transitioning from the College Avenue commercial corridor to Lake Fayetteville/Veteran's Park, and office and residential uses along Zion Road. Zion Road is a Collector Street moving relatively high volumes of traffic. Access and use of this site would be primarily off of a new north-south street intersecting with Zion Road, although the applicant is proposing a secondary access with a curb cut onto Zion Road in the southeast corner of the site, and access off of the existing drive to Veteran's Park along the western property line providing another access to Zion Road. Staff has concerns with the vehicular and pedestrian safety of the access to Veteran's Park drive due to probable limited site distance into this drive from Zion Road and the pedestrian activity that will be using this drive.

As discussed in Finding No. 1 in this report, the site has been designed in a primarily suburban pattern with parking lots facing the streets and buildings to the interior, inconsistent with City Plan 2025 policy. However, there is a an approximately 80-foot section where the sides of the retail buildings will be adjacent to the street creating an urban feel that makes this development more of a hybrid pattern rather than a true suburban strip center pattern. Interior access would be provided with driveways into parking lots off of the interior public street. The development proposes commercial drive-thru windows near the east and west property lines, however the uses in the zoning criteria have been limited to ensure that potential incompatibilities with the adjacent single family residences would not occur. As described in other findings in this report the site incorporates a large amount of tree preservation and vegetated buffers on the perimeter of the site, protecting adjacent land uses and incorporating natural features into the site design, and thus providing a transition to the park to the north.

- (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 be required for any parking areas adjacent to the street, although. The landscape plan incorporates such standard requirements as one tree every 30 feet along the street frontages, and parking lot shade trees. In addition a vegetative buffer will be provided between this development and the adjacent single family residence to the east, and Veteran's Park to the north.

(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 into the development will be provided mainly off of a new public street that intersects with Zion Road. Two other private access points are also proposed to Zion Road. Staff's concern with the safety of the western access point to Zion Road through the existing access drive to Veteran's Park have been discussed in Finding B.1. and in Condition of Approval No. 5. The development also proposes two parking lot drive aisle stub outs to the east for cross access.

- (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 in surface parking lots adjacent to Zion Road and the new public street. All parking ratios have been met and reviewed in detail.

- (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: A new multi-use trail is being constructed adjacent to the project along Zion Road and a public sidewalk is proposed along the new public street interior to the site. The applicant is requesting a waiver as described in Condition of Approval No. 2 to allow for sidewalk only on one side of the new public street for the northern section of the street. Staff is in support of this waiver for the reasons described in Condition No. 2.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided along Zion Road as part of the City's current improvements to the street, and interior street lights along the new public street are to be provided at intersections and every 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water lines are being extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public

streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: Public streets will be constructed to City standards.

- (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; this project is a commercial PZD.

- (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 has been submitted and reviewed as part of the Large Scale Development and complies with the requirements for tree preservation as set forth in Chapter 167. A large amount of tree canopy is being preserved along Zion Road, and in large tree islands in the interior of the development, as well as a 0.84 acre tree preservation area in the northeast corner of the site. The development is preserving 30.5% of the site in tree canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The development largely complies with commercial design standards by providing an identifiable theme for the three buildings and providing cross access. Staff recommends some modification to Building 1 due to its "boxlike" structure and large amount of glass over the majority of the 84-foot high facades that may be considered

“unarticulated”.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff considers the views of tall mature trees to drivers along Zion Road, and views of this heavily wooded property above Lake Fayetteville to be scenic. As discussed in Finding E.4, this development would substantially change the appearance of this 8.58-acre site and associated views from Zion Road and Lake Fayetteville. To drivers currently traveling east along Zion Road from College Avenue, the appearance of the road quickly changes from a commercial corridor to a tree-lined, two-lane rural residential highway appearance. With the current improvements to Zion Road being constructed by the City, and with the proposed development, the land use and views would change to a fully improved street with sidewalk on the south side, a multi-use trail on the north side, and large parking lots adjacent to Zion Road on the north side, with retail/commercial buildings set approximately 100 feet from the road in a typical suburban strip center configuration. This development preserves six large trees along Zion Road that will help preserve some of the scenic nature of Zion Road, and additional plantings will be required. Viewers of this property from Lake Fayetteville/Veterans Park currently see a heavily wooded site that appears undeveloped from a distance. This development proposes an 84-foot high building (six stories) that would be visible from many viewpoints, including Zion Road and Lake Fayetteville/Veterans Park. This building would extend above the surrounding tree canopy in the park and on the property. The facades of the building are almost entirely glass on all four sides. The proposed glass is a dark material that would be highly reflective. This would result in shiny reflective appearance above the tree line to many viewers. Where the building is surrounding by tree canopy the glass would reflect the appearance of the surrounding trees. Staff is not opposed to the height and appearance of a building in this location above the tree canopy, but recommends additional materials to break up the large expanse of glass on the office building as discussed in Condition of Approval No. 4. Additional materials and or a different type of glass above the tree canopy might lessen the visual impact to scenic viewers along Zion Road and at Lake Fayetteville Park.

(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. 161.29 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 City Plan 2025, as well as the above ten criteria, including compatibility, transition of land use, harmony, and flexibility to provide a commercial/retail center along with 15 residential condominiums in this area of transitional land uses. Staff has expressed some concerns with the form of the development and the appearance of the large office building.

(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.

(D) C-PZD, Commercial Planned Zoning District

- (1) *Purpose and intent.* The C-PZD is intended to accommodate mixed-use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to

accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development which is consistent with the city's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: With revisions to the project as discussed in the conditions of approval, staff is recommending approval of this application, finding the proposed PZD would meet the intent of the PZD ordinance as noted above, and is generally consistent with the city's General Plan/City Plan 2025 as discussed in Finding No. 1.

(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 commercial or office use area be less than fifty-one percent (51%) of the gross leasable floor area within the development.

FINDING: The majority of uses are principally commercial.

(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: This is a proposed commercial zoning. Although there is a residential component with 15 residential condominiums proposed in the top two floors of the six story office building. The proposed zoning criteria and residential density (1.74 units/acre) are appropriate given the mix of uses and intensity in this vicinity along Zion Road.

(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: The building setbacks proposed provide a 15-foot setback from the perimeter property lines, and allow a 0-foot setback off of the new public street. This development is not proposed to be subdivided at this time, but the zoning criteria incorporates typical standards for commercial property should it ever be subdivided.

(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 not typical of the surrounding area with an 84-high office building proposed in Planning Area 2. The office building is set in the rear of the property and is not in the immediate vicinity of a single family residence. The building is located approximately 100-feet from the closest property line (the north). The adjacent land use to the north is Veteran's Park. The proposed building height is appropriate given the location of the building in the interior of the property, and should not pose adverse impacts to light or air to adjacent property. As discussed in Finding B.14,

staff has concerns with the appearance of the office building to the community.

- (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 less than typical lot coverages in commercial zonings, indicative of the large amount of tree preservation and greenspace being provided.

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as City Neighborhood Area. Staff finds the application to be largely in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council.*

Rezoning this property to C-PZD 08-2894 with approximately 100,500 square feet of retail/commercial/office space and 15 residential condominiums is consistent with the future land use plan and compatible with the mix of land uses in the immediate vicinity including a City park, duplexes, single-family residential, and offices. However, as discussed in Finding No. 1, the proposed form of development is not consistent with the City Neighborhood Area policies for traditional urban design. The development is a generally a suburban pattern with large parking areas fronting the street and the buildings generally set well off of the right-of-way as in a typical suburban strip center or office park. However the project does balance the goals of creating traditional urban environment and maintaining natural features – in this case tree canopy – at an acceptable level. The proposed plan, commitments, design standards and other conditions placed upon the project result in a generally compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new or re-developed property.

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 somewhat consistent with the land use planning objectives, principles and policies, as evidenced by several of the guiding policies for City Neighborhood Area this proposal meets. The development introduces a more intense development pattern to the area, but generally does an effective job of providing vegetative buffers, tree preservation, and setbacks from adjoining properties to protect them from potential adverse impacts associated with the development. This development provides non-residential uses that are easily accessible to the large number of vehicles that traverse through the Zion Road corridor each day by providing a variety of commercial uses that are easily

accessed with large parking lots next to the streets, and two commercial drive-thrus. Extending a public street through the site will provide a much improved linkage in the multi-use trail system connecting Lake Fayetteville and Mud Creek trail system, and the variety of commercial uses will be convenient to non-vehicular users of Lake Fayetteville Park and the overall Fayetteville Alternative Transportation system. The mix of residential, commercial, and office uses proposed helps establish a complete neighborhood. However the development is in a more conventional pattern, with one-story commercial buildings and large amounts of parking fronting onto public streets. The development would retain 30.5% of the site in existing tree canopy on the property. The site layout also proposes connections and access in all four directions. As discussed in Finding No. 1 at the beginning of this report, the form of the development is not as consistent with many of the design principals adopted as part of City Plan 2025.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The current RSF-4 and R-A zoning is probably not appropriate given the location of this property well within the City limits and along a major Collector Street. The proposed zoning to allow for a mix of commercial and residential uses is more consistent with the City Neighborhood Area designation than the current zoning. The proposed zoning is justified.

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 with the street improvements recommended.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The potential population density would be increased slightly from that which currently exists. The 8.58-acre parcel is currently zoned RSF-4 and R-A, which allows four units and 0.5 units per acre, respectively. The proposed zoning would allow 15 residential units on the 8.58 acre site resulting in an overall density of 1.75 units per acre. This slight increase in residential density is minimal.

Engineering: Public water is located adjacent to the site. There is a 12" water main along Zion Road.

Sanitary sewer is not available to the site. Sewer improvements are being made by the developer as part of the project.

The site has access to Zion Road. Zion Road is currently being improved by the City of Fayetteville to be a three section in the area extending west to College Avenue.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

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 1.7 miles from the Engine 4 and Ladder 4 located at 3385 N. Plainview, with an estimated response time of 4.75 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



PC Meeting of March 24, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Planning Commission
From: Andrew Garner, Senior Planner
Date: March 12, 2008

ITEM #: 08-2894 CPZD: Planned Zoning District (Park Center)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
N	1-540 Design Overlay
Y	Street Tree Planting Standards
N	Stormwater Facilities

Plan Checklist:

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

Preliminary Submittal	Final Submittal	
		All Landscape Plans
Y		Irrigation notes either automatic or hose bib
Y		Species of plant material identified
Y		Size of plant material at time of installation indicated
Y		Soil amendments notes include that soil is amended and sod removed
N		Mulch notes indicate organic mulching around trees and within landscape beds
N		Plans stamped by a licensed Landscape Architect
Y		Planting details according to Fayetteville's Landscape Manual
		Site Development & Parking Lot Standards
Y		Wheel stops/ curbs
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		Perimeter landscaping <i>Side and rear property lines (5' landscaped)</i> <i>Front property lines (15' greenspace)</i> <i>Shade trees as described in street tree planting standards,</i> <i>Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)</i>
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (time of Permit)
NA		Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
Y		Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
N		Urban Tree Wells-urban streetscape only-8 foot sidewalk
Y		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 Permit)
Y		1 deciduous or evergreen tree/ 3000 square feet
Y		4 large shrubs (3 gal) or small trees / 3000 square feet
Y		6 shrubs or grasses (1 gal) / 3000 square feet
Y		Ground cover unless seed or sod is specified
Y		50% of facility planted with grass or grass like plants

Conditions of Approval:

1. Expand the note on mulching to state that mulching is required around new trees and within landscape beds.
2. A vegetative buffer is required from the adjacent residential zoning districts. The buffer strip shall consist of a 12' area vegetated with a solid screening of trees and shrubs. The buffer strip shall extend the full length of the eastern and northern property boundary. Existing preserved vegetation may be utilized for the buffer.
3. Street trees are required 1 every 30 feet unless there is existing preserved vegetation. If during the development process, any of the existing trees along the street are damaged or removed, additional trees may be warranted.
4. 15' of greenspace is required between parking lots and the right-of-way. Revise the landscape plan to label the right-of-way lines and add a 15' greenspace line, and provide 15' greenspace as needed. It appears that the northernmost parking bay on the west side of the

- street, and the southernmost parking bay on the east side of the street have parking spaces within the 15' greenspace that must be removed.
5. Chapter 177 requires all parking areas between the building and right-of-way to be screened with shrubs. There are some areas of parking lots that need these additional screening shrubs along the new public street. The northernmost parking bay needs screening shrubs on the east side of the parking lot, there is a small section of parking lot just south of the tree preservation area and adjacent to the public street that needs screening shrubs.
 6. All of the trees to be planted in urban tree wells shall utilize structural soil, and appropriate notes added to the plans.
 7. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
 8. It is understood that vegetation will not be removed within the detention area. Should vegetation be removed in the detention area will need to be planted in accordance with City ordinance. The berms around the detention area to be stabilized and revegetated with a minimum of sod or hydroseed.
 9. An estimate of material and labor is required for 150% the cost of the required landscape. Once this estimate is approved by the Urban Forester, a letter of credit, bond or check will be held until installation.
 10. Chapter 177 requires street trees to be bonded for a 3-year term before final certificate of occupancy. This amount shall be held to ensure the maintenance of the required street trees.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

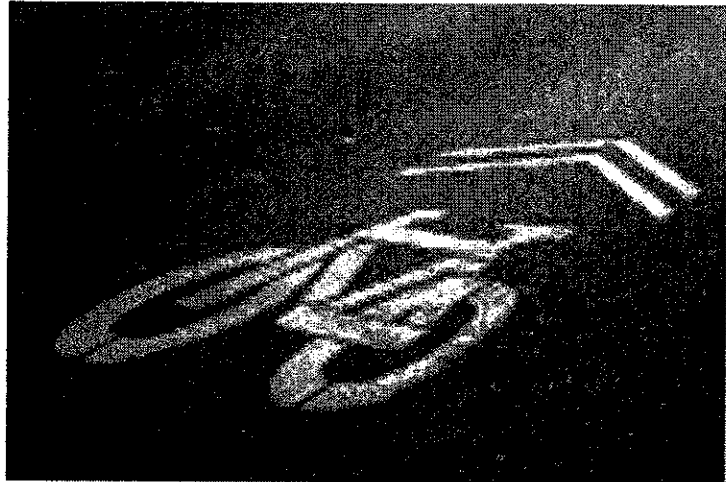
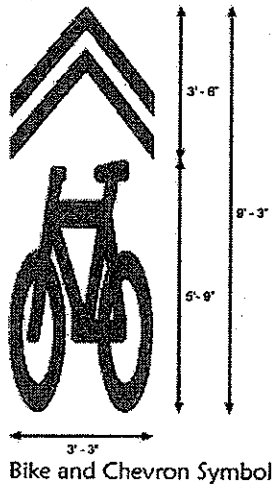
ENGINEERING DIVISION CORRESPONDENCE

To: H2 Engineering, Inc.
From: Matt Mihalevich, Trails Coordinator
Date: March 18, 2008
Subject: Planning Commission Comments

ITEM #: C-PZD: 08-2894: Park Center

TRAIL COMMENTS

1. The primary alternative transportation route between Lake Fayetteville and Mud Creek Trail occurs through this project and down Vantage Street. The new road included in this project will improve this important connection by realigning the Veterans Park Entrance road so it lines up with Vantage Street. Many bicycles will use the new road to access the park so bike symbol chevrons and share the road signs are recommended to be spaced every 300 feet along the new entrance road. See picture below.
2. In addition, the existing park entrance road is recommended to be closed to vehicles and become a trail to provide another point of pedestrian and bicycle access to the park. If any part of this road remains open to vehicles from Zion Road, there will be a potential conflict between vehicles turning north off Zion and the pedestrians and bicycles using the future 10 foot wide sidewalk along Zion. It is recommended to place bollards across this entrance only allowing emergency vehicles to enter at this point.



Date 1/14/08

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 **C-PZD 08-2894: (Park Center, 136): Submitted by H2 Engineering, Inc. for property located at the NE corner of Zion Road and Public Road 1347, Adjacent to Lake Fayetteville Park**, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The **property contains approximately 8.58 acres.**

It is the opinion of the Fayetteville Police Department that this C-PZD will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This C-PZD will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: January 22, 2008
Re: January 22, 2008 Zoning Review

C-PZD 07-2858: Planned Zoning District (FARMER'S MARKET / 6TH ST., 558):

Submitted by STEVE CLARK for property located at S SIDE OF 6TH STREET, BETWEEN E AND W FARMERS DRIVE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 1.10 acres. The request is for rezoning, land use and large scale development approval for a C-PZD with a 5,000 s.f. commercial building with associated parking.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is .7 miles from the station with an anticipated response time of 3 minutes.

The Fire Department does not calculate calls for service on commercial properties, but typically this type of development does not affect our response times or calls for service.

Measured hydrant flow in this area is 1620 gallons/minute.

C-PZD 08-2894: Commercial Planned Zoning District [REDACTED]

Submitted by H2 ENGINEERING, INC. for property located at THE NE CORNER OF ZION ROAD AND PUBLIC ROAD 1347, ADJACENT TO LAKE FAYETTEVILLE PARK. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE AND R-A, RESIDENTIAL AGRICULTURAL and contains approximately 8.58 acres. The request is for Zoning, Land Use and Development approval for a Commercial Planned Zoning District containing 100,000 s.f. of office, retail and restaurant space with associated parking.

This property will be covered by Engine 4 and Ladder 4 located at 3385 N Plainview.

It is 1.7 miles from the station with an anticipated response time of 4.75 minutes.

The Fire Department does not calculate calls for service on commercial properties, but typically this type of development does not affect our response times or calls for service.

No measured hydrant flow is recorded in this area.

RZN 07-2856: (PARKS AND RECREATION):

Submitted by CITY OF FAYETTEVILLE for property located at VARIOUS LOCATIONS THROUGHOUT THE CITY. The request is to rezone 44 city parks to P-1, Institutional.

This re-zoning is for existing properties within the City of Fayetteville. They are all served by the Fayetteville Fire Department and will not affect our calls for service and our response times. The Fire Department is in support of these re-zonings.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department



PC Meeting of March 24, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: March 19, 2008

ITEM #: C-PZD 08-2894: Commercial PZD (Park Centre)

Requirements Submitted:

Y	Initial Review with the Urban Forester
Y	Site Analysis Map Submitted
Y	Site Analysis Written Report Submitted
N	Complete Tree Preservation and Protection Plan Submitted

Canopy Measurements:

Total Site Area	
acres	8.58
square feet	373,745
Net Site Area (less R/W dedication)	
acres	7.87
square feet	342,965
Existing Tree Canopy	
acres	7.29
square feet	317,600
percent of site area	92.6%
Existing Tree Canopy Preserved	
acres	2.40
square feet	104,717
percent of total site area	30.5%
Percent Minimum Canopy Required	25.0%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **This site has approximately 93% canopy with the majority of species consisting of post oak, red oak and white oak. An inventory of the site by a certified arborist revealed that there are 213 trees. The majority of them are significant trees as defined by the City of Fayetteville's Landscape Manual.**

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 as the riparian buffer will be maintained and protected.**

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. Trees will be saved along the northern and southern portion of the site. Additional screening in the form of landscape trees will also be added.**

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/or shape of the lot does not reduce flexibility.**

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 fair. Several of the significant trees that are proposed for removal are in poor condition.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Staff recommends that the group of saved canopy in the northeastern corner of the site be placed within a Tree Preservation and Recreational Area. This distinction will allow the continued preservation of these trees in perpetuity. The removed canopy is due to placement of structures, roadway and associated parking. Some trees shown as preserved may be compromised by construction. All efforts should be made to preserve the trees as shown on the plan during construction.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Trees within the Tree Preservation and Recreational Area should not be affected by utilities.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **The proposed road and utilities have been designed to avoid damage to as much existing canopy as possible.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will not be required on this site.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This is a Planned Zoning District project.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation and Protection Plan with the following conditions.**

Conditions of Approval:

1. Please revise the tree canopy measurements on the Tree Preservation and Protection Plan to reflect the table on page one of this report.
2. Preserved canopy in the northeastern corner of this site must be placed within a Tree Preservation and Recreational Area. This area will be dedicated with the easement plat using the Tree Preservation and Recreational Area signature block for the Urban Forester.
3. All efforts should be made to preserve the trees as shown on the plan during construction. This includes, but is not limited to, the preserved trees around the detention basin within the tree preservation and recreational area, tree 141 near the construction entrance and tree 162 on the western edge of the site.
4. Mitigation will not be required as long as the preserved tree canopy remains at 25% or above. If the canopy falls below 25% during construction, mitigation will be required.
5. All revisions must be made to the Tree Preservation and Protection Plan before final approval.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Andrew Garner, Planner
FROM: Alison Jumper, Park Planner
DATE: March 19, 2008
SUBJECT: Planning CommissionComments

Meeting Date: March 24, 2008
Item: C-PZD 08-2894 (Park Center, 136)
Park District: NE
Zoned: RSF-4, R-A
Billing Name & Address: Zion Properties, LLC 18 Corporate Hill Dr. Fayetteville, AR 72703

COMMENTS:

PRAB reviewed this project at the March 3rd meeting and recommended accepting money in lieu of land as well as looking at the non-park traffic, and develop more defined traffic flows, and reconfiguring the Y in the road to discourage the traffic from the development from entering the park unnecessarily.

Additionally, PRAB recommended renaming Vantage Dr. to Veterans Memorial Blvd. PRAB is coordinating with City Council to take this item forward for consideration.

The current entry into Veterans park is not a dedicated street right-of way.

Park Staff recommends having only the southern access point and widening the drive on the west side of the parking area to accommodate fire access. This would limit access to fire and emergency vehicles only.

PRAB and Park Staff recommend limiting the existing entry drive to Veterans Park to pedestrian and bicycle traffic, minimizing potential conflicts with vehicles and creating a safe, designated pedestrian access to the park.

Improvements to the existing drive to accommodate daily traffic to the proposed development would be necessary. This will likely include tree removal in the existing islands up to the north proposed access point.

RESOLUTION NO. 208-07

A RESOLUTION TO APPROVE A SETTLEMENT WITH ZION ROAD PROPERTIES, LLC IN THE AMOUNT OF \$42,030.00 FOR RIGHT-OF-WAY AND EASEMENTS; AND ESTABLISHING ZION ROAD PROPERTIES, LLC'S MAXIMUM ASSESSMENT FOR OFF-SITE IMPROVEMENTS.

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 settlement with Zion Road Properties, LLC in the amount of \$42,030.00 for right-of-way and easements.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby establishes the maximum assessment for off-site improvements required of Zion Road Properties, LLC at not more than \$42,030.00.

PASSED and APPROVED this 4th day of December, 2007.

APPROVED:

ATTEST:

By: Dan Coody
DAN COODY, Mayor

By: Sondra E. Smith
SONDRA E. SMITH, City Clerk/Treasurer



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

RCS
12/4/07
208
Zion Road Properties, Inc.

12/4/2006

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030 for right of way and easements on Zion Road, and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

\$ 42,030.00

Cost of this request

\$ 24,496,473.00

Category / Project Budget

Zion Road (College to Vantage)

Program Category / Project Name

4520.9520.5809.00

Account Number

\$ 2,082,457.43

Funds Used to Date

Street Improvements

Program / Project Category Name

06035.1830

Project Number

\$ 22,414,015.57

Remaining Balance

2006A Sales Tax Construction

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature]
Department Director

11-16-07
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

11/19/07
Date

Received in City Clerk's Office

ENTERED
11/16/07

Paul A. Bush
Finance and Internal Service Director

11-19-07
Date

Received in Mayor's Office

ENTERED
11/19/07

[Signature]
Mayor

12/1/07
Date

Comments:

City Council Meeting of December 4, 2007

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: November 15, 2007

Subject: A resolution to approve a settlement with Zion Road Properties, LLC in the amount of \$42,030 for right of way and easements on Zion Road, and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

RECOMMENDATION:

Staff recommends approval of a settlement with Zion Road Properties, LLC in the amount of \$42,030, for right of way and easements and to establish the maximum assessment due from Zion Road Properties for off-site street improvements at \$42,030.

BACKGROUND:

The Zion Road Project is one of the projects to be constructed under the Transportation Bond Program. The project consists of widening approximately 2400 feet of Zion Road to 3 lanes from College Avenue to just east of Vantage Drive, installation of an underground storm drainage system, and construction of 6 foot sidewalks on both sides of the roadway, as approved by the City Council and Street Committee.

During the process of right of way and easement acquisition on the project, Zion Road Properties, LLC purchased two properties along Zion Road with the stated intention of developing the property. City staff then submitted an offer to Zion Road Properties for easements and right of way necessary across their property based on the appraised value. Zion Road Properties has since agreed to accept the City's offer of \$42,030 for easements and right of way, with the understanding that they will in turn repay this same amount to the City if their development is approved prior to the completion of the Zion Road project. In addition, the Zion Road Properties, LLC has requested an assurance that there will be no additional offsite street assessments for the work associated with the Zion Road project.

DISCUSSION:

Staff has reviewed this proposal and has determined that it is fair to both the City and the property owner. Therefore, acceptance of this settlement is recommended.

City Council Meeting of December 4, 2007

A copy of a memo from the City Attorney regarding this issue is attached along with correspondence from Zion Road Properties indicating their willingness to accept the settlement terms.

It should be noted that if the Planning Commission determines that additional improvements beyond the scope of the Zion Road Improvement Project are required due to the impacts of development by Zion Road Properties, LLC, the cost of such improvements will be the responsibility of Zion Road Properties, LLC.

BUDGET IMPACT:

This payment will be funded with a portion of the 2006 Transportation Bond Issue proceeds. \$2,540,000 has been budgeted for the Zion Road Improvements Project.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: Ron Petrie, City Engineer

CC: Jeremy Pate, Director of Current Planning

FROM: Kit Williams, City Attorney

DATE: November 9, 2007

RE: Assessments for new development when street is being widened by the City

As you know §171.03 Street Improvements require developers with development "along any street which is not constructed according to the city's existing standards ... (to) dedicate sufficient right-of-way ... (and) install street paving, curbs, gutters and sidewalks"

If the City desires to begin widening construction along Zion Road prior to a landowner along Zion Road beginning its development, that landowner would not initially have to dedicate right-of-way nor pave, curb, and gutter Zion Road where it abuts the property. (See also §166.03 Required On-Site Improvements – Subdivision In City Limits (C) Streets)

However, if the landowner becomes a developer and proceeds to begin the development process while Zion is being improved, any money paid by the City to the developer to purchase right-of-way (which should now be legally dedicated as a condition for approval) should be refunded to the City. Otherwise, the City would be paying for street right-of-way it would legally be entitled to through mandatory dedication procedures.

In this particular instance, I would agree that the City should not seek further reimbursement for its paving, curb and gutter construction costs even though these might have at least partially be required of the developer through Fayetteville Code §166.03 (C) (D) and (E) and §171.03 (A) (2).

Therefore, I would recommend a compromise position for the City to seek and accept only repayment of the money spent by the City for right-of-way dedication, but not to seek reimbursement for paving, curb and gutter construction costs.

You and Jeremy Pate are the designated administrators and interpreters of the Unified Development Code, so you are free to arrive at your own interpretation and position regardless of my opinions.

Zion Road Properties, LLC
2397 Green Acres Road
Fayetteville, Arkansas 72703

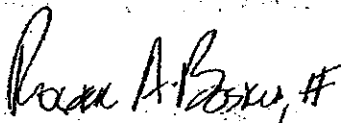
Mr. Ron Petrie – City Engineer
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

Dear Mr. Petrie:

We are in receipt of offers from the city of Fayetteville to purchase; tract no. n-4, tract no. n-5, & tract no. n-6 lands from us in order to widen Zion Road. We have reviewed the offered purchase price and we are willing to accept this offer as long as the city agrees that there will be no future assessments charged to our PZD in excess of the offered price.

We appreciate your willingness to work with us on this matter.

Sincerely,



Roger A. Boskus, II
Zion Road Properties, LLC

March 18, 2008

City of Fayetteville
Planning Staff
113 West Mountain Street
Fayetteville, AR 72701
Attention: Andrew Garner

Zion Road Properties, LLC
18 Corporate Hill Drive Suite 207
Little Rock, AR 72205

RE: PARK CENTRE

Dear Mr. Garner:

We have prepared the cost information for the public street that is going thru our development as discussed at the subdivision committee. This cost analysis is for the difference in cost for the public street we have been requested to provide vs. a private street which we originally planned and budgeted for.

It was previously agreed in city council Resolution No. 208.07 that we would be assessed no more than \$42,030 for off site improvements. This was agreed when the development was proposed to have all private streets. In the planning process we willingly pursued, at planning staffs request, adding a public street thru the middle of our development. For the betterment of Veterans Park and to improve safety and traffic flow to the park we agreed to pursue this option. We presented this option to the parks board. The board initially vehemently opposed this street but eventually at the second meeting we sold the idea to the parks board. This required us to do a major re-design and caused an eight week delay in the PZD process. The additional engineering fees paid were over \$10,000.

Additionally the technical review comments led us to believe that we were not going to have any assessments for our willingness to construct these improvements and provide a much better entrance to the park. Tech Plat #2 item # 27 reads: *Street improvements. This property is subject to Resolution No. 208.07 that specifies that the maximum for off-site street improvements on Zion Road on the site are \$42,030.00. In addition, the intersection of Vantage / Zion is a likely location for a future traffic signal. With the development proposing to construct a new public street, staff would not be recommending an additional assessment be paid toward that signal.* This statement did not say that \$42,030 was definitely going to be assessed. At subdivision committee, the language had been changed to make the \$42,030 a definite fee but without an explanation of what the assessment was for. I have attached a cost estimate for your reference. As you can see this project will take a major hit in expenses for this change in road classification. This will be a total cost of at least \$215,372. The land was valued at \$146,906 and the improvements are valued at \$68,466 above the cost of a private street.

It is our opinion that \$215,372 is enough of an assessment for the development of this project. Given the circumstances outlined above we do not agree with the comments made at subdivision committee. The planning commissioners that were present at subdivision requested this cost information and I would like to discuss this further before the full planning commission Monday night.

We are very excited about this project and the potential benefits for both the park and our development as we work together to enhance the area. Thank you for your consideration in these matters.

Respectfully,

A handwritten signature in black ink, appearing to read "Roger A. Boskus, #".

Roger Boskus
Managing Partner
Zion Road Properties, LLC

ESTIMATE



2758 Millennium Drive, Fayetteville, AR 72703
Phone 479-582-4234 Fax 479-582-9254

Date: 03/17/08

PROJECT NAME: PARK CENTRE

Item No.	Unit	Description of Item	Unit Price	PRIVATE ST.		PUBLIC ST.	
				Quantity	Extended Amount	Quantity	Extended Amount
1	CY	Additional Undercut & Haul Off	\$ 10.50	0	\$ -	106	\$ 1,114.17
2	TY	Additional Select Fill	\$ 11.00	0	\$ -	138	\$ 1,517.39
3	SY	Public Streets @ 8" SB2 / 3" ACHM Surface	\$ 19.50	0	\$ -	2,192	\$ 42,744.00
4	SY	Private Streets @ 7" SB2 / 2" ACHM Surface	\$ 16.00	2,192	\$ 35,072.00	0	\$ -
5	LF	Curb and Gutter	\$ 10.75	0	\$ -	1,146	\$ 12,319.50
6	SF	Sidewalk	\$ 3.50	0	\$ -	5,237	\$ 18,329.50
7	EA	4' Inlet Box	\$ 2,240.00	0	\$ -	3	\$ 6,720.00
8	LF	18" CMP	\$ 41.75	120	\$ 5,010.00	0	\$ -
9	LF	18" RCP	\$ 50.75	0	\$ -	179	\$ 9,084.25
10	EA	Street Tree	\$ 250.00	0	\$ -	32	\$ 8,000.00
11	EA	Street Screening Shrub	\$ 40.00	0	\$ -	148	\$ 5,920.00
12	EA	Tree Well (in sidewalk)	\$ 400.00	0	\$ -	7	\$ 2,800.00
13	SF	LAND	\$ 4.75	0	\$ -	30,927.60	\$ 146,906.10
TOTALS					\$ 40,082.00		\$ 255,454.91

TOTAL ADDITIONAL CONSTRUCTION EXPENSE FOR PUBLIC STREET: \$ 68,466.81

TOTAL ADDITIONAL LAND EXPENSE FOR PUBLIC STREET: \$ 146,906.10



March 14, 2008

City of Fayetteville
Planning Department
113 West Mountain Street
Fayetteville, AR 72701

RE: PARK CENTRE – CURB CUT LOCATIONS

Dear Staff:

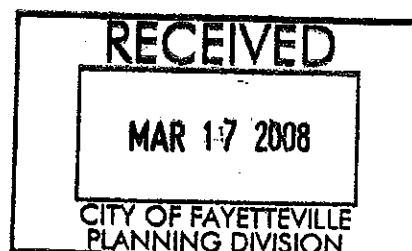
As requested, we have taken a look at our plan and your concerns about the 60' of distance between the main entrance and the curb cuts on the new public street. We understand your concern that this may not allow adequate stacking distance for vehicles leaving the site. If the center entrance were the only exit point from the development, we would share your concerns. However, with 2 other exits from the development at the southeast and southwest corners, we are not concerned. The 2 parking areas between the retail buildings and Zion Rd. both have access to the other exits which allow traffic from those parking areas to exit without utilizing the central exit. If there were ever excessive stacking at the center exit, vehicles could stack up past the front 2 parking area curb cuts. In this situation, vehicles in those areas would be able to exit the development at the southeast or southwest exits.

We hope that this addresses your concerns. Thank you for your review of this project.

Respectfully,

A handwritten signature in black ink, appearing to read 'J. Thompson', with a long horizontal line extending to the left.

Jeremy Thompson, P.E.
Project Engineer
H2 Engineering





March 14, 2008

City of Fayetteville
Planning Department
113 West Mountain Street
Fayetteville, AR 72701

RE: PARK CENTRE – WAIVER REQUESTS

Dear Staff:

We would like to request 2 waivers for Park Centre. We would like to request a waiver from Fayetteville Unified Development Code Section 166.08(C)(14) to allow for the northern half of the new proposed street to have sidewalk only on one side of the street when the Master Street Plan requires sidewalks on both sides of new streets. Our proposal is for sidewalks to be located along both sides of the new street from Zion Rd. to just north of the commercial buildings. No further development is proposed on the east side of the street north of this point. In fact, that entire side of the street is proposed as a permanent tree preservation area. We feel that only having a sidewalk on the west side of the street through this area helps to provide a sense of transition from the retail area to the office area and on into the park. Also, having a sidewalk on the east side of the street along the northern section would require additional grading in the tree preservation area, thereby reducing the amount of tree preservation area.

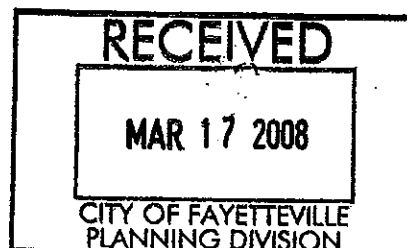
We would also like to request a waiver from City of Fayetteville standards requiring a 30 foot radius at street intersections. We are proposing a 25 foot radius on the east side of our main entrance onto Zion Rd. The 25 foot radius allows us to better align our new street with the existing alignment of Vantage Dr. to the south. This waiver will also make it easier to have a 3 lane entrance which we feel is crucial to traffic circulation at this intersection.

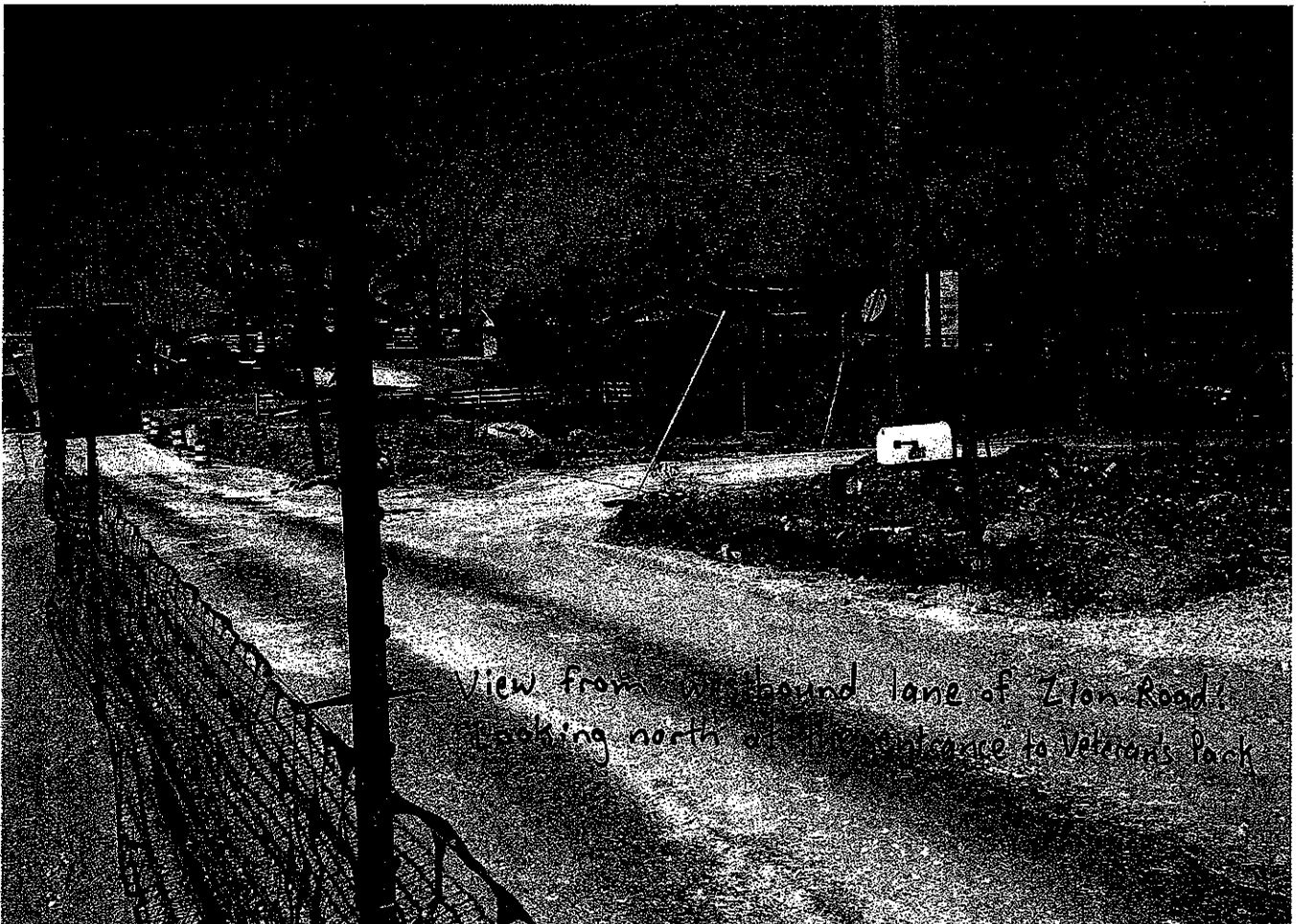
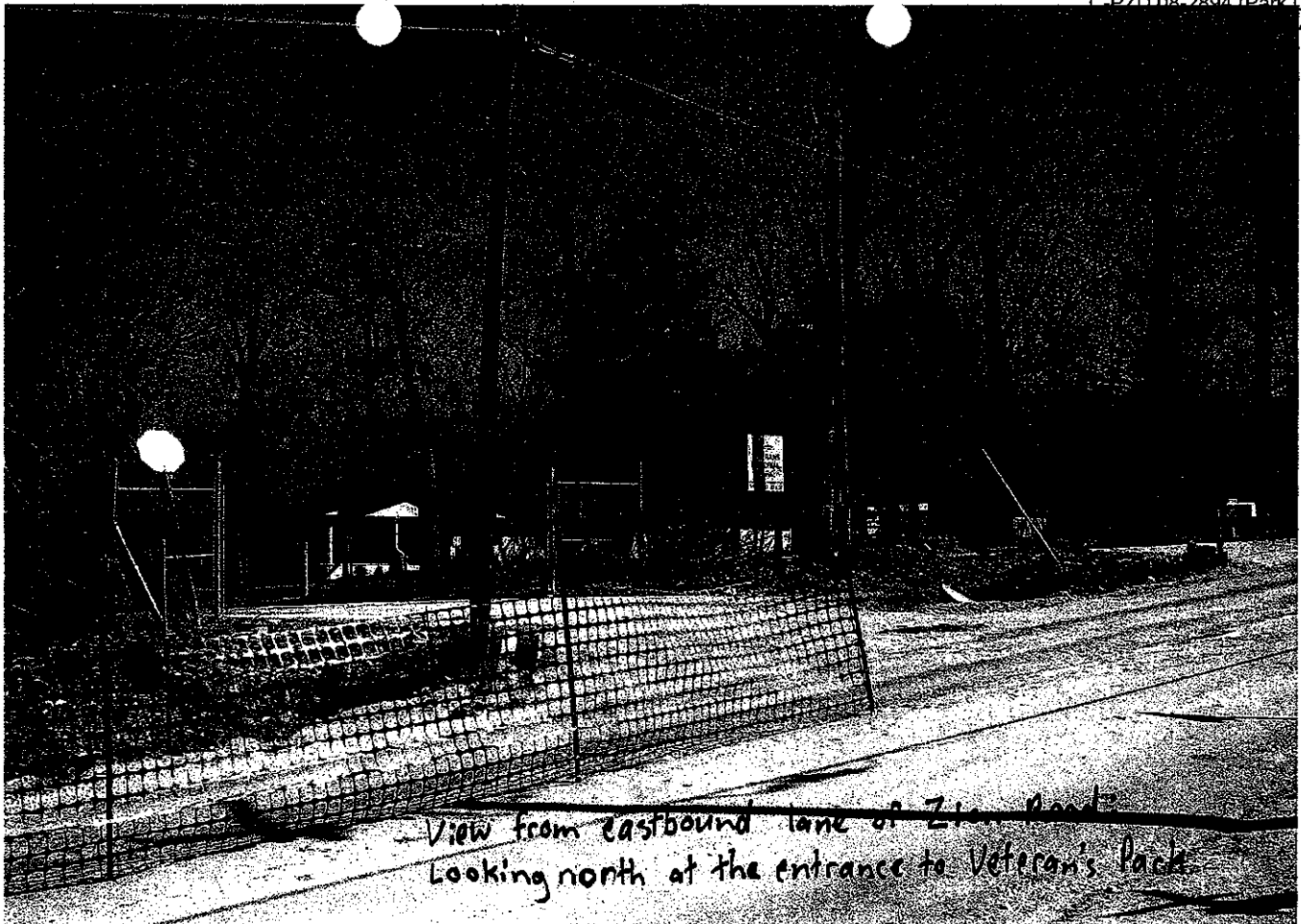
We are very excited about this project and appreciate your consideration of these waiver requests.

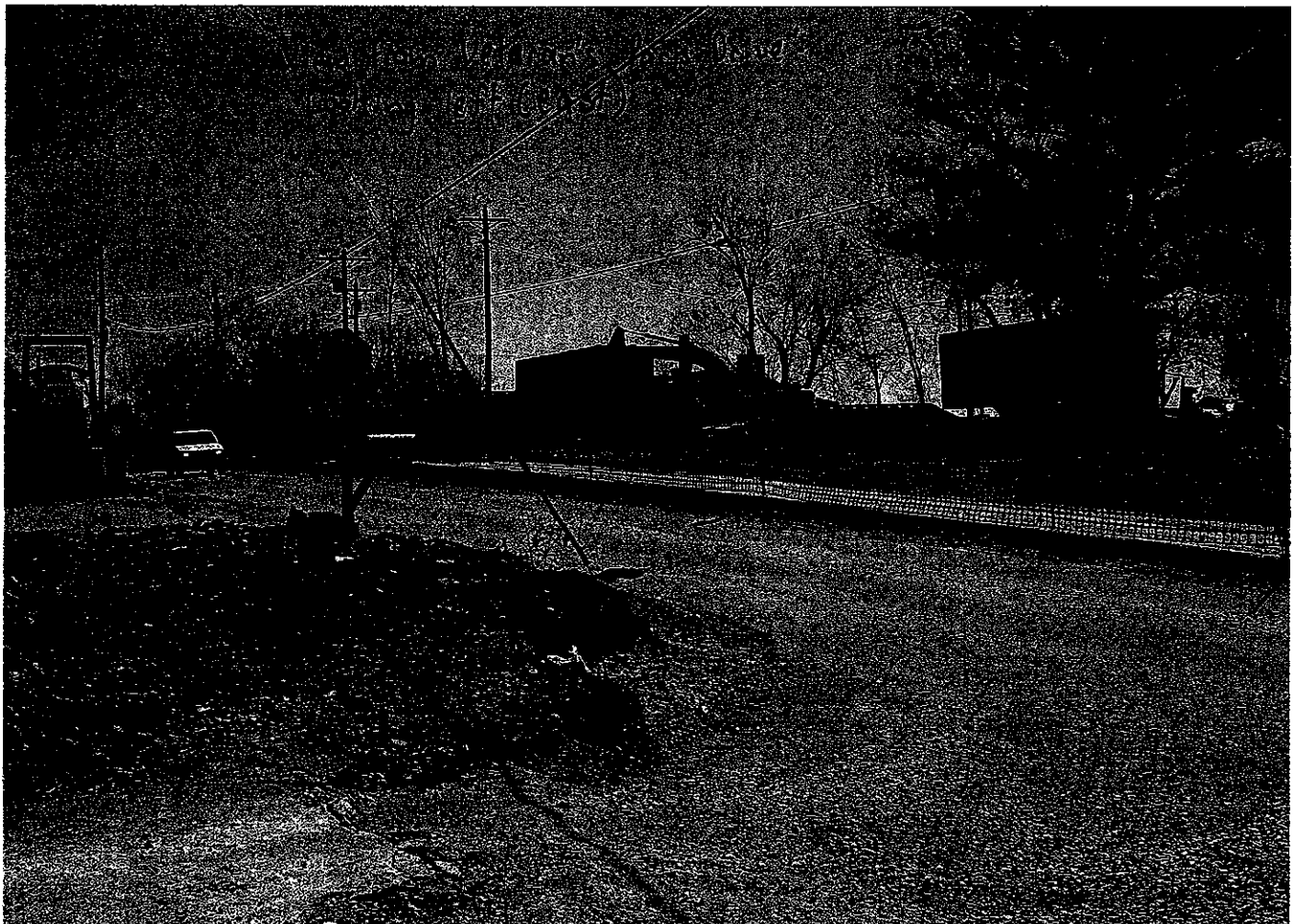
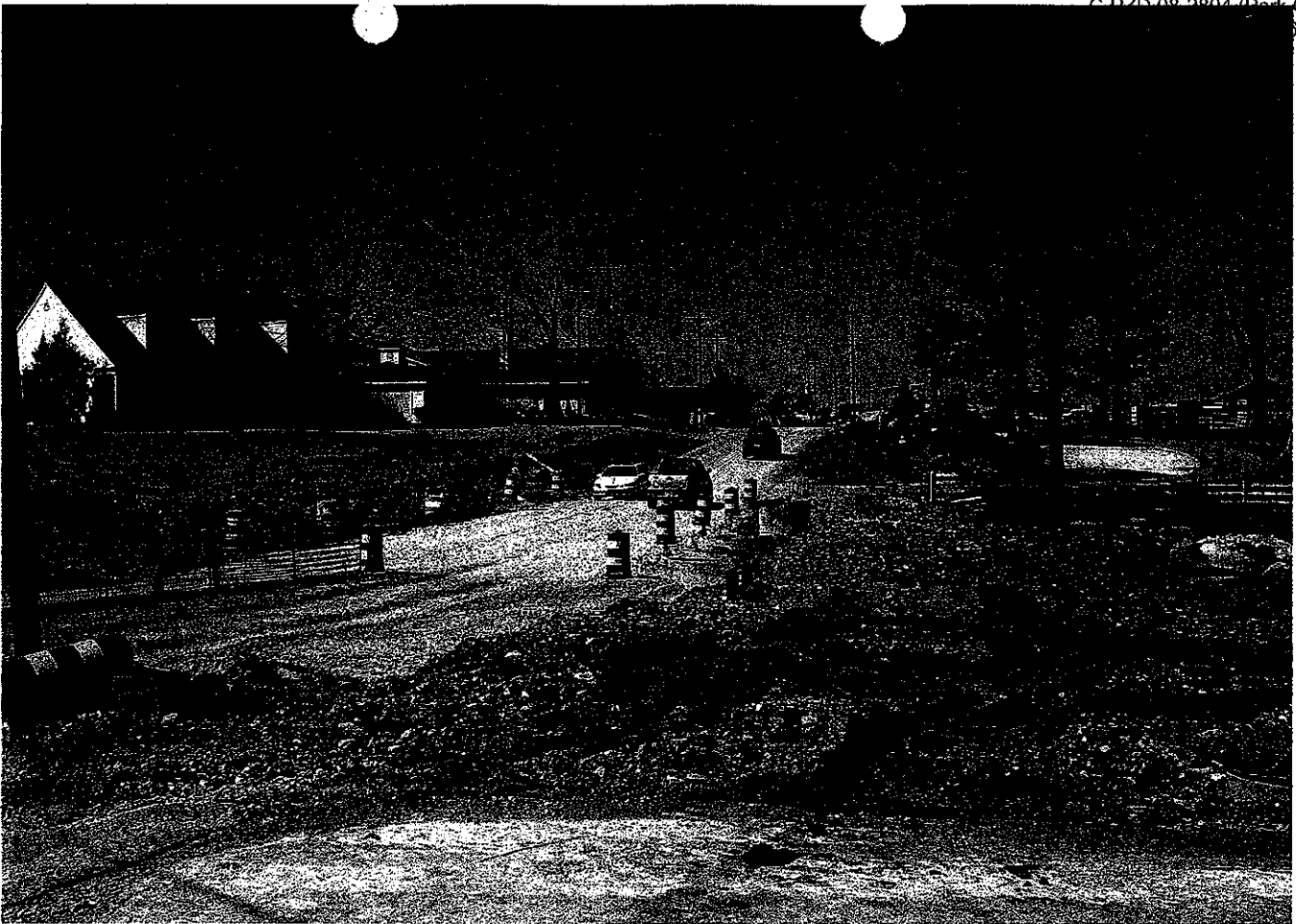
Respectfully,

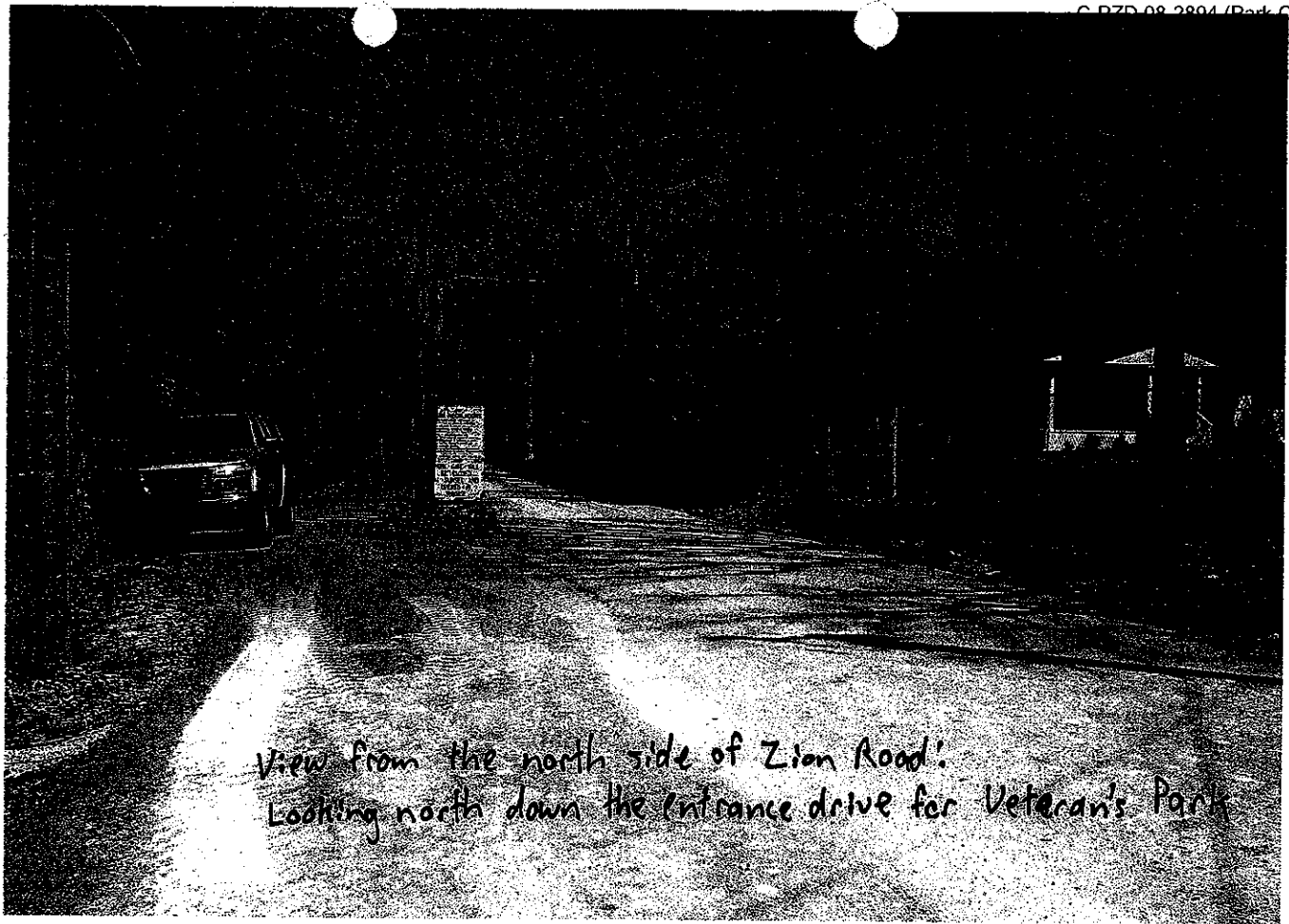
A handwritten signature in black ink, appearing to be 'J. Thompson', written over a horizontal line.

Jeremy Thompson, P.E.
Project Engineer
H2 Engineering







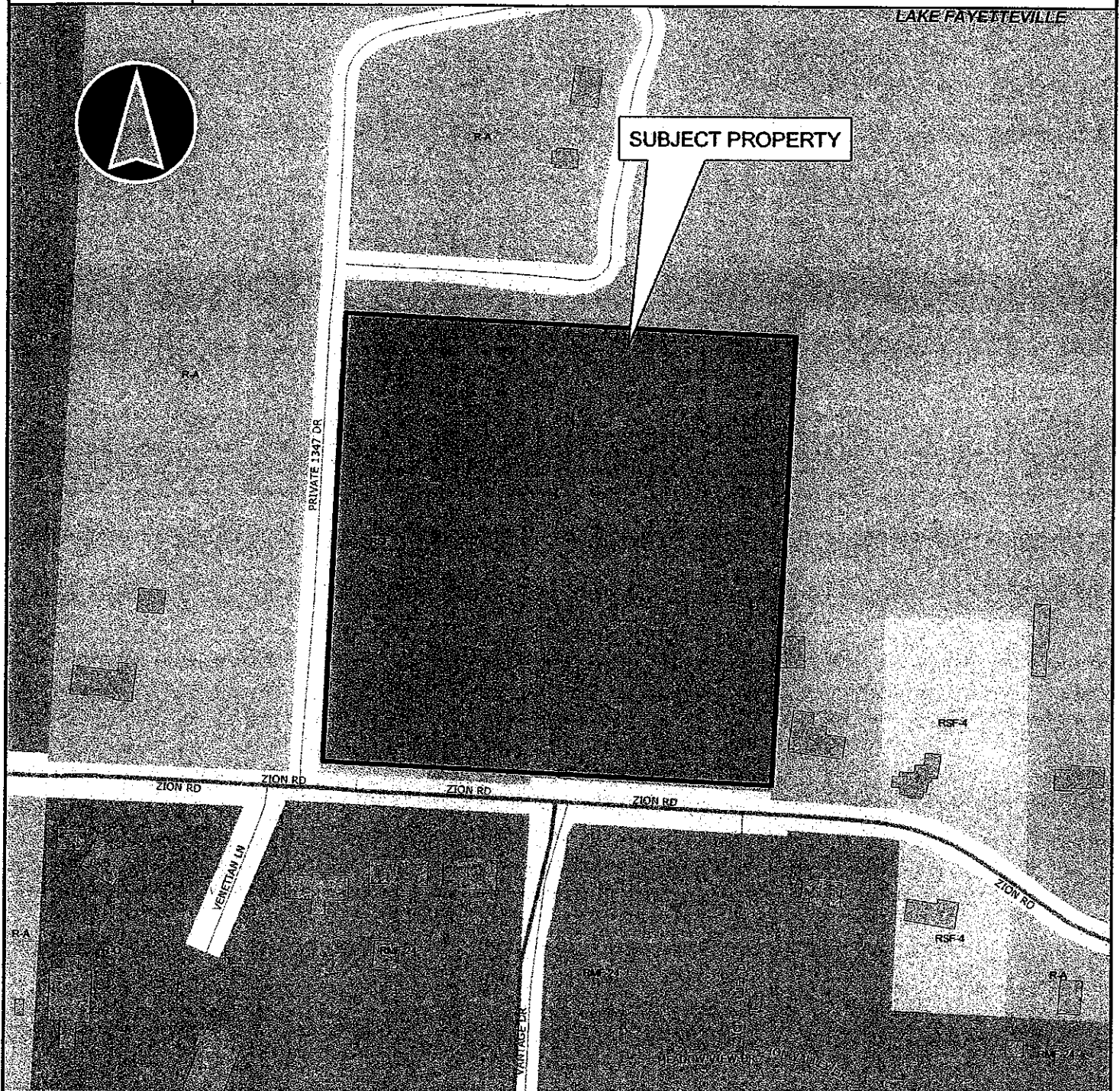


View from the north side of Zion Road.
Looking north down the entrance drive for Veteran's Park

CPZD08-2894

Close Up View

PARK CENTRE



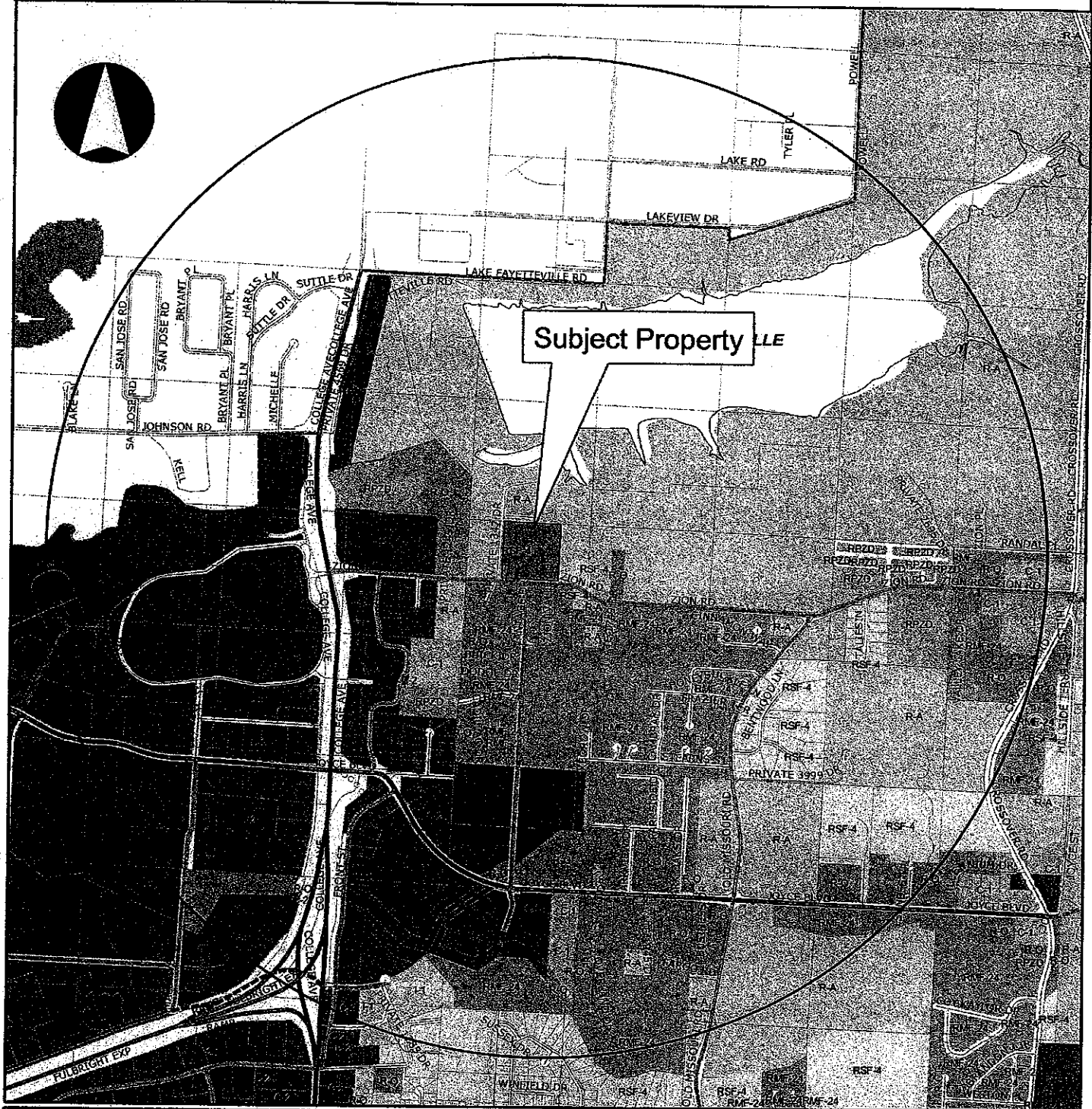
Overview



0 75 150 300 450 600 Feet

One Mile View

PARK CENTRE



Subject Property
 CPZD08-2894

 Planning Area
 Overlay District
 Outside City

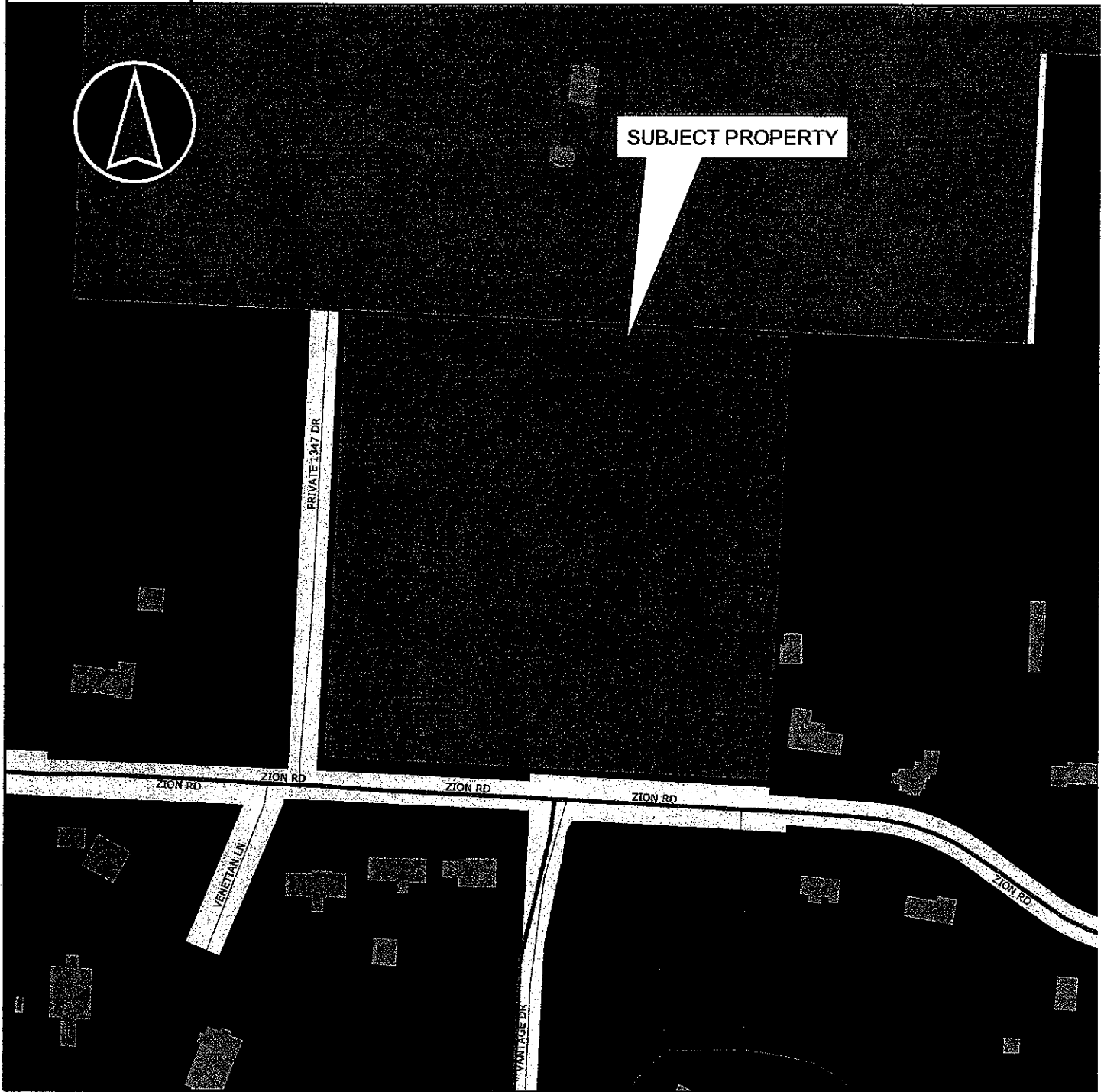
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

CPZD08-2894

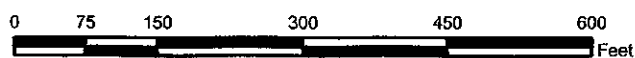
Future Land Use

PARK CENTRE



Overview

Legend	
	CPZD08-2894
	vector.GDB.Footprint_2004
	Hillside-Hilltop Overlay District
	FUTURE LAND USE 2025
	CLASS
	Natural Area
	Rural Area
	Residential Neighborhood Area
	City Neighborhood Area
	Urban Center Area
	Industrial
	Complete Neighborhood Plan
	Civic and Private Open Space/Parks
	Civic Institutional
	Non-Municipal Government ROW
	Fayetteville
	Outside City



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

6-May-08
City Council Meeting Date

Karen Minkel
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 07-2708: (Fire Stations): An ordinance amending Ordinance No. 5074 to attach the correct Hansen number to the exhibit of said ordinance.

\$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
Approved as to Form:

4-18-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

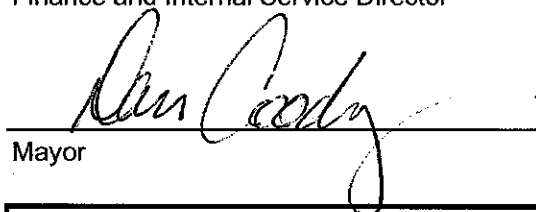
4/21/08

Original Contract Number: n/a


Finance and Internal Service Director

4-21-08
Date

Received in City Clerk's Office



Mayor

4/22/08
Date

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Tim Conklin, Planning and Development Management Director

From: Karen Minkel, Senior Long Range Planner

Date: April 15, 2008

Subject: (Fire Stations RZN 07-2708) Ordinance Amendment

RECOMMENDATION

Staff recommends an ordinance amending Ordinance No. 5074 to attach the correct Hansen number to the exhibits of said ordinance.

BACKGROUND

Exhibits A, A-1, A-2, A-3, A-4, and A-5 had a Hansen number of 2694 and Exhibits B, B-1, B-2, B-3, B-4, and B-5 had a Hansen number of 2691 approved as part of Ordinance No. 5074. The attached exhibits have been corrected with Hansen number 2708.

DISCUSSION

The rezoning request was approved by the Fayetteville City Council on November 6, 2007 as Ordinance No. 5074.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING ORDINANCE NUMBER 5074 TO
ATTACH THE CORRECT HANSEN NUMBER TO THE
EXHIBITS OF SAID ORDINANCE.

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

Section 1: That Exhibits "A," "A-1," "A-2," "A-3," "A-4," and "A-5" to Ordinance No. 5114 are hereby amended to read as set out in Exhibits "A," "A-1," "A-2," "A-3," "A-4," and "A-5" attached hereto and made a part hereof:

Section 2: That Exhibits "B," "B-1," "B-2," "B-3," "B-4," and "B-5" to Ordinance No. 5114 are hereby amended to read as set out in Exhibits "B," "B-1," "B-2," "B-3," "B-4," and "B-5" attached hereto and made a part hereof:

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2708

Close Up View

FIRE STATION #2



SUBJECT PROPERTY

EAGLE ST

EAGLE ST

CLEVELAND ST

CLEVELAND ST

CLEVELAND ST

CARLEAVE

LINDLE AVE

LINDLE AVE

Overview



0 37.5 75 150 225 300 Feet

RZN 07-2708 (Fire Stations)
Page 5 of 16

CITY OF FAYETTEVILLE FIRE ST.

An aerial photograph of a residential neighborhood. A large, dark, irregularly shaped area in the center is labeled 'SUBJECT PROPERTY' with a white pointer. To the left of this area is a residential street grid. A north arrow is located in the top left corner. The streets shown include Fairlane St, Evalyn Cir, Happy Hollow Rd, Huntsville Rd, Lee St, and Helen St. The subject property is situated between Happy Hollow Rd and Huntsville Rd.

[illegible]

0 75 150 300 450 600 Feet

EXHIBIT "A-2"

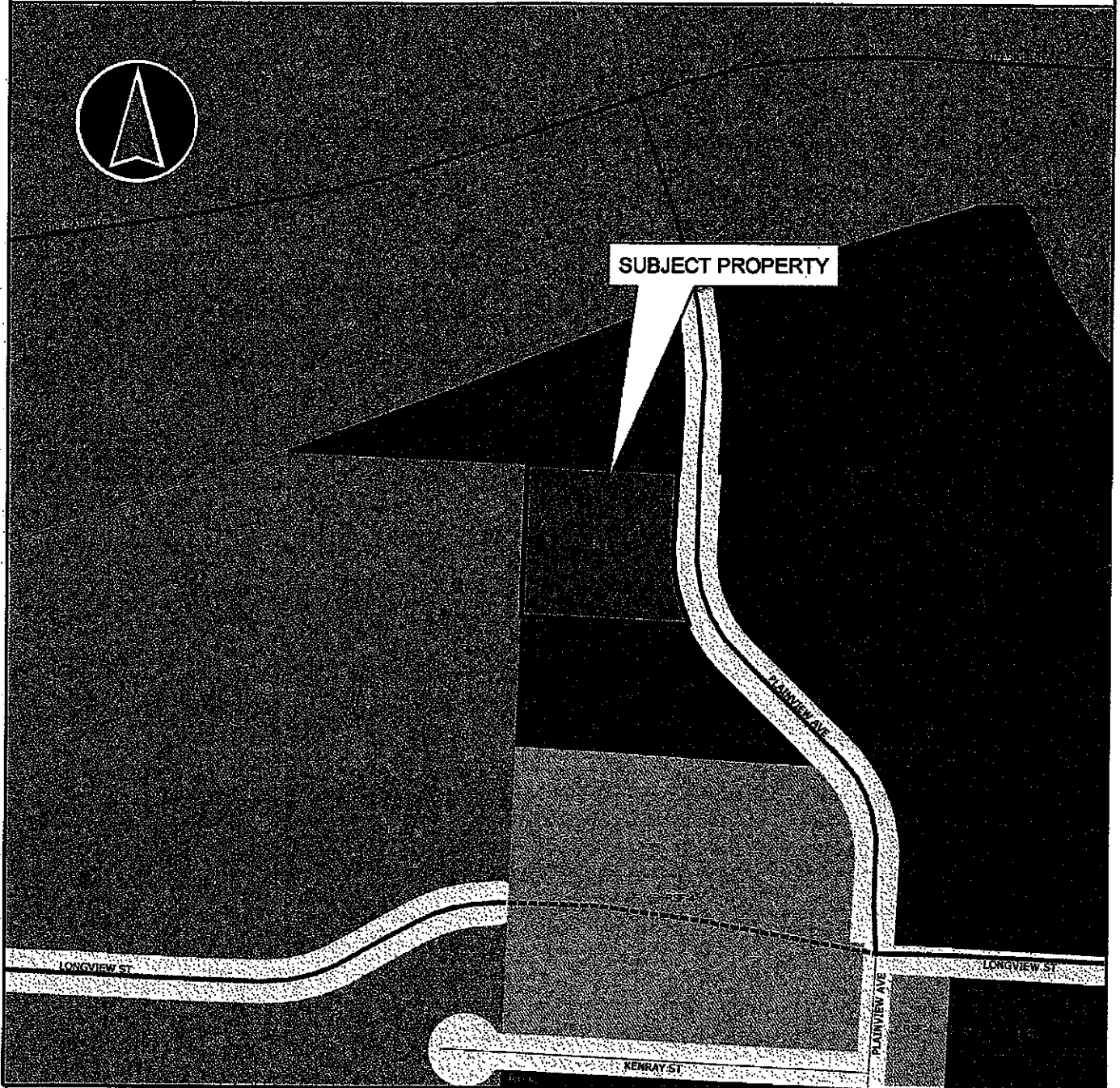
RZN07-2708

Close Up View

FIRE STATION #4



SUBJECT PROPERTY



Overview



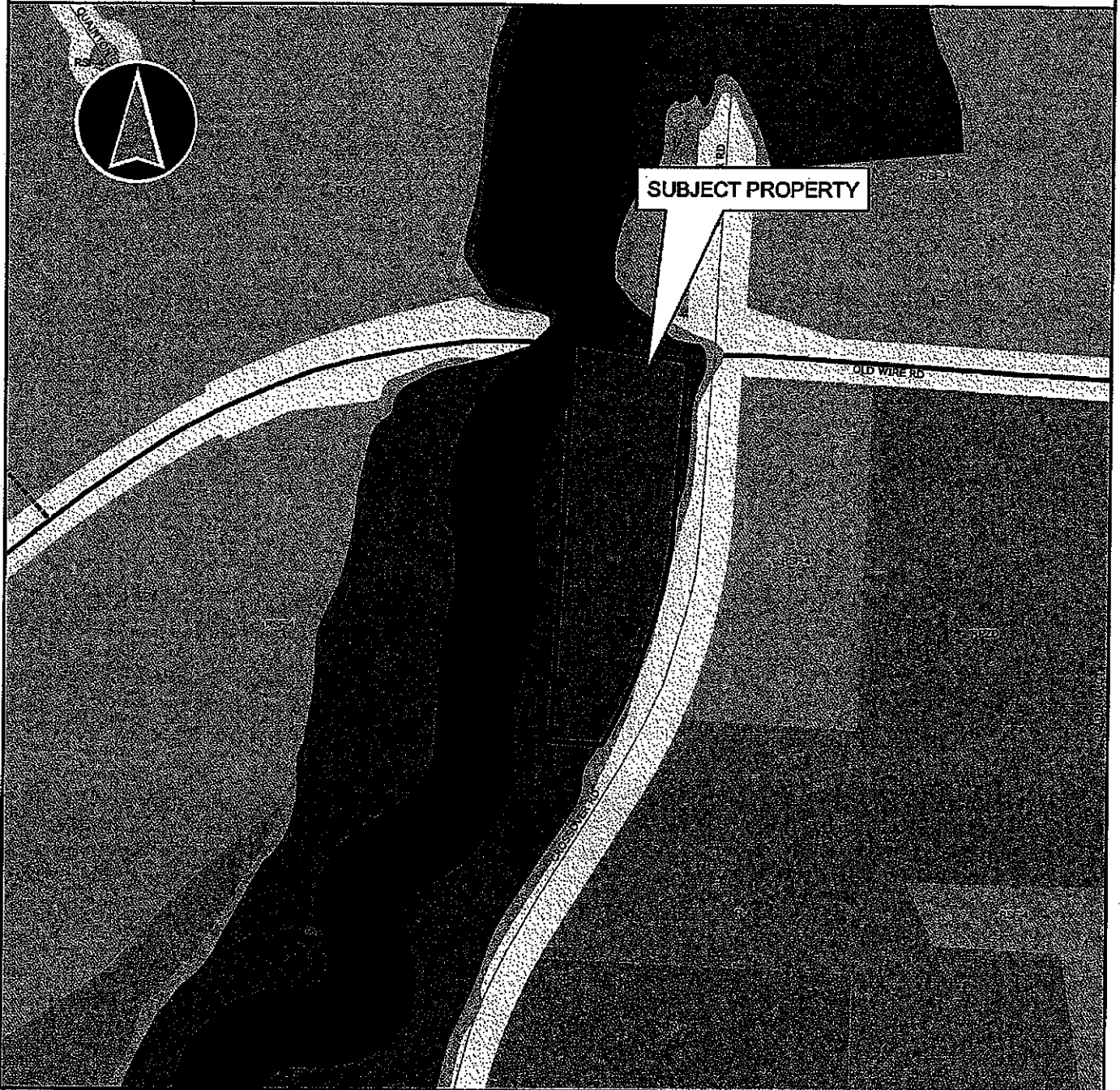
0 75 160 300 450 600 Feet

EXHIBIT "A-3"

RZN07-2708

Close Up View

FIRE STATION #5



Overview



0 75 150 300 450 600 Feet

EXHIBIT "A-4"

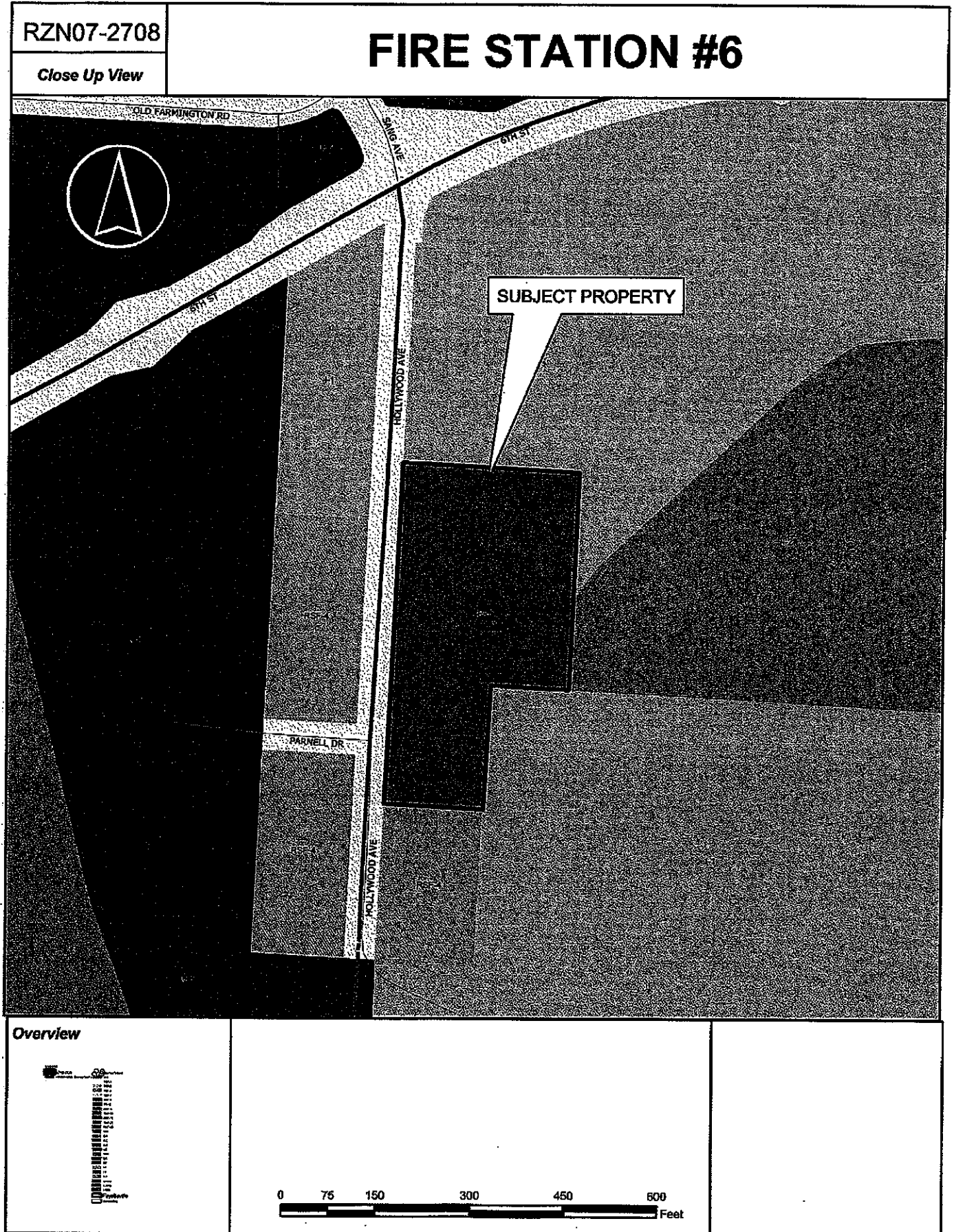


EXHIBIT "A-5"

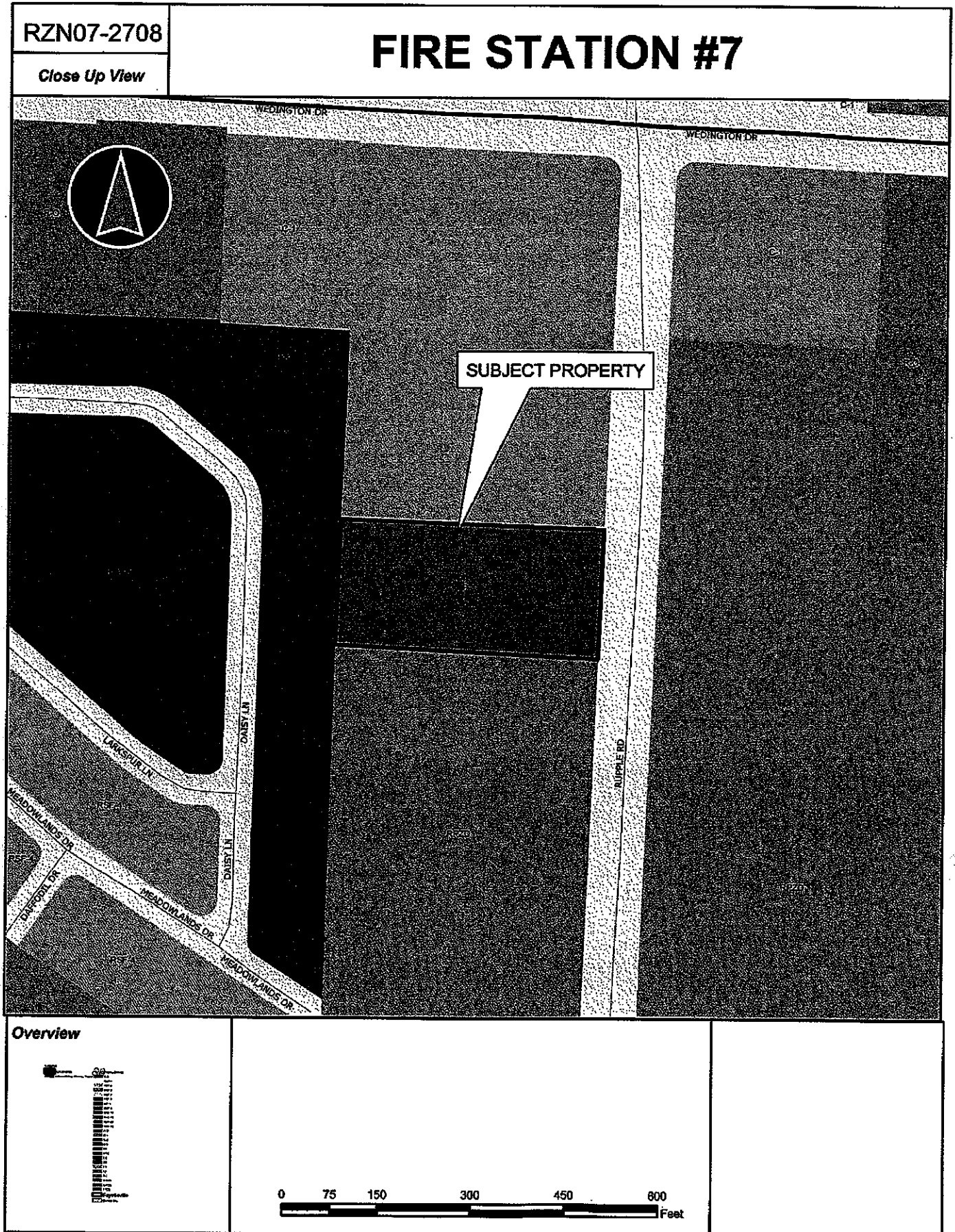


EXHIBIT "B"
RZN 07-2708
FIRE STATION #2 (RMF-40 TO P-1)

LOTS NUMBERED TEN (10) AND SOUTH TEN (10) FEET OF LOT ELEVEN (11) IN BLOCK THIRTEEN (13) OF ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, AS DESIGNATED UPON THE PLAT OF SAID ADDITION NOW OF RECORD IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT AND EX-OFFICIO RECORDER IN AND FOR THE COUNTY OF WASHINGTON IN THE STATE OF ARKANSAS.

THE EAST FORTY (40) FEET OF LOT NUMBERED TWELVE (12) IN BLOCK NUMBERED THIRTEEN (13) IN ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS THE SAME AS IS DESIGNATED UPON THE PLAT OF SAID ADDITION NOW OF RECORD IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT AND EX-OFFICIO RECORDER IN AND FOR THE COUNTY OF WASHINGTON IN THE STATE OF ARKANSAS.

THE NORTH FORTY (40) FEET OF LOT ELEVEN (11) IN BLOCK THIRTEEN (13) IN ROSE HILL ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS PER PLAT ON FILE IN THE OFFICE OF THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS.

EXHIBIT "B-1"
RZN 07-2708
FIRE STATION #3 (I-2 TO P-1)

A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 23, TOWNSHIP 16 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF A PROPERTY DESCRIBED IN INSTRUMENT NUMBER 2005-11305 AS RECORDED WITH THE CIRCUIT CLERK OF WASHINGTON COUNTY, ARKANSAS, SAID POINT ALSO BEING THE POINT OF BEGINNING OF A PROPERTY DESCRIBED IN INSTRUMENT NUMBER 2006-10389 AS RECORDED WITH SAID CIRCUIT CLERK; THENCE SOUTH 87°09'35" EAST 25.11 FEET TO A SET IRON PIN ON THE EAST RIGHT-OF-WAY OF HAPPY HOLLOW ROAD, ALSO BEING THE POINT OF BEGINNING; THENCE NORTH 03°09'53" EAST 279.97 FEET; THENCE SOUTH 86°56'57" EAST 50.53 FEET; THENCE SOUTH 68°48'59" EAST 104.03 FEET; THENCE SOUTH 37°12'42" EAST 129.97 FEET; THENCE SOUTH 02°46'28" WEST 147.22 FEET; THENCE NORTH 87°14'28" WEST 234.66 FEET TO THE POINT OF BEGINNING; CONTAINING 1.31 ACRES, MORE OR LESS.

EXHIBIT "B-2"
RZN 07-2708
FIRE STATION #4 (C-2 to P-1)

PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION TWENTY-SIX (26), TOWNSHIP SEVENTEEN (17) NORTH, RANGE THIRTY (30) WEST, OF THE 5TH PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID FORTY (40) ACRE TRACT, SAID POINT BEING AN EXISTING IRON BAR; THENCE SOUTH 87°13'10" EAST 205.14 FEET TO A SET IRON BAR ON THE PROPOSED WEST RIGHT OF WAY LINE OF PLAINVIEW AVENUE; THENCE SOUTH 02°46'50" WEST ALONG SAID PROPOSED RIGHT OF WAY LINE 100.00 FEET TO A SET IRON AT THE BEGINNING OF A TWO HUNDRED THIRTY (230) FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY ALONG SAID CURVE AND RIGHT OF WAY LINE 113.20 FEET TO A SET IRON PIN, THE CORD OF WHICH BEING SOUTH 11°19'08" EAST 112.06 FEET; THENCE LEAVING SAID CURVE AND RIGHT OF WAY LINE NORTH 87°13'10" WEST 229.83 FEET TO A SET IRON ON THE WEST LINE OF SAID 40 ACRE TRACT; THENCE NORTH 02°03'48" EAST 208.70 FEET TO THE POINT OF BEGINNING, CONTAINING 1.00 ACRE, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS. THIS DESCRIPTION IS BASED UPON ARKANSAS STATE PLANE COORDINATE SYSTEM BEARINGS (NORTH ZONE) AND CITY OF FAYETTEVILLE MONUMENTATION.

EXHIBIT "B-3"
RZN 07-2708
FIRE STATION #5 (RSF-4 to P-1)

A PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 17 NORTH, RANGE 29 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT AN EXISTING CORNER POST WHICH IS 538.38 FEET SOUTH AND 500.0 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31 AND RUNNING THENCE S 89 DEGREES 10' E ALONG AN EXISTING FENCE ROW A DISTANCE OF 70.0 FEET TO THE WEST RIGHT OF WAY OF CROSSOVER ROAD; THENCE NORTHWARD FOLLOWING SAID WEST RIGHT OF WAY THE FOLLOWING BEARINGS AND DISTANCES: N 24 DEGREES 24' E 54.27 FEET, N 19 DEGREES 40' E 44.48 FEET, N 16 DEGREES 07' E 59.34 FEET, N 12 DEGREES 40' E 69.0 FEET, N 07 DEGREES 49' E 62.28 FEET, N 01 DEGREE 30' E 54.0 FEET, N 01 DEGREE 35' E 198.0 FEET TO A POINT WHERE THE WEST RIGHT OF WAY OF CROSSOVER ROAD INTERSECTS THE SOUTH RIGHT OF WAY OF OLD WIRE ROAD; THENCE N 83 DEGREES 44' W, ALONG SAID SOUTH RIGHT OF WAY, A DISTANCE OF 155.25 FEET; THENCE SOUTH 545.18 FEET TO THE POINT OF BEGINNING; CONTAINING 1/64 ACRES, MORE OR LESS.

EXHIBIT "B-4"
RZN 07-2708
FIRE STATION #6 (I-1to P-1)

A PART OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, ALSO KNOWN AS PART OF BLOCK NUMBERED SEVEN (7) AND A PART OF BLOCK NUMBERED FOUR (4) IN THE RE-PLAT OF WESTWOOD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN UPON THE RECORDED PLAT THEREOF, ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT THE SOUTHWEST CORNER OF SAID NE ¼ OF THE NW ¼ SAID POINT BEING AND EXISTING STONE; THENCE SOUTH 88 DEGREES 53 MINUTES 00 SECONDS EAST 200.00 FEET TO A RAILROAD SPIKE ON THE EAST RIGHT OF WAY LINE OF HOLLYWOOD AVENUE; THENCE NORTH 00 DEGREES 36 MINUTES 29 SECONDS EAST ALONG SAID EAST RIGHT OF WAY 150.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00 DEGREES 36 MINUTES 29 SECONDS EAST ALONG SAID EAST RIGHT OF WAY LINE 650.66 FEET; THENCE LEAVING SAID EAST RIGHT OF WAY LINE SOUTH 88 DEGREES 53 MINUTES 00 SECONDS EAST 282.33 FEET TO THE WEST LINE OF THE LOVE BOX COMPANY, INC. PROPERTY AS RECORDED IN DEED BOOK 882 AT PAGE 550; THENCE SOUTH 00 DEGREES 22 MINUTES 07 SECONDS WEST ALONG SAID WEST LINE 350.66 FEET TO THE NORTH LINE OF BLOCK EIGHT (8) OF SAID WESTWOOD ADDITION; THENCE NORTH 88 DEGREES 53 MINUTES 00 SECONDS WEST 125.89 FEET TO THE NORTHWEST CORNER OF SAID BLOCK EIGHT(8); THENCE SOUTH 00 DEGREES 51 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID BLOCK (8) 300.00 FEET; THENCE NORTH 88 DEGREES 53 MINUTES 00 SECONDS WEST 156.64 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, CONTAINING 3.36 ACRES, MORE OR LESS. LESS AND EXCEPT THE SOUTH 100 FEET TO THE ABOVE DESCRIBED TRACT, SAID EXCEPTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: A PART OF THE NE ¼ OF THE NW ¼ OF SECTION TWENTY (20), TOWNSHIP SIXTEEN (16) NORTH, RANGE THIRTY (30) WEST, ALSO KNOWN AS PART OF BLOCK NUMBERED SEVEN (7) IN THE RE-PLAT

OF WESTWOOD ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS, AS SHOWN UPON THE RECORDED PLAT THEREOF ON FILE IN THE OFFICE OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$, SAID POINT BEING AN EXISTING STONE; THENCE SOUTH 88 DEGREES 53 MINUTES 00 SECONDS EAST 200.00 FEET TO AN EXISTING RAILROAD SPIKE ON THE EAST RIGHT OF WAY LINE OF HOLLYWOOD AVENUE; THENCE NORTH 00 DEGREES 36 MINUTES 29 SECONDS EAST ALONG SAID RIGHT OF WAY LINE 150.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREE 36 MINUTES 29 SECONDS EAST ALONG SAID RIGHT OF WAY LINE 100.00 FEET; THENCE LEAVING SAID EAST RIGHT OF WAY LINE SOUTH 88 DEGREES 53 MINUTES 00 SECONDS EAST 157.06 FEET TO THE EAST LINE OF SAID BLOCK NUMBERED SEVEN (7); THENCE SOUTH 00 DEGREES 51 MINUTES 00 SECONDS WEST ALONG THE EAST LINE OF BLOCK NUMBERED SEVEN (7) 100.00 FEET; THENCE NORTH 88 DEGREES 53 MINUTES 00 SECONDS WEST 156.64 FEET TO THE POINT OF BEGINNING, CONTAINING 0.36 ACRES, MORE OR LESS.

EXHIBIT "B-5"
RZN 07-2708
FIRE STATION #7 (R-A to P-1)

ALL THAT CERTAIN TRACT OF PARCEL OF LAND BEING A PART OF THE NW ¼ OF THE SE ¼ OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS. SAID TRACT BEING A PORTION OF THAT SAME TRACT AS DESCRIBED IN BOOK 1114, PAGE 526 OF THE RECORDS OF THE CIRCUIT CLERK AND EX-OFFICIO RECORDER OF WASHINGTON COUNTY, ARKANSAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS, TO-WIT: COMMENCING AT THE NE CORNER OF THE NW ¼ OF THE SE ¼ OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS. THENCE- SOUTH 02°15'40" WEST 444.07 FEET WITH THE EAST BOUNARY LINE OF SAID "40"; THENCE- NORTH 88°36'31" WEST 15.00 FEET TO A ½" IRON PIN FOUND ON THE WEST RIGHT-OF-WAY LINE OF RUPPLE ROAD. THENCE- SOUTH 02°15'40" WEST 206.89 FEET WITH SAID RIGHT-OF-WAY LINE TO A 5/8" IRON PIN SET FOR THE POINT OF BEGINNING; THENCE- SOUTH 02°15'40" WEST 209.44' WITH SAID RIGHT-OF-WAY LINE TO A ½" IRON PIN FOUND; THENCE- NORTH 86°59'51" WEST 421.92 FEET TO A ½" IRON PIN FOUND ON THE EAST BOUNDARY LINE OF THE MEADOWLANDS PHASE 1 AND 2 SUBDIVISION; THENCE- NORTH 02°12'43" EAST 203.50 FEET WITH SAID EAST BOUNDARY LINE TO A 5/8" IRON PINSET; THENCE- SOUTH 87°48'12" EAST 422.06 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PROPERTY HAVING BEEN SURVEYED BY BART L. PETRAY, CONTAINS 2.00 ACRES OF LAND, MORE OR LES

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

6-May-08

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

RZN 08-2934: (Newell/Morton, 404) : Submitted by Jake Newell and Clay Morton MNI, LLC for property located at 1141 Hendrix. The property is zoned RSF-4, Residential Single Family, 4 units per acre, and contains approximately 0.37 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre, subject to the offered Bill of Assurance.

Action Required:

n/a

n/a

Cost of this request

n/a

Category/Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

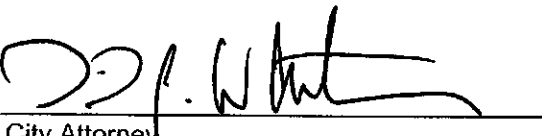
☐


Department Director

4-16-08
Date

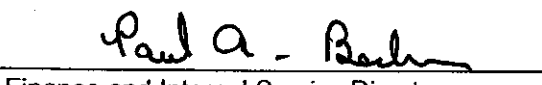
Previous Ordinance or Resolution # n/a

Original Contract Date: n/a


City Attorney

4/17/08
Date

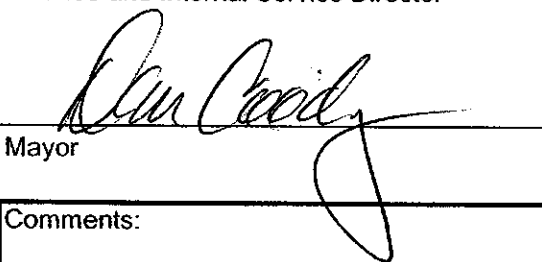
Original Contract Number: n/a


Finance and Internal Service Director

4-17-08
Date

Received in City Clerk's Office

4-17-08
ENTERED
LSP


Mayor

4/17/08
Date

Received in Mayor's Office

4/17/08
ENTERED
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: April 16, 2008

Subject: Rezoning for Newell/Morton (RZN 08-2934)

RECOMMENDATION

Staff and the Planning Commission recommend approval of rezoning the subject property from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family 8 units per acre for approximately 0.37 acres located at 1141 Hendrix Street, subject to the offered Bill of Assurance.

BACKGROUND

The 0.37-acre property contains one single family residence. The applicant proposes to rezone the subject property from RSF-4 to RSF-8 to allow for the development of two single family residences. The applicant has submitted a Bill of Assurance that would limit development on the parcel to a maximum of two principal residential structures and a maximum building area of 35% of the lot. The applicant has also submitted a conceptual rendering showing the style of the single family residence they anticipate on constructing. Allowable uses for the RSF-8 zoning district are the same as those for the surrounding RSF-4 zoning district, with single family dwellings by right and two-family dwellings by conditional use. The zoning change would allow for a smaller lot size consistent with many of the older lots in the neighborhood. This situation is encouraged by the City's Future Land Use Plan in areas that can support appropriate infill and revitalization. This property is in an established neighborhood with a number of older single family homes on relatively small lots, similar to the lot size that would be allowed under the proposed RSF-8 zoning. The applicant participated in a neighborhood meeting prior to Planning Commission to address some neighbors' concerns. The neighborhood meeting seemed to alleviate some of the neighbors' objections to the rezoning, and no public comments were presented at the Planning Commission meeting.

DISCUSSION

This item was heard at the regular Planning Commission meeting on April 14, 2008. The Planning Commission voted 7-0-0 to recommend forwarding this rezoning request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING A PORTION OF PROPERTY DESCRIBED IN REZONING PETITION RZN 08-2934, FOR APPROXIMATELY 0.37 ACRES, LOCATED AT 1141 HENDRIX FROM RSF-4, RESIDENTIAL SINGLE FAMILY, 4 UNITS PER ACRE, TO RSF-8, RESIDENTIAL SINGLE FAMILY, 8 UNITS PER ACRE.

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

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

From RSF-4, Residential Single Family, 4 units per acre to RSF-8, Residential Single Family, 8 units per acre, as shown and described 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 , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

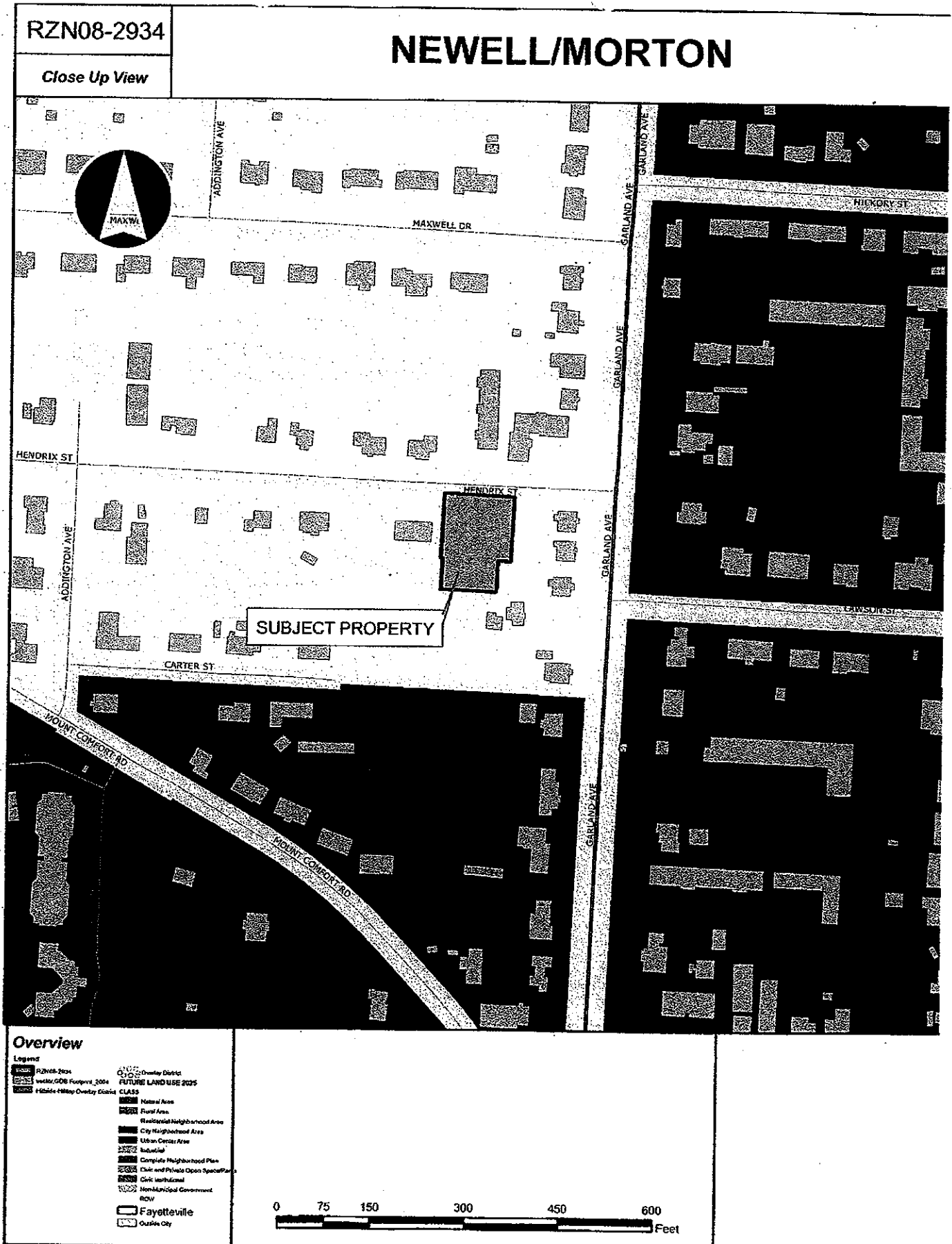


EXHIBIT "B"
RZN 08-2934

A PART OF LOTS 3 AND 4 OF BLOCK 4 OF THE HENDRIX ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID ADDITION ON FILE IN PLAT BOOK 1 AT PAGE 105 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3 AND RUNNING THENCE N90°00'00"W 130.08' ALONG THE NORTH LINE THEREOF TO THE POINT OF BEGINNING, THENCE N 89°44'25" W ALONG SAID NORTH LINE, THENCE LEAVING SAID NORTH LINE S00°20'21"W 50.21" THENCE N 90°00'00"W 89.92", THENCE N 00°20'21"E 50.00' TO THE NORTH LINE OF SAID LOT 3, THENCE N 90°00'00"W 3.03' ALONG SAID NORTH LINE. THENCE LEAVING SAID NORTH LINE, N00°09'39"E 103.82' TO THE NORTH LINE OF SAID LOT 4, THENCE N89°56'05"E 113.23' ALONG SAID NORTH LINE, THENCE LEAVING SAID NORTH LINE S00°09'39"W 103.84' TO THE POINT OF BEGINNING, CONTAINING 0.37 ACRES, MORE OR LESS.

EXHIBIT "C" RZN 08-2934

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") MNI LLC, 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 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 2
principal residential structures

2. Other restrictions including number and type of structures upon the property are limited to Not to exceed 35% building area of the total area of the lot. J.N.

3. Specific activities will not be allowed upon petitioner's property include

4. (Any other terms or conditions)

EXHIBIT "C" RZN 08-2934

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, MNI LLC, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

3/11/08
Date

Jahe Newell
Printed Name

5371 S. 48th
Address
Springdale AR
72762

[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS }

COUNTY OF WASHINGTON }

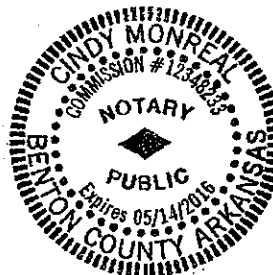
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And now on this the 11th day of March, 2008, appeared before me, Cindy Monreal, a Notary Public, and after being placed upon his/her oath swore or affirmed that he/she agreed with the terms of the above Bill of Assurance and signed his/her name above.

[Signature]
NOTARY PUBLIC

My Commission Expires:

5/14/2016





PC Meeting of April 14, 2008

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
THRU: Jeremy Pate, Director of Current Planning
DATE: April 9, 2008 *Updated April 16, 2008*

RZN 08-2934: (NEWELL/MORTON, 404): Submitted by JAKE NEWELL & CLAY MORTON MNI, LLC for property located at 1141 HENDRIX. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.37 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre, subject to a Bill of Assurance.

Planner: Andrew Garner

BACKGROUND:

Property Description: The subject property a 0.37-acre parcel located at 1141 Hendrix. The property is zoned RSF-4 and contains a single family residence and shed. Surrounding land use and zoning is depicted in *Table 1*.

TABLE 1: SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North	Multi-family residential	RT-12
South, East, West	Single-family residential	RSF-4

Proposal: The applicant proposes to rezone the subject property from RSF-4 to RSF-8 to allow for the development of two single family residences. The applicant has submitted a Bill of Assurance that would limit development on the parcel to a maximum of two principal residential structures and a maximum building area of 35% of the lot. The applicant has also submitted a conceptual rendering showing the style of the single family residence they anticipate on constructing.

Public Comment and Participation: Staff received one phone call and one in-person visit from neighbors in the area. The comments indicated in favor of constructing two new single family residences on the property, but concern that the rezoning would be "spot zoning" and may lead to future multi-family development in the neighborhood. The applicant requested this item to be tabled at the March 24, 2008 Planning Commission meeting in order to have a neighborhood meeting and address some neighbor's concerns. This meeting has taken place and the applicant, staff, and neighbors can provide an update to the Planning Commission. The neighborhood meeting seemed to alleviate some of the neighbor's objections to the rezoning.

INFRASTRUCTURE:

Streets: The site has access to Hendrix Street. Hendrix Street is currently an improved two lane paved city street. Street improvements will be evaluated with the proposed development.

Water: Public water is located along the property. There is a 6" water main along Hendrix Street.

Sewer: Sanitary sewer is available to the site. There is a 6" sewer main along Hendrix Street. 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: This property will be covered by Engine 2 located at 708 North Garland. It is 0.6 miles from the station with an anticipated response time of 2.5 minutes. The Fire Department does not anticipate that there will be any calls for service in this area due to the size of parcel and the maximum number of residences located on this parcel. The Fayetteville Fire Department does **not** feel this development will affect our calls for service or our response times.

Police: It is the opinion of the Fayetteville Police Department that this rezoning **will not** substantially alter the population density, create an undesirable increase in load on police services, or create an undesirable increase in traffic danger and congestion.

CITY PLAN 2025 FUTURE LAND USE PLAN: City Plan 2025 Future Land Use Plan designates this site as **Residential Neighborhood Area**. Rezoning this property to RSF-8 in a neighborhood with a variety of single family lot sizes, including several 50-foot wide lots, is compatible to the surrounding development pattern and density of adjacent residential development and consistent with the surrounding land uses. The RSF-8 zoning would allow for a more traditional form of residential development with narrower lots and buildings closer to the street, and would allow for two homes on the subject property, consistent with the City Plan 2025 Goal 1 for infill development.

RECOMMENDATION:

Staff recommends approval of the rezoning based on findings stated herein. The smaller lot size allowed under this zoning is appropriate in this neighborhood with a mix of lot sizes and the four adjacent single family lots to the east being approximately 50-foot wide. The RSF-8 designation allows the potential for a more traditional form of development with narrow lots and homes closer to the street than would be allowed under a typical RSF-4 zoning. The RSF-8 zoning would also allow the subject property to be legally split into two lots, allowing for an additional single family property to be constructed in an infill situation, creating greater potential for an attainable housing product.

PLANNING COMMISSION ACTION:			Required	<u>YES</u>	
			☐ Approved	☒ Forwarded	☐ Denied
Motion:	<u>Graves</u>	Second:	<u>Winston</u>	Vote: <u>7-0-0</u>	
Date:	<u>April 14, 2008</u>				
CITY COUNCIL ACTION:			Required	<u>YES</u>	
			☐ Approved	☐ Denied	
Date:	<u>May 6, 2008 (1st reading if recommended)</u>				

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 property is designated as Residential Neighborhood Area in City Plan 2025 Future Land Use Plan. The proposed RSF-8 zoning is consistent with the City's land use planning objectives, principles and policies to encourage compatible and livable neighborhoods indicated by the Residential Neighborhood Area designation, providing compatible housing options within a traditional neighborhood development.

The surrounding land to the east, west, and south of the subject property has developed as medium density single-family residential use. As shown in the exhibits attached to this report, there are several lots in the vicinity with very similar bulk and area requirements to RSF-8. The property adjacent to the north was developed for multi-family residences several years ago. City Staff finds that the location of this property surrounded by a variety of single family lot sizes under the RSF-4 zoning district is an appropriate location for the proposed RSF-8 zoning, and is a perfect opportunity for infill development identified as Goal 1 of the City Plan 2025. The re-zoning is not considered to be a "spot zone" as it would be compatible and appropriate to have this lot be zoned RSF-8, based on the Future Land Use Plan for the area, and the parcel is not gaining special and privileged treatment with the construction of single family homes.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Future development with the proposed zoning is justified in order to provide for a variety of lot sizes and variation in development pattern consistent with City land use objectives and policies. The current RSF-4 zoning would not allow for the property to be developed for two residences, unless substantial variances for lot width and lot area were first obtained by the Board of Adjustment. Staff

finds that it is appropriate to redevelop the property for two single family residences, and that the issue to substantially change the bulk and area of two lots is a zoning issue more appropriate for the Planning Commission and City Council, rather than the Board of Adjustment that typically deals with existing nonconforming building setback issues.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: The proposed zoning will generate additional traffic from one additional residence on the surrounding street system over the existing RSF-4 zoning. This impact would be negligible and would not increase traffic danger or congestion.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed zoning would increase the potential for a higher population density in the area by one residential unit. The proposed zoning would allow for one additional single family lot in this neighborhood. This additional residence would not create undesirable impacts to public services, or a density that is incompatible with the surrounding area, based on a review of infrastructure, existing land uses, and the development potential of the property.

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;

Finding: It is feasible to allow the property to remain under the RSF-4 zoning classification. However, this property is in a neighborhood that has the potential to support sensitive and appropriate infill and redevelopment. Staff finds that the proposal, surrounded by the RSF-4 zoning district on three sides, is appropriate at this location, as it will utilize the existing infrastructure and result in the potential for an additional single-family infill lot.

- 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: **Not applicable. Staff recommends in favor of the requested zoning.**

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.09 District RSF-8, Residential Single-Family -- 8 Units Per Acre

(A) *Purpose.* The RSF-8 Residential District is designed to bring historic platted development into conformity and to allow for the development of new single family residential areas with similar lot size, density, and land use as the historical neighborhoods in the downtown area.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	By Right	Conditional Use
Single-family dwelling units per acre	8 or less	--
Two-family dwelling units per acre	--	8

(D) *Bulk and area regulations.*

(1) *Lot width minimum.*

Single-family	50 ft.
Two-family	50 ft.
Townhouse, no more than two attached	25 ft.

(2) *Lot area minimum.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.

(3) *Land area per dwelling unit.*

Single-family	5,000 sq. ft.
Two-family	5,000 sq. ft.
Townhouse, no more than two attached	2,500 sq. ft.

(E) *Setback requirements.*

Front	Side	Rear
15 ft.	5 ft.	5 ft.

(F) *Height regulations.*

Building height maximum	45 ft.
-------------------------	--------

(G) *Building area.* The area occupied by all buildings shall not exceed 50% of the total lot area, except when a detached garage exists or is proposed; then the area occupied by all buildings shall not exceed 60% of the total lot area.

(Ord. 4783, 10-18-05)

161.07 District RSF-4, Residential Single-Family – Four Units Per Acre

(A) *Purpose.* The RSF-4 Residential District is designed to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwelling

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 9	Two-family dwellings
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

	Single-family dwellings	Two-family dwellings
Units per acre	4 or less	7 or less

(D) *Bulk and area regulations.*

	Single-family dwellings	Two-family dwellings
Lot minimum width	70 ft.	80 ft.
Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.
Hillside Overlay District Lot minimum width	60 ft.	70 ft.
Hillside Overlay District Lot area minimum	8,000 sq. ft.	12,000 sq.-ft.
Land area per dwelling unit	8,000 sq. ft.	6,000 sq. ft.

(E) *Setback requirements.*

FRONT	SIDE	REAR
25 ft.	8 ft.	20 ft.
HOD Front	HOD Side	HOD Rear
15 ft.	5 ft.	15 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* On any lot the area occupied by all buildings shall not exceed 40% of the total area of such lot.

(Code 1991, §160.031; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06)

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") MNI LLC, 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 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 2
principal residential structures

2. Other restrictions including number and type of structures upon the property are limited to Not to exceed 35% building area of
the total area of the lot. J.N.

3. Specific activities will not be allowed upon petitioner's property include

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, MNI LLC, as the owner, developer or buyer (Petitioner) voluntarily offer all such assurances and sign my name below.

3/11/08
Date

Jahe Newell
Printed Name

5371 S. 48th
Address
Springdale AR
72762

[Signature]
Signature

NOTARY OATH

STATE OF ARKANSAS }

COUNTY OF WASHINGTON }

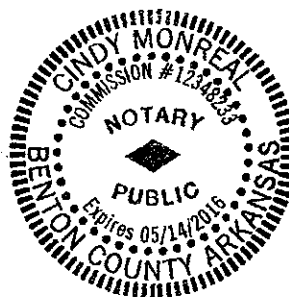
.ss

And now on this the 11th day of March, 2008, appeared before me, Cindy Monreal, a Notary Public, 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.

[Signature]
NOTARY PUBLIC

My Commission Expires:

5/14/2016





Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: March 19, 2008
Re: March 5, 2008 Zoning Review

RZN 08-2934 (Newell/Morton) Submitted by Jake Newell and Clay Morton MNI, LLC for property located at 1141 Hendrix. The property is zoned RSF-4, Residential Single Family 4 units / acre and contains approximately .37 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units / acre.

This property will be covered by Engine 2 and located at 708 N Garland.

It is .6 mile from the station with an anticipated response time of 2.5 minutes.

The Fire Department does not anticipate that there will be any calls for service in this area due to the size of this parcel and the maximum number of residents located on this parcel.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2936 (Mullins) Submitted by John Mullins and Chad Bramlett Mullins Property Mgmt/Inspired Builders for property located at 2846 S School Ave. The property is zoned RSF-4, Single Family - 4 units/Acre and contains approximately .33 acres. The request is to rezone the subject property to R-O, Residential Office.

This property will be covered by Ladder 3 located at the corner of Happy Hollow and Fairlane.

It is 2.4 miles from the station with an anticipated response time of 5 minutes.

The Fire Department does not anticipate that there will be any calls for service in this area due to the size of this parcel and the maximum number of residents located on this parcel.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times

RZN 08-2937 (Mountain Ranch III): Submitted by Jorgensen and Associates for property located at the W Portion of Mountain Ranch Phase III, S of Phase I. The property is zoned RSF-4, Single Family - 4 Units/acre and contains approximately 26.87 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre.

This property will be covered by Engine 7 located at 835 Ruppel Road.

It is 0.4 miles from the station with an anticipated response time of 2 minutes.

The Fire Department anticipates that there will be 37 (24EMS-13 Fire/other) calls for service, per year, once this development is completed and maximum build out has occurred.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times



Date 3/18/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **RZN 08-2934: (Newell / Morton, 404)** Submitted by **Jake Newell & Clay Morton MNI, LLC** for property located at **1141 Hendrix** would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 0.37 acres.

It is the opinion of the Fayetteville Police Department that this **RZN will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This **RZN will not** create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

ENGINEERING DIVISION COMMENTS

RZN 08-2934: (NEWELL/MORTON, 404): Submitted by JAKE NEWELL & CLAY MORTON MNI, LLC for property located at 1141 HENDRIX. The property is zoned RSF-4, RESIDENTIAL SINGLE-FAMILY 4 UNITS/ACRE and contains approximately 0.37 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre. Planner: Andrew Garner

Public water is located along the property. There is a 6" water main along Hendrix Street.

Sanitary sewer is available to the site. There is a 6" sewer main along Hendrix Street. 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 Hendrix Street. Hendrix Street is currently an improved two lane paved city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

RZN 08-2936: (MULLINS, 678): Submitted by JOHN MULLINS & CHAD BRAMLETT MULLINS PROPERTY MGMT/INSPIRED BUILDERS for property located at 2846 S. SCHOOL AVENUE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 0.33 acres. The request is to rezone the subject property to R-O, Residential Office. Planner: Dara Sanders

Public water is located along the property. There is a 12" water main along S. School Avenue.

Sanitary sewer is available to the site. There is a 6" sewer main along S. School Avenue. 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 S. School Avenue and Peach Street. S. School Avenue is currently an improved five lane paved state highway. Peach Street is a two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

RZN 08-2937: (MOUNTAIN RANCH III, 478): Submitted by JORGENSEN & ASSOCIATES for property located at THE W. PORTION OF MOUNTAIN RANCH PHASE III, S. OF PHASE I. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 26.87 acres. The request is to rezone the subject property to RSF-8, Residential Single Family, 8 units per acre. Planner: Dara Sanders

5.

This request is to rezone the property at 1141 Hendrix from RSF4- to RSF 8. This rezoning would allow M.N.I LLC to build two new houses and revitalize the NW corner of Hendrix and Garland. Property owners have 113 feet of frontage. A rezone to RSF-8 would allow for 50 foot wide lots. The project also allows property owners to provide quality infill and attainable housing to the City of Fayetteville. Property would be in complete conformance to the surrounding properties. Four out of the five adjoining lots have lot widths that would be in close conformance to the lots at the property at 1141 Hendrix if splits are allowed by the city through a rezone to RSF 8. Currently there is one house on the property. This house would be demolished and two new houses built. The addition of one house would not adversely affect the traffic of neighborhood or future land use.

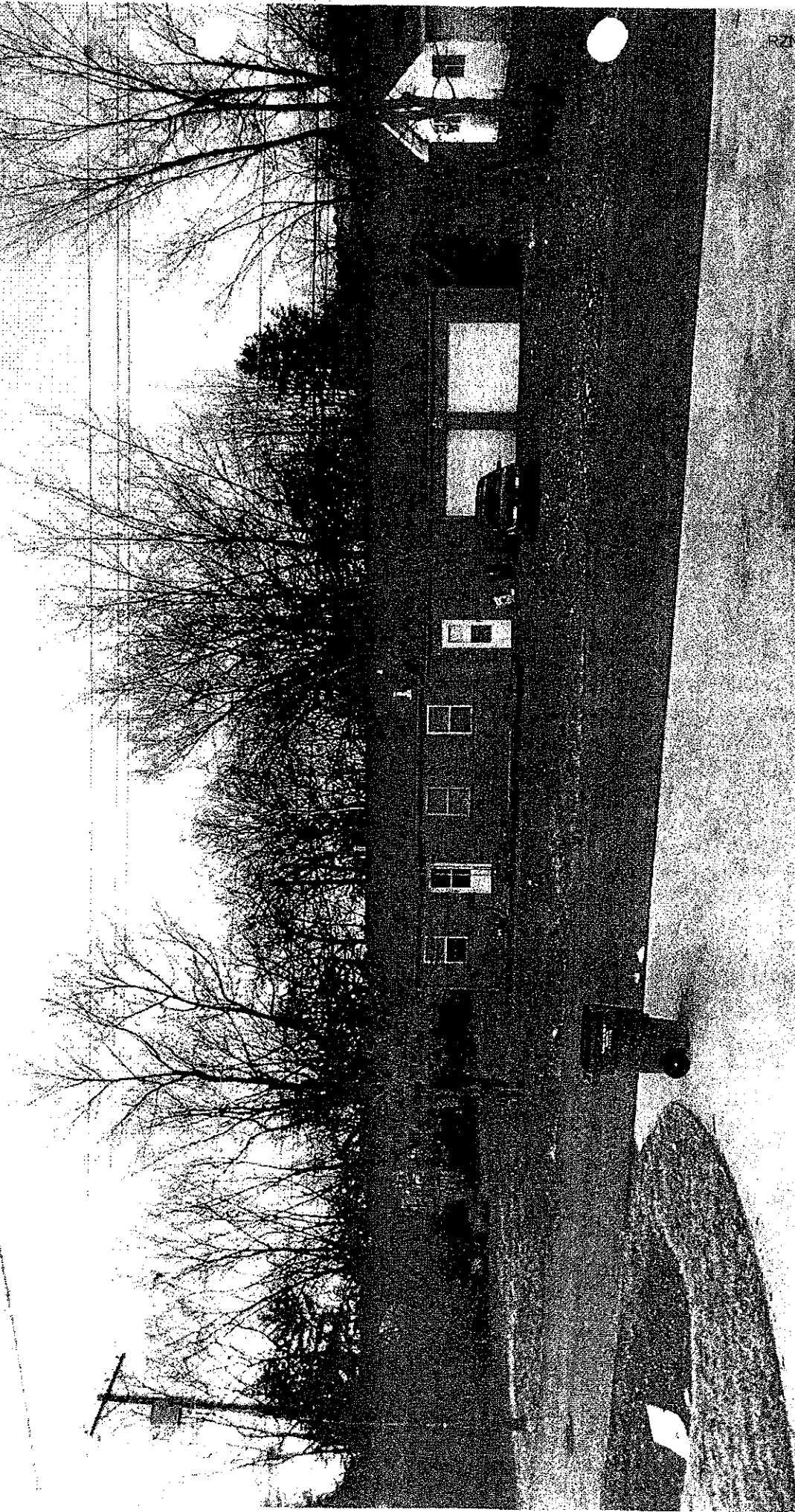
6.

Rezoning to RSF 8 is consistent with Fayetteville future land use. This project will go hand in hand to the Cities 2025 plan to provide quality infill and revitalization. This project will allow property owners to clean up an old lot and add quality single family housing in an area that has a single family as its future land use plan.

Proposed zoning is needed to allow the applicant to pursue the goals of the City plan 2025. It allows property owner to revitalize a property in a way that is in conformance with future land use of the neighborhood. This Proposed zoning will not increase or alter traffic danger nor will it have undesirable affect on public services.

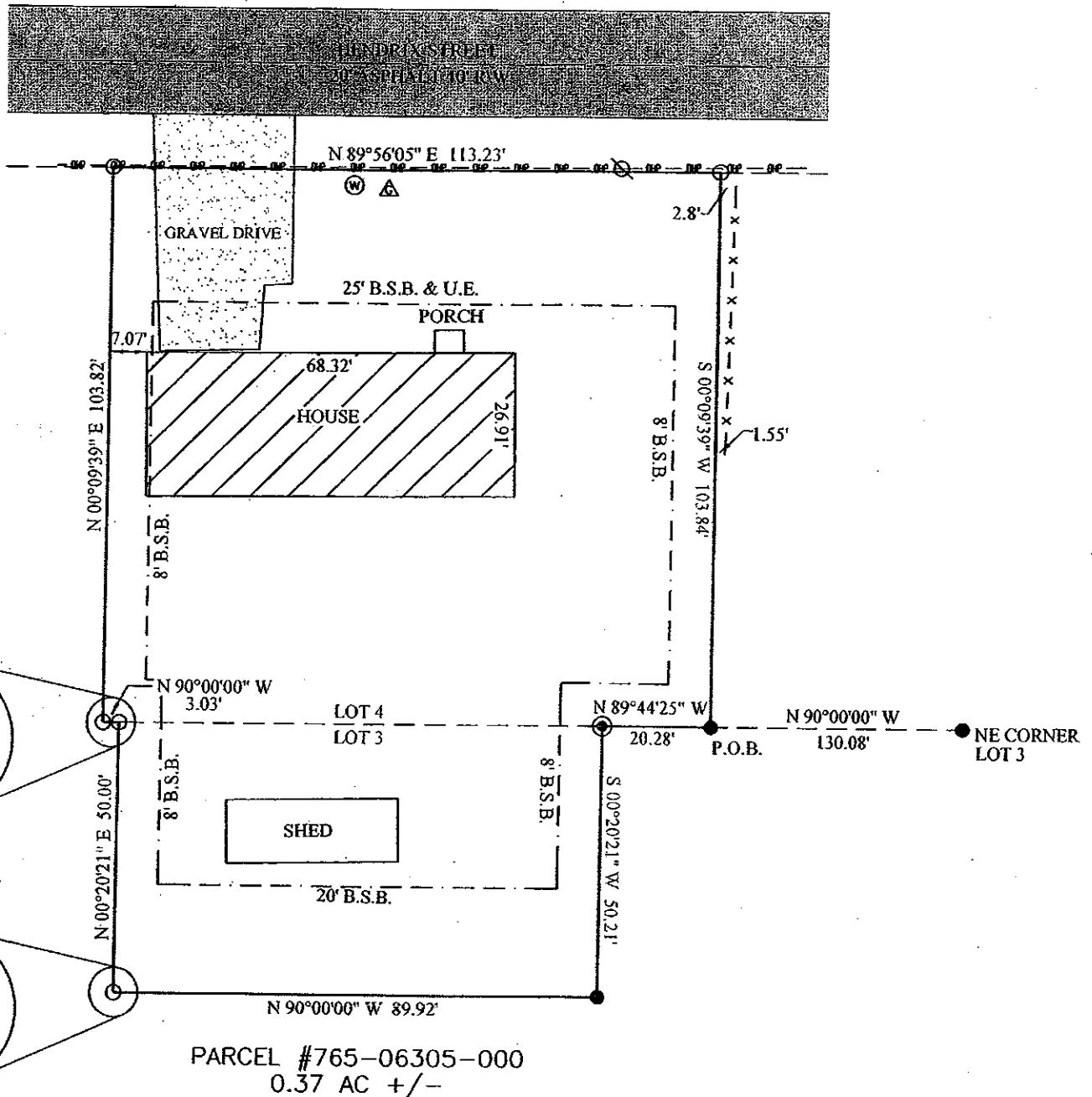
It is impractical to use the land for uses under the existing zoning conditions because owners of property under these zoning conditions can not pursue providing quality infill to the city of Fayetteville with the current zoning. City Plan 2025 calls for quality infill and reduction of urban sprawl. It is impractical for property owner to pursue revitalization and development of quality infill with current zoning.

Current Property



PLAT OF SURVEY

C. 2
RZN 08-2934 (Newell/Morton)
Page 22 of 28

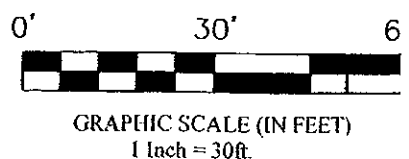


MENTS:
FILED
PAGE 32758
ADDITION
BOOK 1 AT PAGE 105

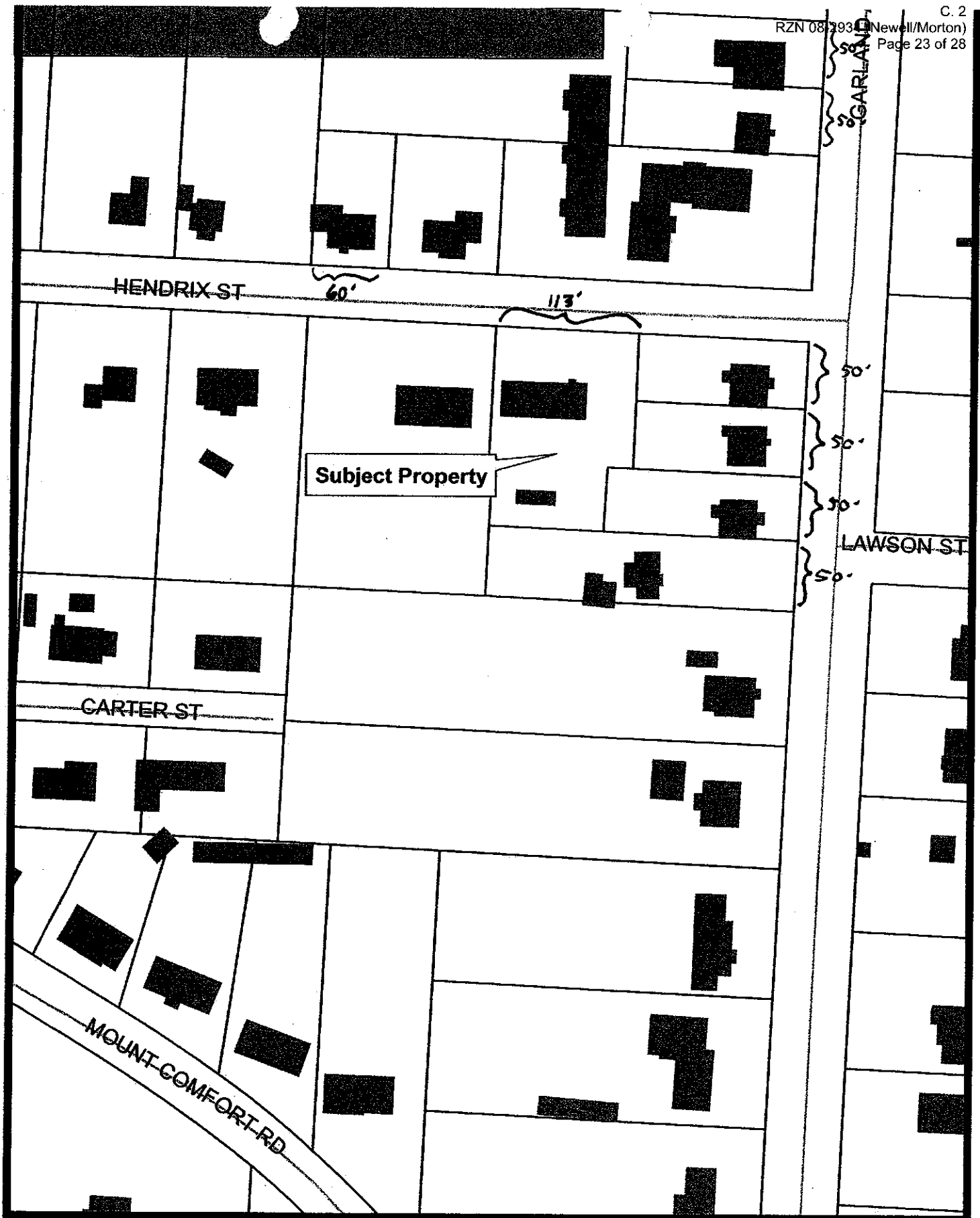
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PLAT BOOK 1

VICINITY MAP

SURVEY DESCRIPTION:
A PART OF LOTS 3 AND 4 OF BLOCK 4 OF THE HENDRIX ADDITION TO THE CITY OF FAYETTEVILLE, ARKANSAS AS PER PLAT OF SAID ADDITION ON FILE IN PLAT BOOK 1 AT PAGE 105 IN THE RECORDS OF WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 3 AND RUNNING THENCE N90°00'00"W 130.08'



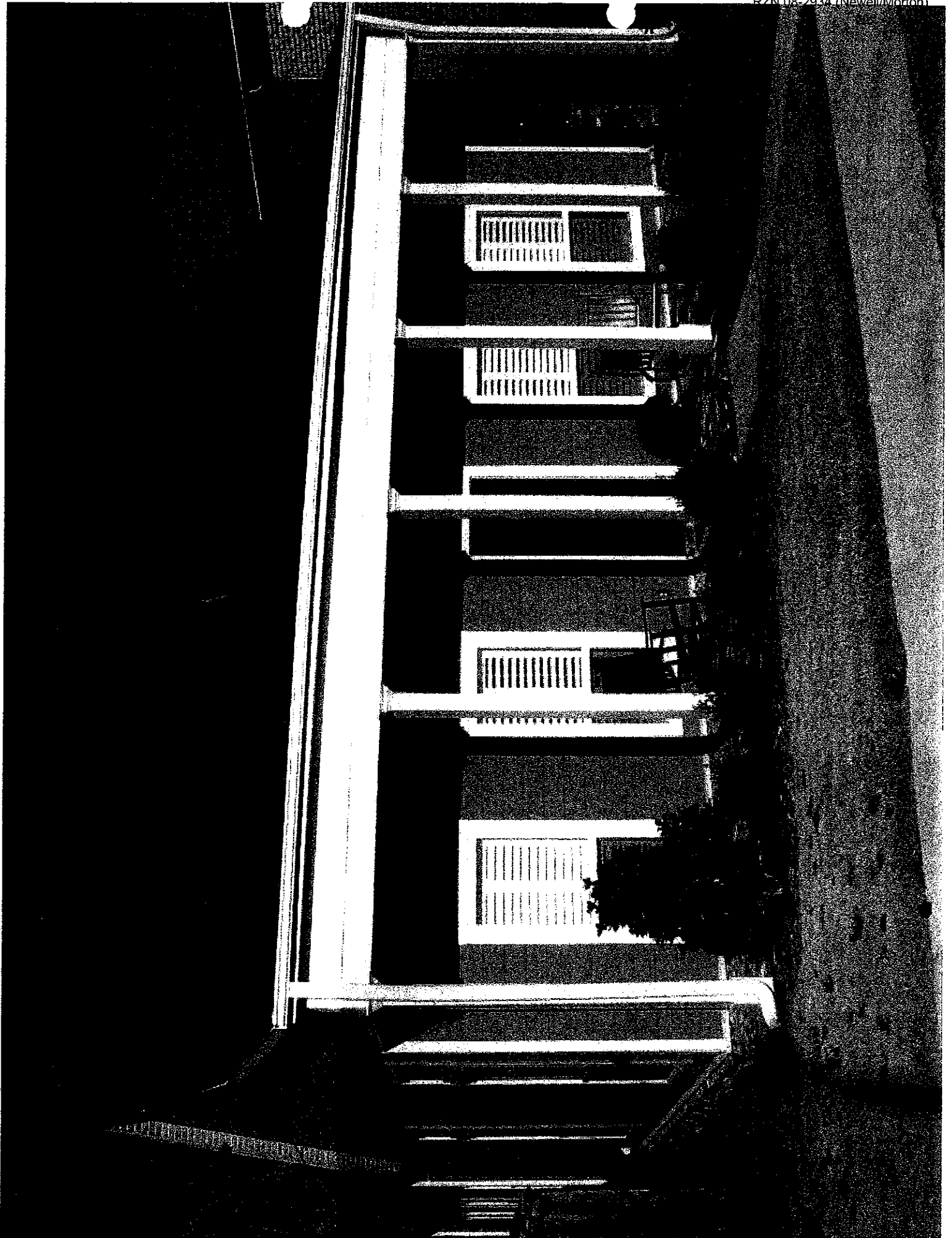
I HEREBY CERTIFY THIS TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF ON THIS THE 15 DAY OF Feb



1 inch equals 100 feet

RZN 08-2934 (Newell/Morton)





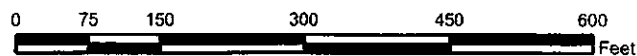
RZN08-2934

NEWELL/MORTON

Close Up View



Overview



NEWELL/MORTON

 RZN08-2934

☐ Outside City

Hillside-Hilltop Overlay District

0 0.125 0.25 0.5 Miles

RZN08-2934

NEWELL/MORTON

Close Up View



Overview



0 75 150 300 450 600 Feet

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

6-May-08
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 08-2915: Planned Zoning District (Hill Place, 561): Submitted by Appian Center for Design for property located at the southwest corner of 6th Street and Hill Avenue containing approximately 27.10 acres. The request is for zoning, land use, and large scale development review, and approval for a Master Development Plan of a Residential Planned Zoning District for 288 multi-family dwelling units, a community building and associated parking.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

4/16/08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

4/17/08

Paul a. Buhn
Finance and Internal Service Director

4-17-08
Date

Received in City Clerk's Office

4-16-08

ENTERED

Received in Mayor's Office

ENTERED

4/17/08

PH

Mayor

[Signature]
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: April 15, 2008

Subject: Commercial Planned Zoning District for Hill Place (C-PZD 08-2915)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance creating a Commercial Planned Zoning District (C-PZD) for Hill Place, 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 27.10 acres located on the south side of 6th Street (State Highway 62) and west of Hill Avenue.

BACKGROUND

This site was most recently designed and approved under the name Aspen Ridge, Residential Planned Zoning District, in January 2005. This approval rezoned the property from RMF-24 to R-PZD 04-1307 (Aspen Ridge), for 220 attached residential units with an overall density of 7.87 units/acre. As part of the Aspen Ridge project 49 mobile homes, 6 single family residences, and several tons of trash, debris, and tires were removed from the property. Much of the street and utility infrastructure for Aspen Ridge has been installed and approved by the City, however, for various reasons, building permits were never obtained for the project and the approval expired. The currently proposed Hill Place project will utilize much of the existing street and utility infrastructure, however, the applicant is requesting virtually all of the existing easements and rights-of-way on the property be abandoned, and new easements and right-of-way dedicated with the Hill Place development. This is in large part due to the new site layout, while retaining as much existing infrastructure as possible.

The applicant requests rezoning, land use, and large scale development approval for a single use R-PZD consisting of 288 multi-family dwelling units in 17 three story buildings.

DISCUSSION

On April 14, 2008 the Planning Commission voted 7-0-0 in favor of forwarding this request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2915, HILL PLACE, LOCATED AT THE SOUTHWEST CORNER OF 6TH STREET AND HILL AVENUE; CONTAINING APPROXIMATELY 27.10 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 zoning classification of the following described property is hereby changed as follows:

From R-PZD 04-1307, Aspen Ridge to R-PZD 08-2915, Hill Place, 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 , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

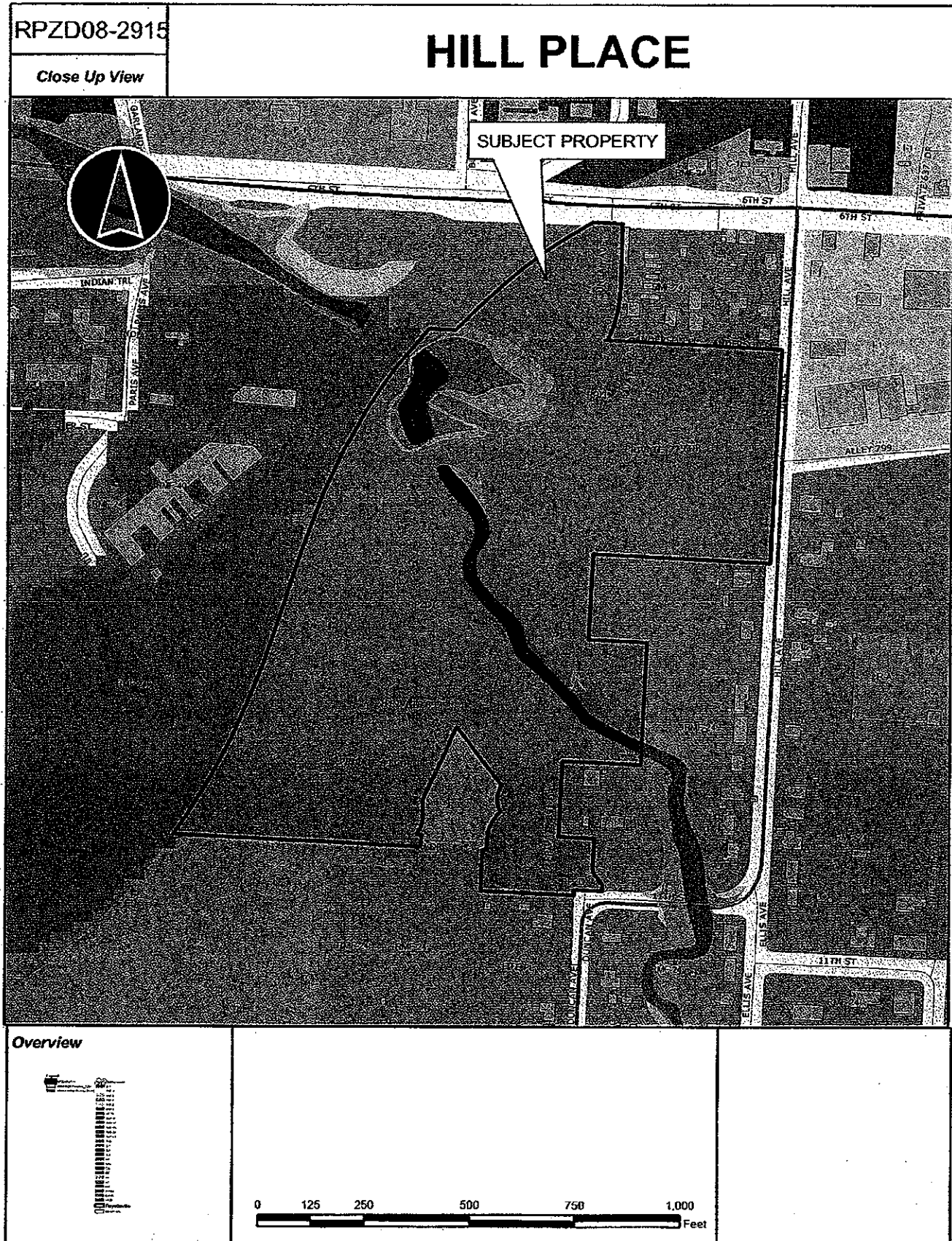


EXHIBIT "B"
R-PZD 08-2915

TRACT 1 OF PROPERTY LINE ADJUSTMENT PLAT FILED FOR RECORD AT PLAT 23A-000132 AT THE CIRCUIT CLERK'S OFFICE OF WASHINGTON COUNTY: PART OF THE SOUTH 1/2 OF THE SW 1/4 OF SECTION 16, AND A PART OF THE NORTH 1/2 OF THE NW 1/4 OF SECTION 21, T-16-N, R-30-W, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 21; THENCE S87°04'09"E ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 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; THENCE S02°49'04"W 204.82 FEET; THENCE S87°04'09"E 139.00 FEET; THENCE S02°48'48"W 293.00 FEET; THENCE N87°05'54"W 183.58 FEET; THENCE S02°48'00"W 181.27 FEET; THENCE S87°04'02"E 84.31 FEET; THENCE S02°40'05"W 79.86 FEET; THENCE S37°07'40"E 39.06 FEET; THENCE S02°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 S 87°11'50" E 9.25 FEET; THENCE N02°39'07"E 27.35 FEET TO THE POINT OF CURVATURE OF A 87.50 FEET RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 66.20 FEET (SAID CURVE HAVING A CHORD BEARING OF N24°19'39"E AND A CHORD DISTANCE OF 64.64 FEET) TO THE POINT OF COMPOUND CURVATURE OF A 24.50 FEET RADIUS CURVE TO THE LEFT; THENCE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 7.97 FEET (SAID CURVE HAVING A CHORD BEARING OF N36°40'43"E AND A CHORD DISTANCE OF 7.94 FEET) TO A POINT ON A NON-TANGENT 58.50 RADIUS CURVE TO THE RIGHT; THENCE NORTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 64.58 FEET (SAID CURVE HAVING A CHORD BEARING OF N02°58'13"E AND A CHORD DISTANCE OF 61.35 FEET); THENCE N38°00'00"W 176.19 FEET; THENCE S24°45'38"W 180.97 FEET TO THE POINT OF CURVATURE OF A 37.50 FEET RADIUS CURVE TO THE LEFT; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 15.62 FEET (SAID CURVE HAVING A CHORD BEARING OF S12°49'31"W AND A CHORD DISTANCE OF 15.51 FEET) TO THE POINT OF TANGENCY; THENCE S00°53'24"W 41.19 FEET TO THE POINT OF CURVATURE OF A 47.50 FEET RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 34.83 FEET (SAID CURVE HAVING A CHORD BEARING OF S21°53'48"W AND A CHORD DISTANCE OF

34.06 FEET) TO THE POINT OF COMPOUND CURVATURE OF A 2.50 FEET RADIUS CURVE TO THE LEFT; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.47 FEET (SAID CURVE HAVING A CHORD BEARING OF S19°49'19"E AND A CHORD DISTANCE OF 4.44 FEET) TO THE POINT OF TANGENCY; THENCE S82°32'50"E 10.50 FEET; THENCE S07°27'10"W 27.46 FEET; THENCE N87°11'50"W 74.95 FEET; THENCE N87°13'26"W 514.88 FEET THE EAST RIGHT-OF-WAY LINE OF THE BURLINGTON-NORTHERN RAILROAD; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID RAILROAD THE FOLLOWING COURSES: 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°22'01"E 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 A POINT ON A NON-TANGENT 1381.79 FEET RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY AND CURVE AN ARC DISTANCE OF 397.22 FEET (SAID CURVE HAVING A CHORD BEARING OF N51°13'28"E AND A CHORD DISTANCE OF 395.85 FEET) TO THE SOUTH LINE OF ARKANSAS HIGHWAY 180 (WEST 6TH STREET) PER WARRANTY DEED TO THE CITY OF FAYETTEVILLE RECORDED IN DOCUMENT NO. 2006-9895; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID HIGHWAY S88°04'12"E 87.55 FEET; THENCE LEAVING SAID RIGHT-OF-WAY S01°44'50"W 143.30 FEET TO THE POINT OF CURVATURE FOR A 315.50 FEET RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 81.06 FEET (SAID CURVE HAVING A CHORD BEARING OF S09°06'25"W AND A CHORD DISTANCE OF 80.83 FEET) TO THE POINT OF TANGENCY; THENCE S16°28'1"W 8.54 FEET TO THE POINT OF CURVATURE OF A 215.50 FEET RADIUS CURVE TO THE RIGHT; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 40.68 FEET (SAID CURVE HAVING A CHORD BEARING OF S21°52'28"W AND A CHORD DISTANCE OF 40.62 FEET) TO THE POINT OF BEGINNING. LESS AND EXCEPT ALL OF THAT SHOWN AS TRACT 3 ON THE PROPERTY LINE ADJUSTMENT PLAT FILED FOR RECORD AT PLAT 23A-000132 AND BEING DESCRIBED IN WARRANTY DEED TO THE CITY OF FAYETTEVILLE RECORDED IN DOCUMENT NO. 2006-9894, WITH THE REMAINDER OF TRACT 1 CONTAINING 26.736 ACRES, MORE OR LESS, IN FAYETTEVILLE, ARKANSAS. THE ABOVE DESCRIBED TRACT BEING SUBJECT TO THE RIGHT-OF-WAY OF ROYAL OAK PARKWAY, WYNSTONE DRIVE, HILL AVENUE, GRACEWOOD DRIVE AND ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

C-PZD 08-2915

Page 1 of 6

Staff and the Planning Commission recommend the following conditions of approval associated with C-PZD 08-2915 (Hill Place).

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following: The applicant shall complete the street improvements required for the Aspen Ridge development. These improvements include the following, some of which are already completed:*
 - 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.
 - 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.
 - There are still outstanding issues with the pavement and sidewalk at the intersection of Hill and 6th that were part of the Aspen Ridge project that need to be completed.
 - Connection of 12th Street/Brooks Avenue to the site with a Residential Street, with sidewalk on the east side of the street as approved with the Aspen Ridge project.
 - All drainage improvements, including the box culvert, removal of the sewer line, etc. shall be completed to the satisfaction of the Engineering Division
 - Add multiple speed tables on Duncan Avenue, and Hill Street, the location and number of which shall be determined by the City Engineer
 - Add bicycle symbol chevrons on Hill Avenue (Heritage Trail designation), per the requirements of the Trails Coordinator.
2. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 166.06(K)(10)(b) to allow two public streets to be connected with a private street. *The applicant is proposing a private street connection between Royal Oak Parkway (a new internal public street) and 11th Street by way of a new vehicular bridge. The applicant's waiver request states that a private connection is justified because traffic from 11th Street will flow to Hill Avenue to use the traffic signal to access Sixth Street rather than flow into the development for access to Sixth Street. In addition, an analysis of an alternative*

CONDITIONS OF APPROVAL:

C-PZD 08-2915

Page 2 of 6

design, incorporating a public street with parallel parking, indicates a substantial amount of parking for the dwellings would be removed. At staff's request the applicant submitted this additional information and an exhibit showing an alternative design with the internal private street, Royal Oak Parkway, as a public street with parallel parking spaces, resulting in a net loss of 40 parking spaces. A chart comparing the parking numbers for the development with public and private streets is provided below:

Parking Number Comparison: Proposed vs. Public Street Alternative

Use	Unit	Parking Ratio
Number of Bedrooms	840	1:1
SF of Community Building	6500	1:500
Baseline Number of Spaces	853	
Max Number of Spaces	1,109	
Minimum Number of Spaces	597	
Current Proposed Number of Spaces	828	
Number of Spaces With Public Street	788	

Staff finds that while a public street connection of Town Branch Creek can feasibly be constructed, in this case the proposed private connection provides much the same function in allowing a distribution of traffic to and from the site. The drive will be open for public access, and will still provide the parking needed to serve the primarily student population to which the project is targeted, a concern cited by area residents. The proposed connection over the creek provides much improved connectivity from the previously approved project, which ended in cul-de-sacs on both sides of the creek. Staff recommends in favor of this waiver request.

3. Planning Commission determination of a waiver from Chapter 170.02 Adopted Drainage Criteria Manual (Section 5.4.3), requiring that the limits of maximum ponding elevations are no closer than 100' horizontal from any building and greater than 2' below the lowest sill or floor elevation of any building. *Staff recommends approval of the requested waiver finding that the proposed retention pond will not be a detriment to the residents of the development, and is designed as an amenity to the neighborhood. Additionally, a decorative safety fence shall be required to be constructed around the wet detention pond, restricting direct access from area residents.*
4. Planning Commission determination to allow for a trash enclosure over a utility easement. The applicant proposes a permanent trash enclosure in the southern portion of the site within a utility easement. They state there is not a way to avoid placing the enclosure within an easement. *Staff recommends in favor of allowing the trash enclosure with the conditions that:*
 - a. *The trash enclosure location be noted and labeled on the easement plat for all utility companies to acknowledge and approve prior to the issuance of permits;*
 - b. *The trash enclosure shall be relocated at the owner/developer's expense if utilities within the easement need to be accessed or maintained.*
5. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property.

CONDITIONS OF APPROVAL:

C-PZD 08-2915

Page 3 of 6

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.

6. The buildings within this development shall be constructed to comply with the architectural standards and building elevations presented in the PZD booklets. Elevations of the structures shall be reviewed prior to building permit.
7. The storm water detention and Low Impact Development (LID) techniques (bioswales, rain gardens and depressed parking lot islands) as presented in the PZD shall be constructed as indicated in the plans submitted for PZD approval.
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9. Should a subdivision of land be desired, all applicable ordinances and processes shall be followed in order to meet city ordinances.
10. Public water and sewer lines and other improvements shall be extended as required by city ordinance at the time of development.
11. All development shall meet applicable building codes and other ordinances of the City of Fayetteville.
12. Future non-residential conditional uses in the zoning criteria shall comply with the minimum standards for development in the Unified Development Code.
13. Phasing: This project is required to obtain all building permits for the entire development within one year of City Council approval, with the opportunity for a one time, one year extension.
14. Signage for this development is subject to the residential multi-family requirements of Fayetteville Unified Development Code Chapter 174.
15. Parkland Dedication: Prior to issuance of a building permit, the applicant shall dedicate approximately 2.0 acres for a City park and 0.36 acre for the Tsa-La-Gi trail through the site, in addition to payment of fees in lieu to meet the remaining parkland dedication requirement, approximately \$5,600. In addition, the developer shall construct this multi-use trail to City standards, and will receive credit as agreed upon within the PRAB recommendation. *The Aspen Ridge project dedicated 1.21 acres previously, though the deed for this land is still in the name of the property owner. The proposed Hill Place project was reviewed at the December 2007 PRAB meeting and a recommendation was made to accept approximately 0.8 acres of additional parkland. Remaining parkland dedication requirements include payment of \$5,606.25 for remaining fees-in-lieu, and construction of the multi-use trail through the site per City standard construction details for an asphalt trail.*

CONDITIONS OF APPROVAL:

C-PZD 08-2915

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16. The plats and booklets should be revised to address the following items:
 - a. Label the building setback lines on the plats, i.e., 20' BSB.
 - b. Parking spaces must be 19' long unless adjacent to greenspace. There are several places throughout the site where spaces are 17' long and hang over a sidewalk (for example, the 10 parking spaces to the north of Building 16 overhang a sidewalk and are 17'). Revise the site plan as needed to address this issue.
 - c. Plats: Parking chart. Change the parking ratio for community building to use the ratio for a private clubhouse, 1 space per 500 SF or 1 per 3 occupants.
 - d. Booklet. Cover sheet. The site plan should be revised to show the correct project boundary and not to include the parcel at the southwest corner of Hill/6th Street in color as it is not a part of this project.

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17. The majority of the preserved canopy (approximately 3.38 acres) on this project was placed within a Tree Preservation Area per the previous easement plat. This area shall remain as a dedicated easement with the new easement plat using the Tree Preservation Area signature block for the Urban Forester. The Tree Preservation Area may need to be revised on the new easement plat for this project since the pedestrian bridge has been changed to a vehicular bridge. If this is the case, the boundary revision will require City Council approval. Additionally, the canopy measurements may need to be revised accordingly.
18. It appears that a construction parking and storage area is shown in the 0.78-acre park land dedication area. Please revise the plans; parking and storage are not allowed on the park property during construction.
19. The applicant shall mitigate for the removal of 110,970 SF of tree canopy with on-site mitigation to consist of a minimum of (384) 2-inch caliper trees. The final amount of mitigation will depend on the disturbance of canopy located around the proposed vehicular bridge. Staff's final recommendation for tree mitigation will be subject to final calculations. Additionally, a tree mitigation form must be submitted and approved by the Urban Forester.
20. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. A 3-year bond, letter of credit, or check in the amount of \$96,000 shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy. The actual amount of the bond shall be based on the final calculations.

Landscape Plan Conditions:

21. All parking lots shall be screened with a dense evergreen planting where adjacent to residential uses.
22. 15' of greenspace is required between parking lots and the right-of-way. Show the right-of-way and 15' greenspace buffer lines on the plan.
23. Before construction document approval, the landscape plan must be stamped by a Landscape

CONDITIONS OF APPROVAL:

C-PZD 08-2915

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Architect licensed within the state of Arkansas.

Trails Conditions:

24. Tsa-La-Gi trail is identified on the Fayetteville Alternative Transportation and Trail Master Plan through this project. This 12' wide asphalt trail shall be constructed by the developer, to be reimbursed by a park land dedication credit. All expenses on the trail must be itemized separately to qualify for reimbursement.
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26. Analyze the existing block wall at this location to insure it was constructed properly to construct the trail behind. Currently it doesn't look stable.
27. Please notify the Trails Coordinator prior to construction for periodic inspections.
28. Hill Avenue is part of the Heritage Trail. Due to this designation, the improved street must include bicycle facilities. Include thermoplastic bike symbol chevrons and share the road signs spaced every 300 feet along the all improved sections of Hill Avenue.

Standard Conditions of Approval:

29. All mechanical and utility equipment on the wall and/or on the ground shall be screened. All roof mounted utilities and mechanical equipment shall be screened by incorporating screening to the structure utilizing materials compatible with the supporting building. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. A note shall be added to all construction documents indicating as such.
30. Trash enclosures shall be screened on three sides 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.
31. 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.
32. 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).
33. Provide a CD containing the proposed Large Scale Development drawings in AutoCAD or similar digital format.

CONDITIONS OF APPROVAL:

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34. 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.
35. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
36. 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.



PC Meeting April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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: April 9, 2008 Updated April 15, 2008

R-PZD 08-2915: (HILL PLACE, 561): Submitted by APPIAN CENTER FOR DESIGN for property located at THE SW CORNER OF THE 6TH STREET AND HILL AVENUE INTERSECTION. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT (ASPEN RIDGE) and contains approximately 27.10 acres. The request is for zoning, land use, and large scale development approval for a Residential Planned Zoning District with 288 multi-family dwelling units, a community building and associated parking.

Planner: Andrew Garner

BACKGROUND:

Property Description and History: The subject property contains approximately 27.10 acres located in south Fayetteville, on the south side of 6th Street (State Highway 62), west of Hill Avenue, east of the Arkansas-Missouri railroad, with Town Branch Creek traversing southeast-northwest through the site. The site has been disturbed and developed over the years, but retains some substantial natural resources associated with Town Branch Creek, wetlands, and significant areas of tree canopy and vegetation. The property abuts a major highway arterial, is adjacent to the University of Arkansas and a variety of other uses, including single-family, multi-family, industrial and commercial properties.

This site was most recently designed and approved under the name Aspen Ridge, Residential Planned Zoning District, in January 2005. This approval rezoned the property from RMF-24 to R-PZD 04-1307 (Aspen Ridge). The Aspen Ridge project was approved for 220 attached residential units with an overall density of 7.87 units/acre. As part of the Aspen Ridge project 49 mobile homes, 6 single family residences, and several tons of trash, debris, and tires were removed from the property. Much of the street and utility infrastructure for Aspen Ridge has been installed and approved by the City, however, for various reasons, building permits were never obtained for the project and the approval expired. The currently proposed Hill Place project will utilize much of the existing street and utility infrastructure, however, the applicant is requesting virtually all of the existing easements and rights-of-way on the property be abandoned, and new easements and right-of-way dedicated with the Hill Place development. This is in large part due to the new site layout, while retaining as much existing infrastructure as

possible. The surrounding zoning and land uses are listed in *Table 1*.

Table 1
Surrounding Land Use/Zoning

Direction from Site	Land Use	Zoning
North	6 th Street (Highway 62) – busy arterial	RMF-40; RMF-24
South	Pinnacle Foods; Single Family Residential	I-2; RMF-24
East	Single-Family Residential; Coors plant; Brenda's Burgers	RMF-24; I-1
West	Arkansas-Missouri Railroad	RMF-24

Proposal and Project Description: The applicant requests rezoning, land use, and large scale development approval for a single use project within a unique R-PZD zoning district on the subject property. The project would utilize much of the existing street, water, sewer and storm water and infrastructure from the previous Aspen Ridge project with some minor changes, and develop a total of 288 residential units in 17 three-story buildings, and a community building and pool in the northern portion of the site.

A large tree preservation area would be retained along the Town Branch Creek riparian corridor. In addition, this development would dedicate approximately 2 acres of land in the southern portion of the site for a new City park, and 0.35 acres for a public multi-use trail corridor. The main access point would be off of 6th Street, with secondary access points off of Hill Street, 11th Street, and 12th Street. Interior public streets off of these access points would transition to private drives into the parking lots for the new apartment buildings. Vehicular connectivity would be provided over the Town Branch Creek with a new vehicular/pedestrian bridge through the site. Vehicular connectivity is proposed to the north, east, and south, with the existing railroad corridor providing a barrier to the west. The Tsa-La-Gi Trail identified on the Fayetteville Trails Master Plan map will ultimately extend east-west through this site along an old railroad corridor, and continue under the Arkansas-Missouri railroad to the west, providing a pedestrian connection to businesses along 6th Street, the University of Arkansas, and the greater trail system throughout the city.

The project booklet and the plats provided give the zoning criteria in detail. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Parks and Recreation Advisory Board (PRAB): The Aspen Ridge project dedicated approximately 1.21 acres of parkland to the City in 2005, including a park and trail corridor. The proposed Hill Place project was reviewed at the December 2007 PRAB meeting and a recommendation was made to accept approximately 0.8 acres of additional parkland for a total of 2 acres, 0.36 acre for the Tsa-La-Gi trail through the site, installation of the trail at a cost of approximately \$54,163, and payment of fees in lieu (approximately \$5,600) to meet the remaining parkland dedication requirement.

Phasing: The applicant proposes that all building permits for all buildings in the development be obtained within one year from City Council approval, with the opportunity for a one-time, one year extension pursuant to Chapter 166 of the Unified Development Code.

Water & Sewer: Water and sewer lines would be required to serve the development.

Adjacent Master Street Plan Streets: 6th Street (Principal Arterial); Hill Avenue, 11th Street, Duncan Avenue (Collector), Brooks Avenue

Street Improvements: Staff recommends the following:

- Complete the street improvements required for the Aspen Ridge development. These improvements included the following, some of which are already completed:
 - 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.
 - 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.
 - There are still outstanding issues with the pavement and sidewalk at the intersection of Hill and 6th that were part of the Aspen Ridge project that need to be completed.
 - Connection of 12th Street/Brooks Avenue to the site with a Residential Street, with sidewalk on the east side of the street as approved with the Aspen Ridge project.
 - All drainage improvements, including the box culvert, removal of the sewer line, etc. shall be completed to the satisfaction of the Engineering Division
- Add multiple speed tables on Duncan Avenue, and Hill Street, the location and number of which shall be determined by the City Engineer
- Add bicycle symbol chevrons on Hill Avenue (Heritage Trail designation), per the requirements of the Trails Coordinator.

Tree Preservation:

Existing Canopy:	56.7%
Preserved Canopy:	15.1%
Required Canopy:	25.0%
Mitigation Required:	384 two-inch caliper trees.

Public Comment: Several people from the neighborhood discussed concerns with this development at the April 3, 2008 Subdivision Committee meeting. Some of the issues discussed by the neighbors at that meeting included drainage, flooding, and environmental issues associated with the previous development that has been abandoned, concerns that this development does not comply with City Plan 2025, and concerns that student housing is different than owner-occupied condominiums and not appropriate in this area. The minutes from the Subdivision Committee meeting are attached to this report.

Residents in the surrounding neighborhoods were very vocal and active in the approval process of the Aspen Ridge project, voicing concerns with drainage and flooding associated with Town Branch Creek, and the impact of development on natural resources in the area, and discussing concerns with increased traffic, among other issues. Some neighbors have discussed the Hill Place project with Planning staff voicing similar concerns as during the Aspen Ridge project.

Staff Recommendation: Based on a review of the PZD proposal for Hill Place, staff finds that while the urban form of the development pattern could be improved upon, the project meets a majority of the City's adopted goals and policies, while salvaging already constructed infrastructure from an abandoned project. Particularly, the project is cited in close proximity to readily available infrastructure, commercial goods and services, the University, and achieves the goal of providing an infill project with an appropriate density. Several environmental and physical constraints are associated with this particular site, and the applicants have worked to address these as best as possible. Staff recommends forwarding **R-PZD 08-2915** to the City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends the following: The applicant shall complete the street improvements required for the Aspen Ridge development. These improvements include the following, some of which are already completed:*
 - 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).
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- Add multiple speed tables on Duncan Avenue, and Hill Street, the location and number of which shall be determined by the City Engineer
- Add bicycle symbol chevrons on Hill Avenue (Heritage Trail designation), per the requirements of the Trails Coordinator.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (04/14/08).

2. Planning Commission determination of a waiver from Fayetteville Unified Development Code Section 166.06(K)(10)(b) to allow two public streets to be connected with a private street. *The applicant is proposing a private street connection between Royal Oak Parkway (a new internal public street) and 11th Street by way of a new vehicular bridge. The applicant's waiver request states that a private connection is justified because traffic from 11th Street will flow to Hill Avenue to use the traffic signal to access Sixth Street rather than flow into the development for access to Sixth Street. In addition, an analysis of an alternative design, incorporating a public street with parallel parking, indicates a substantial amount of parking for the dwellings would be removed. At staff's request the applicant submitted this additional information and an exhibit showing an alternative design with the internal private street, Royal Oak Parkway, as a public street with parallel parking spaces, resulting in a net loss of 40 parking spaces. A chart comparing the parking numbers for the development with public and private streets is provided below:*

Parking Number Comparison: Proposed vs. Public Street Alternative		
Use	Unit	Parking Ratio
Number of Bedrooms	840	1:1
SF of Community Building	6500	1:500
Baseline Number of Spaces		853
Max Number of Spaces		1,109
Minimum Number of Spaces		597
Current Proposed Number of Spaces		828
Number of Spaces With Public Street		788

Staff finds that while a public street connection of Town Branch Creek can feasibly be constructed, in this case the proposed private connection provides much the same function in allowing a distribution of traffic to and from the site. The drive will be open for public access, and will still provide the parking needed to serve the primarily student population to which the project is targeted, a concern cited by area residents. The proposed connection over the creek provides much improved connectivity from the previously approved project, which ended in cul-de-sacs on both sides of the creek. Staff recommends in favor of this waiver request.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (04/14/08).

3. Planning Commission determination of a waiver from Chapter 170.02 Adopted Drainage Criteria Manual (Section 5.4.3), requiring that the limits of maximum ponding elevations are no closer than 100' horizontal from any building and greater than 2' below the lowest sill or floor elevation of any building. *Staff recommends approval of the requested waiver finding that the proposed retention pond will not be a detriment to the residents of the development, and is designed as an amenity to the neighborhood. Additionally, a decorative safety fence shall be required to be constructed around the wet detention pond, restricting direct access from area residents.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (04/14/08).

4. Planning Commission determination to allow for a trash enclosure over a utility easement. The applicant proposes a permanent trash enclosure in the southern portion of the site within a utility easement. They state there is not a way to avoid placing the enclosure within an easement. *Staff recommends in favor of allowing the trash enclosure with the conditions that:*
 - a. *The trash enclosure location be noted and labeled on the easement plat for all utility companies to acknowledge and approve prior to the issuance of permits;*
 - b. *The trash enclosure shall be relocated at the owner/developer's expense if utilities within the easement need to be accessed or maintained.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (04/14/08).

5. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval 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.
6. The buildings within this development shall be constructed to comply with the architectural standards and building elevations presented in the PZD booklets. Elevations of the structures shall be reviewed prior to building permit.
7. The storm water detention and Low Impact Development (LID) techniques (bioswales, rain gardens and depressed parking lot islands) as presented in the PZD shall be

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24. Tsa-La-Gi trail is identified on the Fayetteville Alternative Transportation and Trail Master Plan through this project. This 12' wide asphalt trail shall be constructed by the developer, to be reimbursed by a park land dedication credit. All expenses on the trail

must be itemized separately to qualify for reimbursement.

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26. Analyze the existing block wall at this location to insure it was constructed properly to construct the trail behind. Currently it doesn't look stable.
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33. Provide a CD containing the proposed Large Scale Development drawings in AutoCAD or similar digital format.
34. 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.

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

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- a. Grading and drainage permits
- b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
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- d. Project Disk with all final revisions
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Additional conditions:

37. _____

38. _____

Planning Commission Action:

☐ Tabled

☒ Forwarded to C.C.

Motion: Lack

Second: Cabe

Vote: 7-0-0

Meeting Date: April 14, 2008

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 08-2915 (Hill Place)

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, and is largely in compliance with City Plan 2025.

Goal 1 of City Plan 2025 is to *"...make appropriate infill and revitalization our highest priorities."* The Hill Place project is infill as this site is in central south Fayetteville and is entirely surrounded by developed property. This site is a brownfield site as it has been a historic dumping site for trash and debris over the years. The property has been utilized in the past for a number of single family residences and mobile homes. The most recent Aspen Ridge project cleaned up the previous trash, debris, and removed the old residences, but was stalled in the middle of construction. This has left the site in a state of environmental degradation with exposed dirt, rock, and construction fill that have eroded into the nearby stream and potentially exacerbated a problematic drainage and flooding problem in the neighborhood. This Hill Place project would not only provide 288 residential units in an infill situation in central Fayetteville, it would revitalize a property that has become an eyesore and environmental problem over the years.

By providing a medium density project at 10.6 units per acre (288 units on 27.10 acres) in central Fayetteville, the Hill Place project will comply with Goal 2 of City Plan 2025 to *"...discourage suburban sprawl."* If these units were not built in the core of the City, the market might demand their development on the periphery of the City, resulting in a suburban sprawl development pattern.

Though several are met, this project does not comply with all aspects of Goal 3 of City Plan 2025, *"We will make traditional town form the standard."* This is a single-use apartment/student housing development over the entire 27.10-acre site. Due to this property being located at the corner of an arterial (6th Street) and a collector (Hill Street), there is opportunity for non-residential services and development to be mixed into the site, although the two-acre parcel right on the corner of Hill/6th Street is not being developed at this time, and has been discussed previously for a commercial use. The Hill Place project places 17 three-story apartment buildings over the 27.10 acres resulting in a typical apartment complex feel, although there are some variations in the footprint and façade colors of the buildings. In addition, there are several environmental and physical

constraints, including Town Branch Creek and the presence of the railroad to the west, that create design challenges. The project does provide for meaningful open spaces and will dedicate land for a neighborhood park and trail, and will preserve natural features around the Town Branch Creek that will contribute to the character of the development and neighborhood as a whole. The overall proposed density and multi-family residential use is appropriate in this location, as the site has historically been zoned for multi-family use, and helps to complete the larger neighborhood unit. This project does provide a good level of vehicular and pedestrian connectivity to the north, east, and south, and the multi-use trail through the site will encourage east-west pedestrian activity. Sited near bus routes and the University, the project takes advantage of existing infrastructure in place and provides the opportunity for residents to bike or walk to work/school. The dedication and construction of the trail, the preservation of tree canopy along Town Branch Creek and the expansion of the park, which is adjacent to a protected wetland area, helps to meet Goal 5, *"We will assemble an enduring green network."* And finally, the provision of a multi-family development as the neighborhood transitions from commercial along the busy arterial Highway 16 to more traditional single family development to the south, provides a wider array of housing opportunities to *"create attainable housing"*, which is Goal 6 of City Plan 2025.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development. It is anticipated that this development will help improve the existing drainage and local flooding problem in the area.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow multi-family residential uses in 17 three-story apartment buildings over the 27.10 acres. The north, west, and much of the south boundaries of the site are isolated by a busy arterial street, a railway corridor, and industrial use. There are portions of the east and southern boundaries of the site that transition to a single family residential neighborhood. The portions of this development that border the single family neighborhood are proposed to be planted with a vegetated evergreen buffer and provide an expanded park area. This

development is largely compatible with the surrounding land uses, particularly as a transition from the busy arterial to the north to the more traditional single family neighborhood to the south. There is also opportunity for higher density and non-residential uses in the northern and eastern portions of the site at a busy signalized intersection of a state highway (6th Street) and Hill Street.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: As discussed in Finding No. 1, this development would halt the environmental degradation of this property. This development would utilize a majority of the existing street and utility infrastructure on the site to minimize additional grading and disturbance of the land. The development preserves approximately 3.73 acres of riparian corridor and wetlands along Town Branch Creek, and also proposes Low Impact Development (LID) stormwater techniques. The LID features in this project include rain gardens, bioswales, and parking lot infiltration islands, among other techniques, to help remove pollutants from the stormwater before it leaves the site. It should be noted that this level of stormwater pretreatment is not required by any ordinance or law and is a commitment of this project. As part of compliance with the City Tree Preservation Ordinance, several hundred mitigation trees would be planted which will revegetate the site and contribute to the urban forest and natural corridors.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The intended land use, residential, will impact the existing traffic conditions; although the existing street infrastructure will be adequate with final completion of the street improvements associated with the previous Aspen Ridge project. In addition to completing the street improvements from the Aspen Ridge project, this development will place speed bumps along Hill Avenue/Duncan Avenue to prevent speeding, and will paint bicycle chevron symbols on Hill Avenue as part of the Heritage Trail link. In addition, the student residents within the development will have the opportunity to walk or bike to class or work, given the proximity to campus. With these improvements traffic congestion or burden on the existing road network will 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 Hill Place PZD provides for needed residential infill development and revitalization in an area in the vicinity of the University of Arkansas campus, and in an area with a mix of commercial, industrial, railway, and single- and multi-family residential land uses. This development achieves a relatively high level of compatibility with adjoining properties and enhances the surrounding neighborhood by preserving a large riparian corridor along Town Branch Creek and by dedicating land for a neighborhood park and trail. This development will result in an overall improvement on the property that was halfway under construction before the previous project was halted almost two years ago and the property left in disrepair. Access and circulation into this development provides for four connections to surrounding public streets, and provides a vehicular bridge over Town Branch Creek interior to the site for connectivity through the site. The new public trail being constructed with this project will provide for an east west multi-modal linkage parallel and off of the main arterial (6th Street). The proposed moderate density of 10.6 units per acre is appropriate in this setting surrounded by a mixture of land uses. Landscaping, tree preservation and overall public amenities and cleaning up the site further the health, safety, amenity, and welfare of the community as a whole and enhance this neighborhood.

- (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 be required for any parking areas adjacent to public streets, and dense evergreen plantings are required when adjacent to offsite residential uses. The landscape plan incorporates such standard requirements as one tree

every 30 feet along public and private street frontage, and parking lot shade trees.

(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: Exterior access into the site will be provided in four locations: 6th Street, Hill Avenue, 11th Street, and 12th Street/Brooks Avenue. The internal street system consists of public streets that transition into private streets and parking lot drive aisles internal to the site. The internal and external street system provides good connectivity and logical movement through the site, without any dead end streets. The relatively narrow width and looping configuration of the streets/drive aisles provides for safety and convenience for those living in and those traveling through this site. Sidewalks are located along streets and parking lots throughout the development to encourage safe pedestrian activity.

The applicant is requesting a waiver of the Fayetteville Unified Development Code to allow for two public streets to be connected with a private street. It would be desirable to have at least one continuous public street connection through the site to improve public street connectivity in the area. The current site plan configuration does not allow for a public street due to the large amount of surface parking that must be provided throughout the site to support the 288 multi-family units in 17 three-story buildings. A modification to the site plan to provide a public street, while retaining the same number of units and parking spaces, would require substantial modifications to the building location and potentially to the building footprint. For example, some of the three-story buildings may need to be increased in height, and/or some of the larger buildings separated into smaller buildings.

Another option would be to have the first floor of the buildings be parking, and the building height increased to four stories, though these are significant design changes. Staff is supportive of the applicant's proposed option, finding that it provides increased connectivity within the neighborhood while retaining the needed parking for the project.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking will be provided in large surface parking lots. Some of the parking stalls will be placed under covered parking. All parking ratios have been met and reviewed in detail as part of the large scale development.

- (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. As discussed under previous findings buffer screening will be provided between any parking lots and adjacent residential property.

- (6) *Sidewalks.* As required by §166.03.

FINDING: Public sidewalks have been constructed adjacent to the project Hill Avenue and internal to the internal public streets. In addition, this project proposes sidewalk throughout the development along the parking lots to provide for safe pedestrian connectivity. These internal private sidewalks are being provided as part of the commitments with this PZD. A 12-foot wide multi-use trail is also being constructed east-west through this development along an old railroad corridor.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public streets and at intersections at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water lines are being extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.
- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
 - (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
 - (v) The plat of the planned development shall designate each private street as a "private street."
 - (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
 - (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
 - (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public streets for the proposed development are to be constructed according to the adopted standards of the City, as approved as part of the Aspen Ridge project with a few slight variations. Interior, or private drives to each of the units shall also be constructed to adopted City standards, as reflected herein. Private drives shall be maintained by the developer or a POA; the method and maintenance shall be set forth through the PZD covenants or other such language.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A full Tree Preservation Plan has been submitted as part of the Large Scale Development and complies with the requirements for tree preservation as set forth in Chapter 167. Tree canopy found along the Town Branch Creek is a high priority for preservation. The applicant proposes a large contiguous preservation area along the creek, coinciding with the deed-restricted wetland area and riparian corridor. The applicant proposes to retain 15.1% of the tree canopy on-site, and to utilize on-site mitigation in an effort to create larger, healthier canopy coverage in this area. Primary areas of emphasis for the mitigation trees are along the creek corridor and within the established Tree Preservation Area. Other mitigation trees will be combined with required landscaping trees both along the perimeter and interior to the site.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: All structures are principally residential in nature and 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 (three stories) are not out of proportion for the existing single-family, industrial, and commercial uses in 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.

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 PZD criteria listed above. An overall positive impact is anticipated from this project by cleaning up an environmentally degraded site, and by providing for needed student housing. This development contributes several amenities including proposed lakes/ponds, creek frontage, tree preservation and planting areas, a neighborhood park and public trail that will be enjoyed by future residents of this development and the surrounding neighborhood. Natural features are being protected along the creek, which provide the existing neighborhood with a unique character that will be protected with the proposed PZD. The overall density of this project is compatible with the surrounding mix of uses. The development provides an alternative housing type to that within the surrounding existing neighborhood, while transitioning to a busy highway corridor. The developers are coordinating revitalization of this area of south Fayetteville, and planning for future trail connections and parkland as meaningful open spaces. Though a great deal of the site experienced earthwork and disruption with the previous project, the retention of existing infrastructure will help to reduce the amount of land disturbance needed for this project. Staff finds that the overall project and Master Development Plan is appropriate and will be a benefit to the public for reasons discussed throughout this report. See further discussion of this project's compliance with City Plan 2025 in Finding No. 1.

(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 non-residential uses allowed as a conditional use, and with a proposed clubhouse and pool accessory to the principal residential uses.

(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 contains a mix of uses and density. This site is relatively isolated along much of its perimeter by an existing railway corridor and steep slopes, a busy arterial street to the north, industrial and park use on portions of the south and east property lines. To the north across 6th Street are a mix of multi-family and single family neighborhoods, and some of the adjacent properties to the south and east are detached single family residential. Staff finds that the overall density is compatible with surrounding development, given the variety of existing land uses and density, and meets some of the urban development goals in City Plan 2025 as this site is designated as a City Neighborhood Area. The previous project was approved with an overall density of approximately 7.87 units per acre and this development is proposing 10.6 units acre, a relatively minor increase. While the form of the development could provide a higher level of compatibility and transition with the existing single family residences by providing more street-oriented buildings, the application does not, in staff's opinion, create an incompatible component of the overall neighborhood.

Environmental impacts to the site will be minimized by providing a large tree preservation area along the Town Branch Creek riparian corridor. This development will help repair ongoing environmental and erosion damage on the property. Density and the development pattern proposed under the current zoning (R-PZD Aspen Ridge) would not allow for the proposed multi-family development in the configuration proposed.

- (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 smaller than a typical multi-family zoning to allow for the building to be closer to the public streets, which is consistent with the City Plan 2025 goals for infill development in a more urban settings such as the subject site. The site is not proposed to be subdivided and lot area is not applicable. The project is being developed without subdivision of land as it is a student housing project all under a common ownership.

- (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 (three stories) are typical of multi-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: In a typical multi-family zoning there is no designated maximum building area to compare to the proposed project. This development proposes to retain 52% of the site in impervious surface area post development, which is much higher than typical large scale developments that are required to retain 15% greenspace.

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as a City Neighborhood Area. These areas are a denser and still primarily residential urban fabric, which is the case with the Hill Place project. The building types vary in size, but not necessarily in type (single, sideyard, rowhouses, etc.) However, when analyzing the surrounding neighborhood, staff would argue that this 27-acre site helps to complete the neighborhood, the residential uses of which are primarily single family detached, two-family or small multi-family structures. Moreover, this project provides a transition from the existing neighborhood to the south and east to the commercial corridor along 6th Street. Staff finds a high level of connectivity with the development, with the exception to the west, which is constrained by the steep slope leading up to the railroad. Non-residential uses are not provided within the development, but are close in proximity, and help to reduce the length and number of vehicle trips generated by typical residential development by enhancing accessibility to these resources. The goal of producing traditional residential urban design is not a strong point in this application; front setbacks have been reduced to bring buildings closer to the street, and*

buildings have been fronted onto streets in some instances. Overall, staff finds that this project's compliance with applicable Land Use Plans and the PZD ordinance will provide a contributing component to the overall neighborhood.

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 of the existing R-PZD Aspen Ridge property to the proposed R-PZD Hill Place development with a single use multi-family development at a density of approximately 10.6 units/acre is consistent with many of the goals of City Plan 2025. Goal 1 of City Plan 2025 states that infill and revitalization are the highest priorities, and Goal 2 discourages suburban sprawl. This development will provide infill and revitalization on a property that has been environmentally degraded over the years, and will discourage suburban sprawl by keeping 288 residential units in the City's core. This development also complies with Goal 5 to assemble an enduring green network by preserving 3.73 acres of riparian corridor along Town Branch Creek, providing a trail corridor and expanding a park along a protected wetland area. The project is not a traditional town form as encouraged in Goal 3, and does not provide variety or flexibility within the 27-acre site needed to create a viable neighborhood. However, staff finds the site does provide a missing component of the overall surrounding neighborhood, and transitions from the busy commercial corridor to the predominantly single family neighborhood to the south and east, thereby providing a variety of housing in the larger area. The project attempts to meet Goal 6 to create attainable housing, as the multi-family project is proposed to provide housing primarily for students. It will not create owner-occupied housing, however, which has been a criticism of neighboring residents. By fully complying with the top two goals, adding to the green network within the City and providing for one type of attainable housing, staff finds this project overrides the inconsistencies of this project with some of the other goals and policies outlined in City Plan 2025.

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-PZD 04-1307 (Aspen Ridge). The current PZD zoning has expired, and a new zoning is required to develop the property. A standard multi-family zoning would not allow the proposed development that is utilizing the existing infrastructure from the Aspen Ridge project.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, with the street improvements recommended.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by staff for this project.

Engineering: Public water and sewer have been constructed throughout the property with the previously approved Aspen Ridge project.

The site has access to Hill, 11th, and 6th Street. Improvements that were required with the previously approved Aspen Ridge project are mostly complete. Hill has been widened and improved with curb and gutter and storm drainage. Drainage and pavement improvements have also been made on 11th.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will possibly alter population density and create an undesirable increase on police services.

Fire: The subject property is 1 mile from the Engine 1 and Ladder 1 located at 303 West Center with an anticipated response time of 3 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



PC Meeting of April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Planning Commission
From: Andrew Garner, Senior Planner
Date: April 8, 2008

ITEM #:R-PZD 08-2915: Planned Zoning District (Hill Place)

Applicable Requirements:

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

Plan Checklist:

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

Preliminary Submittal	Final Submittal	
		All Landscape Plans
Y		Irrigation notes either automatic or hose bib
Y		Species of plant material identified
Y		Size of plant material at time of installation indicated
Y		Soil amendments notes include that soil is amended and sod removed
N		Mulch notes indicate organic mulching around trees and within landscape beds
Y		Plans stamped by a licensed Landscape Architect
Y		Planting details according to Fayetteville's Landscape Manual
		Site Development & Parking Lot Standards
Y		Wheel stops/ curbs
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		Perimeter landscaping <i>Side and rear property lines (5' landscaped)</i> <i>Shade trees as described in street tree planting standards,</i> <i>Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)</i>
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards <i>(time of F.P. or permit)</i>
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-8 foot 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 <i>(time of F.P. or permit)</i>
Y		1 deciduous or evergreen tree/ 3000 square feet
Y		4 large shrubs (3 gal) or small trees / 3000 square feet
Y		6 shrubs or grasses (1 gal) / 3000 square feet
Y		Ground cover unless seed or sod is specified
Y		50% of facility planted with grass or grass like plants

Conditions of Approval:

1. All parking lots shall be screened with a dense evergreen planting where adjacent to residential uses.
2. 15' of greenspace is required between parking lots and the right-of-way. Show the right-of-way and 15' greenspace buffer lines on the plan.
3. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.



PC Meeting of April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: April 8, 2008

ITEM #: R-PZD 08-2915: Residential PZD (Hill Place, formerly Aspen Ridge)

Requirements Submitted:

Y	Initial Review with the Urban Forester
Y	Site Analysis Map Submitted
Y	Site Analysis Written Report Submitted
N	Complete Tree Preservation and Protection Plan Submitted

Canopy Measurements:

Total Site Area	
acres	25.11
square feet	1,093,792
Existing Tree Canopy	
acres	14.04
square feet	611,582
percent of total site area	55.9%
Existing Tree Canopy Preserved	
acres	3.73
square feet	162,479
percent of total site area	14.9%
Percent Minimum Canopy Required	25.0%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- **The desirability of preserving the trees located along Town Branch Creek is very high due to their location, size, and species. Many of these trees are in the best health of those on the property, which contains many significant trees that have been abused and are in poor condition.**

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Several of the trees that were originally on this property were removed during the construction of the Aspen Ridge development. Since the construction from that development has ceased, other trees that were previously shown to be preserved have died. Significant environmental degradation would occur if the trees along the creek were removed, for they retain the slope and hold the bank from eroding completely along this stretch of the creek. The root systems help retain the soil, and canopy coverage helps to reduce the temperature of the stream run-off from adjacent impervious surfaces.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **The greatest impact in tree cover reduction would be to the properties to the east. However, existing canopy continues onto these properties, as well, so a significant reduction may not be realized. Additionally, as part of the mitigation efforts, screening and buffering will be required to protect the surrounding single family homes.**

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 shape and size of the overall property does much to inhibit the design flexibility. There is little frontage onto public streets, a creek corridor with associated wetlands divides the property, an old railroad bed dictates much of the grading that has to occur in order to utilize it for the proposed trail corridor, and an existing railroad limits access to the west.**

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 trees on this site is poor. The site has been developed around, graded in years past, filled with debris and generally abused. Several tons of trash were removed in the past from**

this site, much of which was located underneath canopy on the east side of the creek. An arborist was retained to evaluate the condition of the trees on-site and determined, based on his criteria, which were significant. In conjunction with the applicant, staff then evaluated the other trees and classified them based on size, location, type, and health, among other criteria in the City of Fayetteville ordinance.

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Staff recommends that the trees located along Town Branch Creek be placed within a Tree Preservation and Recreational Area. This distinction will allow the continued preservation of these trees in perpetuity. The removed canopy is due to placement of structures, roadway and associated parking. Utilities will not encroach upon the trees designated as preserved.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Trees within the Tree Preservation and Recreational Area should not be affected by utilities.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **Much of the grading to construct roads and pads for the units for this development was dictated by the existing elevations of the railroad corridor to be used for the trail and the creek along with off-site elevations. Existing topography, therefore, has been utilized for design of the roads and utilities and routed, where possible, to avoid canopy.**

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. On-site mitigation will increase the canopy on the subject property and is located appropriately in the Tree Preservation and Recreational Area where it will survive in perpetuity.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This is a Planned Zoning District project.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **Wetland mitigation is enforced by the U.S. Army Corps of Engineers. The property is located south of U.S. Highway 62 (Sixth Street) and is subject to federal and state ROW requirements.**

The impact a substantial modification or rejection of the application would have on the Applicant:

- **Staff is recommending approval of the submitted Tree Preservation and Protection Plan with the following conditions.**

Conditions of Approval:

1. The majority of the preserved canopy on this project was placed within a Tree Preservation Area per the previous easement plat. This area shall remain as a dedicated easement and shall be dedicated with the new easement plat using the Tree Preservation and Recreational Area signature block for the Urban Forester. The Tree Preservation and Recreational Area may need to be revised on the new easement plat for this project since the pedestrian bridge has been changed to a vehicular bridge. Additionally, the canopy measurements may need to be revised accordingly.
2. It appears that a construction parking and storage area is shown in the 0.78-acre park land dedication area. Please revise the plans; parking and storage are not allowed on the park property during construction.
3. The applicant shall mitigate for the removal of 110,970 SF of tree canopy with on-site mitigation to consist of a minimum of (384) 2-inch caliper trees. The final amount of mitigation will depend on the disturbance of canopy located around the proposed vehicular bridge. Staff's final recommendation for tree mitigation will be subject to final calculations. Additionally, a tree mitigation form must be submitted and approved by the Urban Forester.
4. All mitigation trees must be planted prior to the issuance of a final certificate of occupancy. A 3-year bond, letter of credit, or check in the amount of \$96,000 shall be deposited with the City of Fayetteville before issuance of a certificate of occupancy. The actual amount of the bond shall be based on the final calculations.



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3416
mmihalevich@ci.fayetteville.ar.us

ENGINEERING DIVISION CORRESPONDENCE

To: Appian Center for Design

From: Matt Mihalevich, Trails Coordinator

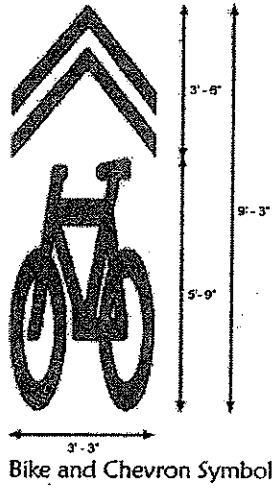
Date: April 1, 2008

Subject: Subdivision Committee Review Comments

ITEM #: R-PZD: 08-2915: Hill Place

TRAIL COMMENTS

1. Tsa-La-Gi trail is identified on the Fayetteville Alternative Transportation and Trail Master Plan through this project. As previously decided, this 12' wide asphalt trail will be constructed by the developer, to be reimbursed by a park land dedication credit. All expenses on the trail must be tracked separately to qualify for reimbursement.
2. Trail shall be constructed to meet City of Fayetteville and ADA guidelines including a 5% maximum longitudinal slope and 2% maximum cross slope. One location near the small retaining wall west of Hill Ave looks to have a longitudinal slope exceeding 5%.
3. Analyze the existing block wall at this location to insure it was constructed properly to construct the trail behind. Currently it doesn't look stable.
4. Please notify the Trails Coordinator prior to construction for periodic inspections.
5. Hill Ave is part of the Heritage Trail. Due to this designation, the improved street must include bicycle facilities. Include thermoplastic bike symbol chevrons and share the road signs spaced every 300 feet along the all improved sections of Hill Ave. See Below.





THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Andrew Garner, Planner
FROM: Alison Jumper, Park Planner
DATE: April 1, 2008
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: April 3, 2008
Item: R-PZD Hill Place, 561
Park District: SW
Zoned: RMF-24
Billing Name & Address: Broyles Development 4921 Clear Creek Blvd. Fayetteville, AR 72704

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Multi Family	_____ @ .017 acre per unit = _____ acres	_____ @ \$393 per unit = \$ _____
Mobile Home	_____ @ .024 acre per unit = _____ acres	_____ @ \$555 per unit = \$ _____
Lot Split		_____ @ \$555 per unit = \$ _____

COMMENTS:

- PRAB reviewed this development at the December 2007 PRAB meeting and recommending accepting approximately 0.8 additional acres, pay remaining fees in lieu. Dedicated land must be free from debris and stockpiles and graded to match adjacent park land.
- The park and trail land must be split out to create a separate lot.
- Additionally the developer is subject to the previous requirements as approved on November 8th, 2006.

Dedicate approximately 0.36 acres of land for the trail and construct 856 lf of 12' trail. All trail layout, design and construction shall be approved by park staff. Trail shall be constructed per City standard construction details for an asphalt trail. Approximately 500 lf of the trail will serve

as the sidewalk; therefore, costs for land and construction for this portion will not be counted towards the park land dedication requirement.

In addition, approximately 0.86 acres located on the southern edge of the development will be dedicated.

Resolution 190-04 regarding the park land dedication requirements for the project was passed and approved December 7th, 2004.

The trail corridor (0.3532 acres) and park land (0.8581 acres) deeds have been received. A payment of \$23,704.06 for remaining fees in lieu has been received.

The current proposal includes 288 multi-family units. This is a change from 220 single family units.

288 MF units = 4.9 acres

4.9 - 1.32 acres (credit for 55 existing SF homes) = 3.58 acres

3.58 acres - 1.21 (acres previously dedicated) = 2.37 acres

4.9 acres - 2.37 = 2.53 acres owed

2.53 - 0.8 additional acres = 1.73 acres owed

1.73 acres x \$40,000/acre = \$69,200 owed

\$69,200 - \$23,704.26 previously paid = \$45,495.74

\$45,495.74 - \$54,163.49 (trail construction costs) = -\$8,667.75

-\$8,667.75 + \$1,338 (land for sidewalk area) + \$12,936 (sidewalk construction costs) = \$5,606.25 owed

**The trail construction costs are based on approximately 500 l.f. of 7' trail and 356 lf of 12' trail. Typical sidewalk construction costs are included for the 500 lf of trail that functions as a sidewalk.

Actual amount for construction credit will be calculated when the final alignment has been determined.

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew; Sanders, Dara
Date: 3/31/08 2:27PM
Subject: Subdivision committee 4-3-08

LSD 08-2903 (Shoppes at Wedington) Please contact Solid Waste about enclosure location. Curb in front of enclosure will not allow for straight collection on southern most dumpster. Cannot sign off on current design.

LSD 08-2933 (Springwoods Behavioral Health) Please contact Solid Waste about enclosure size. Old plans had correct size of 30' x 12'. New plans show 15' x 20'. Cannot service this size and cannot sign off if this size remains.

LSD 08-2854 (Emeritus Assisted Living) Please show enclosure with 15' clear opening on architectural plans.

R-PZD (Hill Place) Dumpster enclosure must be 15' x 12'. Locations previously approved. Spoke with Austin Rowser about possibility of adding city recycling drop off to plans.

R-PZD (Villas at Stonebridge) Please contact Solid Waste to discuss trash collection. Single family to receive residential carts. Townhomes and multifamily must be collected with commercial dumpster service along with commercial businesses. No dumpster enclosures identified on plans. Cannot sign off until enclosures identified.

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

Date 2/15/08

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 **R-PZD 08-2915: (Hill Place)** Submitted by **Appian Center for Design** for property located at the SW corner of 6th Street and Hill Avenue intersection would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. The property contains approximately 27.10 acres.

It is the opinion of the Fayetteville Police Department that this **R-PZD will possibly** substantially alter the population density, and create an appreciable or undesirable increase in the load on police services at it completion. This **R-PZD will possibly** create an appreciable increase in traffic danger and congestion on already overloaded 6th Street.

Sincerely,

Captain William Brown
Fayetteville Police Department



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: April 8, 2008
Re: February 20, 2008 Zoning Review

R-PZD 08-2915: Planned Zoning District (HILL PLACE, 561): Submitted by APPIAN CENTER FOR DESIGN for property located at THE SW CORNER OF THE 6TH STREET AND HILL AVENUE INTERSECTION. The property is zoned R-PZD, RESIDENTIAL PLANNED ZONING DISTRICT (Aspen Ridge) and contains approximately 27.10 acres. The request is to review a Master Development Plan for a Residential Planned Zoning District with 288 multi-family dwelling units, community building and associated parking.

This property will be covered by Engine 1 and Ladder 1 located at 303 W Center.

It is 1 mile from the station with an anticipated response time of 3 minutes.

The Fire Department anticipates 53(34 EMS- 19 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

RZN 08-2913: (JB Hanna, LLC, 715/676): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at I-540 AND FULBRIGHT. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 14.27 acres. The request is to rezone the subject property to C-2.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is 1.5 miles from the station with an anticipated response time of 4 minutes.

We do not figure calls for service on Commercial developments, although this type of development typically does not affect our calls for service.

If you have any questions concerning these comments please don't hesitate to call me



Captain, Fayetteville Fire Department



April 7, 2008

Andrew Garner, Senior Planner
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Hill Place (R-PZD 08-2915)

Dear Mr. Garner:

We are submitting this addendum to our waiver request letter dated March 6, 2008 to provide further documentation regarding item no. 1 from said waiver request. We have analyzed the site with Royal Oak Parkway being a public right-of-way from its intersection with Wynstone Drive to its intersection with 11th Street. By making this portion of Royal Oak Parkway a public right-of-way, the head-in parking that is currently proposed must be replaced with parallel parking (as shown on the attached Exhibit A). Under the currently proposed PZD regulations, we have 828 parking spaces, which is less than 1 space per bedroom (there are 840 total bedrooms); however, Place Properties averages 95% occupancy for their holdings nationwide. Using 95% occupancy, the Hill Place development will require 798 parking spaces for the residential units and 26 parking spaces for the community building for a total of 824 spaces. The current site plan will be sufficient to meet this need. However, by converting portions of Royal Oak Parkway to a public right-of-way, 40 parking spaces will be lost, for a total of 788 parking spaces. This is well below the number of parking spaces needed for this development. We respectfully request that you consider this information when considering our request for a waiver from UDC Section 166.06(K)(10)(b). 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.

Best regards,

Austin E. Rowser, P.E.
Appian Centre for Design, Inc.
Design Team Leader
217 East Dickson Street, Suite 104
Fayetteville, AR 72701



PLANNING
URBAN DESIGN
LANDSCAPE ARCHITECTURE
CIVIL ENGINEERING

APPIAN CENTRE FOR DESIGN

March 6, 2008

Andrew Garner, Senior Planner
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Hill Place (R-PZD 08-2915)

Dear Mr. Garner:

Appian Centre for Design is writing to request waivers granting permission to:

1. Construct Private Streets internal to the Hill Place Development, but connecting 11th Street to Royal Oak Parkway
2. Grade on the property within 5' of a property line
3. Place a trash enclosure in a utility easement
4. Place buildings up to 15' from the 100-year water surface elevation of a detention/ retention pond provided that the buildings are at least 2' above the 100-year water surface elevation

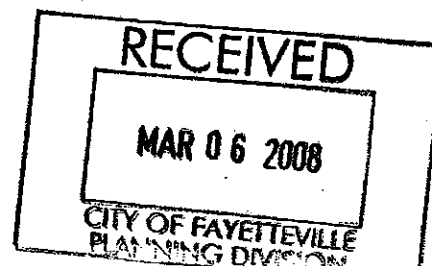
Please consider the following as grounds for granting the waivers:

1. UDC Section 166.06(K)(10)(b) requires that public streets be connected by a public street; we are proposing a connection between Royal Oak Parkway and 11th Street with a private drive. We believe that a private connection is justified because traffic from 11th Street will flow to Hill Avenue to use the traffic signal to access Sixth Street rather than flow into the development for access to Sixth Street.
2. Since this project is a retrofit of the partially constructed Aspen Ridge Townhomes project, there are a few locations where minor grading is needed to within 1' of the Hill Place property line. The needed grading will not impact adjacent properties and will not be steeper than a 3:1 slope.
3. We have one location in the southern portion of the property that has a need for a trash enclosure, and there is no way to avoid placing the enclosure within an easement. We are willing to agree to replace the trash enclosure at the cost of the developer in the event the utility mains within the easement need to be accessed.
4. Since this project is a retrofit of the partially constructed Aspen Ridge Townhomes project, there are a few buildings that will need to be placed as close as 15' to the 100-year water surface elevation of the existing retention/detention ponds. All buildings will be constructed at least 2' above the 100-year water surface elevation.

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.

Best regards,

Austin E. Rowser, P.E.
Appian Centre for Design, Inc.
Design Team Leader
217 East Dickson Street, Suite 104
Fayetteville, AR 72701



Meeting Minutes

April 3, 2008 Subdivision Committee

*Subdivision Committee**April 3, 2008**Page 11 of 16*

R-PZD 08-2915: (HILL PLACE, 561): Submitted by APPIAN CENTER FOR DESIGN for property located at THE SW CORNER OF THE 6TH STREET AND HILL AVENUE INTERSECTION. The property is zoned R-PZD, RESIDENT. PLANNED ZONING DISTRICT (ASPEN RIDGE) and contains approximately 27.10 acres. The request is for zoning, land use, and large scale development approval for a Residential Planned Zoning District with 288 multi-family dwelling units, a community building and associated parking.

Andrew Garner, Senior Planner, gave the staff report, giving the history of the site and the project previously approved and partially constructed, Aspen Ridge. Prior to Aspen Ridge, the project was zoned for multi-family use, at 24 units per acre. Aspen Ridge was a PZD that allowed 220 units on the property, a density of 8 units per acre. This project proposes 288 units in a different configuration, but utilizing much of the already installed infrastructure, at 10.6 units per acre. Garner added a condition from the Fire Dept. for approval of a FDP connection prior to building permit. Staff recommend forwarding the item to the Planning Commission with a recommendation of approval with conditions as listed in the staff report.

Carole Jones, Urban Forester, described the tree preservation area on the site, and mitigation for removed trees required on site. The developers are preserving trees as before, but may need to amend the Tree Preservation Area for the new bridge.

Todd Jacobs, applicant, described the history of the project. He stated that Place Properties will be the ultimate owner and manager of the properties. Each building will have an individual manager to be the eyes and ears for the area. Jacobs described the bridge, which is intended to draw traffic up to 6th Street and out of neighborhoods to the south. The density is currently at 13-14 dwelling units per acre. They are trying to address issues as they come up, and will continue to do so.

Austin Rowser, applicant, described the Low-Impact Development techniques that will be employed on the property. He stated he concurs with staff on the site improvements. Rowser discussed drainage problems in the area and how they will improve the situation. They are hoping to capture urban pollutants before they get into the streams. In terms of the Tree Preservation Area, they are not 100% sure of where the abutments for the bridge will be right now, and they will have to see as we get further in to address Tree Preservation Plan comments.

Don Hoodenpyle, neighbor, described the sewer line that went in under the bridge, and the concrete that was dumped out into the creek. His place has flooded with 1½" of rain. He discussed flooding and problems with the previous development. He has tried to work with everyone; he is not against the project, but would like to have his property straightened out. They need to have around-the-clock property management available to student renters.

Commissioner Lack stated that there was not a lot that the Planning Commission can do to take corrective action on previous issues, so they applaud the efforts of this development to make corrective measures.

Robert Williams, neighbor, S. Hill Ave., discussed drainage, flooding concerns, and environmental

concerns. Retaining walls are failing all over the site. Historically the neighborhood has always been single-family, but it is now going to have approximately 1000 college students in and out every year.

Cynthia Hadden, citizen, stated she was speaking on behalf of her parents who live on Hill Avenue. She stated she has been to two neighborhood meetings on this project. She knows that the developers are making a good effort to remedy the impacts of the abandoned development. At the meetings, they promised there would be supervision such as that done at UA dorms, management, good efforts at mitigating water issues. In order to make it happen, it needs to be written into the PZD. What guarantees are there that this level of quality management will continue? What about security, trash management, bus stops, environmental protection, tree plantings, etc.? Her problem is the basic concept of bringing in this type of development to a traditionally single-family neighborhood. As years go by, the quality goes down, and this is the main concern. Property values will change for those around this area, and will pressure other areas to sell for multi-family development. Quality of life issues exist. Student apartments are different than owner occupied condominiums, thereby adding continuity to the area. Students are very transient, and a very different demographic. More noise, traffic, crime, etc. They deserve something more like Ruskin Heights, if those are the standards the City has set. Hadden discussed other concerns. All multi-family developments should be doing this low impact development. She stated her argument is with the basic premise and concept of the development here. She described other properties in the area in transition, how it fits into surrounding environment. She would like to see this area looked at like the Walker Park neighborhood was. There are a lot of other uses in the area. Her last concern is with opening Brooks Avenue – she is very much for encouraging that opening; the more points of access available, the better the traffic will be distributed. Brooks Ave would be even better if it went all the way to 15th Street, but it has been vacated. At least get a bike lane out there.

Aubrey Shepherd, citizen, stated he still does not understand the private streets in the development. The only thing he doesn't agree with from the previous speaker is that no street should be connected to Brooks Ave & 12th Ave. He would prefer a trail. Shepherd discussed drainage concerns, and how the outlets become clogged. He hopes native plant species will be used, and would like to discourage the use of herbicides and pesticides. He stated he appreciates all the good planning going on.

Commissioner Lack asked about the retaining walls failing.

Matt Casey, City Engineer, stated that many of the walls will be removed and reconstructed. All improvements will be evaluated and inspected.

Jeremy Pate, Director of Current Planning, discussed to what extent the City can meet the discussed requirements. The City does not exist to enforce operational responsibility of individual projects, that is not really something for which the City can assume responsibility. The City can require commitments within the PZD for items related to City codes, such as low impact development techniques, detention, retaining wall design, street standards, etc. He also discussed how 15th Street could be connected to in the future by Brooks Avenue. Though some right-of-way has been vacated,

Subdivision Committee

April 3, 2008

Page 13 of 16

it is not out of the realm of possibility.

Lack asked about the public street vs. private street question.

Jacobs discussed the exhibits they will be providing for a public street, which removes a lot of parking.

Commissioner Lack discussed how he wouldn't want to jeopardize the bridge provided, but would be interested to see their options, to understand the ramifications. He does understand, though, why staff would not put forth a recommendation at this time.

Pate stated that staff is recommending approval of the project based on the described plans and the commitments provided.

Motion:

Commissioner Bryant made a motion to forward the request to the Planning Commission in favor of the condition #1 as recommended by staff, holding a recommendation on #2 for more detail, and in support of #3, #4, and all others. **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed with a vote of 3-0-0.**

April 14, 2006

Dear Fayetteville Planners

I regret that I am not able to be there in person today due to the current version of the flu. The following are my thoughts on this project.

- 1. When massive amounts of red dirt are brought in to fill in an area of the 100 year flood plain in order to raise it above flood plain level, as was the case here, the water that once flowed through that area is then forced to go somewhere else. Oftentimes homes along the creek that have not flooded before are faced with higher water levels to contend with and then begin to flood due to the manmade changes upstream.**
- 2. Once the pavement and the buildings are in, there is less exposed soil to soak up rains. This will further compound the possibility of downstream flooding.**
- 3. A development is planned for the top of the mountain by Mr. Broyles. Once pavement and buildings are in, this could further complicate the problem.**
- 4. There is one house on 15th Street that is frequently flooded. I fear future flooding caused by this is project would probably include houses on the southern end of Hill Ave., parts of Ellis Ave., and additional houses on 15th St.**
- 5. The earth friendly plan that was presented by the man from Utah sounded very good in most ways. I think the concept was good. However, from my past experience**

watching the water rise within 50 ft. of the house I own and was raised in as a child at 915 S. Hill, this plan will in no way be adequate to handle the water I have seen go through there at times. My house is on the west side of Hill Street and backs up on this development. Also, I cannot help but wonder if they have mosquitoes and snakes in Utah because it appears this plan would be a perfect breeding ground for both. Our area has been trying to avoid areas of standing water where mosquitoes breed in order to prevent West Nile Virus.

6. It is not likely that my house will flood though I am certain the yard will. However, many of the people in the affected area were once my neighbors. Some are elderly and cannot be here. Some are too timid to take part in a meeting of this sort. Others don't keep up with current news and some are uneducated. But, all deserve to have their interest represented, and I will be right here looking out for them as well as myself.
7. I asked recently at one of the meetings who would be financially responsible for the houses that flooded downstream due to this project. I got stares from the speaker but no answer.

Since everyone involved in the project is either incorporated or an LLC, I am sure they plan to accept no responsibility because liability protection is one of the main reasons these entities are formed.

If the project is approved, that leaves only the City of Fayetteville left for victims to attempt to recover their losses by using the argument that the City was at blame for approving a plan that was faulty. If the City

approves a plan for part of the area close to the creek to be vacated and left to the City, depending on the area and circumstances, this might compound the City's problems even more. I hope the City will think very strongly about this.

8. There is a problem with some of the retaining walls that were built with landscape stone. They need to all be rechecked. Some may need to be replaced with more sturdy material. If they are not holding well now, they won't last over the long haul.

With proper corrections, this might be a doable project.

Sincerely,

Vicki M. Norvell,

Owner: 915 S. Hill Ave.
Fayetteville, Ar. 72701

Residence: 10831 Spring Mountain Dr.
Farmington, Ar. 72730

Phone: 267-5580

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SUMMIT COMMUNITY**

March 19, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

Appian Centre for Design
217 E. Dickson St., Suite 104
Fayetteville, AR 72701
Contact: James Gibson
Office 479-442-1444
Fax 479-442-1450

Broyles Development
4921 Clear Creek Blvd.
Fayetteville, AR 72701
Contact: Hank Broyles
Office 479-442-5756

Subdivision Meeting:

Thursday, 04-03-2008 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 04-14-2008 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

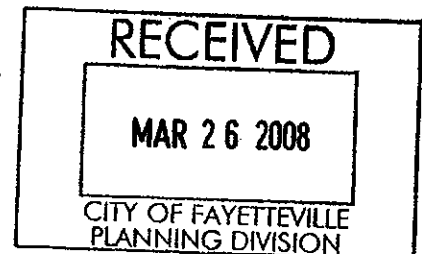
The Hill Place Project is a proposed residential development located on approximately 26.33 acres located 6th Street and Hill Ave. The current conceptual plan calls for a total of 16 apartment buildings with a total of 288 units as well as a community building and two pools connected by a series of roads and parking areas designed to the City of Fayetteville engineering standards. The site will also be drained per the city of Fayetteville drainage manual.

The site is located south of 6th Street (Arkansas Hwy 180). It is bordered by Hill Avenue to the east, 11th Ave. to the south and the Arkansas Missouri Railroad to the west. Access to the site is from 6th St., Hill Ave and 11th St. A new road will also be built connecting the site to 12th Ave. The new Tsa La Gi trail will cross the site from east to west.

ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning The Hill Place PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

- ☒ I have been notified of the above meetings for the described project.
- ☒ I do not object to the project described above.
- ☐ I do object to the project described above because:

RAYMOND F. VAUGHN
Name of Property Owner (Printed)
Leon Harmon - For Raymond F. Vaughn
Signature of Property Owner *RD*



**ADJOINING PROPERTY OWNERS NOTIFICATION
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113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 04-14-2008 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

The Hill Place Project is a proposed residential development located on approximately 26.33 acres located 6th Street and Hill Ave. The current conceptual plan calls for a total of 16 apartment buildings with a total of 288 units as well as a community building and two pools connected by a series of roads and parking areas designed to the City of Fayetteville engineering standards. The site will also be drained per the city of Fayetteville drainage manual.

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ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning ~~The Hill Place PZD~~ back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

* ☒

I have been notified of the above meetings for the described project.

☐ I do not object to the project described above.

☐ I do object to the project described above because:

James & Diane Strayhorn

Name of Property Owner (Printed)

James & Diane Strayhorn

Signature of Property Owner

* We no longer own this property. We sold it to Robert Williams & Phyllis Williams who live next door to this property. Thanks,
Strayhorns

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SUMMIT COMMUNITY**

March 19, 2008

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Planning Commission Meeting:

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PROJECT DESCRIPTION:

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ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning The Hill Place PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

I Have been notified of the above meetings for the described project.

☒ I do not object to the project described above.

I do object to the project described above because:

Norman Karen Beaton
Name of Property Owner (Printed)
Norman Beaton
Signature of Property Owner

RECEIVED

APR 02 2008

**ENGINEERING DIV.
PLANNING**

BALL & MOURTON, LTD., PLLC

E.J. BALL (1917-2004)
KENNETH R. MOURTON
SHANNON L. POORE

A Professional Limited Liability Company
Attorneys at Law
Est. 1950

All Attorneys Licensed in Arkansas

Post Office Box 1948
E.J. Ball Plaza
112 West Center Street, Suite 700
Fayetteville, Arkansas 72702
Telephone: (479) 442-6213
Facsimile: (479) 442-6233
www.ballandmourton.com

March 25, 2008

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

RE: The Hill Place Project

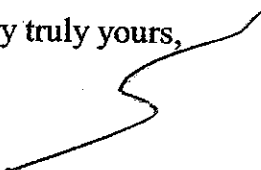
Dear Sir or Madam:

Enclosed please find the signed Adjoining Property Owners Notification which contains my comments as an adjoining property owner of the above-captioned proposed project.

If you should have any questions, please do not hesitate to call me.

With highest personal regards.

Very truly yours,


Kenneth R. Mourton

KRM:kj

Enclosure

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SUMMIT COMMUNITY**

March 19, 2008

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Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 04-14-2008 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

The Hill Place Project is a proposed residential development located on approximately 26.33 acres located 6th Street and Hill Ave. The current conceptual plan calls for a total of 16 apartment buildings with a total of 288 units as well as a community building and two pools connected by a series of roads and parking areas designed to the City of Fayetteville engineering standards. The site will also be drained per the city of Fayetteville drainage manual.

The site is located south of 6th Street (Arkansas Hwy 180). It is bordered by Hill Avenue to the east, 11th Ave. to the south and the Arkansas Missouri Railroad to the west. Access to the site is from 6th St., Hill Ave and 11th St. A new road will also be built connecting the site to 12th Ave. The new Tsa La Gi trail will cross the site from east to west.

ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning The Hill Place PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

☒ I have been notified of the above meetings for the described project.

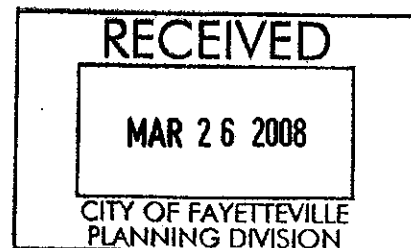
☒ I do not object to the project described above. - As long as it does not effect the

☐ I do object to the project described above because: zoning for warehouses. Coors of Western Arkansas is a warehouse located at 750 south Hill.

Coors of Western Arkansas

Name of Property Owner (Printed)

Kenneth R. Moulton
Signature of Property Owner President



turn over every year. We have also been told that it will not increase ^{the} ³ the noise or the traffic. The proposed projects water engineer is under the impression that by the ponds being on springs, "that is a good thing as it will provide irrigation during the summer." While that may hold true in Utah, where we obtained his degree, in Arkansas that statement does not hold water, or that dog won't hunt, whichever way you ~~like~~ prefer.

When you add the square footage of the proposed buildings, parking lots, sidewalks, pavement and other covered areas, this creek will flood.

We do not need to compound the mistakes of the failed development with this proposed development. At the last meeting I hope someone from the City was paying attention when they said, "they wanted to deed the proposed greenways to the City." Because that will leave the City (i.e. taxpayers) liable for the flooding downstream that will surely happen.

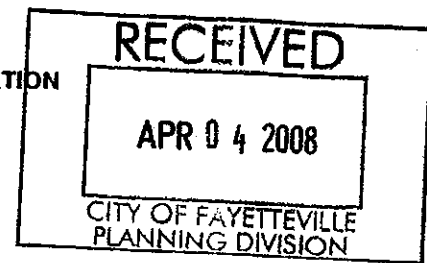
I would like to close by asking where else can you obtain 26 acres in the City?

Sincerely,

Robert C. Williams

P.S. Due to the large amount of clay fill brought in behind my property, my backyard no longer drains properly. As it used to run to the creek, now it hits the fill and fights to get off. I would like french drains placed at the end of my property so it will properly drain again. Thank you

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SUMMIT COMMUNITY**



March 19, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

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217 E. Dickson St., Suite 104
Fayetteville, AR 72701
Contact: James Gibson
Office 479-442-1444
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4921 Clear Creek Blvd.
Fayetteville, AR 72701
Contact: Hank Broyles
Office 479-442-5756

Subdivision Meeting:

Thursday, 04-03-2008 9:00 am
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

Planning Commission Meeting:

Monday, 04-14-2008 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

The Hill Place Project is a proposed residential development located on approximately 26.33 acres located 6th Street and Hill Ave. The current conceptual plan calls for a total of 16 apartment buildings with a total of 288 units as well as a community building and two pools connected by a series of roads and parking areas designed to the City of Fayetteville engineering standards. The site will also be drained per the city of Fayetteville drainage manual.

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ADJOINING PROPERTY OWNERS COMMENTS

Return Comments concerning The Hill Place PZD back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

_____ I have been notified of the above meetings for the described project.

_____ I do not object to the project described above.

X I do object to the project described above because: *the project has not properly addressed many of my concerns. Mainly concerning the run off of rain from Razor*

Robert C. Williams
Name of Property Owner (Printed)
Robert C. Williams
Signature of Property Owner

Heights, know that it has been bore earthed. The Railroad Lines are in jeopardy. Three of the four "in-out" holding ponds are on springs and will never work as designed. Originally we were told that we would have a set number of new neighbors, that would own their property. Since this has always been single family residences, that would have been fine. Now we are told with this project that we will have thousands of college students, that will

A handwritten signature, possibly "Jag", followed by a large arrow pointing to the right.

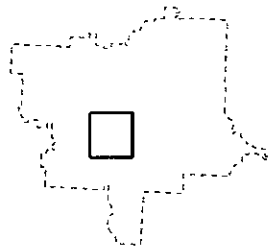
RPZD08-2915

One Mile View

HILL PLACE



Overview



Legend

Subject Property
RPZD08-2915

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District



RPZD08-2915

Close Up View

HILL PLACE



Overview



0 125 250 500 750 1,000 Feet

RPZD08-2915

HILL PLACE

Future Land Use

SUBJECT PROPERTY

Legend

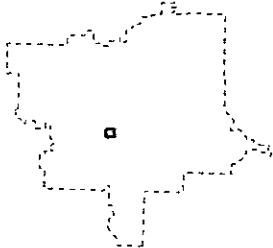
Building (2004)

Future Land Use 2025

CLASS

- Industrial
- Non-Municipal Government
- Complete Neighborhood
- Natural Area
- Rural Area
- Residential Neighborhood Area
- General Urban/City Neighborhood Area
- Urban Center Area
- Civic and Private Open Space/Parks
- Civic Institutional
- Unclassified
- ROW

Overview



Legend

Subject Property

RPZD08-2915

Streets

Existing

Planned

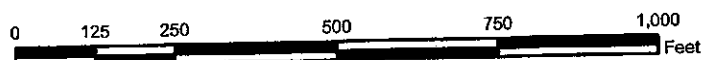
Boundary

Planning Area

Overlay District

Outside City

Legend



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

6-May-08
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-2951: (Shoppes at Wedington, 401): Submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road. The request is to vacate 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

☐

[Signature]
Department Director

4-16-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

[Signature]
City Attorney

4/17/08

Received in City Clerk's Office

4-16-08
ENTERED

Paul A. Becker
Finance and Internal Service Director

4-17-08
Date

Received in Mayor's Office

4/17/08
ENTERED

[Signature]
Mayor

4/17/08
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning X

Date: April 16, 2008

Subject: Utility Easement Vacation for Shoppes at Wedington (VAC 08-2951)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a utility easement on the subject property containing approximately 5,997 square feet.

BACKGROUND

The 2.24-acre property is located west of the intersection of Wedington Drive and Salem Road. The applicant is proposing to develop a one-story retail building containing a total of 15,750 square feet with 68 parking spaces on the property (Shoppes at Wedington LSD 08-2903).

There is a 20-foot wide utility easement that traverses north-south along the western portion of the site that needs to be vacated in order to develop the property. The applicant is requesting to vacate approximately 5,997 square feet of the existing 20-foot utility easement in the western portion of the site in order to allow the development of the Shoppes at Wedington on the property.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City with no objections to the requested easement vacation. This item was heard at the regular Planning Commission meeting on April 14, 2008 and forwarded by vote of 5-0-2 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-2951 SUBMITTED BY MCCLELLAND CONSULTING ENGINEERS FOR PROPERTY LOCATED WEST OF THE INTERSECTION OF WEDINGTON DRIVE AND SALEM ROAD, TO VACATE A UTILITY EASEMENT ON THE SUBJECT PROPERTY, A TOTAL OF 5,997 SQUARE FEET.

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

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

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

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

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

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

PASSED and APPROVED this day of , 2008.

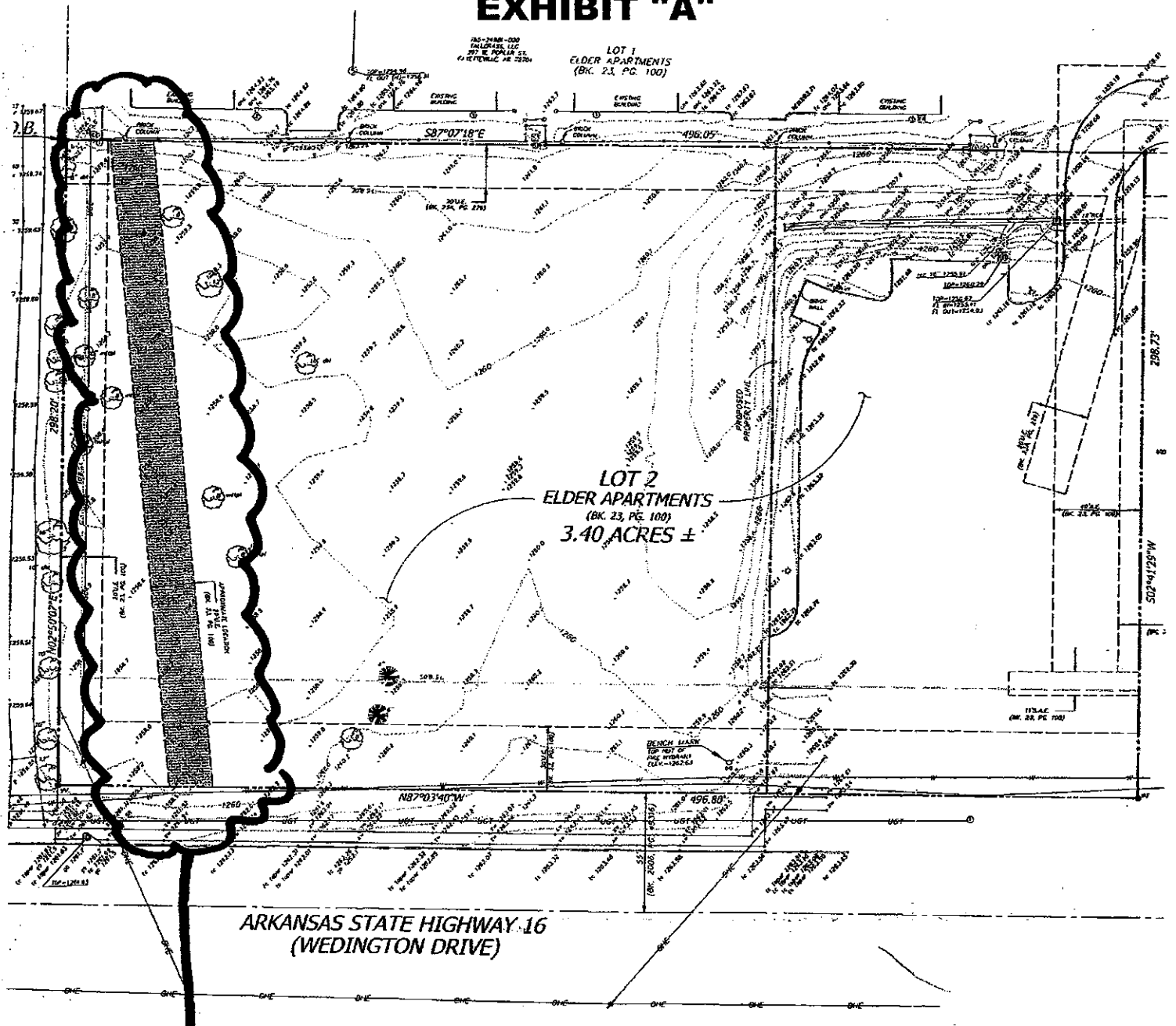
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"



ARKANSAS STATE HIGHWAY 16
(WEDINGTON DRIVE)

Easement Vacation Area

SCALE AND SIGNATURE OF SURVEYOR

WERE NOT EXAMINED OR CONSIDERED AS A

LOCATED FROM FIELD SURVEY INFORMATION
NO GUARANTEES THAT THE UNDERGROUND
INDICATED, ALTHOUGH THE SURVEYOR DOES
LY AS POSSIBLE FROM INFORMATION
Y LOCATED THE UNDERGROUND UTILITIES.

THIS PLAT, THIS SURVEY DOES NOT
ANCH MAY BE APPLICABLE TO THE SUBJECT
E. EASEMENTS WHICH WERE VISIBLE AT THE
BACK LINES; RESTRICTIVE COVENANTS;
SHO-USE REGULATIONS, AND ANY OTHER
SEARCH MAY DISCLOSE.

(ORIGINAL)

(ORIGINAL DISTRICT)

COORDINATE SYSTEM: NAD83, NORTH ZONE.

P.N. 755-23451-000
SURVEY DESCRIPTION:

LOT 2 OF ELDER APARTMENTS AS RECORDED IN PLAT BOOK 23 AT PAGE 100. SAID
LOT 2 BEING PART OF THE SW1/4 OF THE NW1/4 OF SECTION 7, TOWNSHIP 16
NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND AT THE NORTHWEST CORNER OF SAID LOT 2;
THENCE S87°07'18"E 496.05 FEET TO A FOUND IRON PIN; THENCE S02°41'29"W
298.73 FEET TO AN IRON PIN FOUND ON THE NORTH RIGHT-OF-WAY LINE OF
ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE) AS DESCRIBED IN DOCUMENT
2006-49316; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE N87°03'40"W 496.80
FEET TO A FOUND IRON PIN; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE
N02°50'07"E 298.20 FEET TO THE POINT OF BEGINNING, CONTAINING 3.40 ACRES,
MORE OR LESS, SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF
RECORD OR FACT.

FLOOD CERTIFICATION:

THIS PROPERTY IS NOT LOCATED WITHIN ANY PRESENTLY ESTABLISHED
100-YEAR FLOOD PLAIN, AS DETERMINED BY SCALING THE NATIONAL FLOOD
INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP FOR WASHINGTON
COUNTY, ARKANSAS AND INCORPORATED AREAS.

MAP NUMBER: 05143C0091.D
REVISED DATE: JULY 21, 1999

EXHIBIT "B"
VAC 08-2951

A PART OF LOT 2 OF ELDER APARTMENTS AS RECORDED IN THE CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS, PLAT RECORD 23-100 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM THE SOUTHWEST CORNER OF SAID LOT 2 THENCE ALONG THE SOUTH LINE OF SAID LOT 2 SOUTH 87°15'30" EAST - 51.99 FEET TO THE POINT OF BEGINNING, THENCE NORTH 2°52'43" WEST ALONG THE WEST LINE OF AN EXISTING 20 FOOT UTILITY EASEMENT AS SHOWN ON SAID PLAT RECORD 23-100 A DISTANCE OF 311.94 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 2; THENCE ALONG SAID NORTH LINE SOUTH 87°07'18" EAST - 20.10 FEET TO A POINT ON THE EAST LINE OF SAID EXISTING 20 FOOT UTILITY EASEMENT; THENCE ALONG SAID EAST LINE SOUTH 2°52'43" EAST - 311.89 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2; THENCE ALONG SAID SOUTH LINE NORTH 87°15'30" WEST - 20.10 FEET TO THE POINT OF BEGINNING.



PC Meeting of April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~April 9, 2008~~ Updated April 16, 2008

VAC 08-2951: (SHOPPES AT WEDINGTON, 401): Submitted by MCCLELLAND CONSULTING ENGINEERS for property located at N & W OF WEDINGTON AND SALEM ROAD, W OF THE BANK OF THE OZARKS. The property is zoned C-1, NEIGHBORHOOD COMMERCIAL and contains approximately 2.24 acres. The request is to vacate a 5,997 square feet of a utility easement within the subject property.

Planner: Jesse Fulcher

Findings:

Property Description and Background: The 2.24-acre property is located west of the intersection of Wedington Drive and Salem Road. The applicant is proposing to develop a one-story retail building containing a total of 15,750 square feet with 68 parking spaces on the property (Shoppes at Wedington LSD 08-2903). There is a 20-foot wide utility easement that traverses north-south along the western portion of the site that needs to be vacated in order to develop the property.

Request: The applicant is requesting to vacate 5,997 square feet of the existing 20-foot utility easement in the western portion of the site in order to allow the development of the Shoppes at Wedington on the property. An exhibit showing the proposed vacated area has been provided by the applicant and is attached to this report.

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

UTILITIES

RESPONSE

Ozarks Electric	No Objections
Cox Communications	No Objections
Southwestern Electric Power Company	No Objections

Arkansas Western Gas

No Objections

AT&T Arkansas

No Objections. The signed concurrence must be recorded at the Washing County Circuit Clerk.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections

Transportation

No Objections

Solid Waste

No Objections

Recommendation: Staff recommends forwarding VAC 08-2951 to the City Council with a recommendation of approval to vacate the easements as depicted herein with the following condition:

1. The utility easement vacation concurrence signed by AT&T must be recorded at the Washington County Circuit Clerk. *(Received April 15, 2008)*

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: April 14, 2008

Motion: Graves

Second: Winston

Vote: 5-0-2 (Lack and Trumbo recused)

Comments:

The "CONDITIONS OF APPROVAL", as stated in this report, are accepted in total without exception by the entity requesting approval of this development item.

By _____

Date _____

March 4, 2008

City of Fayetteville
Planning Division
113 West Mountain Street
Fayetteville, Arkansas 72701

**RE: Lot 2 Elder Apartments, Wedington Drive
Easement Vacation Request
(LSD 00-2903, Wedington Retail Center)**

Dear Planning Staff,

Submitted for your approval is an easement vacation request for the above-mentioned project. Our client, Bank of the Ozarks is seeking to have the easement in question vacated (please see attached supplemental information). In accordance with the easement vacation application checklist, I have included the following with this submittal: application fee, legal description of easement to be vacated and corresponding survey, abstractor's certificate of ownership, two sets of mailing labels, copy of the plat of record, and a petition to vacate. Notification of this request has been sent to the adjacent property owners via certified mail.

As comments from the governing utility companies arrives, I will forward them along to the Planning Division at my earliest available opportunity.

Please review the attached information and let me know if you have any questions/concerns, or need any additional information at this time.

Sincerely,



Leslie Munzner
McClelland Consulting Engineers, Inc
443-2377
lmunzner@McClelland-engrs.com

January 25, 2008

City of Fayetteville
Planning Commission and City Council
113 West Mountain Street
Fayetteville, Arkansas 72701

RE:

**Petition to Vacate an Easement
Located in Lot 2 of Elder Apartments
City of Fayetteville, Arkansas**

We, the undersigned, being all the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in Lot 2 of Elder Apartments, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an easement which is described as follows:

A part of Lot 2 of Elder Apartments as recorded in the Circuit Clerks Office for Washington County, Arkansas, Plat Record 23-100 and being more particularly described as follows: From the Southwest Corner of said Lot 2 thence along the South line of said Lot 2 South 87 degrees 15' 30" East – 51.99 feet to the POINT OF BEGINNING, thence North 2 degrees 52' 43" West along the West line of an existing 20 foot utility easement as shown on said Plat Record 23-100 a distance of 311.94 feet to a point on the North line of said Lot 2; thence along said North line South 87 degrees 07' 18" East – 20.10 feet to a point on the East line of said existing 20 foot utility easement; thence along said East line South 2 degrees 52' 43" East – 311.89 feet to a point on the South line of said Lot 2; thence along said South line North 87 degrees 15' 30" West – 20.10 feet to the POINT OF BEGINNING.

That the abutting real estate most directly affected by the abandonment of the easement are Lot 1 & 2 of Elder Apartments, City of Fayetteville used by the public for a period of many years, and that the public interest and welfare would not be adversely affected by the abandonment of the portion of the above described easement.

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

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

WHEREFORE, the undersigned petitioners respectfully pray that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, subject to said utility and sewer easements, and that title to said real estate sought to be

abandoned be vested in the abutting property owners as provided by law, and as to that particular land the owners be free from the easements of the public for the use of said easement.

Dated this 25 day of January, 20 08

Jack McCray

Printed Name

Signature

Printed Name

Signature

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

Date: March 3, 2008

Utility Company: OZARKS ELECTRIC

Applicant Name: MCE / Bank of the Ozarks Applicant Phone: 479.443.2377

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

No objections provided the following conditions are met:

Mike Phipps 3-4-08
Signature of Utility Company Representative

System Staking Tech
Title



Lynda Palmer
Manager-Engineering (ROW)
Right-of-Way & Joint Use Poles

AT&T Arkansas
1111 West Capitol
Room 941
Little Rock, AR 72201

C. 4
VAC 08-2951 (Shoppes at Wedington)
Page 12 of 24
T: 501.373.5255
F: 501.373.0229
lynda.palmer@att.com

Easement Vac.
Shoppes@Wedington

RECEIVED APR - 2 2008

April 1, 2008

McClelland Consulting Engineers, Inc.
Attn: Leslie Munzner
1810 North College Avenue
Fayetteville, AR 72701

Dear Ms. Munzner:

RE: easement release - Wedington Retail Center - Fayetteville

Please find enclosed AT&T's concurrence in your request to the above mentioned utility 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,

attachments



CONCURRENCE TO VACATE A DEDICATED UTILITY EASEMENT

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone Company, d.b.a. AT&T Arkansas, hereby concurs in the release of its interest in a dedicated utility easement located in the City of Fayetteville, Washington County, Arkansas, to-wit:

A part of Lot 2 of Elder Apartments as recorded in the Circuit Clerk's Office for Washington County, Arkansas, Plat Record 23-100 and being more particularly described as follows: From the SW corner of said Lot 2, thence along the south line of said Lot 2 South 87°15'30" East - 51.99 feet to the POINT OF BEGINNING; thence north 2°52'43" West along the west line of an existing twenty foot utility easement as shown on said Plat Record 23-100 a distance of 311.94 feet to a point on the north line of said Lot 2; thence along said north line South 87°07'18" East - 20.10 feet to a point on the east line of said existing twenty foot utility easement; thence along said east line South 2°52'43" East - 311.89 feet to a point on the south line of said Lot 2; thence along said south line North 87°15'30" West - 20.10 feet to the POINT OF BEGINNING.

Signed and executed this 31st day of March, 2008.

By: _____

F. Jean Davis
F. Jean Davis

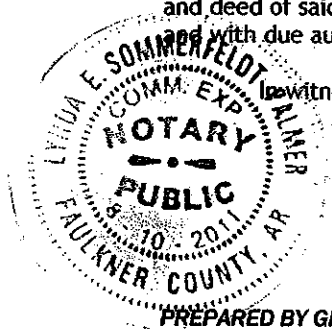
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 31st day of March, 2008, 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 Company, 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 with due authority.

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



Lynda E. Sommerfeldt Palmer
Lynda E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co.,
My commission expires August 10, 2011

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

DATE: 03/31/08

UTILITY COMPANY: Southwestern Bell Telephone Co. d.b.a. AT&T Arkansas

REQUESTED VACATION: **UTILITY EASEMENT**

I have been notified of the petition to vacate the following right-of-way for the Wedington Retail Center in Fayetteville.

Described as follows:

A part of Lot 2 of Elder Apartments as recorded in the Circuit Clerk's Office for Washington County, Arkansas, Plat Record 23-100 and being more particularly described as follows: From the SW corner of said Lot 2, thence along the south line of said Lot 2 South 87°15'30" East – 51.99 feet to the POINT OF BEGINNING; thence north 2°52'43" West along the west line of an existing twenty foot utility easement as shown on said Plat Record 23-100 a distance of 311.94 feet to a point on the north line of said Lot 2; thence along said north line South 87°07'18" East – 20.10 feet to a point on the east line of said existing twenty foot utility easement; thence along said east line South 2°52'43" East – 311.89 feet to a point on the south line of said Lot 2; thence along said south line North 87°15'30" West – 20.10 feet to the POINT OF BEGINNING.

UTILITY COMPANY COMMENTS: No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

**Arkansas Western Gas
Company**

A subsidiary of Southwestern Energy Company

**UTILITY APPROVAL FORM FOR RIGHT-OF-WAY,
ALLEY, AND UTILITY EASEMENT VACATIONS**DATE: Tuesday, March 11, 2008UTILITY COMPANY: Arkansas Western GasAPPLICANT NAME: MCE / Bank of the Ozarks APPLICANT PHONE: (479) 443-2377**REQUESTED VACATION:**

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

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

Description described as follows:

Legal description provided by MCE. Arkansas Western Gas would like to make MCE and Bank of the Ozarks aware of two pipelines that run along the easement just to the North of Wedington Drive. AWG currently has a 4" steel High Pressure and a 3" plastic distribution line located in this area. These were not noted on your survey map. Please be aware of these lines during future planning and development.

UTILITY COMPANY COMMENTS:

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

Steven R. BandyFayetteville Assistant Operating Manager

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

Date: March 3, 2008

Utility Company: AEP / SWEPLO

Applicant Name: MCE / Bank of the Ozarks

Applicant Phone: 477-443-2377

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed*)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above. *SN*
☐ 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:

Sam Winkler AEP / SWEPLO
Signature of Utility Company Representative

RIGHT OF WAY AGENT
Title

FY 082104

MAR 17 2008

C-LM

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

Date: March 3, 2008Utility Company: Con CommunicationsApplicant Name: MCE / Bank of the OzarksApplicant Phone: 479-443-2377

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

No objections provided the following conditions are met:



Signature of Utility Company Representative

Title

Construction Surveyor

Fax to:
443-9241

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

Date: March 3, 2008

Utility Company: Fayetteville Water & Sewer

Applicant Name: MCE / Bank of the Ozarks

Applicant Phone: 479-443-2377

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

No objections provided the following conditions are met:

[Signature]
Signature of Utility Company Representative

W+S Ops Mgr
Title

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

Date: March 3, 2008

Utility Company: City of Fayetteville Solid Waste Div.

Applicant Name: MCE Bank of the Ozarks

Applicant Phone: 479-443-2377

REQUESTED VACATION (applicant must check all that apply):

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

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

General location / Address (referring to attached document- must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

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

No objections provided the following conditions are met:

Brian Paul

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

03/11/2008 14:16 FAX 4794443490

COF TRANSPORTATION DIVIS

002

WASHINGTON RETAIL CTR

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

Date: March 3, 2008

Utility Company:

Transportation Division - City of Fayetteville

Applicant Name:

MCE / Bank of the Ozarks

Applicant Phone:

479-443-2377

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 documents must be completed**)

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:



No objections to the vacation(s) described above.



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

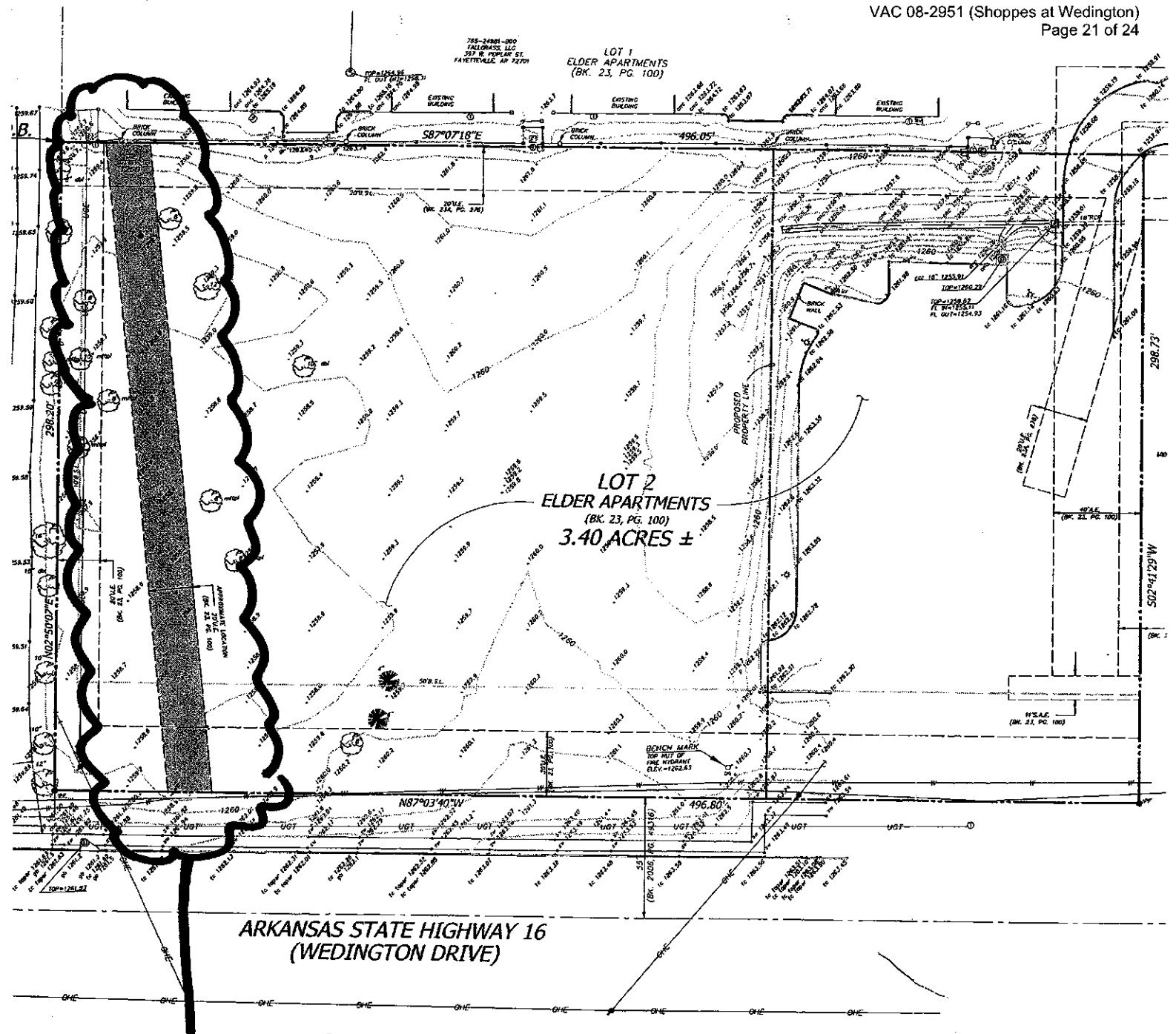
No objections provided the following conditions are met:

Signature of Utility Company Representative

Title

Transportation Supt.
Transportation Division
Operations Dept.
City of Fayetteville

E75 8227



Easement Vacation Area

AL AND SIGNATURE OF SURVEYOR

IS NOT EXAMINED OR CONSIDERED AS A

NOTED FROM FIELD SURVEY INFORMATION
I GUARANTEE THAT THE UNDERGROUND
DATED, ALTHOUGH THE SURVEYOR DOES
AS POSSIBLE FROM INFORMATION
LOCATED THE UNDERGROUND UTILITIES.

43 PLAT, THIS SURVEY DOES NOT
24 MAY BE APPLICABLE TO THE SUBJECT
EASEMENTS WHICH WERE VISIBLE AT THE
CK LINES; RESTRICTIVE COVENANTS;
1-USE REGULATIONS, AND ANY OTHER
EARCH MAY DISCLOSE.

7AL)

7AL DISTRICT)

RDINATE SYSTEM, NAD83, NORTH ZONE.

P.N. 765-23451-000
SURVEY DESCRIPTION:

LOT 2 OF ELDER APARTMENTS AS RECORDED IN PLAT BOOK 23 AT PAGE 100, SAID
LOT 2 BEING PART OF THE SW1/4 OF THE NW1/4 OF SECTION 7, TOWNSHIP 16
NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, MORE PARTICULARLY
DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND AT THE NORTHWEST CORNER OF SAID LOT 2;
THENCE S87°07'18"E 496.05 FEET TO A FOUND IRON PIN; THENCE S02°41'29"W
298.73 FEET TO AN IRON PIN FOUND ON THE NORTH RIGHT-OF-WAY LINE OF
ARKANSAS STATE HIGHWAY 16 (WEDINGTON DRIVE) AS DESCRIBED IN DOCUMENT
2006-49316; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE S87°03'40"W 496.80
FEET TO A FOUND IRON PIN; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE
N02°50'07"E 298.20 FEET TO THE POINT OF BEGINNING, CONTAINING 3.40 ACRES,
MORE OR LESS, SUBJECT TO ANY EASEMENTS, COVENANTS OR RESTRICTIONS OF
RECORD OR FACT.

FLOOD CERTIFICATION:

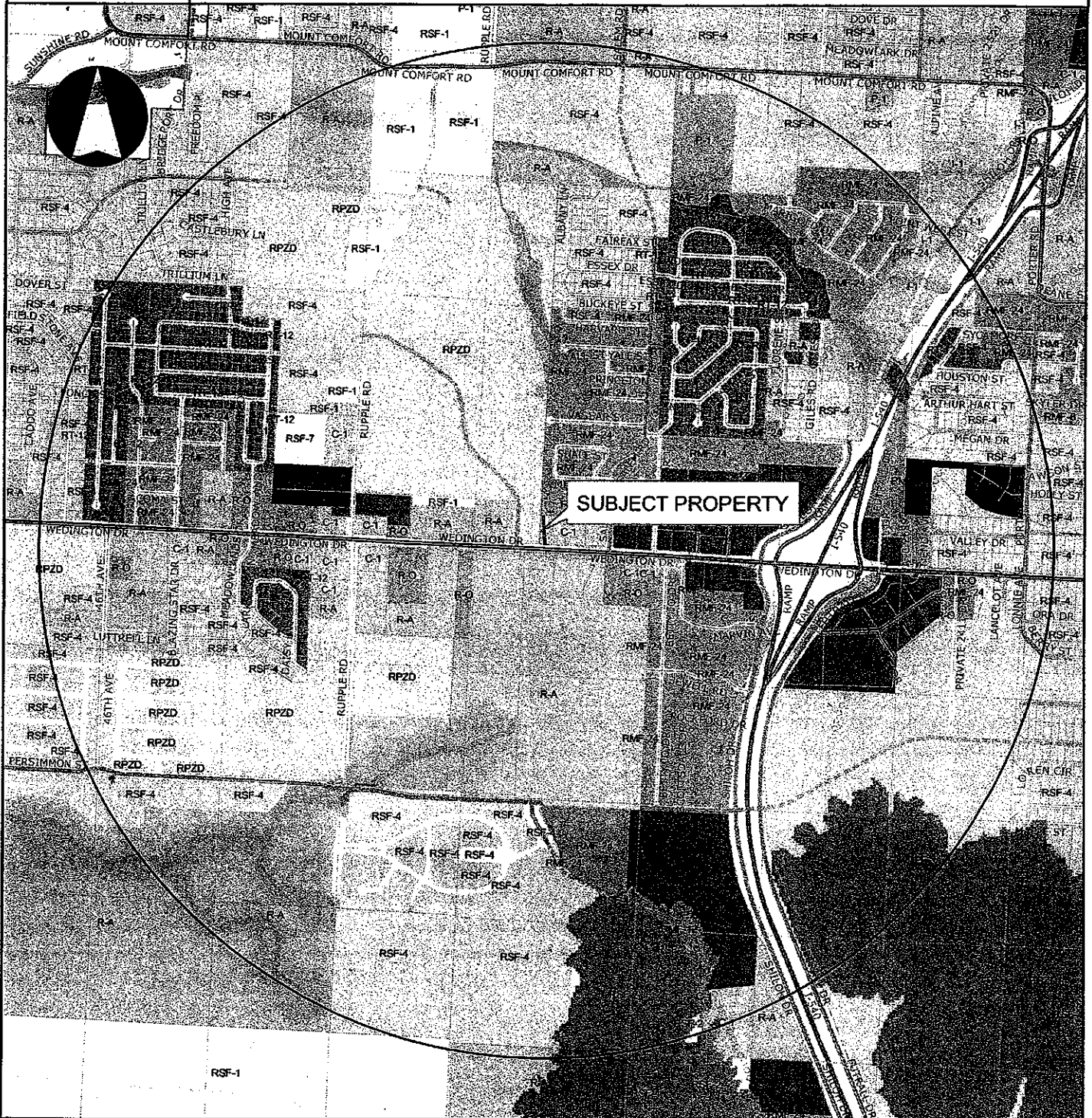
THIS PROPERTY IS NOT LOCATED WITHIN ANY PRESENTLY ESTABLISHED
100-YEAR FLOOD PLAIN, AS DETERMINED BY SCALING THE NATIONAL FLOOD
INSURANCE PROGRAM, FLOOD INSURANCE RATE MAP FOR WASHINGTON
COUNTY, ARKANSAS AND INCORPORATED AREAS.

MAP NUMBER: 05143C0091.D
REVISED DATE: JULY 21, 1999

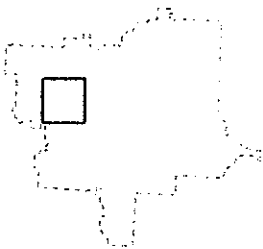
VAC08-2951

WEDINGTON RETAIL

One Mile View



Overview



Legend

Subject Property

VAC08-2951

Boundary

Planning Area

Overlay District

Outside City

Legend

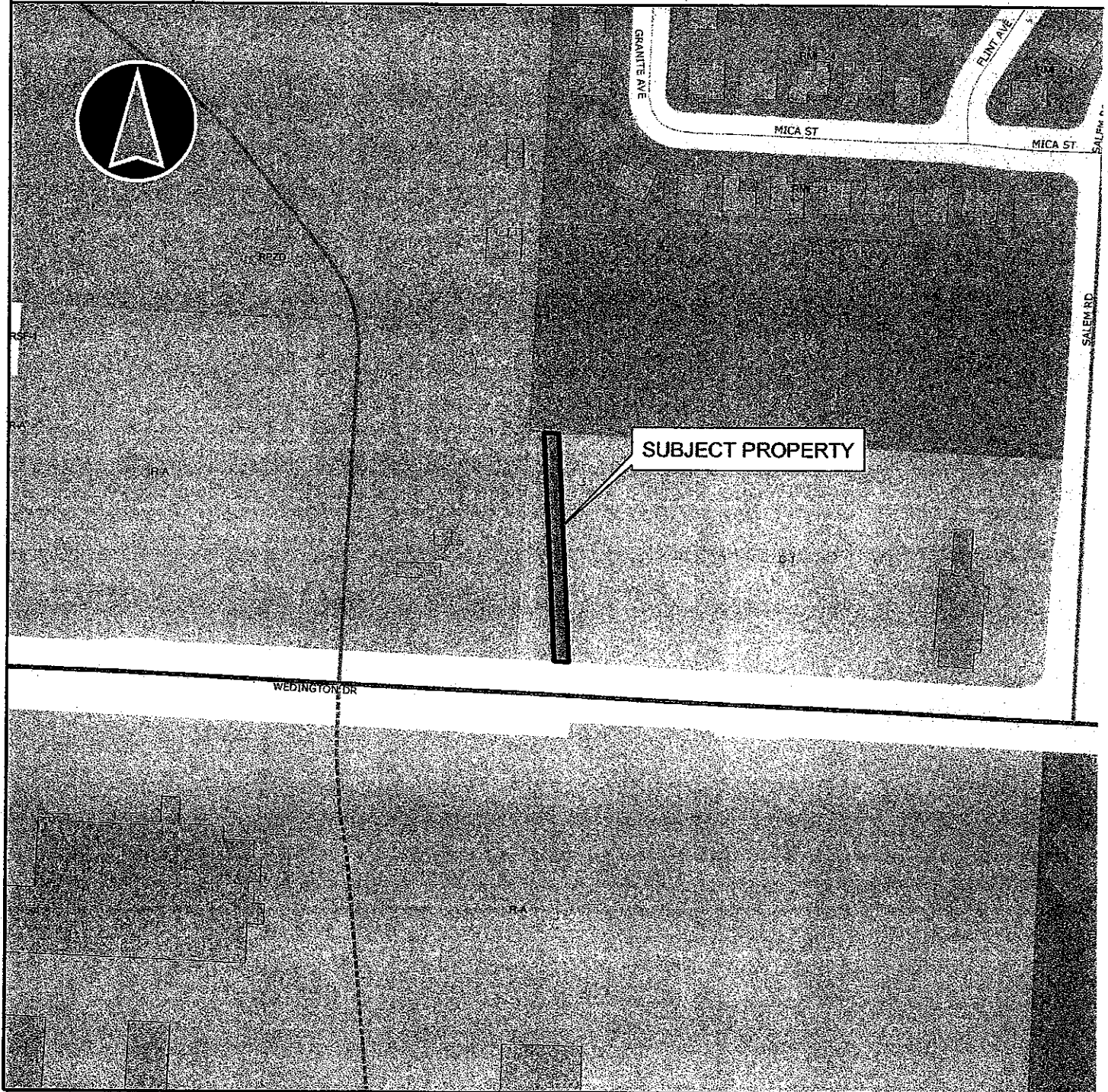
Hillside-Hilltop Overlay District

0.0510.2
Miles

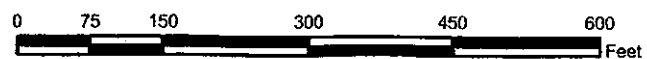
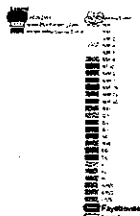
VAC08-2951

Close Up View

WEDINGTON RETAIL



Overview



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

6-May-08

City Council Meeting Date

Connie Edmonston

Submitted By

Parks & Recreation

Division

Operations

Department

Action Required:

Ordinance to ammend 97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.

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 ☐

[Signature]

Department Director

4-17-08

Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

[Signature]

City Attorney

4-17-08

Paul a. Babin

Finance and Internal Service Director

4-17-08

Date

Received in City Clerk's Office

4-17-08

Received in Mayor's Office

ENTERED
4/17/08
f.h.

[Signature]

Mayor

4/17/08

Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
From: Connie Edmonston, Parks and Recreation Director 
Date: April 17, 2008
Subject: Ordinance to ammend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson, and Lake Sequoyah for juveniles within an approved government rehabilitation program.

RECOMMENDATION To approve an ordinance to ammend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson, and Lake Sequoyah for juveniles within an approved government rehabilitation program.

BACKGROUND Jeff Courtway, an Instructor for the Washington County Juvenile Detention Center, administers a program called the Outdoor Adventure Club. Approximately 40 youth, ages 13 to 17 are involved in this program. This program includes the *Hooked on Fishing Not on Drugs* program set up by the Arkansas Game and Fish Commisssion. Canoes and kayaks have been received for this program through a grant and the program would like to have the opportunity to use local lakes.

The cost for using our City Lakes for youth ages 16 and above, as well as for the instructors of this program, is \$6 per person each time they would go boating and fishing as a scheduled event. This cost would certainly limit boating and fishing at our City Lakes. The Washington Coutny Juvenile Justice Center is requesting for the City to waive the boating and fishing cost for this program at our City Lakes including Lake Fayetteville, Lake Sequoyah and Lake Wilson. Currently there are not fees required at Lake Wilson because there is not a Boatdock Manager. Parks and Recreation Staff believes this is a *win-win* situation for the City to assist youth in the Juvenile Detention Center to have an opportunity to experience a healthy, alternative recreation activity to particiate in our city. These healthy acitivities in turn could help prevent these youth from crimal activity, thus saving police, court and jail costs as well as becoming postive citizens of our community.

DISCUSSION The request to waive the Lake Recreation boating and fishing fees for the Washington County Juvenile Detention Center was approved by the Parks and Recreation Advisory Board at the April 7th, 2008 meeting.

BUDGET IMPACT This program is currently expanding their services after receiving the grant for canoes and kayaks, and therefore has not had an impact on the revenues received at our City Lakes. Parks and Recreation Staff would work with the administrators of this program, as well as coordinating the program with the Lake Boatdock Managers to schedule the lake, date and time for lake access.

Attachments:

1. Washington County Juvenile Justice Center Letter of Request – Jeff Courtway
2. Lake Recreation Ordinance §97.070
3. Proposed Ordinance Amendment



Washington County Juvenile Justice Center
REGIONAL JUVENILE CENTER
885 CLYDESDALE ROAD
FAYETTEVILLE, ARKANSAS 72701

Jeff Courtway, Physical Education Teacher
Hooked On Fishing Not On Drugs, Coordinator

Phone: (479) 444-1670 ext. 27
Fax: (479) 444-1644

March 7, 2008

To Whom It May Concern:

My name is Jeff Courtway and I am a teacher for the Fayetteville Public Schools. My position is Physical Education teacher at the Washington County Juvenile Detention Center. We have a program called the Outdoor Adventure Club (OAC), which serves as one of the diversion programs for Washington County. Our OAC is part of the Hooked on Fishing Not on Drugs program set up by the Arkansas Game and Fish Commission to provide our youth with a positive alternative to drug and alcohol use. We have approximately 40 kids ages 13-17 that we take out on some type of adventure once each month. Some of the activities we do include fishing, canoeing, kayaking, hiking, caving, rock climbing, archery, ropes courses and conservation projects. Most of these youth are low level drug and alcohol offenders doing this as part of their probation time. Many of our activities include a community service project as well. We feel if these young people connect with the outdoors and have a healthy respect for themselves and the environment they will in turn make healthier choices.

We are trying to add a supplemental fishing and boating element to our program on some of the local lakes. We would like to provide them with canoes and kayaks, which we have, access to due to grant money received by Holt Middle School. Our goal is to have an optional fishing and boating afternoon once/week for those youth interested in spending time on the water. We also would like to provide them with mentors who would like to pass on their fishing skills to others. One of the drawbacks to accomplishing this is the small craft fees at Lakes Fayetteville and Sequoyah. It would cost each kid \$6.00 plus tax to do this. We would ask if the City of Fayetteville and the Parks and Recreation to consider waiving the fee for the kids in our program. We feel like this would help us accomplish our goal of getting more kids out on the water and develop their paddling and fishing skills which in turn would give them a healthy alternative to drugs and alcohol. Please make note that we are not a 501 non profit organization since we are a county program.

We are asking you to please consider this issue and see if you could help us out and recommend that the city waive the fees. Thank you very much for allowing us to talk this over with you. We would like to come to the Parks Commission meeting on April 7th. Please contact me at 444-1670 x 27 or email me at jcourtway@co.washington.ar.us.

Thank you for your time and consideration,

Jeff Courtway
OAC/HOFNOD Coordinator
Washington County Juvenile Detention

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

C. 5
Amend Chapter 97 Parks and Recreation
Page 4 of 8



LEGAL DEPARTMENT

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

CC: **Connie Edmonston, Parks & Recreation Director**

FROM: **Kit Williams, City Attorney**

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

DATE: **April 17, 2008**

RE: **Waiver of boating and fishing permit fees for juveniles and supervisors within an approved Washington County juvenile rehabilitation program**

Connie Edmonston was approached by a Washington County counselor working in the County's juvenile rehabilitation program and asked if the City would waive the lake use permit fees for his program. (Attached is §97.070 of the Fayetteville code listing the current schedule of boating/fishing permit fees.)

Connie presented this issue to the Parks and Recreation Advisory Board who recommended that the City Council allow such a waiver in support of the County rehabilitation program.

In order to keep some control on the use of Lake Fayetteville, the proposed code section includes a provision that the Fayetteville Parks and Recreation Director (now Connie Edmonston) must approve the time, date and location of such free use. Thus, if a special event like the Solar Splash needs exclusive use of certain areas of the lake during certain periods of time, the Parks and Recreation Director can deny free use of the lake during that period or near the Solar Splash competition area.

This waiver of lake fees would cost the City very little in anticipated revenues while providing a good learning environment to some of our juveniles most in need of a healthy, natural experience.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §97.070 OF THE FAYETTEVILLE CODE TO PROVIDE EXEMPTION OF FEES FOR USE OF LAKE FAYETTEVILLE, LAKE WILSON AND LAKE SEQUOYAH FOR JUVENILES WITHIN AN APPROVED GOVERNMENT REHABILITATION PROGRAM

WHEREAS, it is in the best interest of the citizens of Fayetteville to assist Washington County juvenile rehabilitation programs by waiving lake use fees.

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 §97.070 (B)(2) by enacting a new subsection (c) as shown below:

“(c) Juveniles and their supervisors shall be exempt from the boating and fishing permit fee if they are part of a Washington County government rehabilitation program approved by the Director of the Fayetteville Parks and Recreation Department for the location, date and time of lake access.”

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

Cross reference(s)--Penalty, §97.999.

97.068 Camping Prohibited

No person in a park shall set up or use tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person bring in or leave in a city park after closing hours any structure or vehicle to be used or that could be used for such purpose, such as house trailer, camp trailer, camp wagon or the like.

(Code 1965, §17A-20; Ord. No. 1594, 4-1-68; Code 1991, §97.068)

Cross reference(s)--Penalty, §97.999.

97.069 Horseback Riding

No person in a park shall ride a horse except in Combs Park or on designated bridle trails. Where permitted, horses shall be thoroughly broken and properly restrained and ridden with due care, and shall not be allowed to graze or go unattended, nor shall they be hitched to any rock, tree, or shrub.

(Code 1965, §17A-22; Ord. No. 1594, 4-1-68; Code 1991, §97.069)

Cross reference(s)--Penalty, §97.999.

**97.070 Recreational Activities At
Lakes Fayetteville, Sequoyah And
Wilson**

(A) *Hours.* Lake Fayetteville, Lake Sequoyah, and Lake Wilson shall be open to the general public throughout the year from sunrise to sunset daily and shall be closed each day from sunset to sunrise; provided, each lake shall be closed Thanksgiving Day. The boat docks shall be closed on December 24th and shall remain closed through January 14th.

(B) *Permits for fishing and boating.*

(1) *Permits:*

- (a) Season boating and fishing permit
(65 and older) \$40.00
- (b) Season boating and fishing permit
(16-64) \$50.00
- (c) Daily boating and fishing permit
(65 and older) \$5.00
- (d) Daily boating and fishing permit
(16-64) \$6.00

- (e) Season fishing/use permit
(65 and older) \$20.00
- (f) Season fishing/use permit
(16-64) \$30.00
- (g) Daily fishing/use permit
(65 and older) \$2.00
- (h) Daily fishing/use permit
(16-64) \$3.00
- (i) Daily fishing/use permit
(under 16 with permitted adult) Free

(2) *Miscellaneous.*

- (a) Each person 16 years of age or older is required to purchase a fishing/use permit for fishing on each lake or any stream within the city owned lake property.
- (b) A boating permit applies to the boat rather than the occupants thereof; however, all occupants of a boat, 16 years of age or older must purchase a fishing/use permit.

Daily permits are valid only for use on the date of purchase.

(C) *Boat docking.* Boat docking shall be permitted at the boat docks at Lake Sequoyah and Lake Fayetteville on a space available basis to season boating and fishing permit holders for the following per boat annual fees:

(1) Lake Fayetteville

- (a) City resident \$250.00
- (b) Non-resident \$325.00

(2) Lake Sequoyah \$100.00

(D) *Fishing.* All fishing shall be done only from the lake bank or boat. No wading, swimming, or belly boats shall be permitted. Arkansas Game and Fish regulations shall control the number and size of fish which may be caught, however, the Fayetteville Parks and Recreation Division may provide additional requirements necessary to manage the fish population. All persons should check with the boat dock operator before fishing. It shall be unlawful for any person fishing to use trot lines, set lines, limb lines, cast nets, yo-yo's or jug fishing.

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

- (E) *Boating.* A boating permit for each boat must be purchased before its use on the lake. All boats must be docked at the boat landing at lake closing time. No boats except those used by lake employees will be docked at any other location on the lake.
- (F) *Place of entry.* All persons are warned to enter the lake for boating or fishing only through the entrance at the lake office. Persons entering the lake property from any other location shall be considered trespassing and subject to prosecution.
- (G) *Use of motors on boats.*
- (1) In the event that motors are used on boats, the boats shall be operated in such a manner that they will not endanger other boats or the occupants thereof and shall not be operated in such a manner as to create heavy waves causing undue erosion of the shoreline.
 - (2) No boats shall be permitted within 500 feet of the spillway of Lake Sequoyah.
 - (3) No houseboats, water skiing, or jet skis allowed. Speeding and boat racing is not permitted and each outboard motor operator is cautioned to operate his motor in a safe and cautious manner. Failure to abide by this requirement will cause loss of boating permit. The dock operator shall revoke the boating permit of any boat which in his judgment is unsafe, overloaded, or operated in a careless manner.
 - (4) All state laws governing boats must be complied with before using a boat on any city lake. Facilities for docking or landing of boats will be provided, however, the city will not be responsible for any damage or theft of boats, motors or equipment left in boats at docks.
- (H) *Picnicking or other recreational activities.* Picnicking is permitted on any part of Lake Fayetteville, Lake Sequoyah, or Lake Wilson or land surrounding said lakes, except within restricted nature areas, which are controlled by the city. Overnight camping is allowed only by special group permit.
- (I) *Committing nuisances.* No person shall commit any nuisance while on Lake Fayetteville, Lake Sequoyah, and Lake Wilson or any of the land surrounding the lakes belonging to the city, nor shall any trash or other materials be thrown into the lakes or left about the shore line or on the premises of any lake.
- (J) *Fishing and boating prohibited near intake tower.* No one shall climb upon, enter, or fish from the intake towers of the lakes.
- (K) *Fishing on stream below dam.* State laws governing fishing below dams shall be applicable on city property. Fishing permits are required to fish in the stream on city property below the dams.
- (L) *Firearms and hunting.* No firearms, hunting or trapping will be permitted on city owned property at any time.
- (M) *Use of motor vehicles.* No person at Lake Fayetteville, Lake Sequoyah, or Lake Wilson shall drive a motor vehicle or ride a motorcycle, ATV or bicycle on other than a paved vehicular road or path designated for that purpose.
- (N) *Revoking permits.* The city shall have the right to revoke any permit issued under this section if it is determined that the permittee willfully violated any of the provisions of this section. When a permit is revoked, there will be no refunds.
- (Code 1965, §13-12; Ord. No. 2274, 9-7-76; Ord. No. 2903, 3-1-83; Ord. No. 3164, 1-21-86; Ord. No. 3203, 8-5-86; Ord. No. 3437, 7-5-89; Ord. No. 3533, 2-19-91; Ord. No. 4168, 6-1-99; Code 1991, §97.070; Ord. 4707, 06-07-05; Ord. No. 4811, 12-20-05)
- Cross reference(s)--Penalty, §97.999.

97.071-97.079 Reserved

ARTICLE VI
CONDUCT IN PARKS

97.080 Gambling Prohibited;
Recreational Activities To Take Place
Only In Suitable Areas

No person in a park shall gamble, or participate in, or abet any game of chance. Nor shall any person take part in or abet the playing of other forms of recreation except in areas set apart for or conducive to the particular form of recreation.

(Code 1965, §17A-21; Ord. No. 1594, 4-1-68; Code 1991, §97.080)

Cross reference(s)--Penalty, §97.999.

97.081 Intoxicating Beverages

- (a) No person in a park shall bring into or consume alcoholic beverages within a city

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

5/6/2008

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

An ordinance amending Chapter 158: Bonds and Guarantees of the City Unified Development Code (Title XV) in order to revise the maintenance bond requirements for public improvements and to add a guarantee requirement to insure the continuation of the proper maintenance of a storm water erosion and sediment control plan.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

[Signature] 4-18-08
Department Director Date

Previous Ordinance or Resolution #

[Signature] 4-18-08
City Attorney Date

Original Contract Date:

Original Contract Number:

Paul a. Buhn 4-21-08
Finance and Internal Service Director Date

Received in City Clerk's Office

4-18-08

[Signature] 4/22/08
Mayor Date

Received in Mayor's Office

ENTERED
4/18/08
[Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RSP*

Date: April 18, 2008

Subject: An ordinance amending Chapter 158: Bonds and Guarantees of the City Unified Development Code (Title XV) in order to revise the maintenance bond requirements for public improvements and to add a guarantee requirement to insure the continuation of the proper maintenance of a storm water erosion and sediment control plan.

RECOMMENDATION:

The staff recommends approval of this ordinance to amend Chapter 158 of the City Unified Development Code in order to revise the maintenance bond requirements for public improvements and to add a guarantee requirement to insure the continuation of the proper maintenance of a project's storm water erosion and sediment control plan.

BACKGROUND:

The City code currently requires all developers that install public improvements (water, sewer, streets, and drainage) to provide a maintenance bond for a period of one (1) year in the full amount of the cost of the installation upon acceptance by the City. A separate bond is typically provided for each infrastructure item.

There is currently no code regulation to require the erosion & sediment control plan to be guaranteed for the continuation of proper maintenance. If problems arise during construction, this is typically corrected with warnings and/or the issuance of stop-work orders.

DISCUSSION:

A search was done among the local municipalities within our region to determine the maintenance bond requirements that are currently being enforced. The following is a summary of those search results:

City	Length of Bond	Amount of Bond
Bentonville	1 year	25% construction costs
Rogers	1 year	50% construction costs
Springdale	1 year	50% construction costs
Little Rock	1 year	50% construction costs
Tulsa	1 year	100% construction costs

It has been recommended by City Staff that the Maintenance Bond requirement can be reduced to 25% of the construction costs if two conditions are added: 1.) The length of the bonding is increased from one year to two years and 2.) the bonds are combined into one bond that will cover all public infrastructure improvements.

The proposed addition of the guarantee for the erosion & sediment control plan is being recommended in order to protect the City and our natural resources. Some of the advantages for this proposed legislation include:

- Provide the Engineering Division with additional support to require a permit holder to maintain the erosion & sediment plan during construction and follow-up with permanent stabilization of all disturbed areas of a site.
- Assist in the elimination of the gap in coverage for subdivisions between the time of final plat approval and the beginning of the individual residential or commercial building construction.
- Provide the City with available funds to be able to re-stabilize a site if it has been abandoned by a permit holder.

These proposed ordinances amendments have also been discussed at the following City Council Committee meetings:

- November 5, 2007 – Street Committee forwarded this item to the Ordinance Review Committee with a favorable recommendation.
- April 3, 2008 – Ordinance Review Committee forwarded this item to the full City Council with a favorable recommendation.
- April 8, 2008 - Water & Sewer Committee forwarded to the full City Council with a favorable recommendation.

BUDGET IMPACT:

This City Council item will have no impact on the budget.

ORDINANCE NO. _____

**AN ORDINANCE TO REPEAL §158.03 MAINTENANCE OF THE
UNIFIED DEVELOPMENT CODE AND TO ENACT A REPLACEMENT
§158.03 MAINTENANCE**

WHEREAS, upon recommendation of the City Engineer, the City Council Ordinance Committee, Street Committee and Water and Sewer Committees recommend the passage of an amended **§158.03 Maintenance** of the **Bonds and Guarantees** Chapter of the Unified Development Code to ensure proper continued maintenance of the erosion and sediment control plan while reducing the amount of maintenance bond to 25% of construction costs.

**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 **§158.03 Maintenance** of the Unified Development Code in its entirety and enacts the following as the replacement **§158.03 Maintenance**:

“158.03 Maintenance

“(A) Installed improvements. An acceptable maintenance bond shall be provided in the amount of 25% of the total contract price of the public improvements including water, sewer, streets, and the stormwater management drainage system against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The bond shall be filed with the City Engineer prior to the acceptance of the improvements by the City. A walk-through shall be performed at the end of the two-year period and all deficiencies corrected prior to the release of the bond.

“(B) Erosion and sediment control. For developments in excess of five (5) acres, an acceptable guarantee shall be provided at the time of the issuance of the drainage permit in the amount of 100% of the total cost to

install the approved erosion and sediment control plan to ensure the continuation of the proper maintenance of the plan. The guarantee shall remain in place until permanent stabilization has been achieved for the development site.”

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

TITLE XV UNIFIED DEVELOPMENT CODE (EXISTING LANGUAGE)

CHAPTER 158: BONDS AND GUARANTEES

158.03 Maintenance

- (A) *Installed improvements.* An acceptable maintenance bond shall be provided in the amount of the contract price of the improvement against defects in workmanship and materials for a period of one year from the date of acceptance of such improvements. The bond shall be filed with the City Engineer prior to the acceptance of the improvements by the City.
- (B) *Stormwater management, drainage and erosion control.* A one (1) year maintenance bond for the stormwater management drainage system. The bond shall run from the date of final acceptance and for a one-year period thereafter. A walk-through shall be performed at the end of the one-year period and all deficiencies corrected prior to the release of the bond.

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 158: BONDS AND GUARANTEES (PROPOSED REVISIONS)

158.03 Maintenance

- (A) *Installed improvements.* An acceptable maintenance bond shall be provided in the amount of 25% of the total contract price of the public improvements including water, sewer, streets, and the stormwater management drainage system against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The bond shall be filed with the City Engineer prior to the acceptance of the improvements by the city. A walk-through shall be performed at the end of the two-year period and all deficiencies corrected prior to the release of the bond.
- (B) *Erosion and sediment control.* For developments in excess of five (5) acres, an acceptable guarantee shall be provided at the time of the issuance of the drainage permit in the amount of 100% of the total cost to install the approved erosion & sediment control plan to insure the continuation of the proper maintenance of the plan. The guarantee shall remain in place until permanent stabilization has been achieved for the development site.

Deleted: one

Deleted: Stormwater management, drainage and e

Deleted: A one (1) year maintenance bond for the stormwater management drainage system. The bond shall run from the date of final acceptance and for a one-year period thereafter. A walk-through shall be performed at the end of the one-year period and all deficiencies corrected prior to the release of the bond.

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

~~4 Mar 08~~
City Council Meeting Date

May 6, 2008

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

Action Required:

An ordinance to repeal and replace U.D.O. Chapter 168: Flood Damage Prevention Code in order to adopt the Flood Insurance Study (FIS) for Washington County, Arkansas dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008.

\$0.00

Cost of this request

n/a

Category / Project Budget

n/a

Program Category / Project Name

n/a

Account Number

n/a

Funds Used to Date

n/a

Program / Project Category Name

n/a

Project Number

n/a

Remaining Balance

n/a

Fund Name

Budgeted Item

XX

Budget Adjustment Attached


Department Director

2-14-08
Date

Previous Ordinance or Resolution #

n/a

Original Contract Date:

N/A


City Attorney

4/14/08
Date

Original Contract Number:

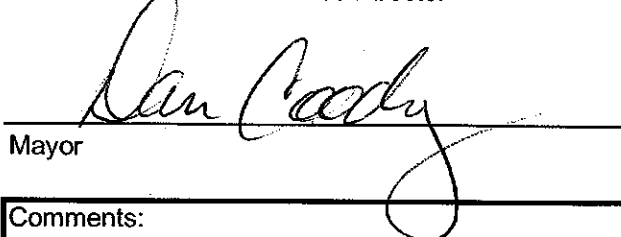
N/A

Paul A. Baker
Finance and Internal Service Director

4-15-08
Date

Received in City Clerk's Office

ENTERED
2/14/08
DW


Mayor

4/15/08
Date

Received in Mayor's Office

ENTERED
4/14/08
AK

Comments:

Date: February 15, 2008

To: Fayetteville City Council

Thru: Dan Coody, Mayor
Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Subject: **Ordinance to repeal and replace U.D.O. Chapter 168: Flood Damage Prevention Code in order to adopt the Flood Insurance Study (FIS) for Washington County, Arkansas dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008.**

RECOMMENDATION:

Staff recommends approval of repealing and replacing Chapter 168: Flood Damage Prevention Code to adopt the Flood Insurance Study (FIS) for Washington County, Arkansas dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008 and meet all standards of Paragraph 60.3(d) of NFIP regulations (44 CFR 59, etc.)

BACKGROUND:

On December 20, 2000, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) issued a Flood Insurance Rate Map (FIRM) that identified the Special Flood Hazard Areas in Fayetteville. Recently, FEMA completed a re-evaluation of flood hazards in Fayetteville and Washington County. The proposed Base Flood Elevations (BFEs) were published in the Morning News of Northwest Arkansas, Arkansas Democrat Gazette Fayetteville, and Northwest Arkansas Times, on April 18, 2007 and April 25, 2007. The publication stated a 90-day appeal period in which time no appeals were received and the BFEs were then considered final.

The FIS report and DFIRM for Fayetteville will become effective on May 16, 2008.

Fayetteville is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt floodplain management regulations that meet the standards of Paragraph 60.3(d) of NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature. Failure to enact the necessary

These codes have been combined to include the most stringent of both the model ordinance and the existing code by using the model ordinance as a base document and inserting the existing more stringent code.

The proposed Chapter 168: Flood Damage Prevention Code is included as an attachment.

BUDGET IMPACT:

The proposed ordinance amendments will cause no budget impact.

ORDINANCE # _____

**AN ORDINANCE REPEALING AND REPLACING CHAPTER
168: FLOOD DAMAGE PREVENTION CODE OF THE
UNIFIED DEVELOPMENT CODE, FAYETTEVILLE CODE OF
ORDINANCES.**

WHEREAS, the General Assembly of the State of Arkansas has in Ark. Code Ann. § 14-268-101 et seq., delegated the responsibility of local governmental units to adopt regulations to minimize flood losses; and,

WHEREAS, the Federal Emergency Management Agency (FEMA) has identified Special Flood Hazard Areas of Fayetteville in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for Washington County, Arkansas," dated May 16, 2008, with an effective Flood Insurance Rate Map (FIRM) dated May 16, 2008; and,

WHEREAS, these Special Flood Hazard Areas are subject to periodic flooding events that result in loss of life and property, pose health and safety hazards, disrupt commerce and governmental services, and cause extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare; and,

WHEREAS, these periodic flooding events are exacerbated by the cumulative effect of floodplain developments which cause an increase in flood heights and velocities, and by the placement of inadequately elevated, inadequately floodproofed or otherwise unprotected structures or uses vulnerable to floods into Special Flood Hazard Areas. Such structures or uses are inherently hazardous to other lands because of their adverse impact on flooding events.

**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 Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances, and adopts an Amended Version of Chapter 168: Flood Damage Prevention Code, as set forth in Exhibit A, attached hereto, and incorporate herein by reference as if set forth word-for-word in its entirety.

Section 2. That a copy of the referenced code shall be filed in the office of the City Clerk and shall be available for inspection and copying by any person during normal office hours.

Section 3. That this ordinance does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Whenever there is a conflict or overlap between this ordinance and another ordinance, easement, covenant, or deed restriction, the instrument with the more stringent restrictions applies.

Section 4. That in the interpretation and application of this ordinance, all provisions must:

- A. Be considered as minimum requirements;
- B. Be liberally construed in favor of the governing body; and
- C. Be deemed to neither limit nor repeal any other powers granted under State statutes.

Section 5. That the degree of flood protection required by this ordinance is considered reasonable for regulatory purposes. Documented scientific and engineering data form the basis for these requirements. On rare occasions, flooding events greater than those considered for this ordinance will occur. In addition, flood heights may increase over time due to man-made or natural causes. This ordinance does not imply that land outside Special Flood Hazard Areas will be free from flooding, nor that strict adherence to this ordinance protects uses permitted within Special Flood Hazard Areas from all flood damages. This ordinance specifically does not create liability on the part of the community, nor any official or employee of the community, for any flood damages that result while strictly following this ordinance, or from any lawful administrative decision made under the provisions of this ordinance.

Section 6. EMERGENCY CLAUSE. It is hereby found and declared by the City Council of the City of Fayetteville that severe flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately. Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 168: FLOOD DAMAGE PREVENTION CODE

168.01 Purpose

(A) The purpose of this ordinance is to promote the public health, safety and general welfare, to prevent adverse impacts from any floodplain development activities, and to minimize public and private losses due to flooding events in identified Special Flood Hazard Areas. This ordinance advances the stated purpose through provisions designed to:

- (1) Protect human life and health;
- (2) Protect natural floodplains against unwise development;
- (3) Eliminate adverse impacts of necessary floodplain development;
- (4) Minimize expenditure of public monies on flood control projects;
- (5) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) Minimize prolonged business interruptions due to flooding events;
- (7) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in Special Flood Hazard Areas;
- (8) Minimize future flood blight areas to help maintain a stable tax base;
- (9) Provide for notice to potential buyers when property is in a Special Flood Hazard Area;
- (10) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(B) This ordinance uses the following methods to accomplish the stated purpose:

- (1) This ordinance restricts or prohibits structures or uses in Special Flood Hazard Areas that adversely impact health, safety or property during flooding events;
- (2) This ordinance requires protection against flood damage for structures or uses vulnerable to floods at the time of initial

construction, or after substantial improvement of the structure, or after substantial damage has occurred;

- (3) This ordinance controls the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation and transport of flood waters;
- (4) This ordinance controls floodplain development (structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations and other activities) which may increase flood damage by increasing flood elevations, flood water velocities, or flood discharge patterns;
- (5) This ordinance regulates the construction of flood barriers which unnaturally divert floodwaters or which may adversely impact other lands.

168.02 Definitions

Unless specifically defined below, words or phrases used in this Code have their common usage meaning to give the most reasonable application to this Code.

Additional definitions for floodplain management terms can be found at Part §59.1 of 44 CFR.

44 CFR (Emergency Management and Assistance – National Flood Insurance Program Regulations) Parts 59-75 contain Federal regulations upon which local floodplain managements are based

44 CFR § 65.12 – contains the section of the Federal regulations which involves revision of flood insurance rate maps to reflect base flood elevations caused by proposed encroachments.

"100-year flood" is any flood with a 1% chance of occurring in any given year. The term is misleading, because of its statistical derivation. A "100-year flood" may occur many times in any given 100-year period, or it may not occur at all in 100 years.

"500-year flood" is any flood with a 0.2% chance of occurring in any given year. As with the 100-year flood, this term is also misleading, because of its statistical derivation. A "500-year flood" may occur

many times in any given 500-year period, or it may not occur at all in 500 years.

"Adverse impact" means any negative or harmful effect.

"AE Risk Zones" are special flood hazard areas where detailed studies have determined base flood elevations.

"AH Risk Zones" are special flood hazard areas characterized by shallow flooding with ponding effects (where floodwaters accumulate in depressions and linger until absorbed or evaporated).

"AO Risk Zones" are special flood hazard areas characterized by shallow flooding with sheet flow (where floodwaters flow in a broad, shallow sheet rather than through a narrow channel).

"A Risk Zones" are special flood hazard areas without detailed studies, where base flood elevations have not been determined.

"Appeal Board" means a person or persons specifically designated to render decisions on variance applications and floodplain management complaints.

"Automatic" entry and exit of floodwaters means that the water must be able to enter and exit with no intervening action from a person.

"Base flood elevation" refers to the expected height of floodwaters during the peak of the base flood event.

"Basement" is any enclosed area that is below grade on all four walls.

"BFE" is the acronym for Base Flood Elevation.

"Buoyancy" is the upward force exerted by water. Buoyancy can cause underground tanks to float free and can lift structures off foundations.

"Certificates of Compliance" are formal documents issued by floodplain administrators certifying that completed projects comply with the requirements of the local Code.

"CFR" is the acronym for the Code of Federal Regulations. The Code of Federal Regulations is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. The Federal regulations pertaining to the national Flood Insurance Program are found in title 44, Emergency Management and Assistance.

"Clearing" is the act of cutting timber or shrubs from an area

"Commercial business park" is typically an area of offices or light industrial usage, although retail, service, or industrial usage is sometimes included in supporting roles. For example, a commercial business park of office complexes may also include restaurants which service these offices.

"Concrete deadman anchors" are heavy steel rods embedded in buried sections of concrete, used to secure items in place under tension.

"Covenant" is a clause in a contract that requires one party to do, or refrain from doing, certain things. A covenant frequently appears as a restriction that a lender imposes on a borrower.

"Crawlspace" is a type of structural foundation where the space beneath the lowest floor is typically not deep enough to allow a person to stand and not all four walls are below grade.

"Critical Facilities" include: Governmental facilities that are considered essential for the delivery of critical services and crisis management (such as data and communication centers and key governmental complexes); facilities that are essential for the health and welfare of the whole population (such as hospitals, prisons, police and fire stations, emergency operations centers, evacuation shelters and schools); mass transportation facilities (such as airports, bus terminals, train terminals); lifeline utility systems (including potable water, wastewater, oil, natural gas, electric power and communications systems); high potential loss facilities (such as nuclear power plants or military installations); hazardous material facilities (such as industrial facilities housing or manufacturing or disposing of corrosives, explosives, flammable materials, radioactive materials and toxins).

"D Zones" areas in which the flood hazard has not been determined, but may be possible

"Deed restriction" refers to a clause in a deed that limits the future uses of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions, for example, they may limit the density of buildings, dictate the types of structures that can be erected, prevent buildings from being used for specific purposes or even from being used at all.

"Development Permit" refers to the permit required for placing a "development" in the floodplain.

"Elevation Certificate" refers to FEMA form 81-31, which for the purposes of this Code must be properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

"Existing Structure" means, for floodplain management purposes, a structure which is in place before any reconstruction, rehabilitation, addition, or other improvement takes place.

"Existing Manufactured Home Park or Subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an Existing Manufactured Home Park or Subdivision" - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood Fringe" refers to the portion of the 100-year floodplain which is outside the floodway (See definition of "floodway" Chapter 151: Definitions.)

"Floodplain Management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

"Flooding events" are general or temporary conditions of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source.

"Floodplain Administrator" refers to the community official designated in the local Flood Damage Prevention Code as responsible for the Code's administration.

"Floodplain Development Permit" is a permit issued by the local Floodplain Administrator and is required before beginning any development in an area designated as a Special Flood Hazard Area on the community's FIRM.

"Floodproofing Certificate" refers to FEMA form 81-65, which for the purposes of this Code must be properly completed by a Professional Engineer or Architect licensed to practice in the State of Arkansas.

"Flow-through openings" are openings specifically designed to allow floodwaters to flow into and out of enclosed spaces, minimizing the danger of

foundation or wall collapse from lateral hydrostatic pressure.

"Hydrodynamic forces" are the forces and stresses associated with moving water, including impacts from objects carried in the water.

"Hydrostatic flood forces" are the forces and stresses associated with standing floodwaters.

"Lacustrine Flooding" is flooding associated with a lake.

"Lateral forces" are the horizontal hydrostatic forces associated with standing water. Water exerts an equal force in all directions, and as little as three feet of standing water can generate sufficient lateral force to collapse a foundation or wall.

"Mixed Use Structures" are structures with both a business and a residential component, but where the area used for business is less than 50% of the total floor area of the structure.

"New Manufactured Home Park or Subdivision" - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

"No Adverse Impact principle" is a principle of restricting or prohibiting land development that does harm or "adversely affects" someone else's property or land.

"Nonresidential Structures" are structures used only for commercial or public purposes, such as businesses, schools, churches, etc...

"No-Rise Certificates" are formal certifications signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase in flood levels within the community during the occurrence of a base flood event.

"Piers" are columns of masonry or other structural material (commonly cement blocks stacked up to support a manufactured home), usually rectangular, used to support other structural members.

"Pilings" are steel tubes driven to rock or a suitable soil bearing layer and connected to the foundation of a structure.

"Ponding" is a flooding effect where floodwaters accumulate in shallow depressions and linger until absorbed or evaporated.

"Recreational vehicles" means a vehicle which is:

- (i) built on a single chassis;
- (ii) 400 square feet or less when measured at the largest horizontal projections;
- (iii) designed to be self-propelled or permanently towable by a light duty truck; and
- (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Risk Zones" categorize special flood hazard areas into groupings by the specific risk of flooding. Zones A, AE, AO, and AH are Special Flood Hazard Areas. See "X Risk Zones" in this section.

"Riverine flooding" is flooding associated with a river or stream channel.

"RV" is the acronym for recreational vehicle.

"Screw augers" are any type of anchor that twists into the soil, typically to a depth of 4 feet or more. They are not suitable for securing manufactured homes against floodwaters because saturated grounds often soften and fail to hold the anchor in place.

"Section 404 Wetlands Permit" is a permit required under Section 404 of the Clean Water Act for the discharge of dredged and fill material into any surface water of the United States. The US Army Corps of Engineers issues Section 404 permits.

"SFHA" is the acronym for Special Flood Hazard Area.

"Shallow flooding" means a depth of less than 3 feet.

"Slab anchors" are anchors where the hook of the anchor is wrapped around a horizontal rebar in the slab before the concrete is poured.

"Special flood hazard areas" are geographical areas identified on FEMA flood maps as being at-risk for flooding. The maps further categorize these areas into various flood risk zones A, AE, AH, and AO.

"Start of Construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of

columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"State Coordinating Agency" is the agency that acts as a liaison between FEMA and a community for the purposes of floodplain management. The Arkansas Natural Resources Commission is the State Coordinating Agency for Arkansas.

"Stream channels" are depressed natural pathways through which water of any quantity routinely flows.

"Structural development" is a development that includes the placement or construction of a structure.

"Structure," for the purposes of floodplain management, refers to any building with two or more rigid walls and a fully secured roof on a permanent site or to any gas or liquid storage tank that is principally above ground.

"Uses vulnerable to floods" are simply any land or structural uses that may be negatively affected by a flood.

"Watercourse alteration" refers to any change that occurs within the banks of a watercourse.

"X Risk Zones" are a special group of insurance risk zones. One type, shown as non-shaded areas on FEMA issued flood maps, indicates a zone where flooding is not expected to occur. The second type, shown as shaded areas of FEMA flood maps, indicates a flood hazard area that is expected to be affected by the 500-year flood, but not by the 100-year base flood.

168.03 Applicability

The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Fayetteville.

168.04 Compliance

Constructing, locating, substantially altering or changing the use of any structure or land after the effective date of this ordinance requires full

compliance with the provisions of this ordinance and all other applicable regulations.

168.05 Administration

(A) Designation of the Floodplain Administrator - The Mayor, or his designee, is hereby appointed to act as the Floodplain Administrator.

(B) Duties & responsibilities of the Floodplain Administrator - It is the duty and responsibility of the Floodplain Administrator or his designee to:

(1) Obtain accreditation each year as required by A.C.A. §14-268-106 through the State Coordinating Agency, which is the Arkansas Natural Resources Commission.

(2) Administer and implement the provisions of this Code and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) as they pertain to floodplain management

(3) Review applications for Floodplain Development Permits to:

(a) Evaluate proposed projects for reasonable safety from flooding;

(b) Evaluate proposed projects for conformance with No Adverse Impact principles;

(c) Ensure that all other permits necessary (including Section 404 Wetlands Permits as required by the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) for proposed projects are obtained from the appropriate government agency prior to issuing a Floodplain Development Permit; and

(d) Ensure that proposed projects conform to the applicable provisions of this Code.

(4) Approve or deny applications for Floodplain Development Permits on the basis of:

(a) The proposed development's compliance or non-compliance with the provisions of this Code;

(b) The expected flood elevation, flood water velocity, flood duration, rate of rise and sediment transport of the floodwaters expected at the proposed development site;

(c) The proposed development's potential to adversely impact life and property by changing flooding patterns, changing erosion rates, or being swept onto other lands by flood waters;

(d) The proposed development's susceptibility to flood damage;

(e) The proposed development's compatibility with existing and planned community development;

(f) The proposed development's accessibility by ordinary and emergency vehicles during flooding events;

(g) The anticipated costs of providing governmental services to the proposed development during and after flooding events, including maintenance and repair of streets, bridges, facilities and public utilities such as sewer, gas, electrical and water systems;

(h) The proposed development's functionally dependent use;

(i) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed development; and

(j) The relationship of the proposed use to the comprehensive plan for that area.

(5) Interpret the exact location of the boundaries of Special Flood Hazard Areas whenever a mapped boundary appears to be different from actual field conditions. (The sole purpose of this interpretation is to determinate the applicability of the provisions of this Code to the proposed project.)

(6) Notify adjacent communities and the State Coordinating Agency, which is the Arkansas Natural Resources Commission, a minimum of 60 days prior to any alteration or relocation of a watercourse, and submit evidence of all such notifications to FEMA.

(7) Ensure that the flood carrying capacity within an altered or relocated portion of a watercourse is not diminished, and that the alteration or relocation does not adversely impact any other lands.

(8) Obtain, review and reasonably utilize, whenever the current Flood Insurance Study or current Flood Insurance Rate Map does

not provide base flood elevation data, any base flood elevation data and floodway data available from any Federal, State or other source. The Floodplain Administrator may obtain such data by requiring the applicant to submit it in conjunction with a Floodplain Development Permit application. (The sole use of this data is the administration of the provisions of this Code.)

- (9) Inspect floodplain developments as necessary to ensure construction is in accordance with the application data that formed the basis for the decision to issue the Floodplain Development Permit.
- (10) Issue Certificates of Compliance.
- (11) Maintain all records and documents pertaining to this Code for public inspection.

168.06 Establishment of Development Permit

A Floodplain Development Permit is required for all structural development, placement of manufactured structures, clearing, grading, mining, drilling, dredging, placement of fill, excavating, watercourse alteration, drainage improvements, roadway or bridge construction, individual water or sewer installations or any other development in a Special Flood Hazard Area to ensure conformance with the provisions of this Code.

168.07 Permit Procedures

- (A) Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard.
- (B) The documentation required with each Application for a Floodplain Development Permit, and the specific provisions of this Code applicable to the proposed development, are dependant upon the type of development proposed and the Risk Zone of the proposed development site. §168.10(A) contains standards for all developments in all Risk Zones. §168.11 contains standards for specific development types in specific Risk Zones.
- (C) The decision of the Floodplain Administrator to approve or deny issuance of a Floodplain Development Permit is subject to appeal to the designated Appeal Board. Within Fayetteville,

Arkansas the designated Appeal Board is the City Council.

168.08 Variances

Applicants may submit petitions for variances per the requirements of §156.03 (C)(6).

168.09 Appeals

Applicants may appeal decisions of the Floodplain Administrator per the requirements of §155.06 (C)(1).

168.10 Provisions For Flood Hazard Reduction

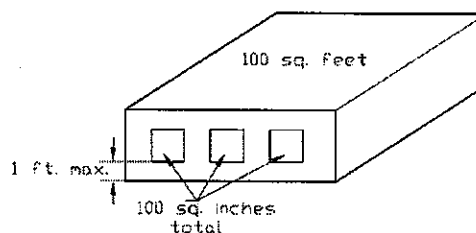
(A) General Standards. The following standards apply to all developments in Special Flood Hazard Areas, regardless of the type of proposed development or the Risk Zone of the proposed site.

- (1) All new and substantial construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All critical facilities constructed or substantially improved in Special Flood Hazard Areas (SFHA) must be constructed or modified to exceed 500-year flood protection standards or located outside the SFHA.
- (5) The placement or construction of all new structures must be in full compliance with the provisions of this Code.
- (6) For the purposes of this Code, all mixed-use structures are subject to the more stringent requirements of residential structures.
- (7) A substantial improvement or substantial damage to an existing structure triggers a requirement to bring the entire structure into full compliance with the provisions of this Code. The existing structure, as well as any reconstruction, rehabilitation, addition, or other improvement, must meet the standards of new construction in this Code.

- (8) Any improvement to an existing structure that is less than a substantial improvement requires the improvement, but not the existing structure, to be in full compliance with the provisions of this Code.
- (9) All manufactured homes to be placed within a Special Flood Hazard Area on a community's FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Screw augers or expanding anchors will not satisfy the requirement of this provision.
- (10) The design or location of electrical, heating, ventilation, plumbing, and air conditioning equipment for new structures, or for any improvements to an existing structure, must prevent water from entering or accumulating within the components during base flood events.
- (11) The design of all new and replacement water supply systems must minimize or eliminate infiltration of floodwaters into the system during base flood events.
- (12) The design of all new and replacement sanitary sewage systems must minimize or eliminate infiltration of floodwaters into the system during flooding events, and must prevent sewage discharge from the systems into floodwaters.
- (13) The placement of on-site waste disposal systems must avoid impairment to, or contamination from, the disposal system during base flood events.
- (14) Construction of basement foundations in any Special Flood Hazard Area is prohibited.
- (15) New construction and substantial improvements, with fully enclosed areas (such as garages and crawlspaces) below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this

requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- (b) The bottom of all openings shall be no higher than 1 foot above grade.
- (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

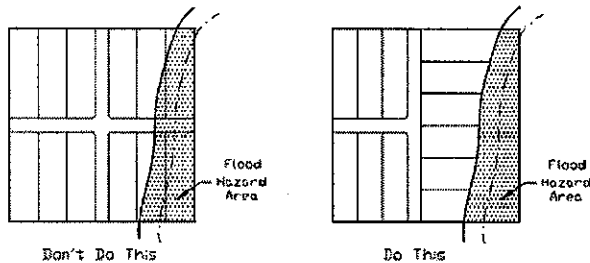


- (16) The placement of recreational vehicles (RV) in Special Flood Hazard Areas must either
 - (a) be temporary, as demonstrated by the RV being fully licensed, being on wheels or a jacking system, attached to the site only by quick disconnect type utilities and security devices, having no permanently attached additions, and being immobile for no more than 180 consecutive days; or else
 - (b) meet all provisions of this Code applicable to manufactured home structures.
- (17) All proposals for the development of a residential subdivision, commercial business park or manufactured home park/subdivision must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
- (18) All proposals for the development of a residential subdivision, commercial business park or a manufactured home park/subdivision must include an adequate drainage plan to reduce exposure to flood hazards.

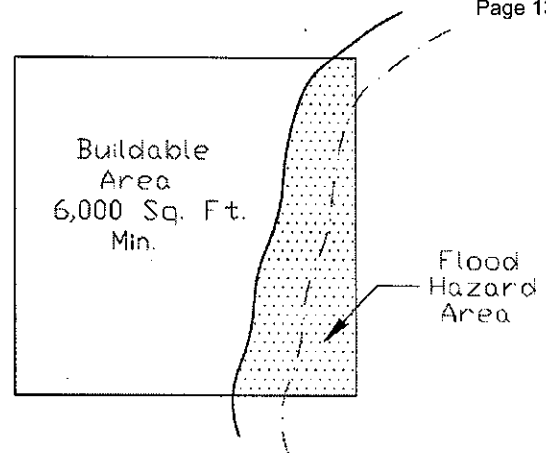
(19) All proposals for the development of a commercial business park or a manufactured home park/subdivision must include an adequate evacuation plan for the escape of citizens from affected nonresidential structures during flooding events.

(20) Standards for Subdivisions: Applications for preliminary, final, and/or concurrent plat approval shall

- (a) Identify the special flood hazards areas, including delineation of floodways and the elevation of the base flood.
- (b) All final plats shall provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood, the final pad elevation shall be verified by a registered professional engineer, or surveyor, and provided to the Floodplain Administrator.
- (c) To the extent practicable, lot boundaries shall be made to coincide with natural and pre-existing man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon in only by altering such drainage ways. (See illustration: Figure 3).



Any lot platted so that a portion of the lot lies in a special flood hazard area shall contain a minimum of 6,000 square feet of buildable area, including setbacks, outside the special flood hazard area, or if it contains less than 6,000 square feet of buildable area, it shall be platted to contain a minimum of one acre. Any lot platted so that the entire lot lies in a special flood hazard area shall contain a minimum of one acre. (See illustration: Figure 4)



- (d) For subdivisions partially located in special flood hazard areas, minimum lot area requirements may be waived by the director to allow the platting of lots to be clustered outside the special flood hazard area, the density permitted for the zoning district to be averaged over the entire parcel, provided a permanent conservation easement is granted to the city, a land trust, or the property owners association to ensure that the area of special flood hazard will remain undeveloped.
- (e) In any area that is located outside a special flood hazard area, but where a stream is located, no building or fill may be located within a distance of the stream bank equal to two and one-half the width of the stream measured from top of bank to top of bank, or 25 feet on each side, whichever is greater.
- (f) In all areas designated as a Zone A on the FIRM where a detailed study has not been completed to specify the floodway and base flood elevations, no building or fill shall be located within a distance of two and one-half times the width of the stream measured from the top of the bank to the top of bank, or 25 feet on each side, whichever is greater.
- (i) Provided, the applicant may choose if not required by other provisions of this chapter, to provide a detailed hydrologic and hydraulic study which delineates the floodway, 100-year floodplain boundary, and base flood elevations. At such

time a study is provided and adopted by ordinance, the applicant shall meet all requirements for areas designated with floodway, 100-year floodplain, and base flood elevations.

- (ii) If, for some reason, the property owner believes the FIRM to be inaccurate, a letter of map amendment may be submitted to FEMA. If the boundaries of the floodplain are amended by FEMA, setbacks will be enforced pursuant to the amendment.

168.11 Risk Zone Specific Standards

In addition to the General Standards, the following standards apply to specific development types in specific Risk Zones, except as revised in Section E of this Article. Risk Zones listed in this Code that do not appear on the current FIRM are not applicable.

(A) In AE Risk Zones:

Special Flood Hazard Areas with base floods determined

(1) For Residential Structures in Zone AE:

(a) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the published BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.

(b) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.

(c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.

(2) For Nonresidential Structures in Zone AE:

(a) All new commercial, industrial or other nonresidential structures must either:

(i) have the lowest floor (including basement) elevated 2 feet or more above the base flood level or

(ii) be floodproofed such that, together with attendant utility and sanitary facilities, be designed so that below an elevation of 3 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

(b) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.

(c) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

(3) For Manufactured Homes in Zone
AE:

(a) All manufactured homes that are placed or substantially improved on sites:

- (i) outside of a manufactured home park or subdivision,
- (ii) in a new manufactured home park or subdivision,
- (iii) in an expansion to an existing manufactured home park or subdivision, or
- (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §168.11(A)(3)(a) of this section be elevated so that either:

- (i) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or
- (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (iii) For all substantial improvements or substantial damage to existing manufactured home, the entire

structure becomes subject to the requirements of a new manufactured home.

- (iv) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.

(c) Where FEMA has not established a regulatory floodway in Zone AE, no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.

(B) Floodways - High risk areas of stream channel and adjacent floodplain

(1) Developments in regulatory floodways are prohibited, unless:

- (a) A No-Rise Certificate, signed and stamped by a Professional Engineer licensed to practice in the State of Arkansas, is submitted to demonstrate through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed development would not result in any increase in flood levels within the community during the occurrence of a base flood event; or
- (b) All requirements of 44 CFR §65.12 are first met.

(2) No Manufactured Home may be placed in a regulatory floodway, regardless of elevation height, anchoring methods, or No-Rise Certification.

(C) In AH or AO Risk Zones - Special Flood Hazard Areas of shallow flooding

(1) For Residential Structures in Zones AH or AO:

- (a) All new residential structures must be constructed with the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
 - (b) For all substantial improvements or substantial damage to existing residential structures the entire structure becomes subject to the requirements of a new residential structure.
 - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.
- (2) For Nonresidential Structures in Zones AH or AO:
- (a) All new commercial, industrial or other nonresidential structure must either:
 - (i) have the top surface of the lowest floor elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the community's FIRM, with documentation on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas; or
 - (ii) be floodproofed such that the structure, together with attendant utility and sanitary facilities be designed so that below 3 feet or more above the published BFE in Zone AH, or 3 feet or more above the base specified flood depth in an AO Zone, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads or effects of buoyancy.
 - (b) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.
 - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.
- (3) For Manufactured Homes in Zones AH or AO:
- (a) All manufactured homes that are placed or substantially improved on sites:
 - (i) outside of a manufactured home park or subdivision,
 - (ii) in a new manufactured home park or subdivision,
 - (iii) in an expansion to an existing manufactured home park or subdivision, or
 - (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the published BFE, or 2 feet or more above the highest adjacent grade in addition to the depth number specified (at least 2 feet if no depth number is specified) on the

- community's FIRM, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §168.11 (C)(3)(a) of this section be elevated so that either:
- (i) the lowest floor of the manufactured home meets the elevation standard of §168.11 (C)(3)(a)(iv), or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (c) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.
- (d) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new manufactured home.
- (4) Where FEMA has not established a regulatory floodway in Zones AH or AO, no Floodplain Development Permit may be issued unless a detailed engineering analysis is submitted along with the application that demonstrates the increase in base floodwater elevation due to the proposed development and all cumulative developments since the publication of the current FIRM will be less than 1 foot.
- (5) Require adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.
- (D) In "A" Risk Zones - Special Flood Hazard Areas with no base flood elevations determined
- (1) In Zone A, The applicant or the applicant's agent must determine a base flood elevation prior to construction. The BFE will be based on a source or method approved by the local Floodplain Administrator.
 - (2) For Residential Structures in Zone A:
 - (a) For all new residential structures, the top surface of the lowest floor must have an elevation 2 feet or more above the BFE. This elevation must be documented on an Elevation Certificate properly completed by a Professional Engineer, Surveyor or Architect licensed to practice in the State of Arkansas.
 - (b) For all substantial improvements or substantial damage to existing residential structures, the entire structure becomes subject to the requirements of a new residential structure.
 - (c) For any reconstruction, rehabilitation, addition, or other improvement to an existing residential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new residential structure.
 - (3) For Nonresidential Structures in Zone A:
 - (a.) All new commercial, industrial or other nonresidential structures must either:
 - (i) have the lowest floor (including basement) elevated {2 feet or more} above the base flood level or
 - (ii) be floodproofed such that, together with attendant utility and sanitary facilities, be

designed so that below an elevation of 3 feet above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- (iii) A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify on a Floodproofing Certificate that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

- (b.) For all substantial improvements or substantial damage to existing commercial, industrial or other nonresidential structures the entire structure becomes subject to the requirements of a new nonresidential structure.

- (c.) For any reconstruction, rehabilitation, addition, or other improvement to an existing nonresidential structure that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to the requirements of a new nonresidential structure.

(4) For Manufactured Homes in Zone A:

- (a.) All manufactured homes that are placed or substantially improved on sites:

- (i) outside of a manufactured home park or subdivision,
- (ii) in a new manufactured home park or subdivision,

- (iii) in an expansion to an existing manufactured home park or subdivision, or

- (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 2 feet or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (b) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's FIRM that are not subject to the provisions of §168.11(D)(4)(a) of this section be elevated so that either:

- (i) the lowest floor of the manufactured home is 2 feet or more above the base flood elevation, or

- (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

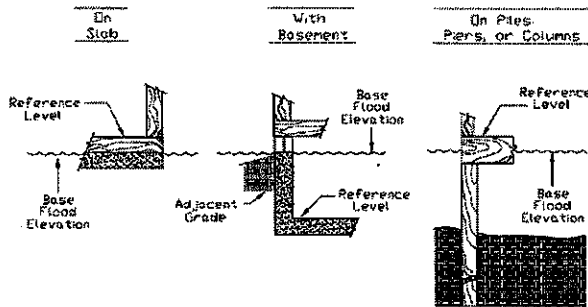
- (c) For all substantial improvements or substantial damage to existing manufactured home, the entire structure becomes subject to the requirements of a new manufactured home.

- (d) For any reconstruction, rehabilitation, addition, or other improvement to an existing manufactured home that is less than a substantial improvement, only the improved area, but not the entire structure, becomes subject to

the requirements of a new manufactured home.

penalties set forth at §10.99 of the Fayetteville Code of Ordinances.

- (5) Base flood elevation data and a regulatory floodway, utilizing accepted engineering practices, shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided.



Elevations should be measured at the top of the reference level floor.

168.12 Enforcement

- (A) Flood hazards are reduced by compliance with the provisions of this code. Accordingly, enforcement of this ordinance discourages non-compliance and is a recognized mechanism for flood hazard reduction.
- (B) The Floodplain Administrator must enforce the provisions of this ordinance and is authorized to:
- (1) Issue Stop Work Orders on non-compliant floodplain development projects;
 - (2) Request that FEMA file a 1316 Action (Denial of Flood Insurance) against non-compliant properties; and
 - (3) Take any other lawful action necessary to prevent or remedy any instance of non-compliance with the provisions of this ordinance.
- (C) It is hereby declared to be a misdemeanor to violate or fail to comply with any provision of this ordinance.
- (D) Any person found guilty in the District Court of violating this ordinance is subject to the

CITY ATTORNEY AGENDA REQUEST

FOR: COUNCIL MEETING OF May 6, 2008

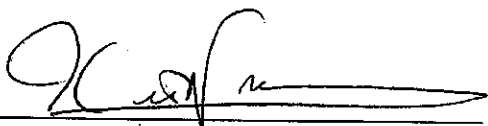
FROM:

KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Codify Ordinance No. 2292 Of December 7, 1976, With Amendments
Proposed By The Board Of The Downtown Off-Street Parking Improvement District

APPROVED FOR AGENDA:



City Attorney

4-21-08
Date



Mayor

4/22/08
Date



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

FROM: **Kit Williams, City Attorney**

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

DATE: **April 21, 2008**

RE: **Downtown Off-Street Parking Improvement District #1**

The commissioners of the Downtown Off-Street Parking Improvement District #1 have requested that the City increase the number of commissioners from three to five. Attached are letters from their attorney, John Logan Burrow, presenting this request.

City Clerk Sondra Smith helped me research this Board. It was established by Ordinance No. 2292 (attached) passed and approved on December 7, 1976. In November of 1976, petitions had been filed with the City Clerk by a majority of property owners in the district requesting that the Board of Directors establish this Parking District. Hal Douglas, John Lewis, George Shelton, Curtis Shipley, Hayden McIlroy and many more of Fayetteville's leading citizens signed the Petition.

For some reason Ordinance No. 2292 was never codified into Chapter 33: **Departments, Boards, Commissions and Authorities** of the Fayetteville Code. The Public Facilities Board established by Ordinance No. 2485 of 1978 is codified at §33.065 – .071 and I believe this important parking district should also be codified. I propose its codification immediately preceding the Public Facilities Board as it precedes it in date of formation. This codification will include the increase in number of commissioners (unless rejected by the City Council) and establish terms and appointment procedures for commissioners.

Attached is my proposed codification which may certainly be referred to the Ordinance Review Committee if so desired.

ORDINANCE NO. _____

**AN ORDINANCE TO CODIFY ORDINANCE NO. 2292 OF
DECEMBER 7, 1976, WITH AMENDMENTS PROPOSED BY
THE BOARD OF THE DOWNTOWN OFF-STREET PARKING
IMPROVEMENT DISTRICT**

WHEREAS, after a petition to form an improvement district was signed by a majority in assessed value of the owners of real property within the proposed Downtown Off-Street Parking Improvement District in November of 1976, the Board of Directors of the City of Fayetteville enacted Ordinance No. 2292 to create the District on December 7, 1976; and

WHEREAS, this improvement district has obtained property and paved parking lots within the district and functioned well for over thirty years; and

WHEREAS, the improvement district's board has requested that the City Council expand its membership to five.

**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 hereby amends Chapter 33: **Departments, Boards Commissions and Authorities** of the Fayetteville Code by enacting new sections 33.062 – 33.064 as shown on Exhibit A attached hereto.

PASSED and APPROVED this 6th day of May, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT A

Off-Street Parking Development District No. 1

33.062 Establishment and Purposes

(A) The Off-Street Parking Development District No. 1 was established on December 7, 1976, by Ordinance No. 2292 with its commissioners appointed by the Fayetteville City Board of Directors. The District encompasses the property described in Exhibit A to Ordinance No. 2292.

(B) The Off-Street Parking Development District was created for the purpose of constructing facilities for the off-street parking of vehicles on lands to be purchased by the District.

33.063 Membership of the Board, Terms of Office

(A) The Mayor shall appoint with approval of the City Council five owners of real property located within the District to be commissioners for the Off-Street Parking Development District Board.

(B) The three current commissioners shall continue in their office for the remainder of their normal six year terms and may be reappointed. One new appointment shall be for an initial four year term of office. The other new appointment and all reappointments shall thereafter be for six year terms.

33.064 Powers and Responsibilities

(A) The District Board shall have the power to acquire real property and construct facilities for off-street parking of vehicles on lands it owns. The District Board shall generally have the statutory power of a municipal improvement district pursuant to Subtitle 5 **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

(B) The District Board shall comply with all responsibilities and restrictions for boards of improvement districts mandated by Subtitle 5, **Improvement Districts Generally** of Title 14, **Local Government** of the Arkansas Code.

JOHN LOGAN BURROW, P. A.
Attorney at Law
1 West Mountain Street #206
Fayetteville, Arkansas 72701
479-444-0722

April 18, 2008

Hon. Kit Williams
Fayetteville City Attorney
City Administration Building
Fayetteville, Arkansas 72701

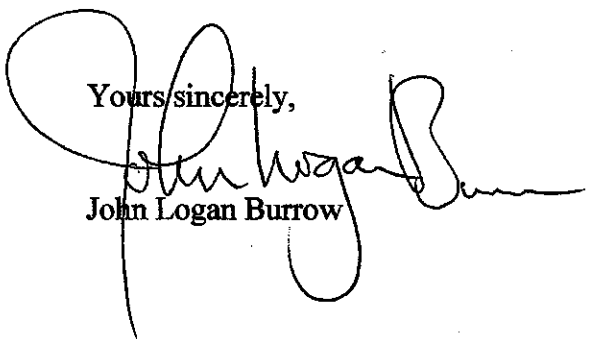
Dear Mr. Williams:

Enclosed please find a letter to Mayor Dan Coody forwarding to him the request by the Downtown Off Street Parking Improvement District No. 1 of the City of Fayetteville's Board of Improvement that the number of its board members be increased from three to five.

Statutory authority for this increase in the membership of the Board is provided for in ACA Section 14-88-301 (a) (1) (A) (ii). I have asked the City Clerk to determine, if it is discoverable, the order in which the current members of the Board were appointed, so that the new positions can be appointed to serve appropriate lengths of time before commencing regular six-year terms with no more than two of their terms expiring at the same time. I will put that information in your hands as soon as I have it.

Please let me know if I can be of any assistance to you.

Yours sincerely,


John Logan Burrow

Cc: Lamar Pettus
Bobby lee Odom
Rick Woods

JOHN LOGAN BURROW, P. A.
Attorney at Law
1 West Mountain Street #206
Fayetteville, Arkansas 72701
479-444-0722

April 18, 2008

Hon. Dan Coody
Mayor, City of Fayetteville, Arkansas
City Administration Building
Fayetteville, Arkansas 72701

Dear Mayor Coody:

The Board of Improvement of the Downtown Off Street Parking Improvement District No. 1 of the City of Fayetteville, Arkansas, met on Thursday, April 17, 2008, and voted to request that the City Council, by city ordinance, increase the number of members of the board from three to five. The Board authorized me to represent them in this matter and to take whatever action is necessary in its furtherance.

Please let me know if you need any assistance from me. Thank you for your attention to this.

Yours sincerely,

John Logan Burrow

Cc: Kit Williams
Lamar Pettus
Bobby Lee Odom
Rick Woods

ORDINANCE NO. 2292FILED
FOR RECORD

76 DEC 22 PM 2:52

AN ORDINANCE ESTABLISHING OFF-STREET PARKING DEVELOPMENT
DISTRICT NUMBER 1 OF THE CITY OF FAYETTEVILLE, ARKANSAS

WHEREAS, parties claiming to be the owners of a majority in assessed value of the property located within the territory hereinafter described have filed a petition praying that an improvement district be established for the purpose hereinafter set out; and

WHEREAS, after due notice as required by law, the Board of Directors of the City of Fayetteville, Arkansas, has heard all parties desiring to be heard, and have ascertained that said petition was signed by a majority in assessed value of the owners of real property within said territory.

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

Section 1. There is hereby established an improvement district embracing the property described in Exhibit "A" attached hereto and made a part hereof for the purpose of constructing facilities for the off-street parking of vehicles, said facilities to be constructed at such locations as the Commissioners deem necessary in order to provide off-street parking within the District on lands to be purchased in the most economical means permitted under the circumstances for the benefit of the District, with said facilities to be constructed in such manner and with such materials as the Board of Improvement of the District may deem for the best interests of the District.

Section 2. That said District shall be known as Off-Street Parking Development District Number 1 of the City of Fayetteville, Arkansas, and Pearl Clinehens, Frank W. Lewis, and Dr. C. Garland Melton, Jr. are hereby named Commissioners, who shall compose the Board of Improvement for said District.

Section 3. That this ordinance shall be in full force and effect from and after the time provided by law.

PASSED AND APPROVED THIS 1 DAY OF December, 1976.

APPROVED:

William R. Oster
MAYOR



RESOLUTION NO. 25-77

A RESOLUTION APPOINTING THREE ELECTORS TO CONSTITUTE A BOARD OF ASSESSMENT OF BENEFITS TO BE RECEIVED BY EACH LOT WITHIN OFF-STREET PARKING DEVELOPMENT DISTRICT NUMBER 1 OF THE CITY OF FAYETTEVILLE.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF FAYETTEVILLE, ARKANSAS:

That the Board of Directors hereby appoints the following electors of the City to constitute a Board of Assessment of the benefits to be received by each lot or block, or other subdivision of land within Off-Street Parking Development District No. 1 of the City of Fayetteville by reason of the proposed local improvement: Keith L. Schultz, Chad Kump and Carl Collier.

PASSED AND APPROVED THIS 5 DAY OF April, 1977.

APPROVED:

Ernest G. Lomax
MAYOR

ATTEST:

Spurline Westbrook
CITY CLERK

MICROFILMED
DATE OCT 20 1978
REF 174

March 20, 2008

To the members of the Fayetteville City Council:

The discussion of and vote on our two signs on Markham Road at the March 10 Planning Commission meeting focused solely on the signs and overlooked a staff recommendation that we be allowed to "relocate the permitted sign from Planning Area 3 to Planning Area 2 . . . so long as the sign is installed as a monument sign."

We wish to appeal this portion of ADM08-2938 as it is in keeping with what was approved originally in the PZD proposal and simply is moving the permitted sign from the north side of Markham to the south side. This is NOT an appeal of the Planning Commission decisions on the existing signs.

Justine Archer
Jane Archer

RECEIVED

MAR 20 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

City Council Meeting of May 06, 2008
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^X

Date: March 24, 2008

Subject: Administrative item modifying the Master Development Plan of the Pratt Place Inn Commercial Planned Zoning District (ADM 08-2938)

RECOMMENDATION

The Planning Commission voted to deny two requested modifications to C-PZD 05-1670 Pratt Place Inn. The motion to deny passed with a vote of 6-0-0. Staff recommended approval of one of the requested modifications, to move one of the approved signs from one Planning Area to another. The applicant has appealed the Planning Commission decision to the City Council, requesting that this particular modification of the two modifications be approved.

BACKGROUND

The Fayetteville City Council approved C-PZD 05-1670 (Pratt Place Inn) on November 1, 2005 for zoning and land use approval of a commercial development with an inn, restaurant, cabins and accessory structures. In addition to specific development rights, three (3) monument style signs were permitted to advertise for the development; two not to exceed 6 sq. ft. and the other not to exceed 15 sq. ft. The signs were restricted to three specific locations: the southwest corner of Sang and Markham (PA-1), the northeast corner of Cross and Markham (PA-3) and the west end of Markham (PA-1), respectively.

The applicants requested a modification to the approved zoning criteria to allow certain types of freestanding signs as noted in the staff report and to permit a sign in Planning Area 2 in place of a sign in Planning Area 3. However, since the modifications in full were denied by the Planning Commission, the applicants have amended the request in their request for approval.

The applicants request a modification to the approved zoning criteria to permit a sign in Planning Area 2 in place of a sign in Planning Area 3. All signs shall be monument style as approved with C-PZD 05-1670 and located in conformance with Chapter 174 of the Unified Development Code.

DISCUSSION

On March 10, 2008, the Planning Commission voted 6-0-0 on a motion to deny the request. The motion to deny passed and the applicant has appealed a portion of the original request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING A COMMERCIAL PLANNED ZONING DISTRICT ENTITLED C-PZD 05-1670, PRATT PLACE INN, LOCATED AT 2115 W. MARKHAM ROAD, CONTAINING APPROXIMATELY 72.00 ACRES, TO ALLOW A MONUMENT SIGN IN PLANNING AREA 2 IN- LIEU OF A SIGN IN PLANNING AREA 3, AS DESCRIBED HEREIN.

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

Section 1. That a monument sign, as defined by the City of Fayetteville Unified Development Code, is hereby approved in Planning Area 2 in-lieu of a sign in Planning Area 3, and reflected in the Planned Zoning District zoning criteria for C-PZD 05-1670, Pratt Place Inn.

Section 2. That the approvals and conditions for C-PZD 05-1670 (Pratt Place Inn) as passed and approved by the City Council on November 1, 2005 with Ordinance No. 4786 shall be modified with the revisions to the Master Development Plan and project booklet as described and depicted herein (Exhibit "A").

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the Planned Zoning District have been met.

PASSED AND APPROVED this _____ day of _____, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer



March 20, 2008

To the members of the Fayetteville City Council:

The discussion of and vote on our two signs on Markham Road at the March 10 Planning Commission meeting focused solely on the signs and overlapped a staff recommendation that we be allowed to "relocate the permitted sign from Planning Area 3 to Planning Area 2 ... so long as the sign is installed as a monument sign."

We wish to appeal this portion of ADM08-2938 as it is in keeping with what was approved originally in the PZD proposal and simply is moving the permitted sign from the north side of Markham to the south side. This is NOT an appeal of the Planning Commission decisions on the existing signs.

Julian Archer
Jane Archer

RECEIVED

MAR 20 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



PC Meeting of March 10, 2008

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
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~March 6, 2008~~ Updated March 11, 2008

ADM 08-2938: Administrative Item (PRATT PLACE INN C-PZD 05-1670, 481): Submitted by JULIAN AND JANE ARCHER for property located at 2115 W. Markham Road. The property is zoned C-PZD and contains approximately 72.00 acres. The request is to amend the zoning criteria to allow certain freestanding signs, which are not the required monument signs.

Planner: JESSE FULCHER

BACKGROUND

The subject request was tabled at the request of the applicants at the previous Planning Commission hearing on February 25, 2008.

Property Description and Background: The subject property consists of approximately 72.00 acres located at 2115 W. Markham Road. The Fayetteville City Council approved C-PZD 05-1670 (Pratt Place Inn) on November 1, 2005 for zoning and land use approval of a commercial development with an inn, restaurant, cabins and accessory structures. The development consists of three (3) Planning Areas, with all commercial development restricted to Planning Area 1. Planning Area 2 and 3 are restricted to agricultural uses.

In addition to specific development rights, three (3) monument¹ style signs were permitted to advertise for the development; two not to exceed 6 sq. ft. and the other not to exceed 15 sq. ft. The signs are restricted to three specific locations: the southwest corner of Sang and Markham, the northeast corner of Cross and Markham and the west end of Markham, respectively.

Not realizing the specific sign guidelines, or the requirement to obtain a sign permit prior to installation, the owners have already installed the two 6 sq. ft. signs as depicted in the attached photographs. Although the signs are in compliance with the size restrictions, the signs are not a monument style sign. Rather, they are each attached between two trees with a chain, suspended in the air. Additionally, one of the signs is located within Planning Area 2, which was not permitted with the PZD.

Proposal: The applicants request a modification to the approved zoning criteria to allow certain types of freestanding signs as noted herein and to permit a sign in Planning Area 2 in place of a

sign in Planning Area 3.

¹Monument Sign: A freestanding sign with a maximum height of 6' above the surrounding finish grade and whose entire base is in contact with and supported by the ground.

Table 1

Planning Area	Permitted Signage	Maximum Height
1	2' x 3' monument sign	6'
	3' x 5' monument sign	6'
2	None permitted	N/A
3	2' x 3' monument sign	6'

Table 2

Planning Area	Requested Signage	Maximum Height
1	2' x 3' freestanding sign	20'
2	2' x 3' freestanding sign	20'
3	No sign	N/A

Variances: Chapter 156 of the Unified Development Code grants the Zoning and Development Administrator certain variance authority regarding Chapter 174 Signs. These include variances of setbacks, sign area, height, or other technical requirements. However, the Unified Development Code does not grant the Zoning and Development Administrator, nor any other board or committee, the authority to grant approval of signs which are prohibited by Chapter 174, or in this case, an approved Planned Zoning District and its associated sign allowances.

RECOMMENDATION

The Pratt Place Inn development was approved to allow small ground mounted signage, which would direct the general public and out-of-town patrons to the Pratt Place Inn property, while also minimizing any adverse impacts to the exclusively residential character of the surrounding neighborhood. Staff finds the signs which have been installed approximately 20' above surrounding grade to be more invasive and objectionable than the small-scale, unobtrusive ground mounted signs which were permitted by the City Council for this development. Freestanding signs of this nature are not permitted within any residential district in the City, and are compatible with the surrounding environment. Therefore, staff recommends denial of the applicant's request to utilize freestanding signs that are currently suspended in the area, and they shall immediately be removed.

Staff finds that relocating the permitted sign from Planning Area 3 to Planning Area 2 to be in keeping with the intent of the approval, so long as the sign is installed as a monument sign.

Should the City Council approve either or both of the applicant's request, staff recommends the following conditions of approval:

1. Freestanding signs shall be installed in accordance with the required setbacks for

freestanding signs, which are based on the height and size of said signs. This will result in the existing signs being relocated further back from the Master Street Plan right-of-way than currently installed, as they currently do not meet ordinance requirements. There is no variance from this requirement to allow the existing signs in their current location.

2. A sign permit application shall be submitted for staff review and approval within 30 days of the City Council's decision. Any sign not permitted shall be immediately removed.

Planning Commission Action: ☐ Forwarded ☐ Tabled ☒ Denied

Motion: **Lack**

Second: **Ostner**

Vote: **6-0-0** (Both of the requested modifications were denied by the motion)

Meeting Date: **March 10, 2008**

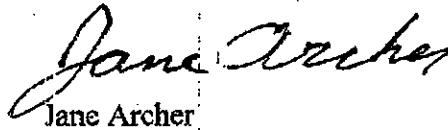
February 8, 2008

To: Jesse Fulcher, Current Planner
Planning Division
Members of the Planning Commission
Members of the City Council

We would like to request that the signage conditions included in the PZD proposal which you approved for our Pratt Place Inn project be modified to accommodate the signs that we put in place last month, not realizing that there were specific signage guidelines. These are two 2' by 3' signs (29 1/2" by 41" including the dimensions of the frame), each suspended between two trees. Each sign is attached to a chain which is attached to a bolt which runs through a nearby tree. The bolt hole is slightly larger than the bolt so that the tree quickly grows around it and the bolt does not harm the tree. You can see for yourself either through the attached photos or by driving by that these are unobtrusive signs that blend in well with the surrounding natural environment. We know these signs are unconventional, but since the purpose of PZD zoning is to handle unconventional requests we hope you will permit our having signs of this type.

Attached is a letter of January 15 addressed to Jeremy Pate and Andrew Garner giving more background on why we want signs placed in these particular settings.

Sincerely,



Jane Archer



Julian Archer

January 15, 2008

Jeremy Pate
Andrew Garner
Planning Division
City of Fayetteville
Fayetteville, AR 72701

RECEIVED
JAN 15 2008
PLANNING DIV.

Dear Jeremy, Dear Andrew;

For the past year and a half we have been forced to run a punishing gauntlet created by a few of our neighbors in an attempt to sabotage our Pratt Place Inn project, for what reason is beyond imagining. Their efforts toward that end have not only made our lives miserable at times, but have added tens of thousands of dollars to the cost of the project unnecessarily. We thought we had finally made it through, and, in fact, several of these neighbors have apologized for making our lives a living hell and have praised the beauty of the project. There is one, however, who isn't through with us yet and never will be.

A few days ago we rented a boom lift and hung two unobtrusive signs between four well-placed trees, one on Markham where Cross Street tees into it, and the other at the intersection of Markham and Sang. The signs are tasteful and blend into the natural colors that surround them. They are covered with tempered glass and are hung high up in the trees to diminish the chances of their being damaged by vandals. (Another sign we erected on a corner of Markham and Sang twenty years ago, which names the historic properties at Pratt Place, was vandalized a number of times while we were trying to usher the Pratt Place Inn and Barn project through the City Council and Planning Commission.)

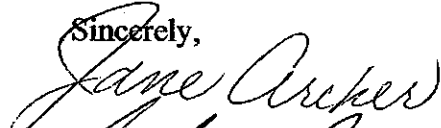
In no time, the one persistent neighbor, in her unflagging attempt to thwart our every move, filed a complaint about the signs. It was then that we learned that, according to city ordinance, we need to have a sign permit and to have the signs meet certain specifications, among them minimum setbacks. When we made our PZD application in 2006 and asked permission to put up signs we were unaware of the restrictions laid out in Chapter 174 of the Unified Development Code. We thought we simply were getting permission to put up signs on our property and were reassuring the neighbors by letting them know we were restricting ourselves to small signs. Now that we are having to focus solely on the question of signs, the note with an asterisk on our approval form mentions the provisions of Chapter 174. We just did not incorporate into our vision of the approach to the inn what it meant to be restricted to a "monument sign," when all of the text above that spoke of a "freestanding sign."

The code requirements clearly do not envision a situation such as a wooded area or the section of Markham in question. A standard sign would not be appropriate and a standard placement at ground level or on a signpost would invite vandals. Both of our signs are the same size, 2' by 3' or 29 1/2" by 41" if you include the wooden frame, and are set back from the back of the curb from seventeen to twenty-six feet and are not

disturbing or invasive in any way. If we had to observe to prescribed setback (I believe 10' from the street right-of-way) we would have to create a larger sign in order for it to be seen. Though Chapter 174 has no section on PZD signs, the current allowance of 32 sq. ft. (a 4' by 8' sign) for a monument sign is logical if it is to be seen using this setback. Conversely, if we are restricting ourselves to a small sign (2' by 3" or 6 sq. ft.) which is less than 20% of allowed size, then there should be some accommodation in the setback requirement. The same is true of the 3' by 5' sign permitted by our PZD as it is less than 50% of the possible sign size, though we have no plans right now to put up a sign that size. We request that you review this sign situation and grant permission for our signs to be placed where they are now and supported as we have them; that is, suspended between two trees.

We hope that you will come see the signs for yourselves and we feel confident that you will not find fault with them. If we are forced to take them down and put them on posts or on the ground, however, we will have no choice but to remove them altogether. There would be no point in placing them where they will be battered, destroyed, or stolen by vandals. Even the street signs in the area take a beating. It will be to Fayetteville's advantage for Pratt Place Inn to succeed as one of the most beautiful and celebrated inns in the U.S., and the removal of these handsome, subdued, and small signs for no sensible reason would only throw up an impediment to guests being able to find their way to the place.

Sincerely,



Jane and Julian Archer

Allowable signage for Pratt Place Inn, this is from PZD Booklet

(G) Signage. Signage on the property shall be allowed as follows:

Planning Area	Freestanding Signage	Wall Signage
1	2'x3' freestanding sign at Sang and Markham 3'x5' freestanding sign at the end of Markham	As permitted in Commercial zones for the Inn; no other signage permitted
2	None permitted	As permitted in Residential zones
3	2'x3' freestanding sign at Cross and Markham	As permitted in Residential zones

* No pylon/pole signs shall be permitted, only monument signs. Signage location shall be permitted in accordance with setbacks and other criteria in Ch. 174 Signs, unless noted herein.

Water & Sewer: Water is currently available, and will be extended on-site with adequate fire protection (hydrants) and water line size to be provided as required by code. It will be necessary for the development to connect to city sewer and cease use of the existing septic systems. Sewer line connections, extensions, etc. will be evaluated and required to meet city codes to serve the properties at the time of development.

Access: Access is provided from Markham and Sang Streets. These are residential streets with open ditches which provide access to the University Heights neighborhood west of the University of Arkansas campus. Markham is currently narrow and is failing in portions west of Cross Avenue. At the time of development, streets that the development will access will need to be reconstructed to provide a safe and adequate means of access, as determined by the Planning Commission. At minimum, a 20-foot wide pavement width will be required, with improvements to the failing pavement north of Cross Avenue. Access for ladder trucks to this property for the Fire Department is a stated concern, without improvements as mentioned above.

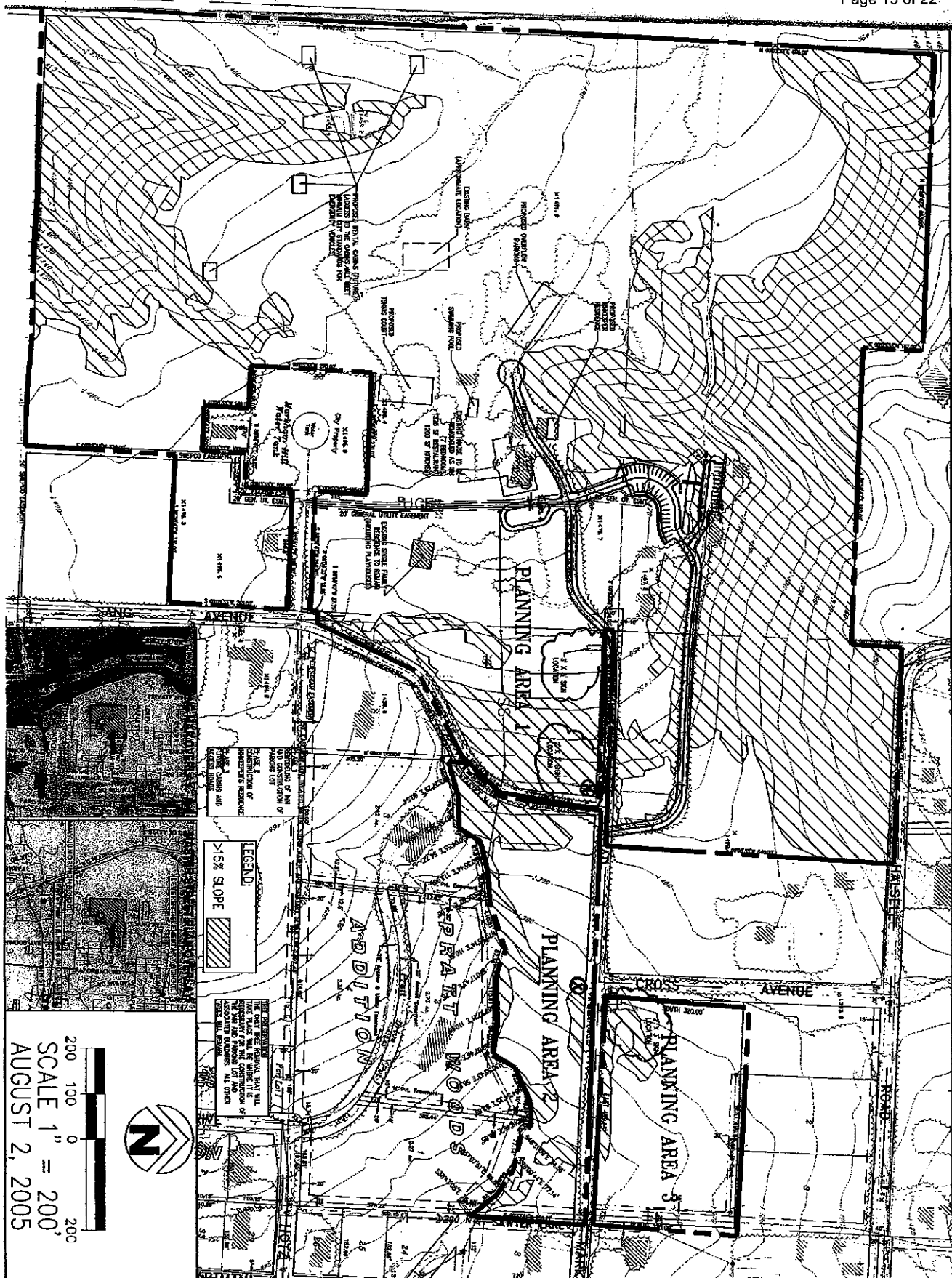
Interior to the project, private drives are proposed. Access to future cabins will need to meet with Fire Department approval in order to provide adequate fire protection and emergency access in time of need. The slope, width and construction of interior drives to access future structures shall be evaluated at the time of development to ensure proper access is achieved.

Adjacent Master Street Plan Streets: Markham Road, Sang Avenue (Residential Streets)

Street Improvements: Staff recommends the following:

- Markham Road accessing the subject property from Cross Avenue into the property will need to be improved to a minimum 20-foot standard, if not greater. Existing pavement will need to be evaluated and improved, if necessary. The Planning Commission shall determine the amount of improvement necessary in order to approve the proposed development with adequate and safe access.
- Drainage improvements associated with the widening will also need to be evaluated and required, as necessary, based on the City Engineer's recommendation and the Planning Commission's determination at the time of Large Scale Development.

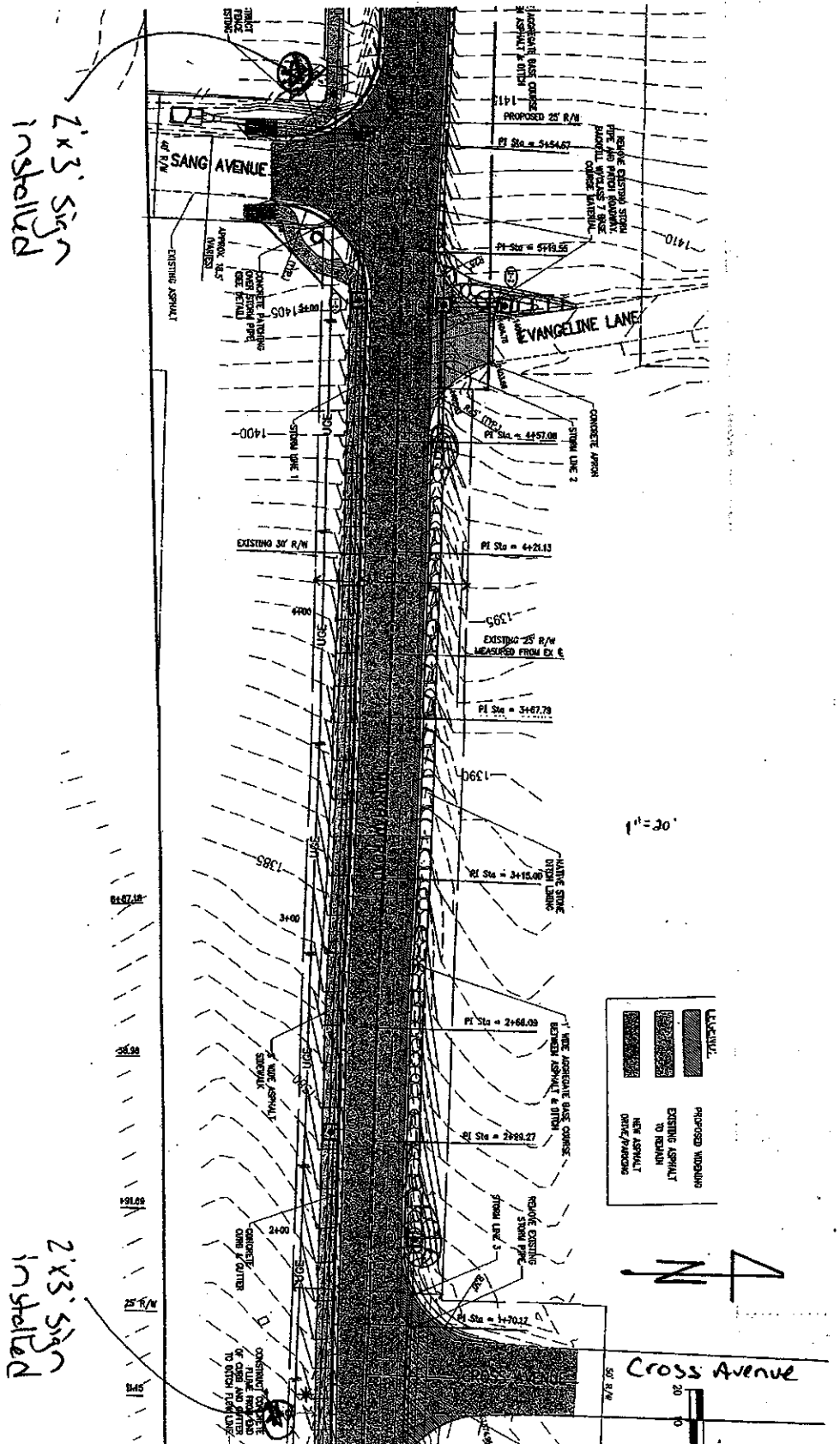
Tree Preservation: Much of the site contains existing tree canopy, though there are areas of dense canopy and areas of open pasture land. The majority of the property is intended to be utilized in its existing state, without a great deal of disturbance. Typical agricultural activities,



→ Sign locations approved with C-PZD 05-1670 =

→ Note that the 2'x3' sign on PA-3 has been installed on PA-2 =

DATE AUGUST 2005 SCALE 3	MAINTAINED 1:50 DATE 08/04/05 CREATED BY A. KELSO	PRATT PLACE INN MIXED USE DEVELOPMENT FAYETTEVILLE, ARKANSAS	Crafton, Tull & Associates, Inc. 301 N. 47th Street, Suite 200, Rogers, AR 72766 479.635.4838 FAX: 479.631.6224 www.craftontull.com Architects, Engineers & Surveyors	
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A black and white photograph of a wooded area. In the foreground, a dark, rectangular sign with the words "NO LITTERING" in white capital letters is mounted on a metal post. To the right of the sign, a utility pole stands. A rectangular object, possibly a sign or a piece of paper, is hanging from a branch or the pole in the upper center of the image. The background is filled with the bare, vertical trunks of many trees, suggesting a winter or late autumn setting. The ground is covered with a layer of dry leaves or grass.

NO
LITTERING

**ADM 08-2938
Pratt Place Inn**



- Looking west from intersection of Cross and Markham -

ADM 08-2938
Pratt Place Inn

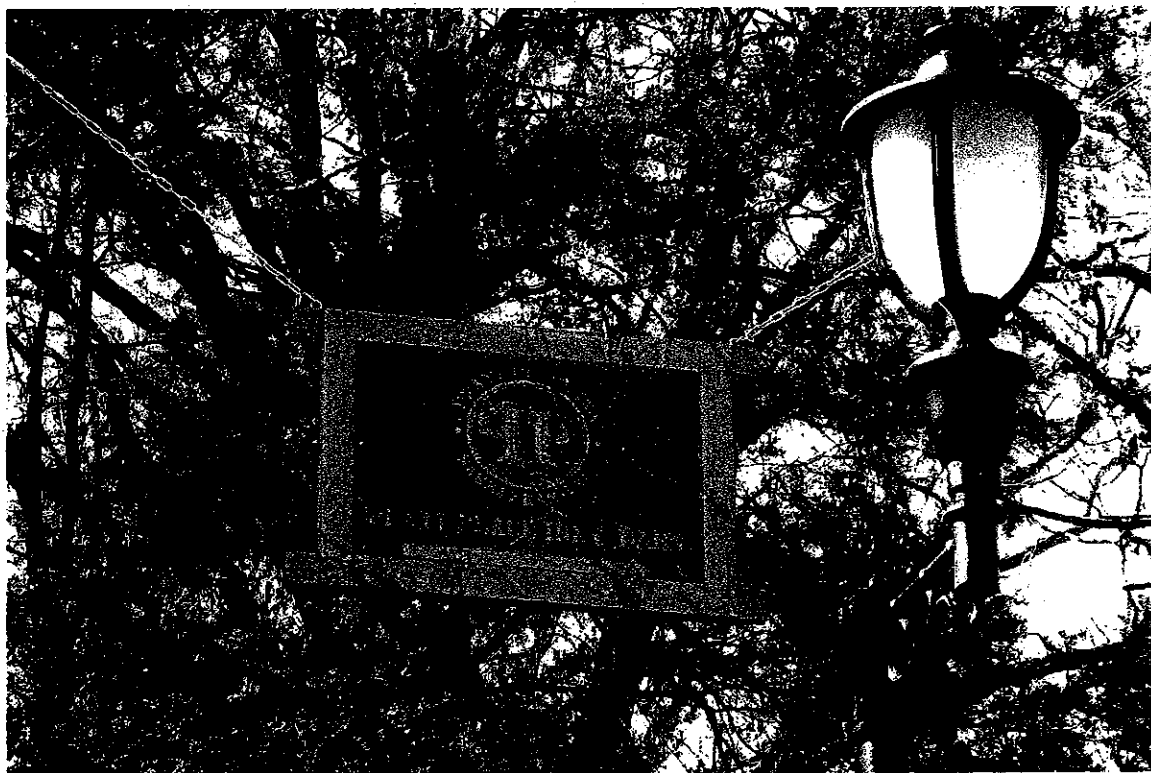


- Looking south from intersection of Cross and Markham -

ADM 08-2938
Pratt Place Inn



- Looking west at intersection of Song and Merckham -



- Sign detail -

ADM 08-2938
Pratt Place Inn

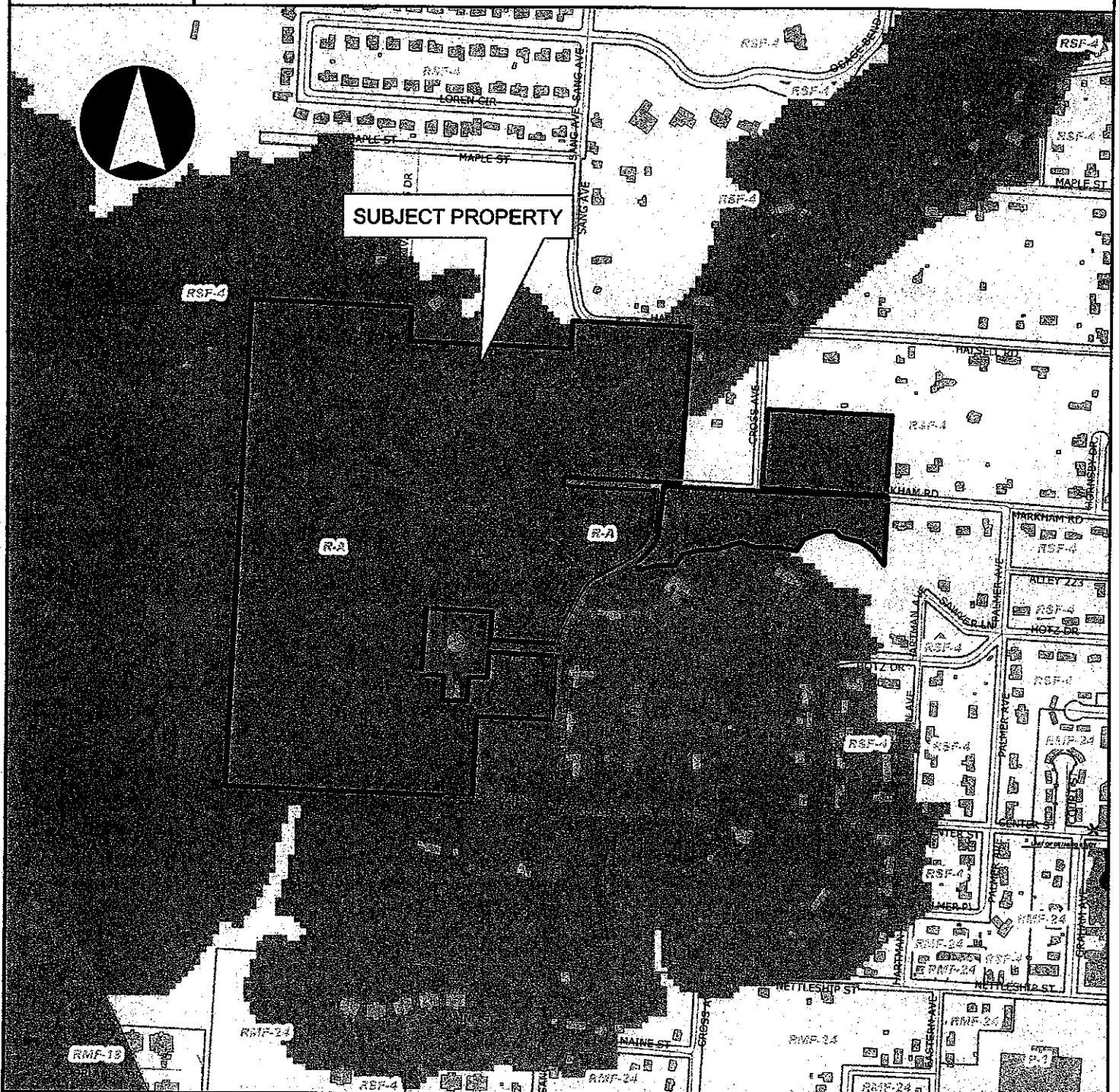


- Looking Southwest from intersection of
Sang and Northern -

ADM 08-2938
Pratt Place Inn

PRATT PLACE INN

Close Up View



Overview

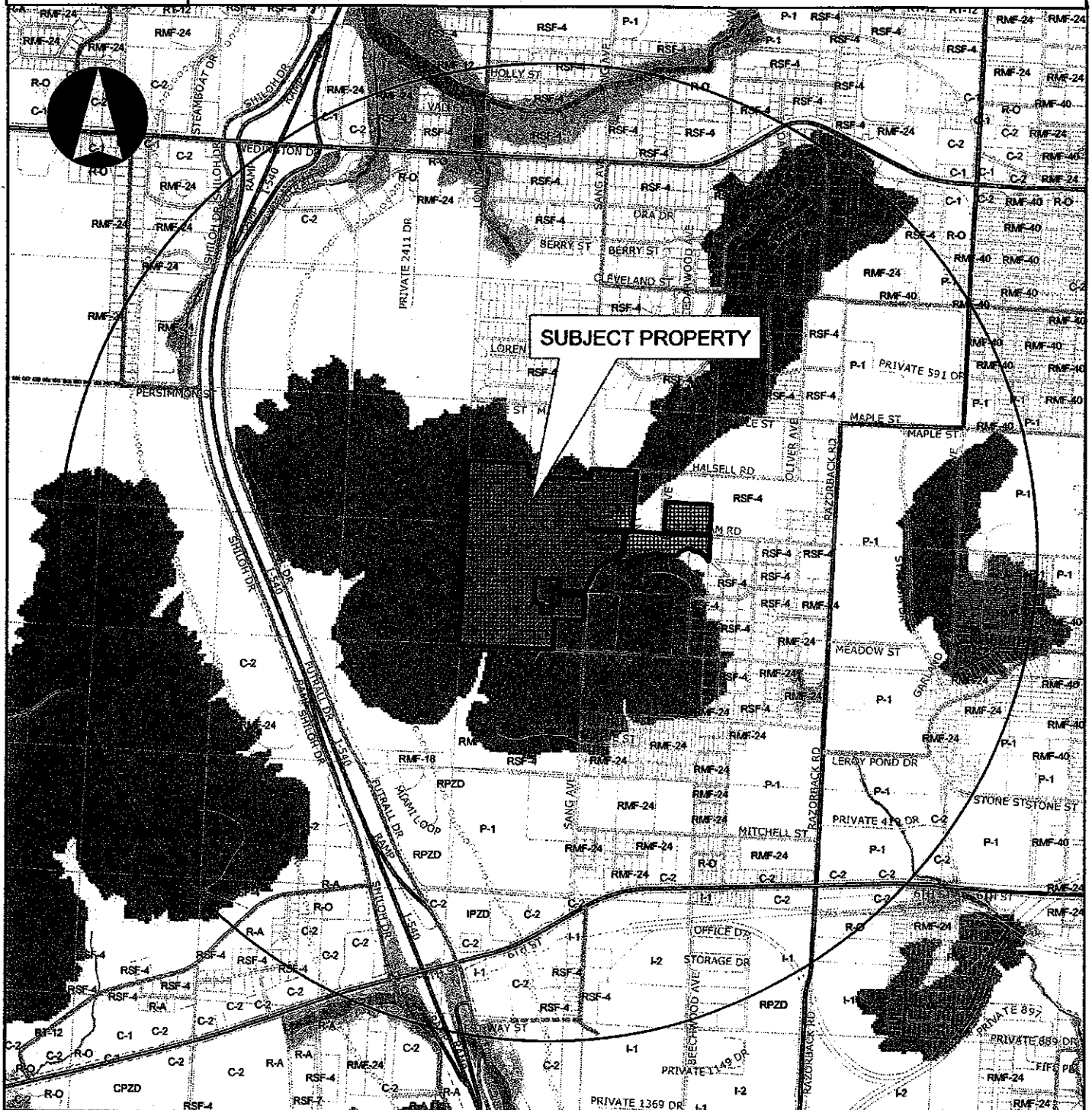
Legend

- Overlay District
- FLOODWAY
- 100 YEAR
- 500 YEAR
- LIMIT OF STUDY
- BaseLine Profile
- Fayetteville
- Outside City
- LSD06-2195
- vector.GDB.Footprint_2004
- Hillside-Hilltop Overlay District

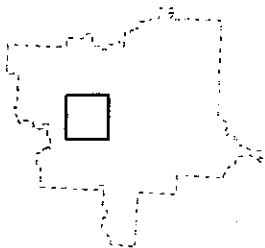
0 225 450 900 1,350 1,800
Feet

PRATT PLACE INN

One Mile View



Overview



Legend

Subject Property

■ LSD06-2195

Boundary

~ Planning Area

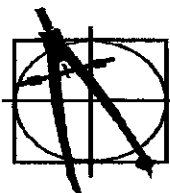
○ Overlay District

□ Outside City

Legend

■ Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles



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.

April 1, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED

APR 01 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: BRIDGEDALE PLAZA PZD APPEAL

Dear Council Members,

On behalf of our client, Clint McDonald, we would like to appeal the March 24, 2008 Planning Commission decision to deny C-PZD 08-2904. We are requesting that this item be put on the May 6, 2008 City Council Agenda.

This project is located at the southeast corner of Hwy. 16E and River Meadow Drive. The property is currently zoned R-A, Residential Agricultural and RSF-4, Single Family - 4 Units/Acre and contains approximately 15.95 acres. We are proposing dividing the property into 4 Planning Areas. *Planning Area 1* will be designated as single family and contain 27 single-family detached lots on 6.41 acres, a density of 4.2 dwelling units/acre. *Planning Area 2* will be designated as self storage, containing approximately 114,000 SF of self storage facility within 5.62 acres. *Planning Area 3* will be designated as residential office, contains 1.98 acres, and serves as a buffer and screen between Highway 16 and the proposed self-storage facility. *Planning Area 4* will be designated as neighborhood commercial, containing approximately 20,000 SF of neighborhood commercial uses (dry cleaner, restaurant, bank, etc.) within 2.01 acres.

This project was presented at the March 24, 2008 Planning Commission meeting and denied with a 5-4 vote. The Planning Commissioners present at this meeting found in favor of Planning Areas 1, 3, & 4. However, the Commissioners that voted against the project felt that Planning Area 2 did not fit well within a predominately residential area. Planning Commission felt that the storage facility did not contribute in form or use to this neighborhood. We respectfully disagree with this decision, as we feel that the self storage facility will benefit this area. There are approximately 1100 lots either proposed or ready to be built on in this area; therefore there will be a demand for storage facilities. We feel that the properties directly to the east of this project will develop as a commercial node and feel that the storage facility will provide an adequate buffer between residential and commercial uses. The general concern of how storage facilities usually look is not unfounded, as the majority of them are generally flat-roofed, one-story structures arranged in long, monotonous rows. Our proposal implements many features to both screen the facility and make the structure itself aesthetically appealing. We also worked with Springline Consulting Group to implement many Low-Impact Development (LID) strategies into this development. One example of an LID strategy utilized is rain barrels

in the storage facility that will collect water from the rooftops, of the storage buildings, that will be stored in cisterns. These cisterns will then provide irrigation to the surrounding landscape buffer and residential units. If you would like more information on these strategies, we would be happy to provide you with a copy.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,


Jared S. Inman, E.I.



City Council Meeting of May 6, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations 

From: Jeremy C. Pate, Director of Current Planning 

Date: April 10, 2008

Subject: Appeal for Bridgedale Plaza (C-PZD 08-2904)

RECOMMENDATION

Staff and the Planning Commission recommend denial of an ordinance creating a Commercial Planned Zoning District (C-PZD) for Bridgedale Plaza, finding that the self storage component of the project is an incompatible and inappropriate land use for the surrounding neighborhoods and does not meet the guiding policies of the City's adopted Future Land Use Plan.

BACKGROUND

The subject property contains approximately 15.95 acres located at the southeast corner of Highway 16 East and River Meadows Drive and is zoned R-A, Residential Agricultural and RSF-4, Residential Single Family, 4 units per acre. Surrounding properties are single family residential within the R-A, RSF-4, RSF-8, and RMF-24 zoning districts. The applicant proposes to rezone the property into four distinct planning areas:

Planning Area 1 is designated as single family residential and contains 27 single-family detached lots on 6.41 acres, a density of 4.2 dwelling units/acre, with 0.6 acres of open green space. This area serves as a residential buffer and transition between the adjacent single-family neighborhood to the west, Stonebridge Meadows Subdivision, and the proposed self storage facility to the east.

Planning Area 2 is designated as self storage, containing approximately 114,000 SF of self storage facility within 5.62 acres. In an effort to obtain approval of this traditionally light industrial/warehousing use classification in close proximity to residences, the applicant has proposed several Low Impact Development (LID) techniques to reduce the overall impact of the use. The applicant proposes permeable pavement for a majority of the facility's internal drive aisles, as well as cisterns and rain barrels throughout the planning area. The applicant proposes to berm and landscape a green belt, approximately 20 feet wide, around Planning Area 2, in addition to motion sensors for the exterior lighting to reduce energy consumption and light trespass.

Planning Area 3 is designated as residential office, contains 1.98 acres, and serves as a buffer and screen between Highway 16 and the proposed self-storage facility. The applicant proposes reduced setbacks along the proposed street, building orientation, and parking located behind the proposed office buildings in order to create a pedestrian and cyclist friendly streetscape. Approximately 20,000 SF of non-residential space and 24 dwelling units are proposed within this planning area.

City Council Meeting of May 6, 2008
Agenda Item Number

Planning Area 4, located at the corner of Highway 16 and River Meadows Drive, is designated as neighborhood commercial and contains 2.01 acres. The applicant proposes approximately 20,000 SF of neighborhood commercial uses (dry cleaner, restaurant, bank, etc.), with more pedestrian orientation to the interior street and reduced building setbacks of 20 feet along the proposed Street #4 are proposed to create the same streetscape intent for Planning Area 3. Typical neighborhood commercial uses that will support surrounding residents are planned for this area.

Since the proposal was initially submitted, the applicant has made several significant improvements to the proposal, in response to concerns expressed by staff, the Planning Commission, and area residents, including responding to neighborhood concerns regarding lot size and greenspace, creating more pedestrian friendly streetscapes within the development, enlarging buffer areas surrounding the self-storage units, and extending a public street to the east property line as a stub-out for future connectivity to Roberts Road.

DISCUSSION

This item was heard at the regular Planning Commission meeting on March 24, 2008. The Planning Commission voted 5-4-0 to deny this C-PZD request.

In general, staff found in favor of the development pattern that is proposed for PA-1 (single family), PA-3 (residential office) and PA-4 (neighborhood commercial). All of these uses contribute to the fabric of a traditional neighborhood in close proximity, providing places to live, work, and interact on a daily basis. The development pattern of the single family component is more in keeping with the goals and policies adopted by the City; the arrangement of buildings for the neighborhood commercial and office/loft living space provides an internal neighborhood streetscape that is more pedestrian friendly and appropriate for a neighborhood than the major thoroughfare of Hwy 16. Along Hwy 16, the proposal is to provide an attractive building elevation facing the street, and to provide landscape buffers that will enhance this particular major corridor for through travelers. Internally, pedestrian sidewalks and narrow streets provide a safer neighborhood environment, and landscape buffers and a half-acre park will provide greenspace and recreational opportunities.

With regard to PA-2 (self-storage), staff can not find in favor of this particular use within the neighborhood proposed. Self-storage facilities are not particularly attractive, as they are flat-roofed, one-story structures arranged in long, monotonous rows. Significant efforts to heavily screen this use and lessen the overall impact include: construction of a landscaped berm and "living fence" screen surrounding the use; provision of brick facades along the north and west elevations of the buildings; and the inclusion of low impact development (LID) techniques such as pervious paving to decrease stormwater runoff, cisterns to capture and recycle roof runoff, and bio-retention to collect rainwater and provide infiltration and enhance water quality. All of these efforts achieve a better, more environmentally friendly and well-screened self-storage facility. However, in staff's opinion, the rezoning of the site to permit this use does not contribute to the quality of the neighborhood, and thus does not fit well within a predominantly residential neighborhood. The City strives to promote and encourage a mixture of uses and good development within neighborhoods. The self-storage facility, though, does not contribute in form or use to this neighborhood, in staff's opinion. Rather, it breaks up the continuity and the complete, compact and connected environment that is desired, and does not enhance the surrounding community.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A COMMERCIAL PLANNED ZONING DISTRICT TITLED C-PZD 08-2904 BRIDGEDALE PLAZA, LOCATED AT THE SOUTHEAST CORNER OF HIGHWAY 16 EAST AND RIVER MEADOWS DRIVE, CONTAINING APPROXIMATELY 15.95 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From RSF-4, Residential Single Family, 4 units per acre and R-A, Residential Agricultural to C-PZD 08-2904 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 , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

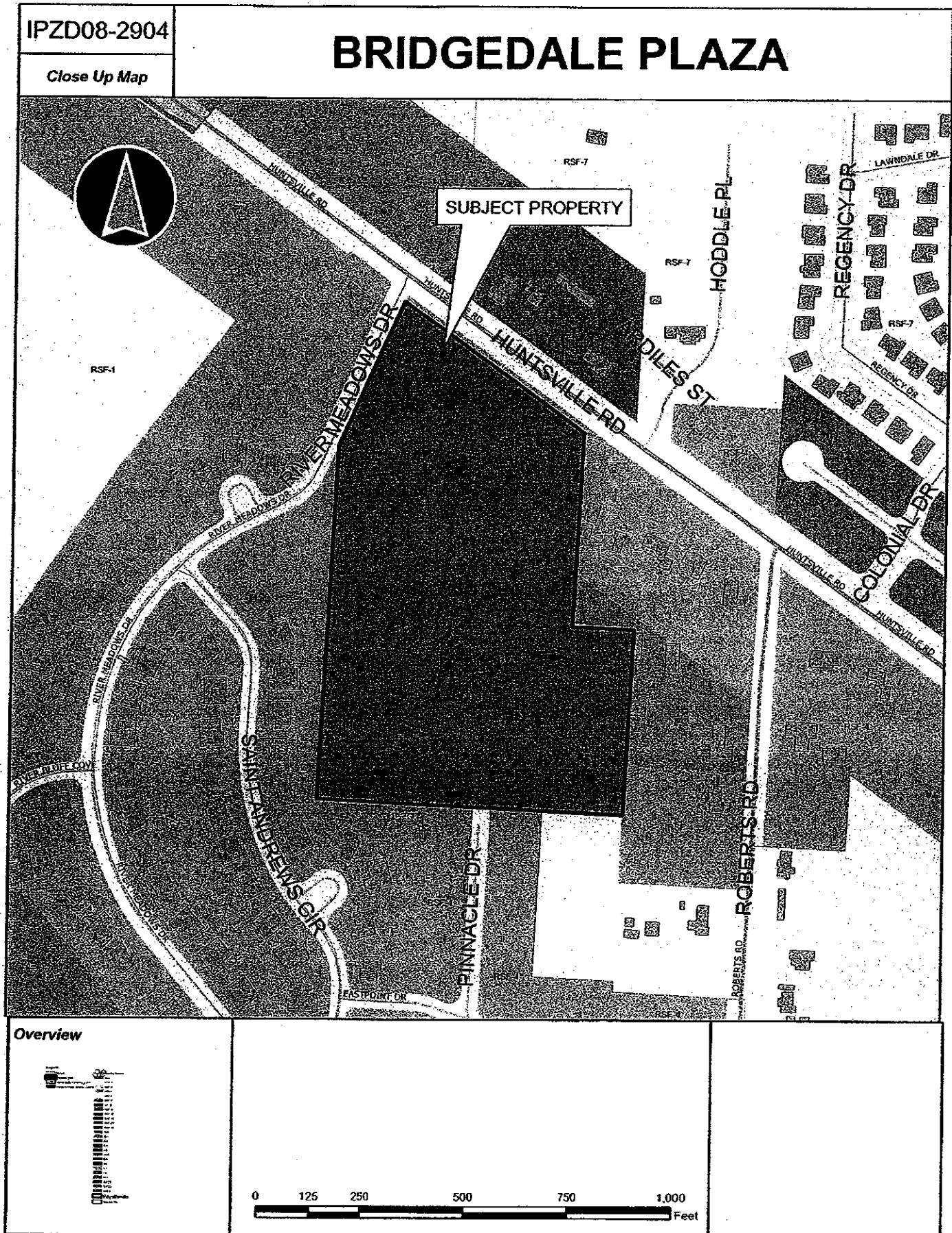


EXHIBIT "B"
C-PZD 08-2904

A PART OF THE W ½ OF THE NW ¼ OF SECTION 19, T16N, R29W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SECTION 19 THENCE N02°46'52"E 3400.63 FEET TO THE P.O.B., THENCE N02°51'17"E 857.50 FEET, THENCE N24°33'07"E 381.72 FEET, THENCE S54°18'58"E 95.42 FEET, THENCE S53°59'33"E 444.17 FEET, THENCE S02°54'07"W 469.87 FEET, THENCE S86°54'34"E 150.65 FEET, THENCE S02°46'49"W 446.94 FEET, THENCE N87°12'11"W 513.27 FEET, THENCE N87°02'40"W 230.74 FEET TO THE P.O.B.; CONTAINING 15.95 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

C-PZD 08-2904

Page 1 of 4

Conditions of Approval for C-PZD 08-2904 (Bridgedale Plaza)

Should the City Council determine the rezoning request is appropriate, compatible and meets the City's approval criteria for Planned Zoning Districts, the Future Land Use Plan, and the required findings for a rezoning request, staff recommends the approval contain the following conditions:

1. *Street improvements.* The Planning Commission will make final determinations of street improvements at the time of development. *All proposed streets shall be constructed according to City standards, including pavement, curb, gutter, storm drains, and a 5' sidewalk on both sides, where applicable. Offsite improvements will likely consist of:*
 - *River Meadows Drive to include a right-turn lane and a left-turn lane at Highway 16.*
 - *Highway 16 to include all standard improvements in accordance with the Master Street Plan, with the potential for a left turn lane.*
 - *Potential for construction of or contribution of payment for a traffic signal at River Meadows and Highway 16.*
2. *Planning Commission determination of adequate connectivity. Staff recommends in favor of the proposed connectivity finding that the proposed alignment will be beneficial to the neighborhood. A street stub-out and cross-access to the east in two points will provide needed east-west connections with future development.*
3. *Planning Commission determination of the allowance of the proposed self-storage/warehousing use within a C-PZD. As outlined in Ch. 161.29 (E)(3)(c) of the UDC, for commercial planned zoning districts, warehousing and light industrial uses shall not have a gross floor area exceeding 5,000 SF or 20% of the floor area used for retail sales within the PZD. The subject proposal well exceeds that requirement, at approximately 114,000 SF of proposed storage area. Staff assigned the commercial-PZD classification, as opposed to a residential or industrial classification, due to the rather "in-between" nature of self-storage, and its both commercial and industrial characteristics. As noted above, staff does not support the proposed PZD with the inclusion of this use and its associated development pattern; however, staff does support the applicant's proposal for consideration of the commercial PZD by the Planning Commission and City Council, as inherently the PZD permits a mixture of uses and a proposed development pattern from which the appointed and elected officials may make this policy decision. Should the Planning Commission determine the commercial PZD is not appropriate, and the industrial PZD more appropriate, this designation can be changed, and appropriate findings provided.*
4. *Signage.* Staff recommends signage typical for single family residential districts for Planning Area 1; typical Commercial district signage in Planning Areas 2 and 4; and typical Residential-Office district signage in Planning Area 3. No pole or pylon signs shall be permitted on the property.
5. *Phasing.* Staff is recommending the applicant be required to obtain subdivision approval within two years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within two years

CONDITIONS OF APPROVAL:

C-PZD 08-2904

Page 2 of 4

- and of PA-4 within 3 years, with all building permits for each respective planning area required to be issued within one year of development approval. A one year extension shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code. For each development approval, the standard maximum of three years for construction shall be permitted, in accordance with the Unified Development Code. All screening (berms, landscaping, living fence, etc.) for PA-2 (self-storage) shall be installed prior to occupancy.
6. Planning Area 1 shall receive preliminary plat and final plat approval prior to construction. Planning Areas 2, 3, and 4 shall receive large scale development review and approval prior to construction.
 7. *Outdoor Lighting.* All outdoor lighting shall comply with applicable regulations within the UDC. Due to the inherent lighting issues typically associated with storage facilities, all lighting within Planning Area 2 shall be mounted at a low height (12 feet or less) and shall be a full cut-off fixture, with no light trespass to adjacent properties. Lights within Planning Area 2 shall not be permitted to remain on past the hours of operation, and shall be motion-sensored for security, as offered by the applicant. A lighting plan shall be submitted and reviewed at the time of large scale development.
 8. *Storage Materials.* Storage within Planning Area 2 shall be limited to dead storage only. No flammable, hazardous chemicals or explosives may be stored on-site. No auctions or sales may be permitted on the premises. Servicing of equipment (automobiles, appliances, etc.) may not be permitted. Outdoor storage shall not be permitted (recreational vehicles, boats, trailers, automobiles, etc.)
 9. *Low Impact Development (LID).* The LID practices described within the project booklet shall be implemented as proposed including but not limited to: bio-retention, cisterns, permeable pavement and a "living fence." Permeable pavement may not be installed as solely a gravel lot; rather, it shall consist of an approved, engineered permeable paver system, to be reviewed at the time of large scale development.
 10. *Hours of Operation.* In order to reduce the potential detrimental impact of large truck and customer noise/activity traveling to and from and unloading/loading during quiet/night-time hours, staff recommends limiting the hours of operation of the self-storage facility (PA-2) to 6am to 10pm.
 11. *Building Elevations.* Due to the street frontage along the proposed public street along the south of PA-2, staff recommends the southern façade of all buildings adjacent to Street #2 be designed and constructed with a brick façade in a manner similar to those described for the north and west sides of the storage buildings.
 12. *Building Height.* Staff recommends the building height within PA-2 (self storage) be reduced from the 35 feet currently proposed, to achieve the lowest height possible.
 13. *Living Fence Screen.* To achieve the greatest amount of screening possible for the self-storage facility, the applicant proposes a "living fence" screen, consisting of native flowering

CONDITIONS OF APPROVAL:

C-PZD 08-2904

Page 3 of 4

vines growing on a chainlink fence. Staff finds in favor of the proposal, as long as:

- a) the vine type is approved by the Urban Forester as an appropriate evergreen screen species;
- b) the cost of the materials and installation of the living fence is guaranteed by letter of credit/bond prior to issuance of a building permit;
- c) all sides of the facility (north, south, east, and west) are screened

14. Prior to development submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
15. Lot 28 of Planning Area 1 shall be designated as an unbuildable lot for open green space.
16. No portion of any structure (i.e. porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
17. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.
18. 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:

19. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
20. 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.
21. 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.
22. 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.**

CONDITIONS OF APPROVAL:

C-PZD 08-2904

Page 4 of 4

23. 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.
24. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting March 24, 2008

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: March 13, 2008 Updated March 25, 2008

C-PZD 08-2904: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for land use and zoning approval for a C-PZD, Commercial Planned Zoning District, with 27 single family residential dwelling units, 114,000 SF of self storage, 20,000 SF of Residential Office, and 20,000 SF of Neighborhood Commercial. Planner: Dara Sanders

Findings:

Request: The request is rezoning and land use approval only for a Master Development Plan of a Commercial Planned Zoning District divided into 4 Planning Areas. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval prior to development.

Property Description: The subject property currently contains older single family residences and accessory structures and is located at the southeast corner of Highway 16 East and River Meadows Drive, east of the White River. Surrounding land use and zoning are listed in *Table 1*.

Table 1: Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Single family	RSF-7, Single Family Res. 7 DU/Acre RMF-24, Multiple Family 24 DU/Acre
South	Single family	RSF-4, Single Family Res. 4 DU/Acre
East	Single family	RSF-4, Single Family Res. 4 DU/Acre R-A, Residential Agricultural
West	Single family	RSF-4, Single Family Res. 4 DU/Acre

Proposal: The applicant has submitted a Zoning and Land Use only PZD application. If approved, the development would be reviewed at a later date. The applicant proposes to rezone the property into four distinct planning areas:

Planning Area 1 is designated as single family residential and contains 27 single-family detached lots on 6.41 acres, a density of 4.2 dwelling units/acre. The applicant has designated Lot 28 as open green space, approximately 0.6 acres in size. This area serves as a residential buffer and transition between the adjacent single-family neighborhood to the west, Stonebridge Meadows Subdivision, and the proposed self storage facility to the east. The applicant proposes to construct a public street, Street #3, running north/south through Planning Area 1, and then connecting to the existing stub-out of Pinnacle Drive. The residential lots along the west and south sides of the proposed street utilize shared driveways, while the lots on the east side are accessed by an alley located between Planning Areas 1 and 2. This typical lay-out allows a greater green buffer and backyard space adjacent to the lots within Stonebridge Meadows and Bridgedale Subdivision, thus creating a more compatible adjacent land use. The average lot size is 6,600 square feet, compared to 8000 square feet permitted within RSF-4. Curb-cuts for Planning Area 1 shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be located on the property line. All residential and commercial driveways shall otherwise meet the standards established in Chapter 172 Parking and Loading.

Planning Area 2 is designated as self storage, containing approximately 114,000 SF of self storage facility within 5.62 acres. In an effort to obtain approval of this traditionally light industrial/warehousing use classification in close proximity to residences, the applicant has proposed several Low Impact Development (LID) techniques to reduce the overall impact of the use. The applicant proposes permeable pavement for a majority of the facility's internal drive aisles, as well as cisterns and rain barrels throughout the planning area. To reduce visibility and the impact of the proposed self storage on the surrounding neighborhoods, the applicant proposes to berm and landscape a green belt, approximately 20 feet wide, around Planning Area 2, as indicated on the site plan, in addition to a "living fence" screen. An elevation detail, provided by the applicant and included in the packet, illustrates the screening effect of the proposed green belt, berm, landscaping, and fence. The applicant proposes to use motion sensors for the exterior lighting to reduce energy consumption and light trespass. Finally, the building facades are proposed to be brick and would utilize architectural features on the north and west sides to better treat these potentially visible facades.

Planning Area 3 is designated as residential office, contains 1.98 acres, and serves as a buffer and screen between Highway 16 and the proposed self-storage facility. The applicant proposes reduced setbacks along the proposed street, building orientation, and parking located behind the proposed office buildings in order to create a pedestrian and cyclist friendly streetscape. Approximately 20,000 SF of non-residential space and 24 dwelling units are proposed within this planning area.

Planning Area 4, located at the corner of Highway 16 and River Meadows Drive, is designated as neighborhood commercial and contains 2.01 acres. The applicant proposes approximately 20,000 SF of neighborhood commercial uses (dry cleaner, restaurant, bank, etc.), with more pedestrian orientation to the interior street. Reduced building setbacks of 20 feet along the proposed Street #4 are proposed to create the same streetscape intent for Planning Area 3. Typical neighborhood commercial uses that will support surrounding residents are planned for this area.

Adjacent Master Street Plan Streets: Huntsville Road/Highway 16 (Principal Arterial)

Right-of-way to be dedicated: Right-of-way in the amount of 48.5' from centerline for Huntsville Road/Highway 16 shall be dedicated with approval of the preliminary plat or large scale development. Additional right-of-way may need to be dedicated along River Meadows Drive, depending upon the street improvements that are necessary.

Connectivity: Currently, Pinnacle Drive ends in a temporary cul-de-sac south of the subject property, and is stubbed out for future street connection. The applicant proposes to connect the proposed street in Planning Area 1 to the south with Pinnacle Drive. This connection will extend north to the second proposed street, connecting west to River Meadows Drive and northeast to Highway 16. Also, the applicant proposes to extend Street #2 to the east property line as a public stub-out for future connectivity to Roberts Road, which will help provide needed east-west connections in this area.

Street Improvements: The applicant proposes to construct two new public streets with 21 feet of pavement, curb, and gutter. In addition to the proposed streets, the applicant proposes to construct a 5' sidewalk along Highway 16 at the Master Street Plan right-of-way, and to improve River Meadows at Highway 16 to include a right-turn lane and a left-turn lane. All street improvements will be reviewed at the time of development and shall comply with City code and design standards. Further review of the traffic study at the time of development may require installation of or contribution toward a signal at Highway 16 and River Meadows Drive, and/or the installation of a turning lane along Highway 16. The applicant will need to coordinate with AHTD to determine the improvements that will be permitted along this state highway.

Phasing: The applicant is proposing to develop the property in two phases. It is the applicant's intent to develop the storage facility early in the development, therefore the timing of the phasing plan is essential to adequately screen and buffer Planning Area 2 with the surrounding residential and office uses. The applicant proposes to install the necessary infrastructure throughout the site and to construct the single family houses east of Street #3, Planning Area 2 with the 20' green perimeter, and Planning Area 3 in the first phase, as these are the elements that buffer and screen the storage facility from the surrounding area. As currently proposed, phasing is as follows:

Phase 1:

- Preliminary and Final Plat approval of Planning Area 1
- Installation of all required infrastructure (water, sewer, streets, and drainage)
- Large Scale Development approval of Planning Areas 2 and 3
- Construction of Planning Area 1 – Single family houses east of Street #3
- Construction of Planning Area 2 – Self-storage facility with 20' landscaped, fence, and bermed perimeter
- Construction of Planning Area 3

Phase 2:

- Large Scale Development approval of Planning Area 4

- Construction of Planning Area 4
- Construction of Planning Area 1 – Single family houses west of Street #3 and south of Street # 2

Staff is recommending the applicant be required to obtain subdivision approval within two years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within two years, with all building permits for each respective planning area required to be issued within one year of development approval. A one year extension shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code. All screening (berms, landscaping, living fence, etc.) for PA-2 (self-storage) shall be installed prior to occupancy.

Water & Sewer: All necessary improvements and connections to complete the proposed development will be evaluated with the Preliminary Plat and Large Scale Development reviews.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development with a 25% preservation requirement. The applicant's proposal is arranged in a manner that will save some of the significant trees on site, retaining a natural buffer from adjacent residents.

Infrastructure:

- | | |
|-----------|---|
| Streets: | The site has access to Huntsville Road and River Meadows Drive. Huntsville Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development. |
| Water: | Public water is located adjacent to the site. There is an 8" water main along River Meadows Drive. |
| Sewer: | Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. 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. This property is not affected by the 100-year floodplain. |
| Fire: | This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd. It is 2 miles from the station with an anticipated response time of 4 minutes. The Fire Department anticipates 4 (3 EMS-2 Fire/other) calls for service once the development is completed and maximum build out has occurred. We do not figure calls for service on Commercial developments, although this type of development typically does not affect our calls for service. Measured hydrant flow is 1560 gallon per minute in |

this area.

Police: It is the opinion of the Fayetteville Police Department that this **C-PZD** **will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This **C-PZD** **will not** create an appreciable increase in traffic danger and congestion.

Public Comment: Staff has received several emails and phone calls regarding this proposal. The applicant presented the project at a Ward meeting and has attempted to address some of the concerns voiced there. Several letters of support and objection have been included in this packet. Stated reasons of objections to the project include concern with compatibility and decreasing property value, though staff has not received evidence that the proposal will decrease the property value of the surrounding residential neighborhoods. Stated reasons for support of the project include compatibility, commercial and storage need/demand in the area, and desire for environmentally friendly development.

Discussion:

Since the proposal was initially submitted, the applicant has made several significant improvements to the proposal, in response to concerns expressed by staff, the Planning Commission, and area residents, including responding to neighborhood concerns regarding lot size and greenspace, creating more pedestrian friendly streetscapes within the development, enlarging buffer areas surrounding the self-storage units, and a public street to the east property line as a stub-out for future connectivity to Roberts Road. In addition to the site plan changes, the applicant has committed to a more specific phasing plan addressing the timing for development of Planning Areas 1, 3 and 4 in relation to the development of Planning Area 2.

In general, staff finds in favor of the development pattern that is proposed for PA-1 (single family), PA-3 (residential office) and PA-4 (neighborhood commercial). All of these uses contribute to the fabric of a traditional neighborhood in close proximity, providing places to live, work, and interact on a daily basis. The development pattern of the single family block is more in keeping with the goals and policies adopted by the City; the arrangement of buildings for the neighborhood commercial and office/loft living space provides an internal neighborhood streetscape that is more pedestrian friendly and appropriate for a neighborhood than the major thoroughfare of Hwy 16. Along Hwy 16, the proposal is to provide an attractive building elevation facing the street, and to provide landscape buffers that will enhance this particular major corridor for through travelers. Internally, pedestrian sidewalks and narrow streets provide a safer neighborhood environment, and landscape buffers and a half-acre park will provide greenspace and recreational opportunities.

With regard to PA-2 (self-storage), staff can not find in favor of this particular use within the neighborhood proposed. Self-storage facilities are not particularly attractive; they are generally flat-roofed, one-story structures arranged in long, monotonous rows. Significant efforts to heavily screen this use and lessen the overall impact include: construction of a landscaped berm and "living fence" screen surrounding the use; provision of brick facades along the north and

west elevations of the buildings; and the inclusion of low impact development (LID) techniques such as pervious paving to decrease stormwater runoff, cisterns to capture and recycle roof runoff; and bio-retention to collect rainwater and provide infiltration and enhance water quality. All of these efforts achieve a better, more environmentally friendly and well-screened self-storage facility. However, in staff's opinion, the use does not contribute to the quality of the neighborhood, and thus does not fit well within a predominantly residential neighborhood. The City strives to promote and encourage a mixture of uses within neighborhoods. The form of the development pattern, rather than the separation of uses generated by traditional zoning, can overcome much in the way of creating quality places within the community. The self-storage facility, though, does not contribute in form or use to this neighborhood, in staff's opinion. Rather, it breaks up the continuity and the complete, compact and connected environment that is desired, and does not enhance the surrounding community.

Recommendation:

While staff can support rezoning of a majority of this property in the manner proposed, the self-storage facility planning area is a major component of the project. Therefore, based on the findings included herein, staff recommends denial of C-PZD 08-2904 (Bridgedale Plaza).

Should the Planning Commission or City Council determine the rezoning request is appropriate, compatible and meets the City's approval criteria for Planned Zoning Districts, the Future Land Use Plan, and the required findings for a rezoning request, staff recommends the approval contain the following conditions:

1. *Street improvements.* The Planning Commission will make final determinations of street improvements at the time of development. *All proposed streets shall be constructed according to City standards, including pavement, curb, gutter, storm drains, and a 5' sidewalk on both sides, where applicable. Offsite improvements will likely consist of:*
 - *River Meadows Drive to include a right-turn lane and a left-turn lane at Highway 16.*
 - *Highway 16 to include all standard improvements in accordance with the Master Street Plan, with the potential for a left turn lane.*
 - *Potential for construction of or contribution of payment for a traffic signal at River Meadows and Highway 16.*
2. *Planning Commission determination of adequate connectivity. Staff recommends in favor of the proposed connectivity finding that the proposed alignment will be beneficial to the neighborhood. A street stub-out and cross-access to the east in two points will provide needed east-west connections with future development.*
3. *Planning Commission determination of the allowance of the proposed self-storage/warehousing use within a C-PZD. As outlined in Ch. 161.29 (E)(3)(c) of the UDC, for commercial planned zoning districts, warehousing and light industrial uses shall not have a gross floor area exceeding 5,000 SF or 20% of the floor area used for retail sales within the PZD. The subject proposal well exceeds that requirement, at approximately 114,000 SF of proposed storage area. Staff assigned the commercial-PZD*

classification, as opposed to a residential or industrial classification, due to the rather "in-between" nature of self-storage, and its both commercial and industrial characteristics. As noted above, staff does not support the proposed PZD with the inclusion of this use and its associated development pattern; however, staff does support the applicant's proposal for consideration of the commercial PZD by the Planning Commission and City Council, as inherently the PZD permits a mixture of uses and a proposed development pattern from which the appointed and elected officials may make this policy decision. Should the Planning Commission determine the commercial PZD is not appropriate, and the industrial PZD more appropriate, this designation can be changed, and appropriate findings provided.

4. *Signage.* Staff recommends signage typical for single family residential districts for Planning Area 1; typical Commercial district signage in Planning Areas 2 and 4; and typical Residential-Office district signage in Planning Area 3. No pole or pylon signs shall be permitted on the property.
5. *Phasing.* Staff is recommending the applicant be required to obtain subdivision approval within two years from City Council approval of the PZD. After final plat approval, the applicant shall obtain large scale development approval of PA-2 and PA-3 within two years and of PA-4 within 3 years, with all building permits for each respective planning area required to be issued within one year of development approval. A one year extension shall be available for each time limit pursuant to Chapter 166.20 of the Unified Development Code. For each development approval, the standard maximum of three years for construction shall be permitted, in accordance with the Unified Development Code. All screening (berms, landscaping, living fence, etc.) for PA-2 (self-storage) shall be installed prior to occupancy.
6. Planning Area 1 shall receive preliminary plat and final plat approval prior to construction. Planning Areas 2, 3, and 4 shall receive large scale development review and approval prior to construction.
7. *Outdoor Lighting.* All outdoor lighting shall comply with applicable regulations within the UDC. Due to the inherent lighting issues typically associated with storage facilities, all lighting within Planning Area 2 shall be mounted at a low height (12 feet or less) and shall be a full cut-off fixture, with no light trespass to adjacent properties. Lights within Planning Area 2 shall not be permitted to remain on past the hours of operation, and shall be motion-sensored for security, as offered by the applicant. A lighting plan shall be submitted and reviewed at the time of large scale development.
8. *Storage Materials.* Storage within Planning Area 2 shall be limited to dead storage only. No flammable, hazardous chemicals or explosives may be stored on-site. No auctions or sales may be permitted on the premises. Servicing of equipment (automobiles, appliances, etc.) may not be permitted. Outdoor storage shall not be permitted (recreational vehicles, boats, trailers, automobiles, etc.)
9. *Low Impact Development (LID).* The LID practices described within the project booklet

shall be implemented as proposed including but not limited to: bio-retention, cisterns, permeable pavement and a "living fence." Permeable pavement may not be installed as solely a gravel lot; rather, it shall consist of an approved, engineered permeable paver system, to be reviewed at the time of large scale development.

10. *Hours of Operation.* In order to reduce the potential detrimental impact of large truck and customer noise/activity traveling to and from and unloading/loading during quiet/night-time hours, staff recommends limiting the hours of operation of the self-storage facility (PA-2) to 6am to 10pm.
11. *Building Elevations.* Due to the street frontage along the proposed public street along the south of PA-2, staff recommends the southern façade of all buildings adjacent to Street #2 be designed and constructed with a brick façade in a manner similar to those described for the north and west sides of the storage buildings.
12. *Building Height.* Staff recommends the building height within PA-2 (self storage) be reduced from the 35 feet currently proposed, to achieve the lowest height possible.
13. *Living Fence Screen.* To achieve the greatest amount of screening possible for the self-storage facility, the applicant proposes a "living fence" screen, consisting of native flowering vines growing on a chainlink fence. Staff finds in favor of the proposal, as long as:
 - a) the vine type is approved by the Urban Forester as an appropriate evergreen screen species;
 - b) the cost of the materials and installation of the living fence is guaranteed by letter of credit/bond prior to issuance of a building permit;
 - c) all sides of the facility (north, south, east, and west) are screened
14. Prior to development submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
15. Lot 28 of Planning Area 1 shall be designated as an unbuildable lot for open green space.
16. No portion of any structure (i.e. porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
17. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.
18. 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.

19. The following revisions shall be completed to the booklets/plats prior to re-submittal for City Council consideration:

- a. Pg. 8. PA-2 (Storage) – height is at 35' and should be reduced
- b. Pg. 9. Screening. Add east side to screening, as shown on the plans
- c. Pg. 10. PA-3 – need number of dwelling units/density listed (c) (24 dwellings?)
- d. Pg. 15. Density. Add numbers for Intensity here.
- e. Pg. 16. Density listed as 24 units, 12 units per acre – should this be the same as PA-3?
- f. Pg. 16. RSF-4 height – correct to read maximum 45'.
- g. Pg. 16. RSF-4 Uses – incorrect (only 1 and 8 permitted by right)
- h. Pg. 16. RSF-4 building area maximum is 40% (says none)
- i. Pg. 17. RSF-4 uses – incorrect (only 1 and 8 permitted by right)
- j. Pg. 20. Phasing – adjust phasing per the recommended condition of approval
- k. Pg. 21. O. Screening – add “west” to screening component.

Standard conditions of approval:

20. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
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. 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.
23. 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.**
24. 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.

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

Planning Commission Action: ☐ Tabled ☐ Forwarded to C.C. ☒ Denied

Motion: Myres

Second: Lack

Vote: 5-4-0

Meeting Date: March 24, 2008

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 some of the goals of City Plan 2025, in particular the mixed-use nature of the commercial, office and different residential uses to create a viable neighborhood. Goal 2 states that we will discourage suburban sprawl by discouraging the separation of uses that have encouraged sprawling development patterns. This PZD proposal promotes the mixed-use strategy that provides neighborhood services in an area where services are limited. These services will serve the surrounding primarily residential uses for daily commercial goods and services, and provide an area in which residents can live, work and recreate. Staff finds that providing nodes of neighborhood commercial support uses discourages sprawl, decreases a neighborhood's reliance on regional commercial developments, and can potentially reduce the number of vehicle trips in the area.

Goal 3 states that we will make traditional town form the standard, which promotes a variety of uses within a neighborhood for the ability to live, work, shop and have daily needs and services within walking distance. It requires compact, complete, and connected development. Staff finds that the proposed development will provide connectivity, a development scale that is compatible and proportionate between residential and nonresidential land uses, and a mixture of uses that will support and serve the surrounding area. In particular, the creation of a pedestrian streetscape with mixed-use buildings and residences close to the street, screening parking areas, and providing sidewalks creates a more traditional town form. However, the inclusion of the storage facility does not contribute to this goal. Rather, it becomes an area that is screened off and segregated from the surrounding environment, due to its rather unattractive nature, and detracts from the complete, compact and connective goals the City is promoting. The storage facility is not a daily neighborhood commercial use, but is a service that fulfills occasional warehousing and storage needs primarily of residents and small businesses in a regional area.

Goal 6 states that we will create attainable housing for residents of Fayetteville that make more than the income limit established for federal subsidies but struggle in the current housing market. By preserving and creating mixed-income neighborhoods, the City of Fayetteville can offer a variety of housing types. For Planning Area 1, the applicant proposes typical single family dwellings on lots that contain approximately 6,600 square feet, slightly smaller than the 8,000 square foot minimum of the RSF-4 zoning district. The applicant proposes to provide loft-style dwellings above the residential offices in Planning Area 3. The development pattern of this PZD proposal will add to the variety of housing

types that currently exist in the surrounding area, and typically enhances property values in the area.

This site is designated as a Residential Neighborhood Area, which encourages traditional neighborhood development that incorporates low-intensity non-residential uses. Staff finds that the mixture of residential, office, and neighborhood commercial uses proposed in this development meets the goals of City Plan 2025 and the designated land use.

Self storage is often designated as a medium- to high-intensity non-residential use; within Fayetteville, this use is only permitted by conditional use in the C-2, Thoroughfare Commercial zoning district, and industrial zones (I-1, Heavy Commercial and Light Industrial; I-2, General Industrial). Staff finds that while the current proposal for high-end storage, with extensive screening and buffering, pervious pavement, cisterns, and other LID techniques decreases the intensity of the use, it remains a highly segregated use that does not fit well within or contribute to a neighborhood. Attesting to this fact is that the screening requirements are perhaps more substantial than most other uses within the City, in order to hide the particularly unattractive buildings and grounds. It is a fact that self-storage facilities typically have very low volumes of traffic, which does help to decrease its impact. However, issues with fencing, screening, noise, lights, materials being stored, hours of operation, security and activities within the facility all tend to be potentially objectionable to a neighborhood. These issues can be addressed with a number of restrictions via conditions of approval; however, it would be more appropriate to simply locate this use, as is the case with industrial or other warehousing uses, in a more appropriate location.

While the proposed storage facility is not consistent with the land use plan, staff finds rezoning a majority of this property to C-PZD with the current proposal meets several of the goals of City Plan 2025, is consistent with the development trend along Huntsville Road, and would be beneficial to the surrounding neighborhood. However, due to the substantial role the self-storage facility plays in the zoning proposal, staff can not support the request.

(2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with the 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 indicated in the submittal and the staff report, certain measures have been taken in the proposed phasing of development by the developer to ensure adequate infrastructure improvements are made to ensure the level of service will not decline due to the proposed development. Additional improvements

will be determined at the time of development by the Planning Commission.

- (4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: Staff finds that the proposed single family residential, neighborhood commercial, and residential office developments in Planning Areas 1, 3, and 4 are compatible with the surrounding land uses, which are primarily single family in nature. The proposed uses and vehicular circulation pattern are designed to promote and encourage pedestrian safety and interaction within a well-defined streetscape in a traditional town form. The single family residential uses in Planning Area 1 are proposed with a maximum allowable density of 4.2 dwelling units per acre. This density is compatible with the surrounding RSF-4, RSF-7, and RMF-24 zoning districts, and will contribute to the neighborhood. In addition, the commercial and office uses in Planning Areas 3 and 4 will provide daily services and goods to the surrounding, neighboring community, thereby meeting several goals of the City.

Staff finds that though much effort has been taken to reduce the impact of the self-storage facility in Planning Area 2, the proposed location within a residential neighborhood is not compatible with the surrounding area, and will not necessarily contribute to the community in this location.

The proposed storage facility will yield a higher intensity and a different use than those of the surrounding neighborhoods and zoning districts. Use unit 38, Mini-storage units, are not allowed by right or by conditional use in any residential zoning district, as this type of development is typically an intense and unattractive warehousing type development that includes significant paving of the site. Furthermore, mini-storage is not allowed by right in any zoning district, though it is allowed by conditional use in the C-2, I-1, and I-2 zoning districts. Staff agrees with the applicant in that a self storage facility is a commercial use that generates a very low traffic count and provides a service to a residential demand for storage. However, after much research and discussion, staff finds that the use proposed is not a contributing enhancement to this neighborhood, and will disrupt the complete, compact and connected form that is promoted and encouraged for all development.

A self storage facility serves a community-wide or regional market easily accessed off of a major thoroughfare. If approved, the current proposal would provide a small storage service for the immediate residential area; however, staff is concerned that the location of the proposed storage facility within the subject property may result in future requests for the expansion of storage to the east of the site, or for other, more intense uses typically found "compatible" with self-storage uses. Staff finds that creating a regional destination point is inappropriate at this location due to the predominantly residential use of the surrounding area.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The intended use is suitable for the subject property and the surrounding development. The majority of the site will be developed, though the houses, commercial buildings, and storage facility would be arranged and built in a manner that will preserve the significant tree canopy along the property lines. Drainage has been cited as a primary concern in this area, and will need to be addressed at the time of development. Post-development drainage is typically required not to exceed pre-development flow at peak hours.

- (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 neighborhood traffic on surrounding streets; however, the Fayetteville Police Department has submitted a statement verifying that the proposal will not substantially alter the population density, create an appreciable or undesirable increase in the load on police services, or create an appreciable increase in traffic danger and congestion. The applicant has also conducted a traffic study, of which key recommendations have been included on the site plan. As suggested in the traffic study, the applicant proposes to improve River Meadows Drive to include one inbound lane and two outbound lanes to accommodate an increase in traffic due to Planning Areas 3 and 4. Staff will also evaluate the potential for the construction of a turn-lane on Hwy 16 and contribution for a future traffic signal. In general, combining residential and non-residential uses in a traditional town form that are appropriate and compatible will help reduce the traffic increase, providing better pedestrian opportunities and the ability for persons within close proximity to travel smaller distances for daily goods and services.

- (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 majority of the subject development should be compatible with surrounding development as several measures have been taken to reduce the potential impact of the development on the surrounding area. The proposed single family residences of a slightly higher density will serve as a good transition to the adjacent single family neighborhood and the residential office and commercial services. The proposed neighborhood commercial and residential office developments are designed to lessen potential impact on the surrounding residential neighborhoods with LID techniques, landscaping and screening, and a vehicular circulation pattern designed to contain pass-by traffic at the northwest corner of the subject property. Staff finds that, with the proposed location, access points, screening, and buffering included herein, PA-1, 3 and 4 meet the intent and purpose of the PZD. However, the self-storage in PA-2 does not further the commitment to complete, compact and connected neighborhoods as identified in the City's Future Land Use Plan, and does not contribute or enhance the neighborhood, in staff's findings. Rather, significant effort has been undertaken to screen the use from view, as a typical single-use storage facility that is gated off for security does not create an amenity or become a part of a traditional neighborhood.

Since the proposal is not for development rights, a tree preservation plan has not been reviewed; however, the applicant proposes to preserve and utilize the existing tree canopy at the eastern portion of the subject property to screen the proposed storage facility. Furthermore, the applicant proposes to implement several Low Impact Development techniques, such as rain barrels and cisterns for rain water collection, rain gardens in key locations, and permeable pavement in designated locations in the storage facility. Staff finds that these techniques will work to reduce the impact and the intensity of the proposed use.

- (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: The applicant proposes to utilize existing tree canopy along the west property line to preserve existing natural features along the property line of the adjacent residential neighborhood to the west. The proposed single family residences in PA-1 are the same use,

and do not require screening from adjacent properties. The applicant proposes to provide an evergreen perimeter buffer approximately 20 feet wide and to construct a berm approximately 4 feet high to reduce visibility of the proposed self storage facility within Planning Area 2. The applicant also proposes to utilize the existing tree canopy along the eastern portion of the subject property to screen the storage facility from the adjacent properties to the east, and to construct a "living fence" to more adequately screen the use from view. Landscaping along all public streets will be installed to meet City codes.

(3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The applicant has applied to the site plan key recommendations from a traffic study of the development in order to address the projected traffic volumes generated from the proposed uses. Access to Planning Areas 2, 3, and 4 is designed to discourage through traffic within the subject property by containing the pass-by traffic at the northern portion of the property and redirecting it to Huntsville Road/Highway 16. The internal street circulation is designed and intended for local residential traffic for access to Planning Area 1 and for the surrounding residential neighborhoods to access the self storage and neighborhood commercial node. The self storage is accessible from the north by Huntsville Road/Highway 16 to Street #4 and from the south by Street #2.

All properties within Planning Area 1 will front onto Streets #2 and #3. The houses on the west and south sides of Streets #2 and #3 are designed to utilize shared driveways, while the remaining houses are accessed by the public alley located between Planning Areas 1 and 2. Shared driveways may be located on the property line. All residential and commercial

driveways shall otherwise meet the standards established in Chapter 172 Parking and Loading.

- (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. On-street parking will be permitted in accordance with city codes for the streets constructed. Each commercial use within Planning Area 3 and 4 will be required to provide adequate parking as required by Chapter 172 of the UDC.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: The applicant's proposal has met the open space requirements, designating Lot 28 within Planning Area 1 as common open space. Furthermore, the applicant proposes a fenced, landscaped and bermed perimeter around Planning Area 2.

- (6) *Sidewalks.* As required by §166.03.

FINDING: A 5' sidewalk is to be constructed at the right-of-way line along Highway 16 and on both sides of all proposed streets at the time of development request.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided at all intersection and with a maximum separation of 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code. Improvements to water services may be required and shall be reviewed at the time of preliminary plat and large scale development submittal.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. Improvements to sewer services may be required and shall be reviewed at the time of preliminary plat or large scale development submittal.

- (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)

Dwellin g 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: All public and private streets/drives shall conform to city standards, as indicated in the submitted statement of commitments. Public and private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development for each planning area. Canopy calculations shall be based upon a minimum 25% canopy preservation required.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: The applicant has proposed design standards for residential structures and concept drawings for the commercial/office buildings and the proposed self storage facility. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat, large scale development and building permit to ensure compliance with bulk, area, greenspace, and commercial design requirements.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:

- (a) *Building permit.* If no building permit has been issued within the time allowed.
- (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
- (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be

sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

Sec. 161.29 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 many components of this proposal meet the intent of the parameters of City Plan 2025, as well as the above criteria, including flexibility in density, compatibility with the surrounding land uses and integration of a variety of uses and

intensities. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering single-family housing types and recreational green space, and providing opportunity for local goods and services for area residents, as well as places to live, work and recreate. It promotes the mixed-use strategy that provides neighborhood services in an area where services are limited, connectivity, a development scale that is compatible and proportionate between residential and nonresidential land uses, and a mixture of uses that will support and serve the surrounding area. However, staff can not find the same for the 6-acre self-storage facility that is proposed. Staff finds this use to be incompatible with surrounding land uses, and that it tends to disrupt and discourage the complete, compact and connected neighborhood form that is promoted and encouraged by the City.

The following guiding policies within Residential Neighborhood Areas are applicable to this development and help to achieve some of the primary goals of the City Plan 2025:

Residential Neighborhood Areas

- a) Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.*
- b) Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.*
- c) Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.*
- d) Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.*
- e) Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.*

Staff finds that while the residential, commercial and office components meet these goals, the self-storage does not contribute to or provide amenity to the community.

(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.

FINDINGS: 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.

(D) *C – PZD, Commercial Planned Zoning District.*

(1) *Purpose and intent.* The C-PZD is intended to accommodate mixed use developments containing any combination, including multiple combinations of commercial, office or residential uses in a carefully planned configuration in such a manner as to protect and enhance the availability of each independent use. The C-PZD is also intended to accommodate single use commercial developments that are determined to be more appropriate for a PZD application than a general commercial rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage the clustering of commercial and office activities within areas specifically designated to accommodate such uses and to discourage the proliferation of commercial uses along major thoroughfares and noncommercial areas.
- (b) To provide for orderly development in order to minimize adverse impact on surrounding areas and on the general flow of traffic.
- (c) To encourage orderly and systematic commercial, office or mixed use development design or a combination thereof, providing for the rational placement of activities, vehicular and pedestrian circulation, access and egress, loading, landscaping and buffering strips.
- (d) To encourage commercial development that is consistent with the City's General Plan.
- (e) To accommodate larger scale suburban developments of mixed-uses in a harmonious relationship.

FINDING: Staff recommends denial of this application, finding that while much of the proposed C-PZD meets the intent of the PZD ordinance as noted above, the requested self-storage facility does not provide an orderly arrangement of uses, does not meet the commercial development patterns consistent with the City Plan 2025 goals, does not provide a harmonious and compatible arrangement of land use adjacency, and creates a commercial/industrial area that begins to detract from the neighborhood as a cohesive unit. The requested uses of commercial, office and residential uses within the C-PZD provides variety and flexibility in land development and a compact node of pedestrian-friendly clustering of neighborhood commercial services while also providing a compatible relationship with surrounding land uses with the conditions as noted herein. The development promotes an orderly flow of vehicular traffic that will not adversely affect the surrounding residential uses. Furthermore, the proposed PZD will provide connectivity to the south and an additional future east/west connection in an area of limited connectivity. However, the positive nature of much of the development does not outweigh the more permanent zoning request, and while potentially an "interim use," the self-storage would exist for many years to come, without contributing to the 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.

FINDING: The applicant has proposed a wide variety of different uses, including those of residential, commercial, office and industrial nature. Staff find in favor of all uses proposed, with the exception of Use Unit 38, Mini-storage facilities.

(3) *Conditions.*

- (a) In no instance shall the commercial or office use area be less than fifty-one percent (51%) of the gross leaseable floor area within the development.
- (b) Residential uses must be appropriate to the design of the project.
- (c) Warehousing and light industrial uses shall have a gross area per use that does not exceed five thousand (5,000) square feet and at least twenty percent (20%) of the floor area used for sales.

FINDING: Staff has assigned a Commercial PZD classification to this project, based on the land use plan presented. Approximately 4 acres of the property is proposed for primarily commercial/office use; 6.4 acres for residential use; and 5.6 acres for self-storage use, which is classified as a mini-storage use. Mini-storage is typically associated with light industrial or storage/warehousing uses, though it has been separated from the warehousing use unit in Fayetteville's Code, and is in some places considered a commercial use. Due to this rather transitional commercial/mini-storage warehousing use, staff felt it was appropriate to assign the commercial designation, as opposed to a residential or industrial designation. However, the mini-storage use will certainly exceed the 5,000 SF or 20% of the floor area used for sales, therefore a Planning Commission determination of this provision has been included. As stated throughout the findings of this staff report, staff does not support this use in this location, and finds it more appropriate in a higher intensity commercial or industrial setting. This particular requirement tends to support this recommendation.

- (4) *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.

(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: The surrounding residential development with large lot residential properties and platted subdivisions is consistent with the proposed residential development, indicative of the RSF-4 zoning district, for Planning Area 1. A density of 4.2 units/acre is appropriate for the transition from the larger residential lots to the west of Planning Area 1 and the proposed non-residential uses to the east of Planning Area 1. Such a transition is not as apparent on the east side of the project, though the applicant has indicated these property owners, in general, are supportive of the project plans.

- (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: Residential lot area minimum is 6,600 square feet with structures oriented to the street. The applicant proposes a reduced (10') front setback in Planning Area 1 to increase the distance between the existing neighborhood to the west and the proposed single-family dwellings, as well as provide distance between Planning Areas 1 and 2 for more usable greenspace. Staff finds that the proposed setbacks are consistent throughout the proposed development and meet the intent of a planned zoning district.

- (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: The maximum building height proposed for this project is typical of single-family in the surrounding area, and shall not exceed 35'. However, staff has recommended that if the project receives a favorable recommendation, the building height for PA-2 be reduced, to lessen the potential impact of this component of the development.

- (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 residential lot coverage for building area on this project is very similar to the RSF-4 zoning district, with a maximum of 50% buildable area permitted. The commercial and residential lot coverages for building area are similar to the C-1 and R-O zoning districts. Staff finds that the proposed building area for this development is appropriate and compatible with the surrounding neighborhood.

***Required Findings for Rezoning Request.**

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 generally 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. The revised proposal for this C-PZD zoning district will accommodate the future land use plan for a strategically arranged mixture of nonresidential and residential uses in this area. However, a determination of the degree to which the project meets the land use plan does not support the inclusion of the rather inconsistent land use and development pattern of the self-storage facility that is proposed. In this particular aspect of the proposal, staff can not find that the land use proposed is consistent with the City's adopted land use plans, principles and policies to promote and encourage complete, compact and connected neighborhoods, and achieve a high degree of compatibility with adjoining land uses.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

FINDING: Staff finds that a rezoning of the property is justified, in that development in its current zoning of R-A and RSF-4 is not overly desirable in close proximity to a major highway and surrounded by existing neighborhoods. The proposal for commercial, office and residential uses is appropriate for the subject property and will allow for a development pattern that will provide a low-intensity node of neighborhood commercial support for the surrounding residential neighborhoods and that is unique in comparison to the residential development pattern in the surrounding neighborhood, while also maintaining a level of compatibility and sensitivity to surrounding properties. The self-storage use in the area, however, has not been adequately justified, and staff does not find that it is needed in this location.

3. A determination as to whether the proposed zoning would create or appreciably increase

traffic danger and congestion.

FINDING: Based on an analysis of traffic generated from the development, staff finds this proposal will not create or appreciably increase traffic danger and congestion. Storage facilities generally do not significantly increase traffic counts. The proposed neighborhood commercial and residential office uses, located at the northwest corner of the subject property, will not generate an appreciable amount of traffic to create congestion or traffic danger, with appropriate street improvements in the area.

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

FINDING: Staff finds that this proposal will not create an undesirable increase in load on public services based on an increase in population density.

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;

FINDING: Staff finds the land could be utilized with its present zoning classification, or the proposal modified to provide a land use that is more appropriate and compatible with surrounding properties.

- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

FINDING: Staff does not find any extenuating circumstances that justify or overcome the findings herein.



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: February 7, 2008
Re: February 6, 2008 Zoning Review

R-PZD 08-2170:

Planned Zoning District (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for a Master Development Plan for a Residential Planned Zoning District with 322 dwelling units and 30,000 s.f. of commercial space all with associated parking.

This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd.

It is 2.2 miles from the station with an anticipated response time of 5 minutes.

The Fire Department anticipates 56 (36 EMS-20 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times. There is no measured hydrant flow in this area.

→ **I-PZD 08-2904:**

Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for 6.8 acres of self storage, 5.23 acres of single family residential, 1.96 acres of Residential Office, and 1.96 acres of C-1.

This property will be covered by Ladder 3 located at 1050 S Happy Hollow Rd.

It is 2 miles from the station with an anticipated response time of 4 minutes.

The Fire Department anticipates 4 (3 EMS-2 Fire/other) calls for service once the development is completed and maximum build out has occurred. We do not figure calls for service on Commercial developments, although this type of development typically does not affect our calls for service.

Measured hydrant flow is 1560 gallon per minute in this area.

Date 1/31/08

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 **I-PZD 08-2904 (Bridgedale Plaza, 569)**: Submitted by **Dave Jorgensen** for **property located at the SE corner of HWY 16E and River Meadows 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. The **property contains approximately 15.95 acres.**

It is the opinion of the Fayetteville Police Department that this **I-PZD will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This **I-PZD will not** create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

R-PZD 08-2170: Planned Zoning District (VILLAS AT STONEBRIDGE, 645/646): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 16E AND E OF GOFF FARM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 53.03 acres. The request is for a Master Development Plan for a Residential Planned Zoning District with 322 dwelling units and 30,000 s.f. of commercial space all with associated parking. Planner: Jesse Fulcher

Public water is located adjacent to the site along Dead Horse Mountain Road. There are water improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring an additional source of water from under the White River to provide adequate service to this area.

Sanitary sewer is available to the site. There are sewer improvements being made as part of the Southeast Fayetteville Regional Water and Sewer Improvements project that will bring additional capacity under the White River to provide adequate service to this area.

The site has access to Dead Horse Mountain Road. Dead Horse Mountain Road is currently an unimproved two lane partially paved roadway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

→ **I-PZD 08-2904:** Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for 6.8 acres of self storage, 5.23 acres of single family residential, 1.96 acres of Residential Office, and 1.96 acres of C-1. Planner: Dara Sanders

Public water is located adjacent to the site. There is an 8" water main along River Meadows Drive.

Sanitary sewer is available to the site. There is a 6" sewer main along Huntsville Road. 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 Huntsville Road. Huntsville Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

PLANNING COMMISSION MEETING MINUTES

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New Business:

C-PZD 08-2904: Planned Zoning District (BRIDGEDALE PLAZA, 569): Submitted by DAVE JORGENSEN for property located at THE SE CORNER OF HWY 16E AND RIVER MEADOWS DRIVE. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 15.95 acres. The request is for land use and zoning approval for a C-PZD, Commercial Planned Zoning District, with 27 single-family residential dwelling units, 114,000 SF of self storage, 20,000 SF of Residential Office, and 20,000 SF of Neighborhood Commercial.

Dara Sanders, Current Planner, gave the staff report in detail, describing each planning area, uses, density and intensity, along with all improvements to the plan that has occurred through the review process. Sanders reviewed various findings for the rezoning request, the changes in the project, etc. Though many of the components of project are positive, including the residential, office and commercial uses, staff recommended denial of the PZD request, finding the self-storage component of the project does not achieve an adequate level of compatibility with the surrounding neighborhood, nor will it meet the goals of the Planned Zoning District, Unified Development Code, and City Plan 2025. In staff's opinion, the storage facility use proposed does not contribute or add value to the neighborhood, and thus recommends denial. Should the City Council or Planning Commission find in favor, staff has attempted to anticipate conditions of approval to address several issues, and those are included in the staff report.

Clint McDonald, applicant, described working with staff and the changes that occurred through the review. He stated he feels the project is appropriate, due to the screening from the single family to the west; to the east of the project, he feels this area will undoubtedly become a commercial node. McDonald stated he has the support of neighbors to the east. This project will provide development in the area, but may decrease traffic in the area. Development is needed in the area (SE Fayetteville). People will buy goods in the local area. Low impact development (LID) strategies will help this area; storm facilities (cisterns), etc., will help. Storage facility will help provide service to people working out of homes, including pharmaceutical sales, etc.. He stated he has implemented every change requested over the past seven months.

Sarah Lewis, Springline Consulting Group, applicant, presented the LID (Low Impact Development) techniques used with the mini-storage portion of the project, dealing with stormwater management. Her PowerPoint presentation discussed how LID focuses entirely on stormwater; it helps match pre-development hydrology. She gave a PowerPoint presentation describing LID techniques, and the detailed examples for implementation in Bridgedale Plaza, including pervious pavement, cisterns, rain gardens, landscape buffers and the potential for solar power.

Public Comment:

Rosemary Rouff, citizen, stated the development would disrupt the established neighborhood. There will be increased traffic with the commercial uses; with 24-hour service for the storage areas, a few yards from where children play, this will be unsafe. She stated she likes the neighborhood

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without commercial there. Zoning exceptions can only be made for good cause, based on State codes. Ms. Rouff quoted from several Supreme Court cases that stated financial rewards/economic benefit can not be the only reason to rezone the property, and incompatibility of adjacent land uses is to be used as a consideration.

Hardin Hanks III, citizen, lives at 1440 S. River Meadows Dr., stated he spoke at the last meeting. Flooding is his biggest concern, especially along the property bordering Roberts Rd, Stonebridge Rd. (passed out photos of flooding conditions).

Joe Ray, citizen, stated there were no examples of mini-storage units in residential areas in the City and expressed that he believes there should not be mini-storage units in close proximity to residential areas here, either.

?? Alley, citizen, cited 2025 Plan, states that storage is not compatible with surrounding neighborhood, and she does not support the plan.

Anthony Sumlin, citizen, lives at River Bluff Dr., and stated he is in favor of staff's recommendation. While he appreciates the LID techniques, he feels this development is not congruent to this area. He does not favor, however, placing a "green" sticker on it to get it passed.

Jim Looper, citizen, lives at 1340 St. Andrews Circle, stated he is puzzled why no one in Bridgedale Subdivision was notified of this project and inquired about the notification process. He expressed his belief that Bridgedale will suffer in property values and lead to traffic problems. He claimed that mini-storage is a new home for drug dealers setting up "meth labs" and storing drugs in the units. He also discussed drainage issues.

Eldon Roberts, citizen, 1197 Roberts Road, stated he has no problem with the development as proposed. He owns and borders the property to the east. He has lived there 60 years, and sold the property to Clint McDonald. He stated that a storage facility doesn't have noise, barking dogs, etc and that he would like to see commercial uses integrated with the existing residential uses. He discussed the history and extent of the drainage issues. (Passed out photos)

Gary Alderson, citizen, stated he supports Clint and the project. He stated that he owns commercial property on Huntsville, that he believes this project will increase our property values, and that he plans to utilize the storage facility if approved.

Richard Huffy, citizen, lives on River Meadows Dr., stated that obtaining maximum potential financial gain is not a criterion for rezoning and claimed that emphasis has been placed on improving services, offering new facility to area, which disguises the real intent.

James Smyth, citizen, owns six houses in Bridgedale subdivision. He is here to support the development, as he believes that a lack of services hinders real estate sales in the area. He expressed his favorable opinion of the proposed design and screening techniques for the mixture of uses.

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Gregory Carter, citizen, Stonebridge Meadows resident, stated that everything he has is invested in his home and would like the area to remain residential.

John David Smith, citizen, lives at 2350 Hunton Lane, stated he supports development. He stated he lives in close proximity to this development and stores medical/x-ray supplies in climate controlled facilities across town. He believes that the applicant has made an extensive effort to make this fit and satisfy all parties involved.

Sean Marriott, citizen, lives on Spring Street, stated that the cottage style is not cookie cutter. He stated he was in support of denial.

Mr. Craig, citizen, lives in Bridgedale Phase I, stated that the proposal concerns him greatly, because of the proposed development's affect on property value and traffic in the area.

Glenda Patterson, citizen, lives at Stonebridge Meadows, stated that the development bothers her because the people for it are people in business, not those in the area. She stated she was not in support of the project, along with several of the neighbors.

Dean Thomey, citizen, lives at 1015 River Meadows Dr., and is concerned about the use and stated that he never would have moved in if this project was there.

Mark Wilhite, citizen, lives at 1043 River Meadows Dr., and is concerned with the development and would rather see a park.

Michelle Bailey, citizen, lives at 1274 River Meadows Circle, and stated she is against the development. (Submitted photos). Her major concern is with drainage.

Vicki Campbell, citizen, lives in Bridgedale subdivision and stated opposition and that in June 2007 she was told the development was going to be all residential.

Public comment period ended.

Commissioner Winston stated that he prepared comments, and read them, as follows:

I'm not convinced that self-storage is appropriate in this kind of development. I think that the concerns of staff are well thought out and well founded. I'm most troubled by the very possible reality of the self-storage being constructed and the rest of the project not coming to fruition.

That said: I'm sure that it will be a long while before we will see a self-storage facility as well integrated into a neighborhood area as this. The points I would like to make in favor of the project are as follows:

- 1) In our packet on page 3, the phases of construction are outlined. I was happy to see that the developer is committed to build the houses between street three and the storage facility (lost 18-27).

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- 2) It is visually insulated from the neighbors who have already built, at least from a ground floor vantage point.
- 3) Onsite management, limited hours of access, rules barring storage of hazardous materials, sales and auctions as well as installing crime prevention technologies will help make the facility a safe and quiet neighbor.
- 4) Low Impact Development strategies such as pervious paving, rainwater collection and solar power further raise the standards of such a facility.
- 5) The developers have made changes that Subdivision committee recommended regarding connectivity to the east and screening to the south from existing neighbors.
- 6) This area is growing rapidly and very well might present a demand for self-storage. We have an opportunity to raise standards on self-storage design in Fayetteville.
- 7) Allowing this facility carries a risk of integrating uses that don't seem to support one another, but we may be surprised that having a nearby storage facility will encourage people to live in these smaller houses.

I would further support this use if we implement the following conditions on the project:

- 1) In regard to Item 3 concerning the type of PZD, I would support keeping the C-PZD designation over the I-PZD designation because the storage facility primarily caters to residential rather than industrial clients.
- 2) With regard to item 10 concerning hours of operation, I would support changing the hours of operation from 6am-10pm to 7am-9am except by appointment.
- 3) With regard to item 11 concerning building heights, I would recommend limiting the building height of the storage buildings to 18 feet which would allow for a large single story plus parapet, while allowing the 35 foot height limit to remain for the management office. This would insure that a height restriction would not keep the design of this building from appearing in context with either the residential or commercial buildings.
- 4) In regard to phasing: I would be in support of this project if the houses on the south side of Street 2, those are lots 8 thru 17 were constructed before the actual buildings comprising the storage facility were open for business.
- 5) I am concerned that in the future the storage facility could expand to the east. I would like to have a bill of assurances that the facility would not expand beyond its current bounds.

Commissioner Graves asked about typical traffic and a storage facility.

Jeremy Pate, Director of Current Planning, discussed the traffic study, and that storage facilities typically have a lower traffic volume. Staff is not as concerned with the traffic volume from this particular use.

Commissioner Graves asked about the use of an I-PZD v. a C-PZD, as mentioned in the staff report.

Pate described the determination of this rather hybrid self-storage use, which is partly commercial, partly industrial. The Commercial Planned Zoning District ordinance allows a maximum of 5,000

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square feet of warehousing/storage space. The proposed warehousing obviously exceeds that, at 114,000 square feet. Staff did initially consider classifying this project as an industrial planned zoning district. However, in our review of the project, it became apparent that the industrial classification does not fit as well as the commercial classification. Self-storage is not a manufacturing use, or a commercial warehousing use; rather, it is individually accessed by citizens, typically. Staff interpreted the use as a hybrid between an industrial use and commercial use, and found it fit more appropriately into the commercial classification. This is an interpretation of the UDC; staff felt it was appropriate to bring it to the Planning Commission's attention, however, in order to make everyone aware of the use. The alternative is to classify it as an industrial PZD, which would be much more difficult to apply findings to. In staff's review, while we do not support the mini-storage use within the neighborhood, for we do not find it fits with the idea of a mixed-use project in that it does not contribute to the neighborhood, we do find it appropriate to classify this PZD as a commercial one, as opposed to an industrial one.

Commissioner Graves stated he disagreed with staff's position about self-storage. This seems to be what we want for the storage units. Traffic doesn't seem to be that big of a concern. Mixed-use projects are supposed to be supported. He stated he does support the project.

Commissioner Lack stated he was supportive of the commercial along Hwy 16, and found it beneficial to the neighborhood. He stated he was in favor of slightly greater density of the residential portion of project. The Planning Commission is charged with a new task of reviewing mixed-use projects. However, he is not able to support the mini-storage component. This use is only allowed in higher intensity areas, such as industrial and commercial zoning districts. He stated he applauds the LID practices, and hopes they would follow the self-storage, wherever it goes. But he is not supportive of this use at this site. The overall use is a concern. Phasing is a secondary concern; he asked staff to elaborate on how the project would work, if the phasing did not occur as planned.

Pate discussed the revoking of a PZD zoning, and the process it entails. A PZD that does not occur in the phasing as it was intended does not necessarily return to the original zoning. Ultimately the City Council decides the zoning of the property.

Commissioner Lack stated he was concerned with the less compatible portion of the project being constructed, and the community being left with that.

Commissioner Graves stated he had a question for the City Attorney regarding the order of phasing. Could they require some portion of it to be constructed first? What would happen if no houses were built, and the mini-storage constructed? That would be a concern.

Kit Williams, City Attorney, stated that because this is a rezoning, if the Planning Commission is concerned about whether this particular use fits into the community, they could require the homes to be constructed first, as part of the phasing. However, Jeremy is more familiar with the code, I would ask him.

Pate stated that yes, the phasing conditions could go to that level of detail, requiring houses to be

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constructed first. This is not something that has been done before, in his experience, and was one more item staff was concerned about with this project. Ultimately, if the use needed to be screened this much, perhaps it did not belong in the neighborhood.

Commissioner Myres stated that there are a lot of things she likes about the project, and appreciates the changes to make it more acceptable. The changes have certainly helped the project. However, she stated she still has a real problem with the section devoted to mini-storage. She liked the idea of mixed-use, but can't support the proposal with the storage use, as designed. She will support staff's recommendation.

Commissioner Winston stated that the only ideas he came up with to use LID techniques on this property other than the use proposed is parks and playgrounds, but that's not reality. The project needs to be economically feasible.

Motion:

Commissioner Myres made a motion to deny the request, based on the staff findings and recommendation. **Commissioner Lack** seconded the motion. **Upon roll call the motion passed with a vote of 5-4-0, with Commissioners Graves, Ostner, Winston and Trumbo voting no.**

Break.

Public Correspondence

Letters of Support

From: "Elly Parizek" <gparizek1@cox.net>
To: <jpate@ci.fayetteville.ar.us>, <dasanders@ci.fayetteville.ar.us>
Date: 2/24/2008 9:18 PM
Subject: Bridgedale Plaza

This is to let you know I live a very short distance from the proposed Bridgedale Plaza on Hwy 16 East and that I am in support of this development. I have also know the developer, Clint McDonald for a few years and he will do what is good for the area.

Please vote to allow this development, it is something that is needed out Hwy 16 East for all of the population that is in this area.

Thank you very much for your consideration

Elly Parizek

From: Gary Alderson <gary.alderson@coldwellbanker.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/24/2008 1:53 PM
Subject: I support Bridgedale Plaza and ask for your support on this development

Dara Sanders

I am writing to ask for your support of the proposed Bridgedale Plaza on the corner of Hwy 16 East and River Meadows Drive. I think this development would be great asset for this location and the surrounding neighborhoods. My Family and I have owned a business on Huntsville Rd for 23 years now. It is at least a twenty five minute round trip to Hwy 45/ Crossover or Elkins to get goods and service such as Food and Groceries. I need climate control space for my BBQ business that I have. It is nice to see a self storage this state of the art and so planned out. I could use this for my Business for sure.

Best regards,
Gary Alderson

From: <Debbiegathright@aol.com>
To: <jpate@ci.fayetteville.ar.us>, <jsanders@ci.fayetteville.ar.us>
Date: 2/25/2008 9:39 AM
Subject: Bridgedale Plaza

Dear Mr. Pate and Mr. Sanders,
I am a resident of Fayetteville and have seen the layout of Bridgedale Plaza and think it will be a great asset to Southeast Fayetteville. I appreciate the environmental friendly items that Mr. McDonald has incorporated into this development. I am asking for your support for the approval of Bridgdale Plaza.

Sincerely,
Deborah C. Wilson

*****Ideas to please picky eaters. Watch video on AOL Living.
(<http://living.aol.com/video/how-to-please-your-picky-eater/rachel-campos-duffy/2050827?NCID=aolcmp00300000002598>)

From: <hank@broylesdevelopment.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 10:24 AM
Subject: Bridgedale

We support this project for our area.

Hank Broyles

From: "Gumbo Madison" <gumbo@sellingnwa.com>
To: "dasanders@ci.fayetteville.ar.us" <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 10:56 AM

Dear Mr. Pate,

I am Fayetteville citizen and am writing for your support of Bridgedale Plaza. I have seen the layout and talked with Mr. McDonald about this development. I think it is a great development for southeast Fayetteville and is much over due. It is nice to see a storage facility that is planned and not one that is inherited into the city later that is unappealing. I ask for your support for Bridgedale Plaza.

Sincerely,
Gumbo Madison

From: Scott Ellis <smellis73@yahoo.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 2/25/2008 10:55 AM
Subject: Bridgedale Plaza

Jeremy,

I wanted to add my support for this project. I am the developer of the Addison Acres S/D very near to this project and am in full support of adding more affordable housing options for Fayetteville.

Regards

Scott Ellis

Be a better friend, newshound, and know-it-all with Yahoo! Mobile. Try it now.

From: "Sarah Lewis" <sarah.lewis@spring-line.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 12:58 PM
Subject: Bridgedale Plaza

Ms. Sanders,

I am writing to encourage the support of Low Impact Development (LID) and energy efficiency in new developments. The Bridgedale Plaza project comes before Planning this evening and in reviewing the final layout of the project, it looks like they have incorporated a variety of environmentally friendly designs, including LID techniques, as well as energy efficiency techniques. This is the type of effort that the City should encourage.

Thank you for your time and consideration.

Sarah Lewis

—
Sarah E. Lewis
Environmental Dynamics Doctoral Program
Applied Sustainability Center
University of Arkansas Fayetteville
479-575-6603

From: "Michael Wingo" <MWingo@SBofA.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 12:40 PM

Dara,

I live in Stonebridge Meadows subdivision, and would like for you to support the proposed Bridgedale Plaza Project. I have seen the plans, and think it is a suitable development for this area of town. We do not have these types of amenities available to us currently, and this development will help change that. In addition, if done properly, I feel these types of developments will increase adjacent property values. I appreciate your service and representation on these matters.

With Highest Regard,

Michael J. Wingo

Signature Bank of Arkansas

Treasury Services

Office: 479-684-3745

Cell: 479-601-6071

Fax: 479-684-3795

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From: "Ron Daniels" <rdaniels72@gmail.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 12:37 PM
Subject: Bridgedale Plaza

Dear Dara Sanders,

I am Fayetteville citizen and am writing for your support of Bridgedale Plaza. I have seen the layout of this development. I think it is a great development for southeast Fayetteville and is much over due. I ask you for approval of this development.

Sincerely,
Ron Daniels

From: "Jon" <jon@RobinsonWooten.Com>
To: <jpate@ci.fayetteville.ar.us>
CC: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 12:07 PM

Dear Mr. Pate:

I am a Fayetteville business owner and am writing for your support of the Bridgedale Plaza project. The layout looks terrific and I have spoken with Clint McDonald about this development. I believe this development would be beneficial to Fayetteville. I would respectfully ask for your support of Bridgedale Plaza.

From: Atwood James <jameseatwood@sbcglobal.net>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 1:25 PM
Subject: Bridgedale Plaza

Dear Ms. Sanders,

I am Fayetteville citizen and am writing for your support of Bridgedale Plaza. I have seen the layout and talked with Mr. McDonald about this development. I think it is a great development for southeast Fayetteville and is much over due. It is nice to see a storage facility that is planned and not one that is inherited into the city later that is unappealing. I ask for your support for Bridgedale Plaza.

Sincerely,
James Atwood

From: "Regina Young" <regina@reginaryoungcpa.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 1:50 PM

Dara Sanders,

I am Fayetteville citizen and am writing for your support of Bridgedale Plaza. I have seen the layout of this development. I think it is a great development for southeast Fayetteville and is much over due. I have seen other works of Mr. McDonald, and he seems to handle his developments in a responsible way to both the citizens of Fayetteville and the city. It looks like Mr. McDonald has gone over and beyond what would be required in most developments. It is nice to see an environmentally sensitive development. I think this development is one that would be nice to support.

Sincerely,
Regina Young

Regina R Young CPA

Office of Regina R Young CPA

Fayetteville AR 72701

479-444-8820

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From: "Jeff Collins" <jcollins@Streetsmartdata.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 2/25/2008 3:09 PM
Subject: Bridgedale Plaza

Dear Ms. Sanders,

I am writing for your support of Bridgedale Plaza. I have had the opportunity to examine at the plans and talked extensively with Mr. McDonald about this development. I think it is a that it would be a significant positive development for southeast Fayetteville and judging from the data relating demand for housing by price point to supply, is much over due. Finally, although I am aware that storage facilities are not the most desired developments in the city, land use patterns, the nature of the design, and finally, the care that Mr. McDonald ahs taken to minimize any negative impact that might be perceived by surrounding property owners I believe make this a reasonable development that warrants approval. Moreover, it sets a standard for future developments of this type that improves the current baseline significantly. I hope you will choose to support the project.

Sincerely,

Jeff Collins

From: "David Callison" <dcalli@cox.net>
To: <jpate@ci.fayetteville.ar.us>, <dasanders@ci.fayetteville.ar.us>
CC: <clintonneal@aol.com>
Date: 2/26/2008 5:34 PM
Subject: need a designer???

Hey Clint,

I haven't met you yet. I'm David Callison's wife, Dee. I think the addition going in behind us looks to be nice and somewhat upscale. Are you the main developer? I would love to be part of the color/design team for the houses. I have worked for 2 years for Hometown Development. I've been responsible for design in everything from the floorplans to the landscaping. If there might be a place I could be used, please let me know. I have a vested interest, since this will be in my backyard!

Thanks,
Dee Callison
479-200-6516 cell

From: <clintonneal@aol.com>
To:
Date: 2/26/2008 6:14 AM
Subject: Bridgedale Plaza

This is?a letter sent from David Callison(adjacent property owner to Bridgedale Plaza)?to me and Brenda Theil. David lives in the first house on the left with pulling into River Meadows Drive. He is adjacent to Bridgedale Plaza.

Thank you,
Clint McDonald

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

From: David Callison <dcalli@cox.net>
To: bthiel@cox.net
Cc: clintonneal@aol.com
Sent: Thu, 4 Oct 2007 3:17 pm
Subject: Stonebridge Plaza and Self Storage

Brenda,

?

I live at 1020 S River Meadows Dr. in Fayetteville.? My house/property backs up to 6 of the lots to the Stonebridge Plaza development.? I have spoken with Clint McDaniel and David Jorgenson about the development and they have address my concerns, which were:

?

1.? Do they plan to keep the tree line on the property line where my land the their land meet?? The answer is yes and I am satisfied with their explanation.

?

2.? What style and quality of house are they building on the lots?? Clint informed me that they would be smaller homes put with high quality, which will push the appraisal values up per square foot.? My concern was that they were going to be small houses at a low price point per square foot therefore having a negative affect on my property values.? I am pleased to hear that the per square foot value is in line with the other homes in Stonebridge Meadows subdivision.

?

The only small concern I have is the additional traffic from the commercial property, and I have not spoken with Clint about this,(I honestly done know how much that will affect me being down the street from the entrance...maybe none).? Also, I think the location of the Self Storage is a great location and will be a positive for all the residents in Stonebridge Meadows and the other subdivisions in the area.

?

I do not have any objections to the development at this time.

?

David Callison

1020 S River Meadows

Fayetteville, AR? 72701

200-6630

?

?

?

?

More new features than ever. Check out the new AOL Mail ! - <http://webmail.aol.com>

To Whom It May Concern:

I live at 4125 E Huntsville #2 in Fayetteville Arkansas and I support the Bridgedale Plaza development on the corner of Huntsville/Hwy 16 and River Meadows Drive.

Sincerely,

Theta Mitchell

To Whom It May Concern:

I live at 4725 E Huntsville^{RD.} in Fayetteville Arkansas and I support the Bridgedale Plaza development on the corner of Huntsville/Hwy16 and River Meadows Drive.

Sincerely,



From: <clintonneal@aol.com>
To: <dasanders@ci.fayetteville.ar.us>
Date: 3/4/2008 4:28 PM
Subject: Fwd: Bridgedale Plaza

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

From: jimmy <jimmy@concreteincorporated.com>
To: clintonneal@aol.com
Sent: Tue, 4 Mar 2008 9:33 am
Subject: FW: Bridgedale Plaza

Jimmy Smyth

Vice President

Concrete Services of NW Arkansas, Inc.

479-751-7522

479-751-5201 (fax)

From: jimmy [mailto:jimmy@concreteincorporated.com]
Sent: Tuesday, March 04, 2008 9:30 AM
To: 'balliehi@sbcglobal.net'; 'cmyres@sbcglobal.net'; 'jgraves@bassettlawfirm.com'; 'janthes@uark.edu';
'strumbo@nicklehill.com'; 'alan.ostner@sbcglobal.net'; 'audy@mbi-arch.com'; 'matthew@allarch.com';
'porterwinston@netzero.com'
Subject: Bridgedale Plaza

Dear Commissioners,

As the owner of six properties in the Bridgedale subdivision I am writing to once again voice my support for the proposed Bridgedale Plaza development. I feel that the area East of the Hwy 265 and Hwy 16 East intersection is lacking in many of the amenities that make living in that area attractive to the average homeowner. The addition of office, retail and other service oriented businesses would be a great asset to

current and future development of this and surrounding areas.

As I've stated before, I've seen Mr. McDonald's other commercial and residential developments and they are always done with a high level of quality and curb appeal. I disagree with those that may think that development other than residential would harm the values of their properties. As a resident of Har-Ber Meadows in Springdale, I can say that the most appealing aspect of living in that development is its close proximity to the very conveniences that Mr. McDonald is proposing.

Sincerely,

Jimmy Smyth

Member

McLeod & Smyth, LLC

479-751-7522

479-751-5201 (fax)

Public Correspondence

Letters of Opposition

1. I have 2 houses (\$425,000.00) each and a lot (55,000.0) in Bridgedale S/D.
2. We bought with the understanding that we were in Phase I – Phase II would be north going up to 16Hwy with like houses and a “grand” entrance off of 16Hwy.
3. There were covenants that were required to ensure the integrity of the S/D.
 - Square footage
 - Sprinkler system
 - Fescue sod
 - Landscaping
4. Bridgedale is a great neighborhood -one that absolutely compliments the Stonebridge Subdivision.

This will all change if the zoning change request is approved.

1. Random traffic going through my neighborhood at all hours. Random people going through my neighborhood 24/7.
2. Our neighborhood is peaceful – this would definitely affect the calmness and peace of mind that you get coming home and relaxing.
3. The rain runoff would be substantial. Flooding issues with the additional blacktop. Retention pond and park area have flooding issues right now.
4. Don't want South Pinnacle and Eastpoint Drive to be access streets for all the additional traffic. Leave the cul-de-sac on Pinnacle alone: Have the entrance and exit from 16 Hwy.
5. Place the commercial development off of 16Hwy – not back in a neighborhood. Bright lights – noise – traffic. If it would look as good as developer states, then there should be no problem keeping up Hwy 16.
6. The devaluation of my property values.

I would have a \$425,000.00 rent house right out side the proposed entrance off South Pinnacle.

This is not the vision/promise of future expansion that was sold to us when we bought our property. There were drawings depicting and Phase II of Bridgedale- lots drawn out – that were similar in size and having the same covenants as Phase I. With this proposal, everything has completely changed.

If the zoning is changed maybe there would be storage units and other commercial projects, or possibly the rezoning efforts are to make the property attractive to an outside investor. Get the zoning change approved – then sell – not actually planning on building anything. Just to change it to sell it- with no intension of building. Then we will be right back here again.

I implore you to not subject the adjoining neighborhoods with the inconclusive direction of the owners. We have suffered enough by half truths and unfulfilled promises.

Who is there to protect our investments?

283

Who will pay for the financial "hit" that will be taken if this proposal is approved?
Who will rent my \$425,000.00 rent house???

If it will not affect my neighborhood – don't run it through my neighborhood.

A BIG fence at the end of South Pinnacle. No through street. This would be great. And a BIG fence surrounding the entire project. Make the entrance and exit off of 16 Hwy and not go through these wonderful family neighborhoods.

Take a drive through both of these neighborhoods at night and you will "see" and "hear" the peace and quite that we hold so dearly for ourselves and our families. Let us protect that!!!

Thank you again for your consideration in this matter-

Sandra Clegg.

From: <Mousiemom2000@yahoo.com>
To: <webmaster@ci.fayetteville.ar.us>
Date: 3/6/2008 6:11 PM
Subject: [Form mail from AccessFayetteville] - Bridgedale Development

CC: <planning@ci.fayetteville.ar.us>

From: Leslie Harvey
Email: Mousiemom2000@yahoo.com
To: planning@ci.fayetteville.ar.us
Subject: Bridgedale Development

Message:

Dear Members of the Fayetteville Planning Commission,

My name is Leslie Harvey and my family lives in Stonebridge Meadows Subdivision in southeast Fayetteville. I am writing you regarding the discussion of the proposed Bridgedale development that is on the agenda for March 10th's meeting. I want to strongly voice my family's opposition to the proposed development.

Stonebridge Meadows is a quiet subdivision on the southeast corner of Fayetteville. The residents chose to live here because of the peaceful atmosphere that exists among the farmland and golf course. Our neighborhood is quiet and our children are able to play without too much concern.

When I did a search on the NWA Times website to find out more about this development, I was also linked to articles about the failed Aspen Ridge development. I have no doubt that Bridgedale will become the east side's Aspen Ridge. In the NWA Times article that I read, Mr. McDonald was quoted as saying, "It's a project that's in dire need in southeast Fayetteville." Whether or not Mr. McDonald subjectively feels that this type of project is needed in southeast Fayetteville is, of course, irrelevant to the ultimate question of whether this type of project is compatible with the surrounding residential uses and in compatibility with the current zoning designation and future zoning designations.

The additional traffic congestion this commercial project would add to Highway 16 alone is cause for our great concern, and I know this problem has been a concern for the City of Fayetteville as well. Each morning when I take my son to school, I am unable to make a left turn onto Highway 16 unless someone stops and lets me out. We understand that there are plans to widen 16 and put a light at Stonebridge, but even with these "fixes", traffic is busy enough that we will still have congestion in the mornings. Adding additional commercial traffic into the mix would be a nightmare. In addition, River Meadows, the road before the proposed development, can be a dangerous left hand turn because Highway 16 rises and you can't see traffic coming from Elkins until it is nearly upon you. The proposed development would bring more traffic coming over that rise.

I realize that growth is inevitable, and that we will not always have our tranquil farmland behind us. We have expected residential development at some point to occur, but certainly not commercial. It was our understanding that the proposed area was zoned residential and agricultural, and we all purchased our homes with the expectation that surrounding properties would remain in compatibility with the residential developments in the area. Hwy 16/Huntsville Road is changing. From Stonebridge Road west into town, many of the houses are for sale for commercial development. It isn't necessary to extend this development to back up to our homes. The proposed development not only includes commercial space, but self storage units. The lights and added traffic would drastically change the quiet atmosphere that we all enjoy, and I certainly don't think we can rely on Mr. McDonald's remark that "unless they were Superman flying over the project or the Six Million Dollar Man looking through it, they would not realize it

was a storage facility." It doesn't matter if it is promised that the lights are dim or shine in a way that doesn't reflect, we're going to see and be impacted by this incompatible development in our backyards and we will hear the traffic and deal with the congestion it will add to the roads daily.

My husband and I are life-long residents of Fayetteville. We chose to stay here and raise a family because we believe that communities like Fayetteville are rare, and we appreciate that the Fayetteville Planning Commission and City Council has placed a high value on issues of compatibility and the long term impact of non-residential developments on Fayetteville's residential neighborhoods. A drive to the north of Fayetteville along the I-540 corridor illustrates the negative impact of development decisions made with only short term interests in mind. It is our firm belief with this high value and attention to such issues and planning values, other communities in this region cannot hold a candle to Fayetteville.

We respectfully ask that you please vote against this proposed development. We are all willing to fight for our neighborhood and the lifestyle that we love.

Thank you,

Leslie Harvey
1198 River Meadows Drive
973-9520

From: <nobody@accessfayetteville.org>
To: <webmaster@ci.fayetteville.ar.us>
Date: 3/8/2008 9:42 AM
Subject: [Form mail from AccessFayetteville] - Bridgedale Plaza

CC: <planning@ci.fayetteville.ar.us>

From: Michelle Bailey
To: planning@ci.fayetteville.ar.us
Subject: Bridgedale Plaza

Message:

I am writing to the board to restate my opinion on the development of Bridgedale Plaza. I feel that the installation of storage units in a residential area and the addition of commercial sites will have a negative effect to our property values. I ask the board to consider that so many in this neighborhood do not wish to see this type of development. Please leave it residential. Thank you for your time and consideration.

From: <jluper24@yahoo.com>
To: <webmaster@ci.fayetteville.ar.us>
Date: 2/25/2008 8:14 AM
Subject: [Form mail from AccessFayetteville] - Bridgedale Subdivision Phase II
CC: <planning@ci.fayetteville.ar.us>

From: Jim Luper
Email: jluper24@yahoo.com
To: planning@ci.fayetteville.ar.us
Subject: Bridgedale Subdivision Phase II

Message:

I regret I cannot attend tonight's planning meeting concerning Phase 2. I live in Stonebridge adjacent to Phase 1 and one house down from Phase 2. There are many concerns. (1) Traffic out this way is terrible. You take your life into your own hands to pull out in the morning and evening. (2) Storage buildings right behind our homes. According to Police Departments from Fay, Springdale and Rogers, Storage buildings are the new home of drug dealers. They have even gone so far as setting up Meth Labs in them. (3) Loss in home value. They propose smaller homes that would knock down our home values. The average home in Stonebridge is \$250,000. Bridgedale Phase 1 is over \$300,000. This developer is ruining the value of his own subdivision. Since these homes are going on 2 years sitting empty, the banks are about to foreclose and sell them below value. This developer has already affected our home values. This proposed addition does not fit in any way, shape or form with the existing neighborhoods. This developer is over extended and needs the revenue of the storage buildings. This is in our neighborhoods opinion a desperate attempt by the developer to recoup his failed subdivision losses. Please do not allow this to happen to our quiet neighborhood.
Jim Luper

From: Laddy Diebold <laddddiebold@yahoo.com>
To: <jpate@ci.fayetteville.ar.us>
Date: 2/25/2008 12:57 PM
Subject: Mini-storage re-zoning

Hey Jeremy,

My name is Laddy Diebold and I am a Realtor with Re/Max Associates in Fayetteville. I have been a Realtor in Fayetteville for 8 years. As a former partner of Clint McDonald, I am well aware of the Bridgedale subdivision and the surrounding area. I have sold many homes to clients in that area and have received calls from some who are concerned with Clint's proposed changes. Clint is a nice guy, but this project is not nice. It is a complete contradiction to what was going in there and people have invested in property and homes who would not otherwise have done so if they new that mini-storage units were even being considered.

Besides the people directly affected, the vacancy rate in the mini-storage business is at an all time high in Fayetteville...check it out for yourself. Bob Schmidt just completed one off east Joyce and it is 100% vacant and he is trying to sell it. These PODS have really changed the way people look at storage now. Please keep it it zoned for residential.

Sincerely,

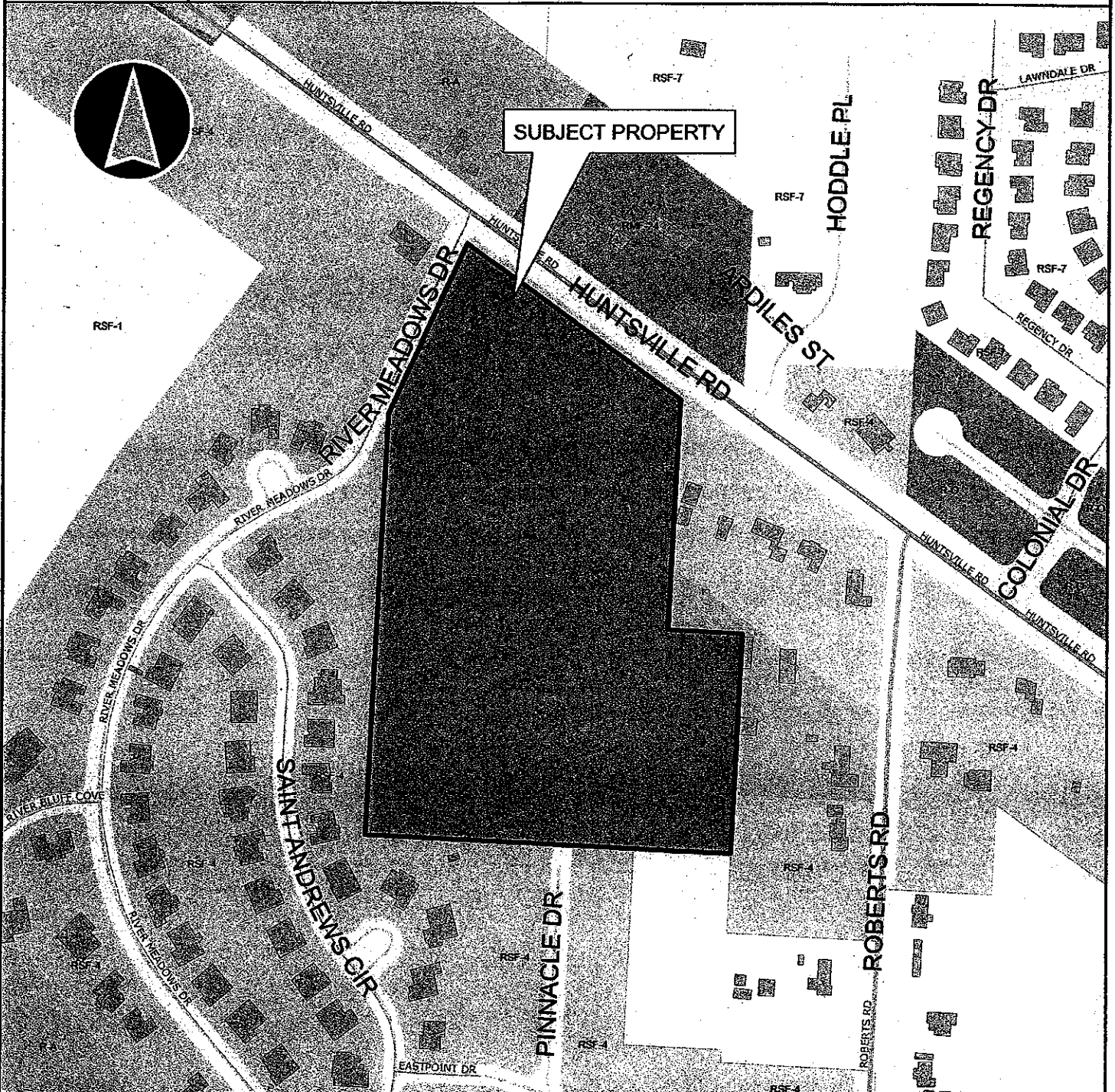
Laddy Diebold
Associate Broker
Re/Max Associates
(479) 841-1000

Be a better friend, newshound, and
know-it-all with Yahoo! Mobile. Try it now.
http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ

4PZD08-2904

Close Up Map

BRIDGEDALE PLAZA



Overview

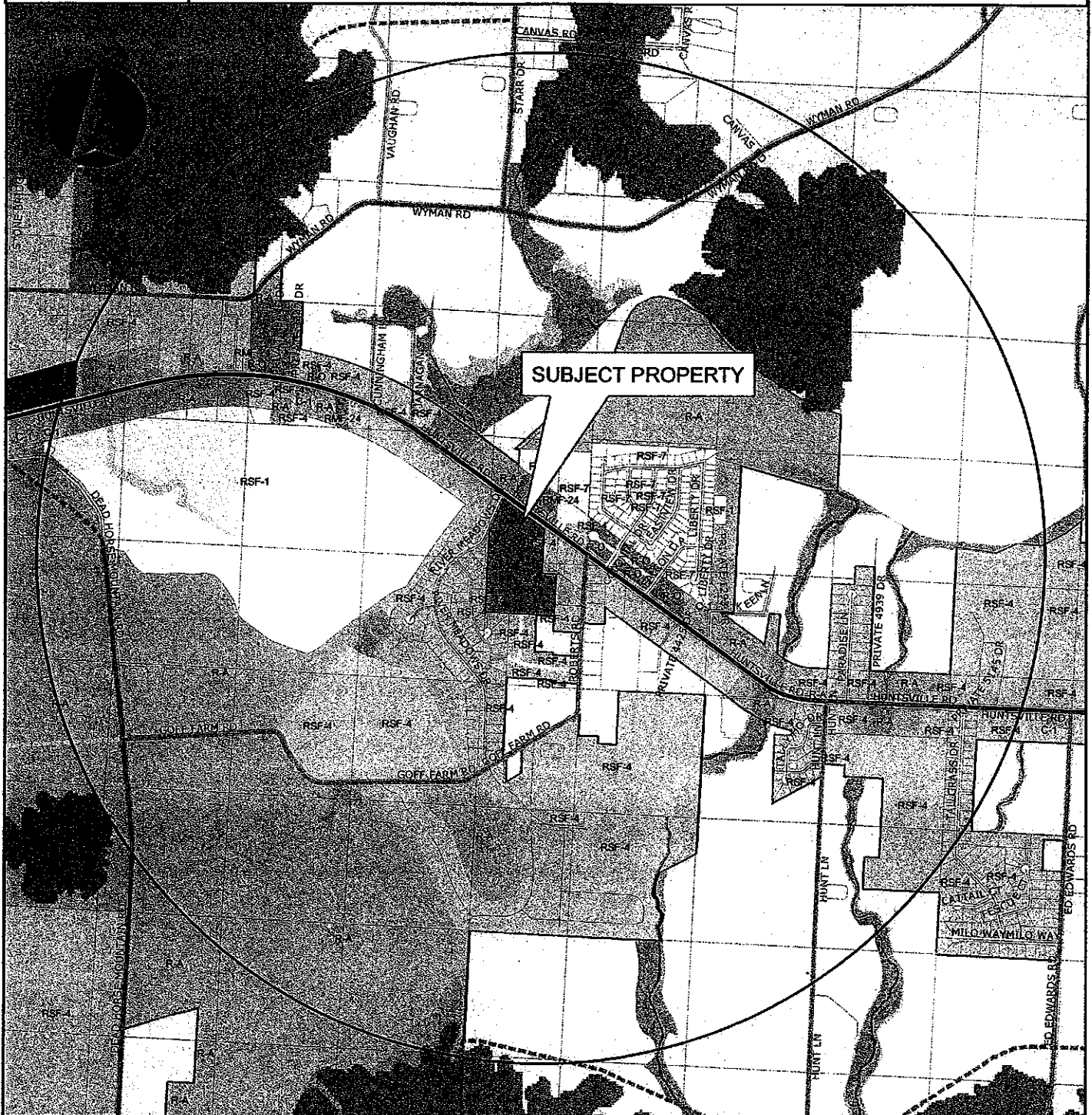


0 125 250 500 750 1,000 Feet

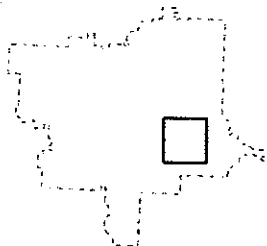
CPZD08-2904

One Mile View

BRIDGEDALE PLAZA



Overview



Legend

Subject Property

IPZD08-2904

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
May 06, 2008**

A meeting of the Fayetteville City Council will be held on May 06, 2008 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

Agenda Session Presentations:

- ✓ 1. Site Approval and Inspection Process - Steve Cattaneo, Building Safety Inspector - Informational Only.
- ✓ 2. Discussion of First Quarter Operating Results – Paul Becker, Finance Director

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- ✓ 1. Quarterly Report of Financial Condition of the City

Agenda Additions:

A. Consent:

- ✓ 1. Approval of the April 15, 2008 City Council meeting minutes.

2. **2008 Community Development Block Grant:** A resolution approving a budget adjustment in the amount of \$20,047.00 to reflect a like reduction in the 2008 Community Development Block Grant Revenues.
3. **Farmington Cost-Share Agreement - Farmington Lift Station:** A resolution to approve a cost share agreement with Farmington in which Fayetteville pays \$482,078.52 (with credit to be given for some equipment), Farmington pays \$1,215,802.48, and Fayetteville authorizes a \$30,000.00 contingency for the Farmington Lift Station.
4. **Oscar Renda Change Order # 3:** A resolution approving Change Order # 3 to the contract with Oscar Renda Contracting, Inc. in the amount of \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestring Lift Station, WSIP Subproject WL-4.
5. **Black & Veatch Corporation Amendment No. 2:** A resolution approving Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line – Rehabilitation Study.
6. **TIF District Interest Income:** A resolution to approve a budget adjustment in the amount of \$20,119.00 to recognize interest income from the TIF Project Fund and allocate it to sidewalk improvements in the TIF District.
7. **Anaconda Sports:** A resolution to award a bid to Anaconda Sports in the amount of \$22,043.00 with a contingency of \$3,000.00.
8. **Arkansas Department of Aeronautics Grant:** A resolution to approve an application for Federal Assistance and an Arkansas Department of Aeronautics matching grant to help fund Task Order # 3 in the amount of \$128,337.00 of the total task order cost of \$158,700.00 and to accept the grants when awarded.
9. **Arkansas Recreational Trails Grant:** A resolution approving an Agreement of Understanding with the Arkansas Highway and Transportation Department for the acceptance of an Arkansas Recreational Trails Grant to utilize \$33,600.00 in federal-aid funds to replace the Mud Creek Trail Bridge near Front Street; and approving a budget adjustment in the amount of \$69,320.00.
10. **Thompson Culvert Company:** A resolution approving the purchase under Bid # 08-15 of one (1) prefabricated weathering steel pedestrian bridge for Mud Creek Trail from Thompson Culvert Company in the amount of \$44,320.00 plus \$4,099.60 in sales tax.
11. **Kinco Contractors, LLC Change Order # 1:** A resolution approving Change Order # 1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one (1) trail bridge for Mud Creek Trail; and approving a 15% project contingency in the amount of \$5,550.00.
12. **Arkansas Historic Preservation Program Grant:** A resolution approving an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the increased grant revenue.

- ✓ **13. PetSmart Grant:** A resolution authorizing the Fayetteville Animal Services Division to accept a grant from PetSmart Charities in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries; and approving a budget adjustment to recognize the grant revenue.
- ✓ **14. BNSF Railway Co.:** A resolution approving the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail.
- ✓ **15. Gordon Backhoe and Dozer Service Inc.:** A resolution to approve a bid contract with Gordon Backhoe and Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00 and to approve a budget adjustment in the amount of \$19,068.00.

B. Unfinished Business:

- Paul well — have a position. (Scott Caldwell's position)
- ✓ **1. Hiring Freeze:** Hiring Freeze Appeals:
- ✓ **2. RZN 08-2937 (Mountain Ranch Ph. III):** An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre. *This ordinance was left on the Second Reading at the April 15, 2008 City Council meeting.*
- ✓ **3. C-PZD 08-2894 (Park Centre):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans Park Entry Drive, containing approximately 8.58 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Third Reading and then Tabled at the April 15, 2008 City Council meeting.*

C. New Business:

- ✓ **1. RZN 07-2708 (Fire Stations):** An ordinance amending Ordinance Number 5074 to attach the correct Hansen Number to the exhibits of said ordinance.
- ✓ **2. RZN 08-2934 (Newell/Morton):** An ordinance rezoning a portion of property described in rezoning petition RZN 08-2934, for approximately 0.37 acres, located at 1141 Hendrix from RSF-4, Residential Single Family, 4 units per acre, to RSF-8, Residential Single Family, 8 units per acre.
- ✓ **3. R-PZD 08-2915 (Hill Place):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915, Hill Place, located at the southwest corner of 6th Street and Hill Avenue; containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- ✓ **4. VAC 08-2951 (Shoppes at Wedington):** An ordinance approving VAC 08-2951 submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road, to vacate a utility easement on the subject property, a total of 5,997 square feet.

- ✓ **5. Amend Chapter 97 Parks and Recreation:** An ordinance to amend §97.070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.
- ✓ **6. Repeal and Replace §158.03 Maintenance:** An ordinance to repeal §158.03 Maintenance of the Unified Development Code and to enact a replacement §158.03 Maintenance.
- ✓ **7. Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances.
- ✓ **8. Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with amendments proposed by The Board of the Downtown Off-Street Parking Improvement District.
- ✓ **9. Pratt Place Inn Appeal:** An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670, Pratt Place Inn, located at 2115 W. Markham Road, containing approximately 72.00 acres, to allow a monument sign in Planning Area 2 in-lieu of a sign in Planning Area 3, as described herein.
- ✓ **10. Bridgedale Plaza Appeal:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridgedale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Announcements:

1. City Council Tour: May 05, 2008

Hill Place RPZD

Adjournment:

Add: *Municipal Property Owners Association ID # 28 - Legacy Heights.*

NB #2 *Municipal Property Owners Association ID # 29 Raskin Heights.*

NB #3 *Northwest Arkansas Naturalists - City of Springdale Congratulation.*

Pre Agenda Session 4/23/08

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
Ward 1 Position 2 – Brenda Thiel
Ward 2 Position 1 – Kyle B. Cook
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Farmington 3. **~~J.L. Bryson~~ Cost-Share:** *Agreement - Farmington Lift Station* A resolution to approve a cost share agreement with Farmington in which Fayetteville pays \$482,078.52 (with credit to be given for some equipment), Farmington pays \$1,215,802.48, and Fayetteville authorizes a \$30,000.00 contingency for the Farmington Lift Station.

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- Need new resolution* 6. **~~Hwy. 71 East Square Redevelopment District # 1:~~** *TIF District Interest Income* A resolution to approve a budget adjustment in the amount of \$20,119.00 to recognize interest income from the \$180,000.00 allocated to sidewalk improvements in the TIF District.

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Announcements:

1. **City Council Tour: May 05, 2008**

Adjournment:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**

THRU: **Sondra Smith, City Clerk**

FROM: **Kit Williams, City Attorney**

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

DATE: **May 7, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of May 6, 2008**

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4. **Black & Veatch Corp. Amendment #2:** A resolution approving Amendment #2 to the Agreement For Professional Engineering Services with Black & Veatch Corp. in the amount of \$36,000.00 for Construction Phase Services Of Fayetteville Existing 36-Inch Water Transmission Line – Rehabilitation Study;
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6. **Anaconda Sports:** A resolution to award a bid to Anaconda Sports in the amount of \$22,043.00 with a contingency of \$3,000.00;
7. **Arkansas Department of Aeronautics Grant:** A resolution to approve an application for Federal Assistance and an Arkansas Department of Aeronautics matching grant to help fund Task Order #3 in the amount of \$128,337.00 of the total task order cost of \$158,700.00 and to accept the grants when awarded;
8. **Arkansas Recreational Trails Grant:** A resolution approving an Agreement of Understanding with the AHTD for the acceptance of an Arkansas Recreational Trails Grant to utilize \$33,600.00 in Federal-aid funds to replace the Mud Creek Trail Bridge near Front Street; and approving a budget adjustment in the amount of \$69,320.00;
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10. **Kinco Contractors, LLC Change Order #1:** A resolution approving Change Order #1 to the contract with Kinco Contractors, LLC in the amount of \$37,000.00 for the installation of one trail bridge for Mud Creek Trail; and approving a 15% project contingency in the amount of \$5,550.00;
11. **Arkansas Historic Preservation Program Grant:** A resolution approving an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the increased grant revenue;
12. **PetSmart Grant:** A resolution authorizing the Fayetteville Animal Services Division to accept a grant from PetSmart Charities in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries; and approving a budget adjustment to recognize the grant revenue;
13. **BNSF Railway Co.:** A resolution approving the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail;

- 14. Gordon Backhoe & Dozer Service, Inc.:** A resolution to approve a bid contract with Gordon Backhoe & Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00 and to approve a budget adjustment in the amount of \$19,068.00;
- 15. Hiring Freeze:** A resolution to approve the hiring of replacement employees – one Database Administrator and one Police Dispatcher;
- 16. Fayetteville Municipal Property Owners' Improvement District No. 28 – Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners/ Improvement District No. 28 – Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project;
- 17. Fayetteville Municipal Property Owners' Improvement District No. 29 – Ruskin Heights Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners/ Improvement District No. 29 – Ruskin Heights Subdivision Infrastructure Project;
- 18. Northwest Arkansas Naturals:** A resolution to congratulate the City of Springdale for building the Arvest Ballpark and acquiring the Northwest Arkansas Naturals;
- 19. Amend Chapter 97 Parks and Recreation:** An ordinance to amend §97.070 of the Fayetteville Code to provide exemption of Fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for Juveniles within an approved government rehabilitation program;
- 20. Repeal and Replace §158.03 Maintenance:** An ordinance to repeal §158.03 Maintenance of the Unified Development Code and to enact a replacement §158.03 Maintenance;
- 21. Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances;
- 22. Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with Amendments proposed by the Board of the Downtown Off-Street Parking Improvement District.

May 6th

From: Sondra Smith
To: Branson, Lisa
Date: 4/4/2008 3:05 PM
Subject: Fwd: Agenda

>>> Steve Cattaneo 4/3/2008 4:10 PM >>>

Sondra, I would like to have 5-10 minutes before the next 4 agenda sessions if possible.
These are informational only.

The first will be to explain the approval and inspection process for building location on the site. (with Jeremy Pate)
Title: Site approval and inspection process

The three following will be based on our division responsibilities and the up coming Building Safety Week.

1. Office staff: permits, inspections & archives
2. Field staff: the inspection process
3. Administration: Building Safety and the community

I am flexible on the dates so if the agenda becomes too busy I can always reschedule.

Steve Cattaneo, MCP, LEED®-AP
Building Safety Director,
City of Fayetteville
113 W Mountain St.
Fayetteville, AR 72701
phone: 479-575-8239
fax: 479-575-8316
www.accessfayetteville.org

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phone: 479-575-8239
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www.accessfayetteville.org

From: Missy Leflar
To: Sondra Smith
CC: Lisa Branson
Date: 3/25/2008 3:13 PM
Subject: Re: HR agenda session presentation

Thanks - yes, it would be the agenda session.

Sorry, I got confused. Thanks - ML

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: Sondra Smith
To: Leflar, Missy
Date: 3/25/2008 3:10 PM
Subject: Re: HR agenda session presentation

CC: Branson, Lisa

It is the June 17 City Council Agenda but Agenda Session is June 10. So if she is doing the presentation at Agenda Session it will be on June 10.

Sondra E. Smith, CAMC CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Missy Leflar 3/25/2008 12:30 PM >>>

Thanks, yes it's that presentation.. It is more of Michele's presentation, along with Stephens, Inc. I think Michele thought it was June 10, not June 17, so by copy to her I'm making sure this works with what she's gotten arranged.

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: Sondra Smith
To: Leflar, Missy
Date: 3/25/2008 12:14 PM
Subject: Re: HR agenda session presentation

CC: Branson, Lisa

Is this the presentation you are wanting moved?

Agenda Session Presentations: Medical Insurance Cost Containment - Human Resources and Stephens, Inc.

If it is we have moved it to the June 17, 2008 Agenda to be heard at Agenda Session. Have a great day!

Sondra E. Smith, CAMC CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Missy Leflar 3/25/2008 11:13 AM >>>
HR is scheduled to do a presentation at the April 29th Agenda Session.

May we please change that to the June 10th Agenda Session?

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: City Clerk
To: Branson, Lisa
Date: 1/15/2008 5:47 PM
Subject: Fwd: Re: agenda presentation

Good Morning Lisa

Can you please make this change. Thanks!

City of Fayetteville
City Clerk's Office
113 W. Mountain
Fayetteville, AR 72701
479-575-8323

>>> Susan Thomas 1/15/2008 5:10 PM >>>
I'll make the change on the Council Agenda Preview.

Susan

>>> Missy Leflar 1/15/2008 5:09 PM >>>
HR is scheduled to do an Agenda Session presentation to City Council on February 12th.

May we please change this to the Agenda Session on April 29th?

Missy Leflar
Human Resources Division Manager
City of Fayetteville
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Fayetteville, AR 72701
PH: 479-575-8298
Fax: 479-718-7698
E-mail: mleflar@ci.fayetteville.ar.us

Arkansas Democrat Gazette
NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record
P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville – Final Agenda

May 5, 2008

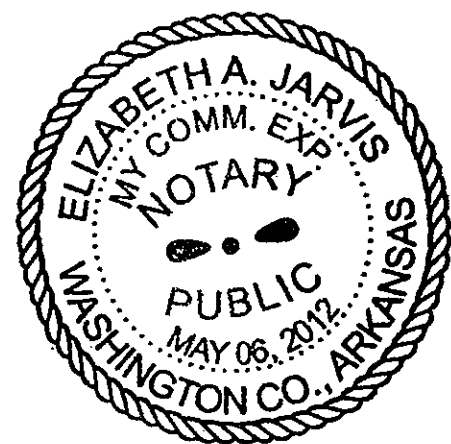
Publication Charge : \$269.03

Subscribed and sworn to before me
This 8 day of May, 2008.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



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MAY 12 2008

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

**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
May 06, 2008**



A meeting of the Fayetteville City Council will be held on May 06, 2008 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**

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

1. Confirmation of the Advertising and Promotion Commission appointment.
2. Quarterly Report of Financial Condition of the City.

Agenda Additions:

A. Consent:

1. Approval of the April 15, 2008 City Council meeting minutes.
2. **2008 Community Development Block Grant:** A resolution approving a budget adjustment in the amount of \$20,047.00 to reflect a like reduction in the 2008 Community Development Block Grant Revenues.
3. **Farmington Cost-Share Agreement - Farmington Lift Station:** A resolution to approve a cost share agreement with Farmington in which Fayetteville pays \$482,078.52 (with credit to be given for some equipment), Farmington pays \$1,215,802.48, and Fayetteville authorizes a \$30,000.00 contingency for the Farmington Lift Station.
4. **Oscar Renda Change Order # 3:** A resolution approving Change Order # 3 to the contract with Oscar Renda Contracting, Inc. in the amount of \$115,749.41 for construction of the gravity sewer lines from Gregg Avenue to the Hamestrung Lift Station, WSIP Subproject WL-4.
5. **Black & Veatch Corporation Amendment No. 2:** A resolution approving Amendment No. 2 to the agreement for professional engineering services with Black & Veatch Corporation in the amount of \$36,000.00 for construction phase services of Fayetteville Existing 36-Inch Water Transmission Line - Rehabilitation Study.
6. **TIF District Interest Income:** A resolution to approve a budget adjustment in the amount of \$20,119.00 to recognize interest income from the TIF Project Fund and allocate it to sidewalk improvements in the TIF District.
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12. **Arkansas Historic Preservation Program Grant:** A resolution approving an amendment to the 2007-2008 Certified Local Government Grant to increase the amount by \$300.00 to fund travel and training for the Fayetteville Historic District Commission; and approving a budget adjustment recognizing the increased grant revenue.
13. **PetSmart Grant:** A resolution authorizing the Fayetteville Animal Services Division to accept a grant from PetSmart Charities in the amount of \$10,000.00 to cover costs associated with pre-adoption spay/neuter surgeries; and approving a budget adjustment to recognize the grant revenue.
14. **BNSF Railway Co.:** A resolution approving the purchase of approximately 6 acres of real property from BNSF Railway Co. in the amount of \$73,180.00 plus associated closing costs for the Scull Creek Trail.
15. **Gordon Backhoe and Dozer Service Inc.:** A resolution to approve a bid contract with Gordon Backhoe and Dozer Service, Inc. in the amount of \$17,068.00 with a contingency of \$2,000.00 and to approve a budget adjustment in the amount of \$19,068.00.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals.
2. **Information Technology - One Database Administrator Position**
3. **RZN 08-2937 (Mountain Ranch Ph. III):** An ordinance rezoning that property described in rezoning petition RZN 08-2937, for approximately 26.9 acres, located south of Mountain Ranch Phase I and Persimmon Street, east of the future extension of Ruppel Road, from RSF-4, Residential Single-Family, 4 units per acre to RSF-8, Residential Single-Family, 8 units per acre. This ordinance was left on the Second Reading at the April 15, 2008 City Council meeting.
4. **C-PZD 08-2894 (Park Centre):** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2894 Park Centre, located at the northeast corner of Zion Road/Veterans Park Entry Drive, containing approximately 8.58 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. This ordinance was left on the Third Reading and then Tabled at the April 15, 2008 City Council meeting.

C. New Business:

1. **Fayetteville Municipal Property Owners' Improvement District No. 28 - Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 28 Legacy Heights, Phases 2 and 3 Subdivision Infrastructure Project.
2. **Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 29 - Ruskin Heights Subdivision Infrastructure Project.
3. **Northwest Arkansas Naturals - City of Springdale Congratulations:** A resolution to congratulate the City of Springdale for building the Arvest Ballpark and acquiring the Northwest Arkansas Naturals.
4. **RZN 07-2708 (Fire Stations):** An ordinance amending Ordinance Number 5074 to attach the correct Hansen Number to the exhibits of said ordinance.
5. **RZN 08-2934 (Newell/Morton):** An ordinance rezoning a portion of property described in rezoning petition RZN 08-2934, for approximately 0.37 acres, located at 1141 Hendrix from RSF-4, Residential Single Family, 4 units per acre, to RSF-8, Residential Single Family, 8 units per acre.
6. **R-PZD 08-2915 (Hill Place):** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2915 Hill Place, located at the southwest corner of 6th Street and Hill Avenue, containing approximately 27.10 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.
7. **VAC 08-2951 (Shoppes at Wedington):** An ordinance approving VAC 08-2951 submitted by McClelland Consulting Engineers for property located west of the intersection of Wedington Drive and Salem Road, to vacate a utility easement on the subject property, a total of 5,997 square feet.
8. **Amend Chapter 97 Parks and Recreation:** An ordinance to amend \$97,070 of the Fayetteville Code to provide exemption of fees for use of Lake Fayetteville, Lake Wilson and Lake Sequoyah for juveniles within an approved government rehabilitation program.
9. **Repeal and Replace \$158.03 Maintenance:** An ordinance to repeal \$158.03 Maintenance of the Unified Development Code and to enact a replacement \$158.03 Maintenance.
10. **Repeal and Replace Chapter 168: Flood Damage Prevention Code:** An ordinance repealing and replacing Chapter 168: Flood Damage Prevention Code of the Unified Development Code, Fayetteville Code of Ordinances.
11. **Downtown Off-Street Parking Improvement District:** An ordinance to codify Ordinance No. 2292 of December 7, 1976, with amendments proposed by The Board of the Downtown Off-Street Parking Improvement District.
12. **Pratt Place Inn Appeal:** An ordinance amending a Commercial Planned Zoning District entitled C-PZD 05-1670 Pratt Place Inn, located at 2115 W. Markham Road, containing approximately 72.00 acres, to allow a monument sign in Planning Area 2 in lieu of a sign in Planning Area 3 as described herein.
13. **Bridge Dale Plaza Appeal:** An ordinance establishing a Commercial Planned Zoning District titled C-PZD 08-2904 Bridge Dale Plaza, located at the southeast corner of Highway 16 East and River Meadows Drive, containing approximately 15.95 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan.

Announcements:

1. **City Council Tour:** May 05, 2008 - 4:30 PM - R-PZD 08-2915 (Hill Place)

Adjournment:

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MAY 12 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE