

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
June 03, 2008**

A meeting of the Fayetteville City Council will be held on June 03, 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:

Agenda Additions:

A. Consent:

1. **MR2 Contract:** A resolution authorizing the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 117-08.

2. **Steele Crossing Investment III, LLC:** A resolution accepting a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 118-08.

3. **Neighborhood Master Plan:** A resolution approving the creation of a Neighborhood Master Plan for the Technology Development Corridor; and approving a budget adjustment in the amount of \$4,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 119-08.

4. **Secure Our Schools Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Department of Justice "Secure Our Schools" Grant in the amount of \$87,325.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 120-08.

5. **Roll Off Service, Inc. Amendment No. 1:** A resolution approving contract Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 121-08.

B. Unfinished Business:

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

- (A) One Part-time Law Clerk
- (B) One Parks Maintenance Superintendent
- (C) One Fleet Manager.

2. **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 ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5145.

3. **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 ordinance was left on the Second Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Third Reading and then Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council Meeting.*

This ordinance was left on the Third Reading.

THIS ITEM FAILED BY VOTE OF 2-5.

- 4. Forest Hills Master Street Plan Amendment Request:** A resolution for R-PZD 07-2793 Forest Hills amending the Master Street Plan, realigning Golf Club Drive, a proposed north-south collector street, as described and depicted in the attached maps. *This resolution was Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 123-08.

- 5. Forest Hills PZD Rezone Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2793 Forest Hills, located at Wedington Drive, south of Salem Road, containing approximately 82.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5146.

C. New Business:

- 1. Abshier Heights Planned Zoning District – Extension of Approved PZD:** An ordinance to waive Chapter 166.20 of the Unified Development Code, expiration of approved plans and permits, for the R-PZD 06-1883 (Abshier Heights) and to provide for a one-year approval extension.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5147.

- 2. Role of the Government Channel Discussion. NO ACTION TAKEN.**

Announcements:

- 1. City Council Tour: June 02, 2008**

Adjournment: Meeting adjourned at 9:23 p.m.

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

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

Subject: Consent					
Motion To:		Approve			
Motion By:		Jordan			
Seconded:		Allen			
Approved 7-0 Res. 117-08 to 121-08 Rhoads arrived 6:02	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook				
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

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

Subject: Hiring Freeze Appeals: One Parks Maintenance Superintendent					
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
B.1. Unfinished Business	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook				
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

Subject: Hiring Freeze Appeals: One Fleet Manager					
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
B.1. Unfinished Business	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook				
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

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

Subject: Hiring Freeze Appeal : Law Clerk					
Motion To:		Approve			
Motion By:		Gray			
Seconded:		Thiel			
B.1 Approved 7-0 122-08	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Cook				
	Allen	✓			
	Rhoads	✓			
	Mayor Coody				

Subject: R-PZD 08-2915 (Hill Place)					
Motion To:		3rd R	Pass		
Motion By:		Jordan			
Seconded:		Thiel			
B.2. Unfinished Business Approved 5-2 5/45	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	N		
	Gray	✓	✓		
	Thiel	✓	✓		
	Cook				
	Allen	✓	N		
	Rhoads	✓	✓		
	Mayor Coody				

Subject: Bridgedale Plaza Appeal					
Motion To:		Pass			
Motion By:					
Seconded:					
B.3. Unfinished Business Failed 2-5	Ferrell	✓			
	Lucas	N			
	Jordan	N			
	Gray	N			
	Thiel	N			
	Cook				
	Allen	N			
	Rhoads	✓			
	Mayor Coody				

Subject: Forest Hills PZD Rezone Appeal				
Motion To:		3rd	Cond. of App Amend #2	Approve
Motion By:		Jordan	Jord	
Seconded:		Ferrell?	Lucas	
B.4. Unfinished Business Approved 7-0 5146	Ferrell	✓	✓	✓
	Lucas	✓	✓	✓
	Jordan	✓	✓	✓
	Gray	✓	✓	✓
	Thiel	✓	✓	✓
	Cook			
	Allen	✓	✓	✓
	Rhoads	✓	✓	✓
	Mayor Coody			

Subject: Forest Hills Master Street Plan Amendment Request				
Motion To:		Adjust Agenda	Amend	Approve
Motion By:		Ferrell	Jordan	Jordan
Seconded:		Jordan	Lucas	Lucas
B.5. Unfinished Business moved ahead of B.4 Approved 7-0 123-18	Ferrell	✓	✓	✓
	Lucas	✓	✓	✓
	Jordan	✓	✓	✓
	Gray	✓	✓	✓
	Thiel	✓	Absent DV	✓
	Cook			
	Allen	✓	✓	✓
	Rhoads	✓	✓	✓
	Mayor Coody			

Subject: Abshier Heights Planned Zoning District - Extension of Approved PZD					
Motion To:		2nd	3rd	Pass	
Motion By:		Ferrell	Jordan		
Seconded:		Allen	Allen		
C.1 New Business Approved 7-0 5/47	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Cook				
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Mayor Coody				

Subject: Role of the Government Channel Discussion					
Motion To:		No Action Taken			
Motion By:					
Seconded:					
C.2 New Business	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Cook				
	Allen				
	Rhoads				
	Mayor Coody				

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:

One Parks Maintenance Superintendent

One Fleet Manager

2. **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 ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

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- 2. Role of the Government Channel Discussion.**

Announcements:

- 1. City Council Tour: June 02, 2008**

Adjournment:

A.5 Roll Off
Added at Brenda Sebbin

Roll Off Service, Incorporated

Post Office Box 1700, Lowell AR 72745

(479) 872-9098

May 19, 2008

City of Fayetteville
c/o Mr. Gary Dumas
113 W. Mountain Road
Fayetteville, AR 72701
Re: Solid Waste hauling Services

Dear Mr. Dumas,

Due to the recent diesel fuel cost increases we find that we can no longer provide hauling service to the Fayetteville Transfer Station at the rate bid in November 2007. While we understand that the request for increase must go before the Fayetteville City Council to be approved or denied, we cannot sustain subsidy of this venture until June 3rd. Given the escalating cost of diesel fuel we are forced to exercise clause 9 of our contract and issue our 7 day written notice. This is effective as of May 19, 2008 and our last day to haul will be June 4, 2008.

It is with deep regret that at this time we are financially forced to exercise this option. We appreciate your anticipated understanding of this issue and are open to any other options (should they exist) that may be available in the short term.

Sincerely,



Bob Mager
General Manager
Roll Off Service, Inc.

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas, Director of Operations
Date: May 27, 2008
Subject: Fuel Adjustment Provision in Solid Waste Services Contract with the Cherokee Nation

The contract between the Cherokee Nation and the City of Fayetteville permits a fuel adjustment when the cost of fuel increases 10% above the benchmark cost per gallon as stated in the contract. That benchmark cost is \$2.2382 for road diesel or \$1.8177 for off-road diesel.

As of the 5-19-08 Department of Energy report for On-Highway Diesel Prices, the cost per gallon was \$4.443 for the Gulf Coast region.

In compliance with the contract, Section 3 Fees, the per ton rate will be increased accordingly (Section 3 Fees of the contract follows below).

This fuel adjustment does not require any City Council action as it is a contractual provision.

A Solid Waste Budget Adjustment will be necessary in the near future to accommodate this fuel adjustment surcharge.

Initially, at a minimum, the adjustment will be equal to the Roll Off Services fuel adjustment that is on the Council's consent agenda.

Section 3. Fees: from the contract between the City of Fayetteville and the Cherokee Nation.

3. **FEES:** For its services to be performed hereunder, Cherokee Nation shall be entitled to receive payment from the City of Fayetteville of the following fees: For the combined services of receiving, handling, hauling and disposing of the solid waste delivered to the transfer Station by the City of Fayetteville, the sum of \$24.47 per ton based upon incoming weight delivered to the Transfer Station. Cherokee Nation shall be entitled to charge a reasonable fee for all other solid waste delivered to the transfer Station from sources other than the City of Fayetteville, for which the Cherokee Nation shall pay to the City of Fayetteville a host fee of \$3.50 per ton based upon incoming weight delivered to the Transfer Station.

The fee shall be inclusive of all present applicable government fees and licenses, surcharges, taxes, materials, overhead, profit, insurance and equipment. The Cherokee Nation fee will not be adjusted for (3) years from the start of operation, currently anticipated to be September 26, 2006, but such fees shall be subject to fuel surcharges as may be needed from time to time, to accommodate increased costs above the initial benchmark cost of: \$2.2382 per gallon for road diesel; \$1.8177 per gallon for high sulfur off-road diesel as determined by the most recent acquisitions by Cherokee Nation's contract operator of the Cherokee Nation Sanitary Landfill. The fuel surcharge, when applicable, will increase the initial fee per ton as referenced above. No fuel surcharge shall be authorized hereunder until the combined average daily benchmark cost for road diesel and off-road diesel is, for the most recent billing month, greater than 10% of the initial benchmark. For each 10% increment the initial fee per ton may be additionally adjusted.

City Council Agenda Item

On September 26, 2009, the Cherokee Nation fee may be adjusted by using the difference in the CPI from September of the prior year and the CPI for August of 2009, as determined by use of the United States Department of Labor index for goods and services. That index is found at: <http://data.bls.gov/cgi-bin/surveymost?su>. Cherokee Nation shall bill the City on a monthly basis for its services hereunder, itemizing such bills to show the tonnage and resulting fee. Bills shall be paid within thirty (30) days of presentation. Cherokee Nation shall account and pay to the City the City's host fee as previously described in this section above within thirty (30) days of Cherokee Nation's receipt thereof. Cherokee Nation shall keep accurate records which shall be made available to the City during regular business hours during the term of this Contract, and for no less than three years after the termination thereof, in the event there is a need for either party to justify all fees and payments.

The fees to be charged to an outside hauler bringing waste to the transfer station will not be controlled or disclosed by the terms of this Agreement, but such rate will always be reasonable, when compared to the surrounding market prices. This rate may be adjusted from time to time at the discretion of the Nation, but at no time shall the rate charged to outside haulers be less than the rate charged to the City of Fayetteville. For purposes of this Agreement, the term outside hauler includes any and all wastes not hauled to the Transfer Station by the City of Fayetteville.



B.1

Added at Agenda Session
5-27-08

B.1
Hiring Freeze
Page 1 of 2

OPERATIONS DIRECTOR

Date: May 22, 2008
To: Mayor Dan Coody and City Council
From: Gary Dumas, Director of Operations 
Subject: Replacement of Fleet Manager

Recommendation: City Council approves the refilling of the Fleet Manager position.

Background: The incumbent Fleet Manager, David Bragg, is retiring on July 11, 2008.

Discussion: The Fleet Manager is the responsible professional for all activities and budget of the Fleet Division. The Fleet Manager is also the Staff support for the Council's Equipment Committee. The Fleet Manager is responsible for a staff of 18.5 FTE's, 577 vehicles, 203 non-motor pool and miscellaneous pieces of equipment, an annual operating budget of \$6.44 million, and a capital replacement budget ranging from \$2.9 million to over \$5.0 million per year depending upon the fleet's age and maintenance costs. Additionally, the Fleet Manager assists the Council's Equipment Committee in establishing equipment replacement protocols and the bidding for and acquisition of replacement and new equipment.

Budget Impact: This position salary is funded from the Shop Fund.



B.1 Added at Agenda Session
5/27/08

B.1
Hiring Freeze
Page 2 of 2

MEMORANDUM

Date: May 22, 2008
To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Director of Operations *GD*
From: Connie Edmonston, Parks & Recreation Director *CE*
Subject: Replacement of Parks Maintenance Superintendent

Recommendation: City Council approves the hiring of the Parks Maintenance Superintendent in the Parks and Recreation Division due to his transfer to the Transportation Division.

Background: On May 20, 2008, Parks Maintenance Superintendent Jeff Coles submitted his transfer to the Transportation Division as the Assistant Transportation Manager in the former position held by Perry Franklin who is retiring June 6, 2008.

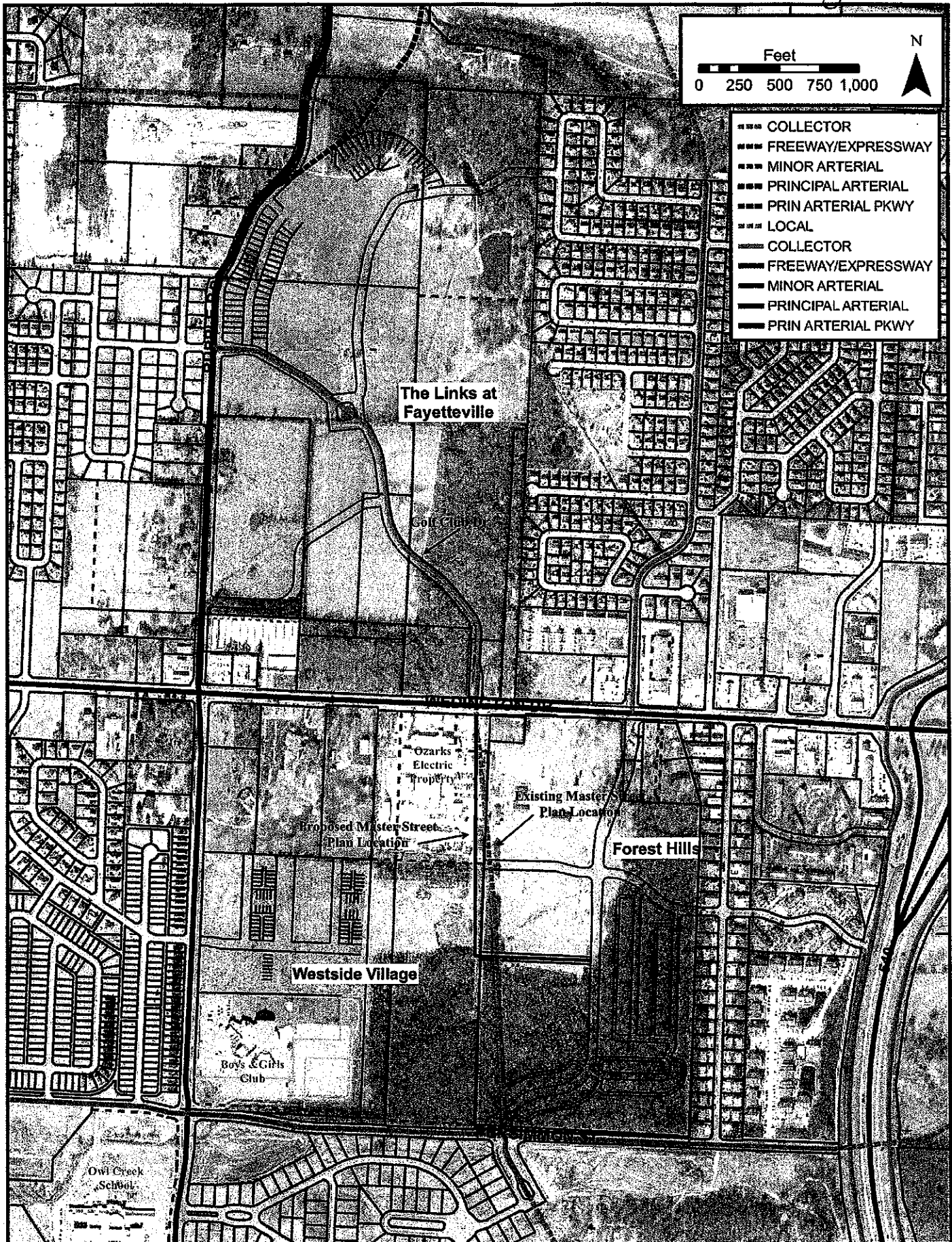
Discussion: The Parks Maintenance Superintendent's responsibility is to plan and administer the maintenance program for the 3,600 acres located in 71 parks within the Parks and Recreation Division. There are 30 full time positions working in maintenance plus the seasonal workers. The work includes management of programs for turf grass, urban forestry, horticulture, public lands, swimming pool, park facilities and capital improvements. This position develops a progressive, preventive maintenance program that includes park safety audits on all facilities including playgrounds, swimming pool and athletic fields. In addition, the Parks Maintenance Superintendent administers the Parks Vegetative Management Program.

Budget Impact: This position salary is funded 50 percent from the Parks Development Fund and 50 percent from the General Fund.

B.5 Dodd / Agenda Session

Forest Hills Master Street Plan Amendment

B. 5
Forest Hills Master Street Plan
Amendment Request
Page 1 of 2



C.1. Added at the May 20th
Agenda Session
ALDERMAN AGENDA REQUEST FORM

C. 1
Abshier Heights Planned Zoning
District - Extension of Approved PZD
Page 1 of 6

FOR: COUNCIL MEETING OF June 03, 2008

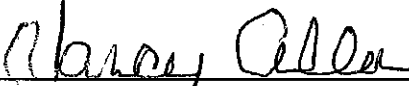
FROM: Nancy Allen

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

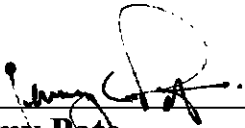
Abshier Heights Planned Zoning District - Extension of approved PZD

An ordinance to waive Ch. 166.20 of the Unified Development Code, to permit an extension for the Abshier Heights Planned Zoning District (R-PZD 06-1183), and requiring the applicant to obtain all building permits by April 04, 2009.

APPROVED FOR AGENDA:


Alderman Nancy Allen

5-27-08
Date


Jeremy Pate
Director of Current Planning

05-23-08
Date

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: May 21, 2008

Subject: Abshier Heights Planned Zoning District Extension

RECOMMENDATION

Planning staff recommends approval of an ordinance allowing for a one-year extension of the time frame to obtain all building permits associated with R-PZD 06-1883 (Abshier Heights).

BACKGROUND

The City Council on April 4, 2006 granted approval for R-PZD Abshier Heights on 4.11 acres of land with frontage on Abshier Drive and Hillcrest Avenue, with a maximum of 23 dwelling units in six buildings, at a density of 5.8 dwellings units per acre.

The applicant has continuously worked with City divisions to obtain the necessary permits for construction of the development and at this time has nearly completed the first of six buildings. Additionally, the applicant has installed all necessary utilities to serve the development and is currently installing street improvements, sidewalks and internal drive aisles. However, the applicant did not apply for or obtain approval for all of the required building permits to construct the remaining five buildings prior to the expiration date on April 4, 2008, which was granted by a one-year extension in 2007. Consequently, staff is unable to approve any additional building permits.

Staff supports a waiver from the Unified Development Code to allow for this project to continue in the process of obtaining all remaining building permits without having to halt all construction and process a new Planned Zoning District application through the development review process for the remainder of the project. We feel it is evident the applicant/developer is actively pursuing the development of this project, which was the intent of the ordinance adoption, and it is not the applicant's intent to leave this project unfinished, as evidenced by the continuous work on the site. Staff proposes an extension of the approval of approximately one year to expire on April 4, 2009. All building permits for Abshier Heights PZD would have to be obtained for this project by that date, or the approvals would expire without the ability to request renewal by the Planning Commission.

DISCUSSION

None.

BUDGET IMPACT

None.

ORDINANCE NO. _____

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

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

WHEREAS, the applicant was permitted a one-year time period in which to obtain all building permits for the project and with Ordinance No. 5052 a typical one-year extension was granted allowing until April 4, 2008 to obtain said permits; and

WHEREAS, Abshier Heights PZD has been approved for construction of all necessary public improvements, such as streets, sidewalks, water and sewer mains and the construction of the first building of the project; and

WHEREAS, the remaining building permits necessary to complete the development were not approved before the expiration of the PZD on April 4, 2008, resulting in staff being unable to approve any future building permits,

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 approves a one-year extension of R-PZD 06-1883 (Abshier Heights) to obtain all building permits.

Section 2: That the applicant must obtain all building permits associated with R-PZD 06-1883 (Abshier Heights) on or before April 4, 2009, or the R-PZD shall be null and void.

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

PASSED and APPROVED this ___ day of ___, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk



May 21, 2008

City of Fayetteville
City Council
113 West Mountain Street
Fayetteville, AR 72701

RE: R-PZD 05-036 ABSHIER HEIGHTS ONE YEAR EXTENSION

Dear Aldermen,

On behalf of my client, Mr. David Chance, I am requesting that a one year extension be granted for this project. Due to the difficult nature of the construction, weather related delays, and the depressed real estate market, this project has taken longer than initially expected to complete. Your favorable decision regarding this request is greatly appreciated.

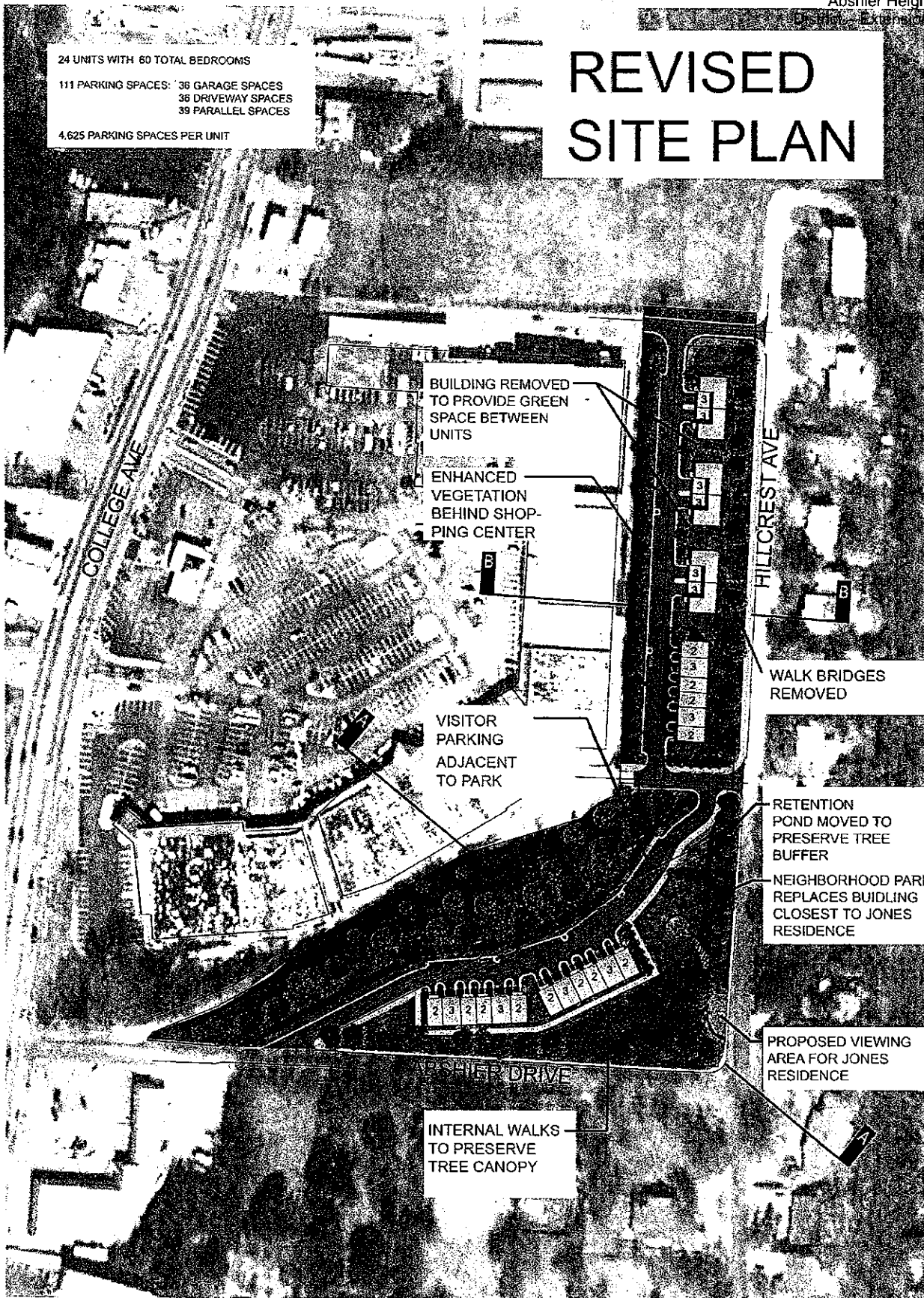
Sincerely,

A handwritten signature in black ink, appearing to read 'T. Hennelly', with a stylized flourish at the end.

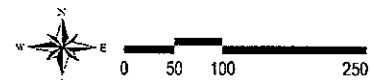
Thomas A. Hennelly, P.E.
President

24 UNITS WITH 60 TOTAL BEDROOMS
 111 PARKING SPACES: 36 GARAGE SPACES
 36 DRIVEWAY SPACES
 39 PARALLEL SPACES
 4,625 PARKING SPACES PER UNIT

REVISED SITE PLAN



SITE PLAN WITH BEDROOM COUNT



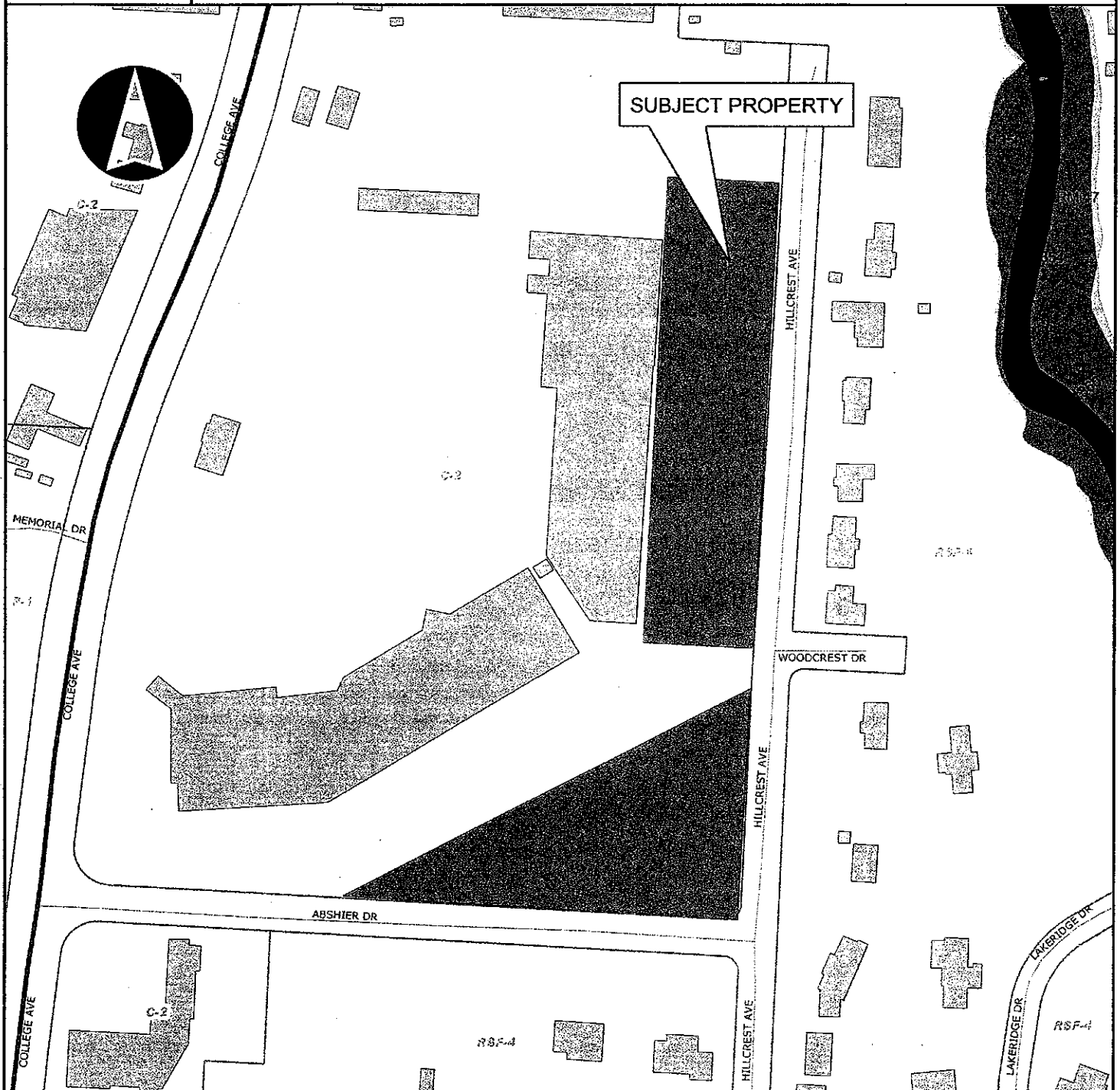
ABSHIER HEIGHTS

ODDER VOUCHERS
 P.O. Box 1782, Fayetteville, AR 72702
 P 479.575.0071 F 479.575.0074

RPZD06-1883

Close Up View

ABSHIER HEIGHTS



- Legend**
- ○ ○ ○ ○ Overlay District
 - FLOODWAY
 - 100 YEAR
 - 500 YEAR
 - LIMIT OF STUDY
 - BaseLine Profile
 - Fayetteville
 - Outside City
 - RPZD06-1883
 - vector.GDB.Footprint_2004

0 75 150 300 450 600 Feet



C.2 Added at the Mayor's
Agenda Session

Departmental Correspondence

TO: Dan Coody, Mayor

FROM: Susan B. Thomas, Ph.D., Public Information & Policy Advisor *SBT*

DATE: May 27, 2008

SUBJECT: Government Channel Programming and Telecom Board

The purpose of this memo is to brief you on several important issues related to the Fayetteville Government Channel and the Telecom Board. I understand the City Council may be addressing some of these issues tonight or next week at the Council meeting. I wanted to make sure that I provided you a thorough analysis of these issues from my perspective.

Programming:

On April 30, 2008 the Government Channel produced a citizen initiated program titled "Fayetteville's Unique Televised Issue Forums: How they work and who can use them" (DVD attached). During this public discussion it became very clear to me that by allowing citizen initiated forums on the Government Channel, we run the risk of eventually creating two public access channels. By creating a public forum for one group of citizens, we greatly diminish, if not eliminate, our capacity to prohibit any group with any message to access the Government Channel.

The only way to ensure that the Government Channel is not an open public forum is to clearly state as much in the policy and to limit government channel programming to the "Government Only Model." According to Government Access Television Institute (GATV Institute) and the National Association of Telecommunications Officers and Advisors (NATOA), the Government Only Model means that only governmental programming is allowed. Programming other than government meetings must be affiliated and approved by a City division or department. The associations refer to this model as the strictest and safest model for government access, and it is "the direction the channel is expected to take."

Since the Administration's position is to maintain the integrity of City 16 as a government access channel, not a public access channel, I have instructed my staff to not rebroadcast previous public forums and to cease any activity related to the development of new public forum programming or the.

While this is fine as a temporary measure, the City Council will need to take a policy position on this issue and determine the course of action as it relates to establishing a public forum on the government channel. Depending on their position, Council will need to approve a new Government Channel Policy. The revised policy should state clearly whether or not the channel is a public forum and should provide a complete outline of the type of programming that will be permitted on the channel. I am prepared to make policy recommendations to you and the City Council if called to do so.

Telecommunications Board

In addition to the programming questions, there are a variety of issues on the table related to the implementation of government channel policy and procedures. However, most of these are actually symptoms of a larger problem which is confusion over the proper roles and responsibilities of the Telecommunications Board. The current Telecom Board ordinance outlines the duties of the Telecom Board, and this list includes, "Oversee the administration of the City's PEG facility." As I understand the balance of power in municipal government, administrative authority is solely an executive power and cannot be delegated by the City Council to a separate Board or authority. The misconception that the Telecom Board has administrative authority over City of Fayetteville staff and staff assignments is problematic. As the supervisor for the Government Channel staff, it is impossible for me to effectively and efficiently manage my staff when an outside body is attempting to exert power and control over personnel and other administrative functions including the creation of procedures to implement policy. Of late, the conflict of opinion between me and certain members of the Telecom Board in this matter has become untenable and has created a negative working environment in which I am no longer willing to participate. I am respectfully requesting that you remove me from this assignment until the questions surrounding the Government Channel Policy and the roles and responsibilities of the Telecom Board are resolved.

Once the City Council has clarified legislative intent of the Telecommunications Ordinance, the problems related to Government Channel procedure development will need attention. Some of these issues include:

1. If the Government Channel continues to film and broadcast meetings of other government agencies, that coverage should be at the request of those agencies and they should be charged direct costs for labor and materials. Currently the government agency is only charged if the agency requests the coverage. However if coverage is requested by a citizen, elected official, or city staff there is no charge. This policy is unfair and inconsistent and should be addressed.
2. While current procedures do address the development of candidate and issue debates, the procedures are scattered and inconsistent. If we continue to offer this programming, we should institute a clear method for creating fair and balanced debates.

To summarize, the City Council must establish what kind of channel they would like City 16 to be and what programming model they prefer to follow. Once determined, the model should guide the development of a clear and concise Government Channel Policy. The City Council must also clarify the role of the Telecommunications Board. If they are truly an advisory body, a change in the language of the ordinance is required. Finally, I believe that you and the City Council should encourage the Telecommunications Board to pursue matters of city-wide importance including telecommunication infrastructure, public information access and availability, franchise agreements, needs and interest studies and the like.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY
DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**
City Council

CC: **Susan Thomas, Public Information & Policy Advisor**
Telecom Board

FROM: **Kit Williams, City Attorney**

A handwritten signature in black ink, appearing to read "Kit Williams", with a long horizontal line extending to the right.

DATE: **May 27, 2008**

RE: **Government Channel and Public Forums**

Presenting public forums on the Government Channel is not illegal or unconstitutional.

Federal law allows cities to require cable systems operating within their cities to carry the PEG (Public, Education, Government) channels. Fayetteville has long made carrying the PEG channels a requirement of our cable franchises (both Cox and AT&T). We are the only local city in Northwest Arkansas to do so.

The Education Channel is primarily for local school district use although we have contracted with the U of A as the chief operator while ensuring access for the Fayetteville School District. We do not mandate forums on education issues be carried on the Education Channel.

The Public Access Channel is run by an independent non-profit contractor (Community Access Television or CAT) and has been previously operated by FOCUS (Fayetteville Open Channel). The Public Access Channel is a **public forum** for the community to use to express themselves by producing forums, shows, interviews, entertainment, singing, preaching, or whatever original programming our citizens would like to cablecast. Public Access is the embodiment of the First Amendment's freedom of expression for television production.

Our contracts with the independent contractors operating the Public Access Channel (out of the shared TV Studio on Rock Street) have always required inexpensive training for citizens desiring to learn how to film and produce their own shows. Many

Fayetteville citizens now have sufficient training to be able to produce a television show utilizing our equipment. Fayetteville has the only true Public Access Channel with production facilities within Northwest Arkansas (and possible all of Arkansas).

The third channel of the PEG entitlement is the Government Channel. Historically, this channel showed gavel to gavel coverage of the City Council meetings (including Agenda sessions) and the most important City committees: Planning Commission, Parks and Recreation Advisory Committee and Advertising and Promotion Commission. In the last few years, more and more city committees have begun to be filmed including all committees which include an alderman.

Government Channel personnel also film informational items about city services and events from the Library to the Square Gardens, from the Walker Park Master Plan sessions to the Gully Park concerts. This is why the Government Channel was created – **to show local citizens their government in action: formulating policy and providing services.**

In recent years, the Government Channel has wandered into the Public Access Channel domain by producing and cablecasting “public interest” forums on the Government Channel. At one point, Government Channel personnel had to expend taxpayer funded employee time and city equipment to plan, produce, film and cablecast any “forum” on any subject requested by seven citizens.

No other City Division’s employees can be directed to perform work using City equipment by a small group of citizens. The Mayor through his staff directs city employees in their job duties. The City Council through its budget controls employee overtime and use of City equipment. The policy requiring city workers to produce, film and cablecast “forums” as directed by seven citizens ignores the Mayor’s and City Council’s authority over personnel and the budget. This has been only a minor expense so far, but it is a bad precedent, especially in tight budgetary times.

Trying to limit the content of forums to “government approved” subjects is very difficult and may not be constitutional. The First Amendment prevents government from limiting the use of a public forum on the basis of the viewpoint expressed. Thus, limiting the subject matter or content of forums would be suspect by the Courts and held to a hard to achieve legal standard.

As pointed out by one of the panel members, Professor Katherine Shurlds, when a viewer switches to the Government Channel, the viewer anticipates seeing the government in action, not private persons speaking about whatever crosses their mind. Allowing “forums” on the Government Channel could hurt the channel’s established credibility as a source for viewers to see their government performing the public’s business.

I believe I could draft constitutional provisions that would authorize mayoral and city council election debates moderated by a non-partisan group such as the League of Women Voters. I also could draft provisions for similar debates (with equal time for both sides) when an ordinance has been initiated by or referred to the voters. Both of these could be shown on the Government Channel without creating a "public forum" which prevents content or viewpoint limitations.

Allowing forums, round-table discussions, talk shows, etc. on the Government Channel rather than on the Public Access Channel would eventually mean that the primary purpose of the Government Channel to show the citizens their government at work could be drowned out by special interest groups debating or discussing their views while taxpayer paid city employees had to plan, film, produce and cablecast the show.

This is not a legal issue, simply an issue of allocation of employee time and city resources. However, if the City Council decides to authorize forums to be produced and shown on the Government Channel, it may be legally difficult or impossible to change course in the future.

CONCLUSION

I think the Government Channel is a very valuable resource for our citizens in large part because it is a reliable, unedited view of our public meetings where difficult policy decisions are made. Interspersing government meetings with special interest groups' "forums" could confuse the viewers into thinking the viewpoints expressed in these forums were the official city position. It would imbue the special interest groups' cablecast opinions with the apparent approval of the City Government which may explain why some citizens want their forums shown on the Government Channel rather than the channel dedicated to free speech, Public Access.

Apart from the infrequent and balanced electoral debates, I believe neither government officials nor citizens should be able to use the Government Channel for partisan or advocacy purposes. **The Government Channel's credibility and usefulness will be best protected by limiting it to unedited council, commission or committee meetings and non-partisan, informational pieces about city services (how to recycle, use the library, install and maintain smoke detectors, etc.) and events (Farmers' Market, Gully Park concerts, Movies in the Park, etc.)**

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

33.111 Removal of Planning Commissioners

By a vote of two-thirds of the City Council, any Planning Commissioner may be removed from the office for cause. Cause shall include, but not be limited to, the following:

- (A) Chronic discourteous behavior to other commissioners, staff, or members of the public.
- (B) Ongoing lack of familiarity with staff-prepared material.
- (C) Any member of the Planning Commission who fails to attend at least 70% of all meetings (regularly scheduled and specially called) within the member's yearly periods of service shall immediately tender his or her letter of resignation and that position shall be deemed vacant.
- (D) Any commission member who has been required to tender a letter of resignation may present extenuating circumstances within the letter of resignation and request that the resignation not be accepted by the City Council. If the letter of resignation is not accepted by the City Council, the position shall not be deemed vacant and the member shall be reinstated to complete the normal term of appointment.
- (E) Planning Commissioners must attend at least 60% of Agenda setting sessions and tours unless that commissioner is currently on the Subdivision Committee. If job requirements do not permit a member to attend agenda meetings or tours prior to 5:00 P.M., the meetings and tours will be scheduled for after normal working hours or such member shall be excused from the requirements of attending the agenda meetings and tours.
- (F) Planning Commissioners shall serve on the Subdivision Committee for one-third of their service on the Planning Commission when requested by the Chairman of the Planning Commission.
- (G) During the second quarter of each year, Planning Staff shall designate and all Planning Commissioners shall attend one evening training and review session to ensure the legal and proper functioning of the Planning Commission.

(Code 1991, §33.204; Ord. No. 3872, §2, 2-21-95; Ord. 4544, 2-17-04; Ord 5023, 6-5-07)

State Law Reference(s)—Rules and Regulations §14-

56-408.

**ARTICLE VIII
SEWER COMMITTEE**

33.112 Sewer Committee

- (A) There is hereby established a Sewer Committee pursuant to state law. The Sewer Committee shall be composed of four aldermen who serve at the pleasure of the entire City Council. The mayor may appoint, subject to City Council approval, all members, (including replacement members) of the Sewer Committee.
- (B) The Sewer Committee shall have all powers, duties and responsibilities provided to such committee in A.C.A. §14-235-207, et. seq. All actions and recommendations of the Sewer Committee must be ratified and approved by the City Council to become effective. The City Council expresses its intent to exercise its control of the Sewer Committee to the maximum extent possible pursuant to state law.
- (C) The Sewer Committee is also designated advisory authority over the clean water system of the city."

(Ord.4561, 4-20-04)

33.113-33.204 Reserved

**ARTICLE IX
TELECOMMUNICATIONS BOARD**

33.205 Purpose And Intent

It is the purpose and intent of the City Council of the City of Fayetteville to redefine the scope of the current Telecommunications Board to advise the City Council on telecommunications issues and to coordinate and oversee telecommunications franchise systems and use of the public rights of way designated for public access, educational, and governmental (PEG) use in the City of Fayetteville as part of the city's telecommunications infrastructure.

- (A) *Definitions.* For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - (1) *Education Channels.* Education channels shall provide programming that is educational and informational, with an

CD33:14

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

emphasis on locally-produced programming. Programs may also be instructional, with learning potential for all audiences.

- (2) *Government Channels.* Government channels provide citizens with convenient access to the city government. The station shall be operated in an unbiased manner. The goal is to create an informed and involved citizenry. Content will generally be created or acquired by local government employees, elected officials, and volunteers, and will typically provide information about services provided by local, State, and regional governments, issues faced by local governments, and public meeting coverage.

- (3) *Public Access Channels.* Public access channels provide a forum for local residents to express themselves. Content may include video and other electronic information produced, directed and engineered by community members. These productions focus on many aspects of community life, ranging from the services and activities of community organizations to the opinions, beliefs and artistic expressions of individuals in the community, or outside productions requested and introduced by community members.

- (4) *Telecommunications Infrastructure.* Telecommunications infrastructure means the shared portions of the telecommunications transmission facilities used by the city, including public rights of way, all transmission mechanisms, and associated equipment and software components necessary for the management and control of the city's information network. Telecommunications facilities include, but are not necessarily limited to: terrestrial radio, optical fiber cables, satellite communications, radio and television stations (traditional broadcast as well as cable and satellite broadcast), and public switched telephone network.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.205; Ord. 4504 07-15-03)

33.206 Creation And Composition

The Fayetteville Telecommunications Board shall consist of seven members appointed by the City Council. Members shall have experience in any one of the following areas: telecommunications infrastructure management, public policy development regarding

communication and telecommunications issues, television, or other appropriate expertise. Members shall be registered voters and residents of the City of Fayetteville, and shall have resided therein for at least six (6) months prior to their appointment. Members shall serve staggered four-year terms. Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term.

(Ord. No. 3549, 5-21-91; Ord. No. 3986, §1, 7-16-96; Ord. No. 4219, 2-1-00; Code 1991, §33.206; Ord. 4504 07-15-03)

33.207 Officers

The Telecommunications Board shall elect from its members a chairperson, who shall serve a one-year term and shall be eligible for re-election to a subsequent term or terms. Further, the Telecommunications Board may elect such additional officers and establish any committees as it deems necessary for the proper performance of its duties.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.207; Ord 4504, 07-15-03)

33.208 Staff Support

The Mayor shall designate city employees to assist the Telecommunications Board in performing its duties and carrying out its responsibilities under this ordinance.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.208; Ord. 4504, 07-15-03)

33.209 Procedures

- (A) The Telecommunications Board shall meet at least once each month and may meet more frequently if necessary to carry out its duties. Four members shall constitute a quorum.

- (B) The Telecommunications Board shall establish rules and regulations governing its procedures.

- (C) The Telecommunications Board's meetings and records shall be subject to the provisions of the Arkansas Freedom of Information Act, A. C.A. §§25-19-101 *et seq.*, as it may be from time to time amended.

- (D) The Telecommunications Board shall provide the City Council an annual report briefly summarizing its previous year's activities, and outlining its goals for the next.

(Ord. No. 3549, 5-21-91; Code 1991, §33.209; Ord. No. 4219, 2-1-00; Ord. 4504, 07-15-03)

FAYETTEVILLE CODE OF ORDINANCES
TITLE III ADMINISTRATION

33.210 Duties

(A) The Telecommunications Board shall advise the City Council and make recommendations on telecommunications infrastructure issues, including but not limited to the following:

- (1) Use and administration of cable TV channels designated for public access, educational, and governmental (PEG) use;
- (2) Use and administration of telecommunications facilities and use of public rights of way for telecommunications infrastructure;
- (3) Establishment and use of the City's PEG facility;
- (4) Any reports submitted to the City by a cable TV operator, PEG channel user, telecommunications agency, or other entities regarding telecommunications matters;
- (5) Funding for public access, educational, and governmental (PEG) operations;
- (6) Funding for the development and maintenance of the city's telecommunications infrastructure;
- (7) Performance of any cable or telecommunications operator serving the city, with regard to rates, customer service, technical standards, programming, and requirements of the applicable franchise agreement; and
- (8) Renewal of any franchise agreement between a telecommunications agent and the City.

(B) Further, the Telecommunications Board shall have the following duties and responsibilities:

- (1) Oversee the administration of the City's PEG facility;
- (2) Oversee the administration of any cable television channels or other telecommunications facilities designated for public access, educational, or governmental (PEG) use, unless the City Council enters into a contract with another entity or institution for such administration. If the city enters into a contract with another entity for administration of a PEG channel, the Telecommunications

Board shall ensure contract compliance. Whether administered by the city or contracted, the Telecommunications Board shall facilitate the creation of policies regarding cablecast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration of the channels.

- (3) Perform periodic evaluations of contract compliance for all contracts relating to telecommunications. A summary of all evaluations shall be forwarded to the City Council quarterly for their review.
- (4) Facilitate dispute resolution concerning PEG channels, including but not limited to operations, program content, etc.; track the complaints filed by citizens to assure that telecommunications providers are responding to complaints in an effective and timely manner.
- (5) Promote public awareness, use and viewership of PEG channels;
- (6) Identify telecommunications needs and solutions in the City and define innovative approaches to the use of expanding digital capacity;
- (7) Promote public awareness of telecommunications policy issues; and,
- (8) Forward a report to the City Council recommending either renewal or replacement of any cable or telecommunications agent no less than 45 days before the contract's expiration.

(C) The Telecommunications Board shall have authority to establish and disseminate such guidelines and regulations as are necessary to carry out the duties and responsibilities set forth in this section.

(Ord. No. 3549, 5-21-91; Ord. No. 4219, 2-1-00; Code 1991, §33.210; Ord. 4504, 7-15-03)

33.211-33.225 Reserved

(Ord. No. 3549, 5-21-91; Code 1991, §33.212; Ord. No. 4219, 2-1-00)

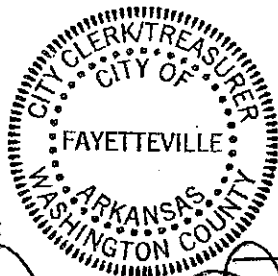
RESOLUTION NO. 27-06

A RESOLUTION APPROVING REVISIONS TO THE
FAYETTEVILLE GOVERNMENT CHANNEL USE AND
PROGRAMMING POLICY.

**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 revisions to the Fayetteville Government Channel Use and
Programming Policy. A copy of the Policy, marked Exhibit "A," is attached
hereto and made a part hereof.

PASSED and APPROVED this 7th day of February, 2006.



ATTEST:

By: *Sondra Smith*
SONDRA SMITH, City Clerk

APPROVED:

By: *Dan Coody*
DAN COODY, Mayor



**POLICY ON THE USE AND PROGRAMMING OF
THE GOVERNMENT ACCESS CHANNEL
FAYETTEVILLE, ARKANSAS**

INTRODUCTION

The City of Fayetteville Government Access Channel, in accordance with resolution 94-91, is intended to give Fayetteville citizens information about City government services, programs, and activities and their relationships within the community and help create an open and participatory local government. The channel is administered by the City's Cable Administrator under guidelines established by and interpreted by the Telecommunications Board.

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4504, Chapter 33, which authorizes the board "to facilitate the creation of policies regarding cable cast material selection, time guidelines for cablecast material, viewer and facility user complaint/feedback practices, and other such policies regarding the use and administration," of the Government Channel. The purpose of this policy is to establish (a) the criteria for which Governmental entities and related organizations are eligible to have programming on the channel and (b) allow the Government Channel staff to operate without determining the programming content.

POLICIES

II. PRIORITY OF COVERAGE/CABLE CASTING AND ELIGIBILITY FOR USE

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

First level priority will be given to televising City of Fayetteville Governmental meetings. City of Fayetteville Governmental meetings are defined as meetings of the governing bodies created by the City of Fayetteville, which meet FOIA criteria, including all committees, subcommittees, boards, commissions, task forces, and other such bodies dealing with City of Fayetteville business.

B. SECOND LEVEL OF PRIORITY

**1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL
PROGRAMS**

Second level priority for use of the Government Channel will be given to nonpartisan informational programs about City services, activities and events.

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

Third level priority for use of the Government Channel will be given for any meeting that meets FOIA criteria and deals with government business that directly impacts the Citizens of Fayetteville. Such meetings include, but are not limited to, those of Washington County, regional, state and federal agencies, Boston Mountain Solid Waste District, and Fayetteville Public Schools.

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

Third level priority for use of the Government Channel will also be given for non-partisan informational programs about government services or activities that may be provided by other governmental entities, such as, but not limited to, Washington County, regional, state, federal agencies and Tri-county Solid Waste.

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEEES

Third level priority will also be given to outside agencies or groups with whom the City of Fayetteville contracts, grants money or has an agreement to provide city services or activities. In such cases, the program shall be non-partisan in nature.

4. LIMITED PUBLIC FORUMS

Third level priority will also be given to two types of limited public forums: candidate forums and issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint, or proposed policy of a particular nature, will be eligible to appear only in a limited public forum venue.

All candidates or sides of an issue are given an equal opportunity to appear in public forums. If it becomes apparent that only one side of a forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating.

The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election.

No candidate forums will be held before the last filing deadline.

D. BULLETIN BOARD MESSAGES

Last priority will go to the "Government Channel Bulletin Board." The bulletin board will provide printed information about both City and community events and services when other programs are not being cablecast. It may also be used to inform residents of other "free" community events and activities.

III. COVERAGE REQUESTS

A. City of Fayetteville meetings will be covered at the request of a City of Fayetteville government elected official, a City of Fayetteville department head, a City of Fayetteville division head, or a committee chair. Other governmental agency meetings may be covered at the request of representatives of that agency.

B. Registered voters who live within the city limits of Fayetteville may request that the Government Channel cover any meeting held by the City of Fayetteville or other governmental agencies provided that the meeting affects the citizens of Fayetteville and meets FOIA criteria.

C. All requested meetings will be televised provided the resources are available and there exists no conflict with a request to cover a meeting with higher priority as outlined by this document. The Cable Administrator has discretion over issues of resources and priority.

IV. EDITING AND OTHER CONTENT POLICIES

A. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.

B. No promotion, endorsement or advertising for any private business, commercial service or product, or any profit-making activity, will be allowed on the Government Access Channel. However, brief audio and video credit may be given at the end of a program where special materials or assistance has been donated by a commercial or charitable enterprise.

C. Programming of forums produced by outside agencies of declared candidates for any public office and persons advocating any cause, viewpoint or proposed policy of a particular nature will not be eligible for cable casting on the Government Access Channel.

D. When questions arise as to the admissibility of material or language in this regard, the Cable Administrator will make a decision on whether it is to be cablecast.

V. APPEALS OF COVERAGE OR PROCEDURAL ISSUES

A. Any appeals to the decisions made by the cable administrator regarding coverage, priority, or procedure should be submitted to the Telecom Board.

B. An appeal of a Telecom Board decision must be sponsored by an alderman filing a written appeal in the City Clerk's office within ten days of the Telecom Board decision.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

KIT WILLIAMS, CITY ATTORNEY

DAVID WHITAKER, ASST. CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

C. 2

Role of the Government
Channel Discussion
Page 14 of 16

TO: **City Council**

FROM: **Kit Williams**, City Attorney

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

DATE: **May 28, 2008**

RE: **Comments about role of Government Channel**

Professor Katherine Shurlds participated on the "Forum on Forums" concerning the proper role of the Government Channel in our PEG (Public, Education and Government) channel line-up. Yesterday, she e-mailed Susan Thomas and me about her concerns. With her permission I have printed her e-mail and attached it to this memo for your consideration.

From: Katherine Shurlds <kshurlds@uark.edu>
To: Susan Thomas <stthomas@ci.fayetteville.ar.us>, Kit Williams
<kwilliams@ci.fayetteville.ar.us>
Date: 5/27/08 3:04PM
Subject: Govt Channel

Kit and Susan:

I just wanted to weigh in again with you about the problems I see if the city is doing "forums" on the government channel.

Shelli's e-mail lays out the following:

I agree: Government Channel programming should be limited to City meetings Meetings of boards and committees

Disagree: Special City (format to be decided by the meeting host) to address/discuss/explore relevant topics: I'm not sure what this would be, but the definition seems loose enough for a council member, for instance, to have a "roundtable" about the relocation of the high school, in that the new building would be in city limits and thus city services would apply. If, however, the word "Meetings" was left out of the boldfaced title, then I think those should be televised. But it should be clear that the governmental officers would be the ones conducting the meeting; that it is not a "forum," even though people could ask questions. The meeting would also, of course, have to relate to that officer's jurisdiction. In other words, the dogcatcher would have a hard time justifying calling a special meeting to discuss the high school. But, again, it would be a "meeting" -- not a roundtable or forum.

Agree: Informational programs on city services (library, farmers markets, etc.)

Disagree: Moderated forums and discussions on ballot issues: Love the typo. But even on ballot issues, I believe moderated forums and discussions should be on the public access channel. If the distinction is held between the public access and government channels, then people will eventually come to see the government channel as the "government's voice." It doesn't have more power than the people's voice, but it does have the official tone of the government. If, instead, we have the "official tone" followed by a discussion among citizens of whether or not the city should ban smoking, then I think that becomes confusing for the public. I believe, also, it is very hard to be sure you have a balance on such roundtables/forums and thus, you open yourself to criticism that the city is using the channel for propaganda, not just information. And you might even end up creating a new (unneeded) public forum.

Disagree: Moderated debates, interviews of candidates for public office: Again, the public access channel has room for these types of programs.

Agree: There should not be a citizen initiated forum process. Citizen initiated forums should be produced on CAT. Citizens with

government related concerns should present those issues/concerns to the appropriate government entity (council, department, board, etc.). Those government entities can elect to hold a special meeting to discuss that concern, if needed, or address that concern through its normal process or meeting.

ii. Issues/concerns that are not "backed/sponsored/considered" formally by one of the government entities should be conducted on CAT: My concern here is that a "government entity" could be pressured by constituents or even staff to "sponsor" a forum/roundtable.

If we did not have a public access channel, some of these concerns might be more valid. But, as much as possible, the government channel should not be about "opinion." Within the formal or even special meeting format, people will give their opinions. Otherwise, though, their opinions about government belong on the public access channel.

I'm not really looking to get involved, but if you need me to own up to these opinions in public, I'll do so. Just not in another "forum" :-)

Added at the June 3, 2008
City Council meeting

B.1



**CITY OF FAYETTEVILLE
OFFICE OF THE PROSECUTING ATTORNEY**

CLINTON K. JONES
CITY PROSECUTOR
BRIAN THOMAS
DEPUTY CITY PROSECUTOR

MANDY FINKLEA
HOT CHECK ADMINISTRATOR
E-mail: hotcheck@ci.fayetteville.ar.us
101 W. Mountain, Suite 202
FAYETTEVILLE, ARKANSAS 72701
PHONE: (479) 575-8377
(479) 575-8378
(479) 575-8374
(479) 575-8375
Hot Checks: (479) 575-8254
FAX #: (479) 575-8373

To: Mayor Dan Coody and members of the City Council
From: Casey Jones, City Prosecutor
Date: May 28, 2008
Re: Replacement for Law Clerk Position

Recommendation:

City Council approves the hiring of a law clerk to replace a recent resignation.

Background:

On January 4, 2008, the Fayetteville City Council approved a hiring freeze for replacement employees funded by the General Fund. This hiring freeze allowed replacement of these positions with Council approval. On April 29, 2008, Sonia Fonticiella, Law Clerk, submitted her resignation.

Discussion:

This is a part-time position. The primary function of our law clerk is interviewing victims of crime and researching the case. We have an average of 40 to 50 complaints per month. The Law Clerk also compiles research and prepares motions and briefs on cases set for trial in Fayetteville District Court and Washington County Circuit Court.

Budget Impact:

Law Clerk is a part-time position and paid hourly at \$8.00/ hr

C. 2

Handed out at
the City Council
meeting

Aug. 1, 2000

THE REGIO

TV channel turns down volume on request

Charlie Alison
The Morning News

Following the same course it has in the past, the Fayetteville government cable-TV channel will not broadcast political forums or debates, or at least not until the Telecommunications Board establishes a clarified policy for such programs.

Marvin Hilton, the Fayetteville cable administrator, said Monday that he had turned down a request from the Sierra Club to air a candidate forum and, more recently, a "panel discussion" of the proposed library sales-tax issue to be conducted by the library.

"Traditionally, we haven't done them," Hilton said. "I was hoping that the Telecommunications Board could clarify that policy."

Hilton said he had gathered some information about what other cities' policies are regarding the showing of forums or debates on a government-access channel (Channel 3 in Fayetteville).

In Fayetteville, such forums and debates traditionally have been shown on the city's public-access channel on Channel 8.

Because the government channel has been primarily informational in nature and nonpartisan in philosophy, the channel's policies have eschewed programming that does not have a connection to city government or that does

advocate political positions.

The public-access channel, on the other hand, is a no-holds-barred station that runs almost any and all programming brought to it.

Hilton said that a decision to produce debates or political forums would be difficult because of the need for a government channel to be even-handed and show no favoritism.

The policy for government-channel programming does not allow political candidates or people advocating political viewpoints unless in a forum that allows all viewpoints or candidates equal access to the program.

For instance, Hilton said, "All the parties will have to agree that the moderator will be a fair moderator" in a public debate.

If one of the candidates in a public forum doesn't agree with the choice of moderator, then another moderator has to be found.

The local chapter of the Sierra Club, an environmental-advocacy group, requested two years ago that a candidate forum be shown on the government channel, Hilton said, but the cable administrator's office decided that Sierra Club could have a bias in such a forum.

A similar request this year brought a similar response.

"You need to do all of the forums or none of them," Hilton said. "At this point, we have done

none." He added that taping such forums would be a practical problem at this time because the government-channel staff already is working at its limit.

Kevin McDonald, a member of the Telecommunications Board, acknowledged that a lack of resources might be a consideration but suggested that, if an organization such as the Sierra Club were willing to underwrite the cost of producing the program and also meet the criteria for a public forum, such a public forum would qualify for being airing on the government channel.

In his opinion, he said, the Sierra Club forum qualified because all mayoral candidates had been invited and all the candidates would be given equal time with an independent moderator.

McDonald also said that the forum was of public interest and notice of more than a week had been given for the forum.

On the other hand, a meeting earlier this summer of a tree-preservation advocacy group, We've Had Enough, did not qualify because that forum was self-moderated, had not given but 24 hours' notice and, therefore, wasn't providing equal time.

CHARLIE ALISON can be reached at calison@nwonline.net

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
June 03, 2008**

A meeting of the Fayetteville City Council will be held on June 03, 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:

The Role of the Government Channel and its Function – Alderman Nancy Allen

Field Staff: The Inspection Process - Steve Cattaneo, Building Safety Inspector - Informational Only.

University of Arkansas Signage and Wayfinding Program – Mike Johnson and Jill Anthes

Energy Audit and Performance Contracting – John Coleman, Sustainability Coordinator

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the May 20, 2008 City Council meeting minutes.
2. **MR2 Contract:** A resolution authorizing the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville.
3. **Steele Crossing Investment III, LLC:** A resolution accepting a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II.
4. **Neighborhood Master Plan:** A resolution approving the creation of a Neighborhood Master Plan for the Technology Development Corridor; and approving a budget adjustment in the amount of \$4,000.00.
5. **Secure Our Schools Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Department of Justice "Secure Our Schools" Grant in the amount of \$87,325.00.
6. **Roll Off Service, Inc. Amendment No. 1:** A resolution approving contract Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:
2. **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 ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.***

This ordinance was left on the Second Reading.

3. **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 ordinance was left on the Second Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Third Reading and then Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council Meeting.***

This ordinance was left on the Third Reading.

4. **Forest Hills PZD Rezone Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2793 Forest Hills, located at Wedington Drive, south of Salem Road, containing approximately 82.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

5. **Forest Hills Master Street Plan Amendment Request:** A resolution for R-PZD 07-2793 Forest Hills amending the Master Street Plan, realigning Golf Club Drive, a proposed north-south collector street, as described and depicted in the attached maps. *This resolution was Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council meeting.*

C. New Business:

Announcements:

1. **City Council Tour: June 02, 2008**

Adjournment:

City of Fayetteville Staff Review Form

A. 2
MR2 Contract
Page 1 of 10

City Council Agenda Items
and
Contracts, Leases or Agreements

6/3/2008

City Council Meeting Date
Agenda Items Only

Ginny Apperson
Submitted By

Solid Waste
Division

Operations
Department

Action Required:

A resolution approving an agreement between the City of Fayetteville, Arkansas and MR2 to haul and dispose of solid waste in the City of Fayetteville.

Cost of this request

Category / Project Budget

Program Category / Project Name

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached


Department Director

5-15-08
Date

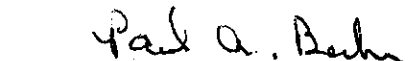
Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

5/15/08
Date

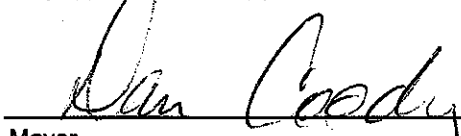

Finance and Internal Service Director

5-15-08
Date

Received in City
Clerk's Office

5/15/08 UNK




Mayor

5/15/08
Date

Received in
Mayor's Office



Comments:



City Council Agenda Item

To: Mayor and City Council

Thru: John Nelson, ^{ifc} Management Accounting Coordinator
Gary Dumas, Director of Operations

From: Ginny Apperson, Financial Coordinator ^{GA}

Date: June 3, 2008

Subject: Agreement with MR2 to haul and dispose of solid waste in the City of Fayetteville

Recommendation: Staff recommends a resolution approving an agreement between the City of Fayetteville, Arkansas and MR2 to haul and dispose of solid waste in the City of Fayetteville.

Background: MR2 has requested to haul and dispose of solid waste within the City of Fayetteville limits. The contract will permit MR2 to haul and dispose of waste in containers twenty (20) cubic yards and greater in size. The agreement requires MR2 to pay a monthly fee to the City of Fayetteville of ten (10%) percent of the gross revenue received from services provided within the city limits. This is the standard agreement authorized by City Council implementing the contract fee.

Discussion: The term of the agreement will be three years. MR2 requests to be permitted to operate within the City of Fayetteville. Staff proposes approval for MR2 to haul and dispose of waste within the City of Fayetteville, per the terms and conditions outlined in the attached agreement.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A
CONTRACT WITH MR2 TO HAUL AND DISPOSE OF SOLID
WASTE WITHIN THE CITY LIMITS OF FAYETTEVILLE.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville. A copy of the contract marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of June, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



**Operations Department
1525 Happy Hollow Road
Fayetteville, Arkansas 72701**

**Kent Longley
Marck Waste Services, LLC
dba MR2
302 W. 2nd St
Cassville, MO 65625**

Dear Mr. Longley,

The City of Fayetteville has received your business's *Agreement to Haul and Dispose of Solid Waste in the City of Fayetteville* along with the enclosed supporting documentation. Unfortunately, an original signature is required in order to implement a contract upon approval by City Council.

If the incomplete sections indicated on the enclosed agreement could be completed and returned by mail as soon as possible, we would greatly appreciate and will promptly proceed with the approval process.

A faxed copy of the signed agreement will be sufficient to begin the staff review process required to add an item to the City Council meeting agenda. Please feel free to fax a copy to my office at (479) 444-3490 and mail the original document to 113 W. Mountain St., Fayetteville, AR 72701.

If all required documentation has been received by May 2, 2008, approval of the agreement will be requested at the City Council meeting scheduled on May 20, 2008. If you have any questions or need additional information, please feel free to contact my office at (479) 444-3489.

Sincerely,

A handwritten signature in black ink that reads "Ginny Apperson".
**Ginny Apperson
Financial Coordinator**

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

This Agreement (the "Agreement"), is entered into on this 17 day of April, 2008, between the City of Fayetteville, Arkansas, a municipal corporation (the "City"), and MR 2 (the "Hauler"), and shall be in full force and effect on the date first written above. City and Hauler agree as follows:

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

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

6. Hauler agrees and understands that it shall submit to the City on an annual basis a list of all commercial vehicles used to provide services in the City, proof of appropriate vehicle registration, and proof of the insurance required under Section 16.
7. Hauler agrees and understands that it shall provide a list of vehicle operators collecting and hauling waste in the City of Fayetteville, along with proof of their valid and appropriate commercial drivers' licenses issued by the State of Arkansas. The Hauler shall also provide, maintain, and implement a plan to ensure that the vehicle operators maintain their commercial driver's licenses in accordance with applicable federal and state laws.
8. Hauler agrees that it shall comply with all federal, state and local laws applicable to the safety, environmental and transportation matters related to providing solid waste collection services under this Agreement. Hauler agrees that all open-top roll-off style containers will be properly covered during transit on streets and highways within Fayetteville.
9. In consideration of the right to provide the services described under this Agreement, Hauler agrees and understands that it shall be required to pay a monthly fee of ten (10%) percent (the "Fee") of the gross revenue received for all services provided under this Agreement. Upon execution of this Agreement, a deposit shall be paid in advance to the City. The deposit shall be equal to one-half of the total fees that were or would have been paid by the Hauler within to the City during the previous twelve (12) months. Such deposit shall be reviewed on an annual basis. Any reasonable disagreement in estimated gross revenue will be decided in the favor of the City. The deposit shall be refunded, less any unpaid fees, when the Hauler ceases operation within the City or this Agreement is terminated, whichever is earlier.
10. The City reserves the right to inspect all vehicles and containers to ensure that the vehicles are safe and well-maintained and that all containers are well-maintained and water tight, if necessary.
11. Hauler agrees and understands that it shall be required to establish an individual credit or service relationship with the City of Fayetteville transfer station operator. Hauler agrees that it shall comply with all practices, policies and procedures as established by the transfer station operator from time to time. Any tipping fee deposits required by the transfer station or landfill operators shall be refunded, less any unpaid tipping fees, when the Hauler ceases hauling activities governed by this Agreement.
12. This Agreement has been entered into freely and voluntarily by Hauler which agrees to abide by all of the terms and conditions as a matter of contractual obligation pursuant to applicable city ordinances. This is a contractual Agreement and is not intended to be part of or related in any way to any license or ordinance created pursuant to A.C.A. §26-77-102.

13. Neither this Agreement, nor any rights or obligations hereunder may be assigned or transferred to any third party or affiliate.
14. For the purpose of this contract, the Point of Contact of the City of Fayetteville shall be Gary Dumas or his successor. The Point of Contact for the Hauler shall be MR 2. Communications pertaining to day-to-day aspects of this contract shall be through these individuals. Either party may change its designated Point of Contact upon ten (10) days prior written notice to the other party.
15. Hauler agrees to protect, indemnify, defend and save harmless the City, its officials, officers, employees, agents, subcontractors, representatives and assigns from any loss, claim, liability, penalty, fine, forfeiture, demand, cause of action, suit and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), to the extent caused by (i) Hauler's breach of any term, condition, covenant or warranty contained in this Agreement, or (ii) Hauler's negligent act or omission or willful misconduct related to the delivery of waste to the City transfer station or a properly licensed landfill facility.
16. Insurance: Hauler shall maintain the following insurance coverage during the term of this Agreement:
- (a) Hauler shall provide and maintain, during the term of this Agreement, comprehensive general liability insurance, to protect against all claims arising out of the performance of its services hereunder that result in bodily injury, death or property damage. The policy or policies shall contain a clause that the insurer will not cancel or decrease the insurance coverage without first giving the City sixty (60) days notice in writing.
 - (b) Upon written request, Hauler shall furnish the City with evidence that the insurance required of it is in force.
 - (c) The types of coverage and limits of liability of all insurance required herein shall be as follows:

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

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

17. Termination:

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

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

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

MRZ

Attn: Kent Crumley

302 W 2nd St

Fayetteville, MO 65605

19. Hauler agrees and understands that this Agreement and documents submitted to the City pursuant hereto are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville requesting such documents, Hauler will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

20. This agreement shall be interpreted according to and enforced under the laws of the State of Arkansas. Capitalized terms herein shall have the same meaning as set forth in ADEQ Reg. No. 22.
21. A waiver by either party of any of the terms or conditions herein shall be limited to that particular instance, and shall not be construed as a general waiver of either party's right to seek appropriate remedies for any other breaches by either party.
22. Each paragraph of this Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.
23. This contract constitutes the entire understanding of the parties and no modification or variation of the terms of this contract shall be valid unless made in writing and signed by the duly authorized agents of the City of Fayetteville and the Hauler.
24. Each of the undersigned warrants that he or she has the full right, power, and authority to execute this contract on behalf of the party indicated for the purposes herein contained.
25. To the extent a definition or a specific term is not provided herein, but is nonetheless required by the context, it is the intention of the parties to incorporate herein the definitions contained in applicable law and regulation in effect as the date hereof, except to the extent subsequent law or regulation shall expressly or implicitly mandate a revised definition.
26. The obligations of the parties to this Agreement, which by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive the termination (for any reason), cancellation or expiration of this Agreement.

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

CITY OF FAYETTEVILLE

By: DAN COODY, as Mayor

ATTEST:

By: SONDRA SMITH, City Clerk

By: Kent Rongley

President

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

3-Jun-08

City Council Meeting Date


Carole Jones/Connie Edmonston
Submitted By

Parks and Recreation
Division

Operations
Department

Action Required:

Approval of a land donation proposed by Steele Crossing Investment III, LLC for approximately 5.06 acres of land associated with CMN Business Park II Lots 8 and 14 east of Steele Boulevard, west of Mall Avenue and north of Van Asche Drive.

\$0.00

Cost of this request

Category/Project Budget

Park Land Dedication/Donation

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

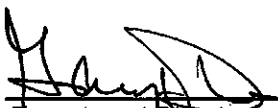
Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

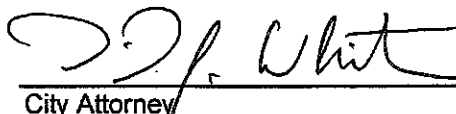

Department Director

5-20-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney

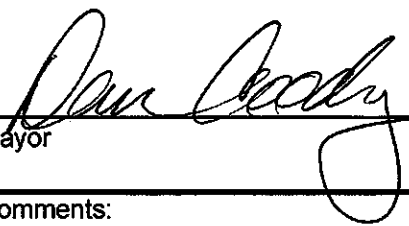
5/17/08
Date


Finance and Internal Service Director

5-19-08
Date

Received in City Clerk's Office

5-16-08


Mayor

5/16/08
Date

Received in Mayor's Office

ENTERED

5/19/08

Comments:

City Council Meeting of June 3, 2008

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody and City Council
Thru: Gary Dumas, Operations Director
Connie Edmonston, Parks and Recreation Director
From: Carole Jones, Park Planner
Date: May 16, 2008
RE: CMN Business Park II Lots 8 and 14 Land Donation

RECOMMENDATION

Approval of a land donation proposed by Steele Crossing Investment III, LLC for approximately 5.06 acres of land associated with CMN Business Park II Lots 8 and 14 east of Steele Boulevard, west of Mall Avenue and north of Van Asche Drive.

BACKGROUND

There are approximately 45 acres of deed restricted land currently existing within CMN Business Park II Phases I, II and III. Under consideration for donation to the City of Fayetteville by Steele Crossing Investment III, LLC are approximately 5.06 acres of this deed restricted land.

Steele Crossing Investment III, LLC donated approximately 17.9 acres of land associated with CMN Business Park II Phase III (15.39 acres) and Lot 5 (2.49 acres) to the City of Fayetteville in October 2007. These parcels will accommodate the construction of north Scull Creek Trail. Additionally, the owner of Phase III (Leonard Boen) has dedicated a public access easement for a portion of Scull Creek Trail that lies between the two land donations.

The proposed 5.06-acre land donation is located in CMN Business Park II Lots 8 and 14. (See enclosed colored 11" x 17" exhibit.) This additional parcel will provide a continuation of green corridor in accordance with the City Plan 2025 goal of assembling an enduring green network, and could possibly accommodate a future nature trail loop connecting to Mud Creek Trail. The proposed land donation was approved by the Parks and Recreation Advisory Board on May 5, 2008 (see attached minutes).

DISCUSSION

The proposed land donation is deed restricted by the U.S. Army Corps of Engineers through a 404 permit. Under the regulations of the existing 404 permit (see enclosed copy), mitigation and monitoring of the deed restricted land is required. Mitigation and monitoring of the deed restricted land is complete (see enclosed letter from the U.S. Army Corps of Engineers).

City Council Meeting of June 3, 2008

Agenda Item Number

BUDGET IMPACT

This land donation is expected to have minimal impact to the Parks and Recreation budget. The deed restriction classification limits the use of the land and results in very little maintenance.

Attachments:

Steele Crossing Investment III, LLC Letter
Colored 11" x 17" Exhibit
PRAB Minutes May 5, 2008
U.S. Army Corps of Engineers 404 Permit
U.S. Army Corps of Engineers Letter

RESOLUTION NO. _____

A RESOLUTION ACCEPTING A DONATION FROM STEELE CROSSING INVESTMENT III, LLC OF APPROXIMATELY 5.06 ACRES OF REAL PROPERTY FROM PARTS OF LOTS 8 AND 14, CMN BUSINESS PARK II.

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 accepts a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II.

PASSED and APPROVED this 3rd day of June, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

**STEELE CROSSING INVESTMENT I, LLC
P.O. BOX 22407
LITTLE ROCK, ARKANSAS 72221-2407
(501) 219-0919 TELEPHONE
(501) 219-0755 FAX**

July 5, 2007

City of Fayetteville Parks Board
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Re: Contribution of Nature Trail Lands – Lots 8-14, CMN Business Park II, Phase I

Ladies and Gentlemen:

This letter will confirm the intent of Steele Crossing Investment I, LLC, or an affiliate (the "Owner"), the owner of certain lands located on parts of Lots 8 and 14, CMN Business Park II, Phase I, to donate certain lands located within the Deed Restricted Area to the City of Fayetteville. The Owner proposes to deed the Restricted Area shown on Exhibit A to this letter (the "Property") to the City in fee simple absolute for use by the City subject to the restrictions and obligations imposed on the Property under the Restrictive/Protective Covenants and or Bill of Assurance for CMN Business Park II, Phase I & II, filed of record in the records of Washington County, Arkansas, as well as the Deed Restrictions described in the Notice of Deed Restrictions initially filed December 14, 1999 (the "Restrictions").

Under the Restrictions, the Property must be used in a manner consistent with the existing restrictions imposed on the property under the Section 404 Permit issued by the Army Corps of Engineers which is attached as an exhibit to the Restrictions. Under the Permit, the Corps of Engineers required certain monitoring for a period of five years following the date of issue. As evidenced by the letter of the Corps of Engineers dated February 16, 2007, the required mitigation has been successfully completed and the monitoring period has expired. Upon acceptance of the Deed, the City would be responsible for the monitoring and obligations of the owner of the Property under the Restrictions and Section 404 Permit. The assumption of these obligations will be set forth on the deed to the City.

The final determination of the area of the Property to be donated will be determined by the Owner and the City taking into account any portion thereof needed by the Owner in the development of the remaining property for use as set backs, buffers, landscape barriers, canopy requirements and other needs. The contribution would occur on or before December 31, 2007.

As an additional condition to the contribution, the Owner will have the Property appraised and City will acknowledge the value of the Property as set forth in the appraisal and

will execute such documentation as required by the Internal Revenue Service to substantiate the donation of the Property to the City.

We are very excited about the opportunity to make this gift to the City and contribute to the Property for the further preservation of the Mud Creek Area for the benefit of the City and its residents.

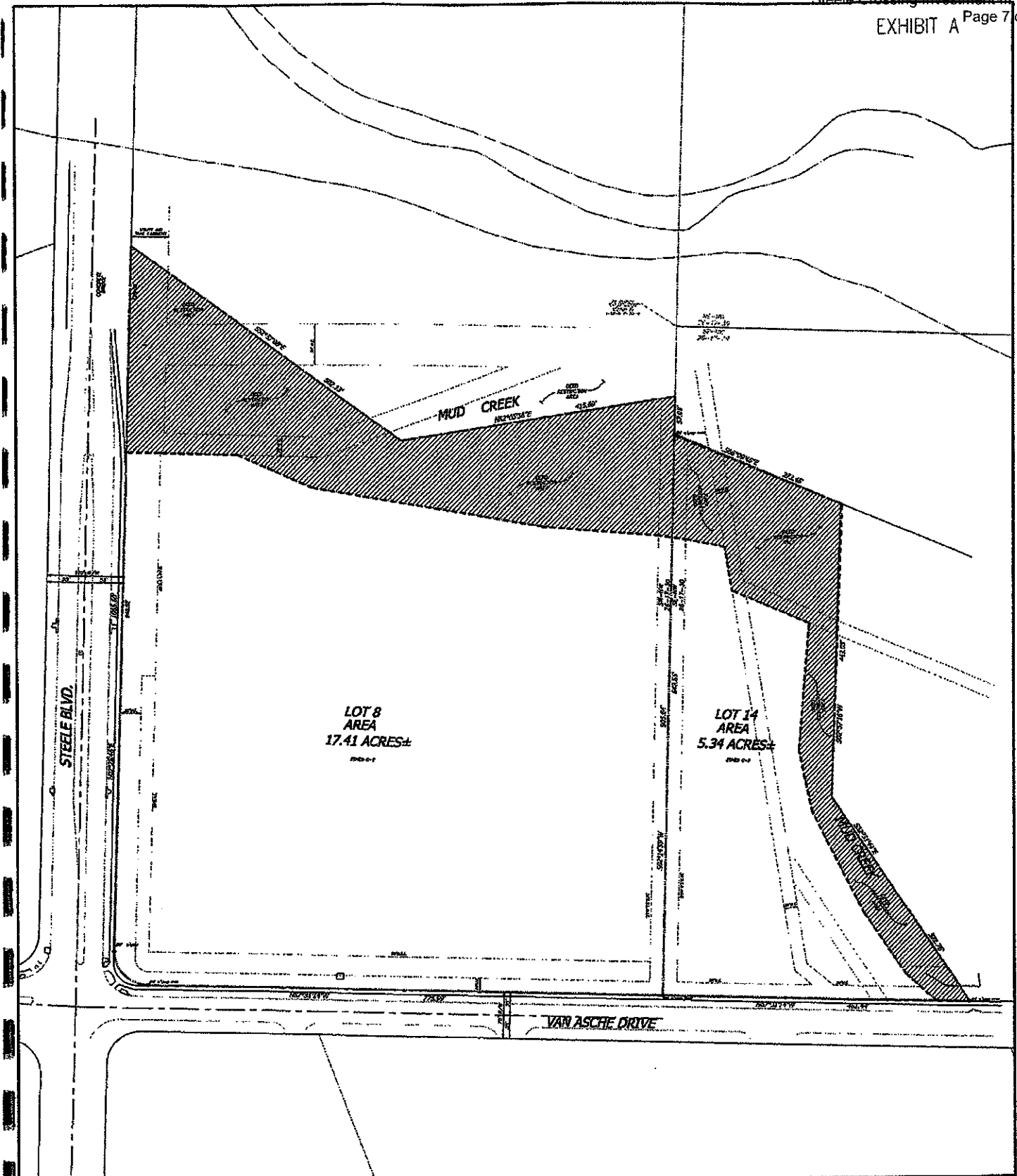
If you have any questions, please do not hesitate to call me.

Sincerely,

Handwritten signature of Leonard Boen in cursive script.

Steele Crossing Investment I, LLC
Leonard Boen, Manager

cc: Mr. Mike Morgan, McClelland Engineering



TOTAL LAND AREA 22.75 ACRES

 DEED RESTRICTED AREA
 5.06 AC



McClelland
 Consulting
 Engineers
 Incorporated

Little Rock
 900 W. Markham

Fayetteville
 1810 N. College

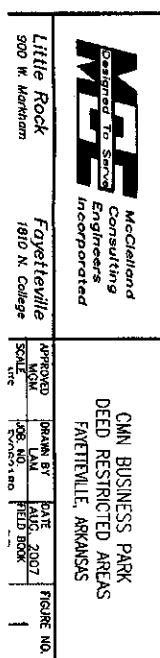
CMN BUSINESS PARK
 LOTS 8 & 14
 DEED RESTRICTION EXHIBIT
 FAYETTEVILLE, ARKANSAS

APPROVED
 MGM
 SCALE
 NTS

DRAWN BY
 LAM
 JOB. NO.
 FY062183

DATE
 AUG. 2007
 FIELD BOOK

FIGURE NO.
 1



FAYETTEVILLE PARKS AND RECREATION ADVISORY BOARD

Meeting Minutes May 5, 2008

Opening:

The regular meeting of the Parks and Recreation Advisory Board was called to order by Parks and Recreation Board member Wade Colwell at 5:35 p.m. on May 5, 2008 in Room 326 at the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Present:

Park and Recreation Advisory Board members Davidson, Biendara, Waite, Hatfield, and Bitler, P Jones, Mauritsen and Colwell were present. Park Staff Edmonston, Wright, Thomas, C. Jones, Jumper, Trails Coordinator Mihalevich and the audience were in attendance.

1. Park Land Donation:

Carole Jones, Park Planner

Project History: Developer donated approximately 15.39 acres of CMN Business Park Phase III and 2.49 acres of Lot 5 to the City of Fayetteville in October 2007. The parcels will accommodate the construction of north Scull Creek Trail. The land is currently under deed restriction by the U.S. Army Corps of Engineers. Additionally, the owner of Phase III (Leonard Boen) has dedicated a public access easement for a portion of Scull Creek Trail that lies between the two land donations.

Development Name:	CMN Business Park Lots 8 & 14 Land Donation
Engineer:	McClelland Consulting Engineers, Inc.
Owner:	Leonard Boen
Location:	East of Steele Blvd.; west of Mall Ave.; north of Van Asche Drive
Park District:	NW
Existing Parks:	Mud Creek Trail and future Park West
Developer's Request:	Developer is requesting to donate approximately 5.06 acres of Lots 8 and 14 to the City of Fayetteville. This additional parcel will provide a continuation of green corridor in accordance with the City Plan 2025 goal of assembling an enduring green network, and could possibly accommodate a future nature trail loop connecting to Mud Creek Trail. The land is currently under deed restriction by the U.S. Army Corps of Engineers. Mitigation and monitoring of the deed restricted land is complete. The deed restriction classification limits the use of the land and results in very little maintenance.

Staff Recommendation: Staff recommends accepting the additional land donation and forwarding to City Council for final approval.

Hatfield commented that it is a deed restricted area. He asked that if we didn't accept the donation, how would this impact the developer. .

C. Jones said that low impact amenities could be done, but not much else.

Hatfield asked what the requirement was to monitor this land.

C Jones answered that the monitoring is complete, but the Corp restrictions still have to be maintained.

Hatfield asked that if we take the land as a donation, will the tax be collected.

Colwell said the City might be losing property taxes from the property.

Mihalevich said that if we want to do anything with the property, we would have to deal with the Corp.

Colwell asked if it was located in a wet area.

Mihalevich said that it wasn't as wet as some other areas.

Edmonston said she would find out about the property taxes.

Hatfield said that since it is a deed restricted area, what is the City's responsibility for the drainage.

C Jones said that she didn't recall.

Hatfield said that if there was a massive flood, Parks wouldn't have to go in and restore.

Mihalevich said that if the flood damages the bridge, Parks would have to repair.

Bitler said that we have accepted several of these already.

C Jones said that the deed was supposed to be all signed off before this meeting, but it wasn't. The deed can be done as conditional.

PRAB Motion: Hatfield motioned to accept the land donation with signatures. Davidson seconded it. Motion passed 8-0-0 by voice vote.

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DEPARTMENT OF THE ARMY PERMIT

Permittee: CMN Properties (NANCHAR, INC. AND MARJORIE S. BROOKS)

Permit No.: 11252-3

Issuing Office: Department of the Army
Little Rock District
P.O. Box 867
Little Rock, Arkansas 72203-0867

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The placement of dredged and fill material associated with temporary road crossings, permanent roads and bridges, utility lines, and commercial development of 18 parcels of land to include strip malls, offices, and parking areas. The phased development would fill approximately 13.5 acres of wetlands. The bridges would impact approximately 1 acre of additional waters of the U.S. Authorized stream crossings and associated channelization include:

1. Mall Ave./Mud Creek - Bridge with no channelization beyond the bridge structure and the wing walls.
2. Shiloh Dr./East Unnamed Tributary to Mud Creek - Box culverts with a maximum of 100 linear feet of channelization.
3. Shiloh Dr./West Unnamed Tributary to Skull Creek - Culvert with wetland impacts only.
4. Van Asche Ave./East Unnamed Tributary to Mud Creek - Box culverts with a maximum of 100 linear feet of channelization.
5. Van Asche Ave./Skull Creek - Box culverts with a maximum of 200 linear feet of channelization.
6. Steel Ave/Mud Creek - Bridge with a maximum of 750 linear feet of channelization.

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The project shall be constructed and/or accomplished as shown on the attached drawings, sheets 1 through 12 of 12, dated July 22, 1999.

Project Location: The development is located along Mud, Skull, and Clear Creeks, in sections 23, 26, and 27, T.17 N., R. 30 W., Fayetteville, Washington County, Arkansas.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2002. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

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6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. You shall not channelize or otherwise manipulate any portion of a "waters of the United States" other than the specific areas around the crossings as authorized by this permit and as required in the final approved mitigation plan. To the maximum extent practicable, all work shall occur during low flow periods.

2. You shall install and maintain, at all times, required elements of the Erosion Control Plan (ECP). You shall restore any ECP elements that are damaged, due to rain events, construction activities, or other causes, at the resumption of construction activities.

3. You shall remove available material from existing wetlands (donor sites) for use in the created wetland mitigation areas. This material shall be removed prior to any construction activity, planned or otherwise, within the donor site. You shall either deposit the material directly into the created wetlands or stockpile and maintain the material outside of the floodway until final use. The stockpile shall be maintained in a condition to promote growth of native hydrophytic vegetation when reused in the mitigation area.

4. You shall field mark and preserve, from any construction activities, all wetlands being avoided by this permit, donor sites, stockpile areas, and any wetlands created for mitigation.

5. You shall submit a comprehensive mitigation plan which incorporates all features of the previously submitted conceptual mitigation plan, for approval, to the Little Rock District within 30 days of the date of this permit. The plan shall include maps and/or drawings of mitigation measures (both in-stream and wetlands), earth work and structure details, final elevations, areas of approved limited activities such as mowing, test plot locations, plantings species list, monitoring requirements, mitigation site markers, and succession goals. Additional mitigation requirements are listed below:

a. As wetland mitigation, you shall dedicate in perpetuity the area defined by the Federal Emergency Management Agency's 1991 floodway boundary (or reasonable modifications thereof, as approved by the Regulatory Section) along Mud and Skull Creeks,

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the adjacent wetlands along Skull Creek, and the buffer zone (city greenway belt) along the east unnamed tributary to Mud Creek (totaling approximately 50 acres). The mitigation area shall be mapped by a registered land surveyor. The map shall be identified as Exhibit "A." You must take the action required to record this permit and the notice of deed restriction, including Exhibit "A", with the Registrar of Deeds in Washington County, Arkansas. Documentation of the deed restriction recording shall be provided to the Chief, Regulatory Section, U.S. Army Corps of Engineers, P.O. Box 867, Little Rock, Arkansas 72203, within 60 days of the issuance of this permit. The mitigation area shall be field surveyed, and the boundaries marked and maintained by steel or concrete post monuments at each corner and every 300 feet between corners. There shall be signs placed every 1,000 feet identifying the area as a Corps of Engineers Wetland Mitigation Area.

b. You shall complete all required wetland mitigation work including plantings by May 31, 2000. You shall complete all required stream mitigation by August 31, 2000.

c. You shall plant both the created wetland and enhanced wetland areas on 25-foot spacings (70 trees/acre). Plantings along the upland riparian buffers shall include two (2) alternating rows of trees, on 25-foot spacings, along both sides of the stream and both upland edges of the floodway (eight (8) rows of trees total). A minimum of forty percent (40%) of the total required tree plantings shall be larger container trees. You shall indicate the general location of these container trees on the final mitigation plan.

d. You shall establish and field mark a representative number of test plots to use in annual sampling for monitoring reports. The same plots shall be used each monitoring period.

e. After planting, the mitigation site shall be monitored (see special condition 5d above.) and a survival rate of seventy percent (70%) or 49 saplings per acre shall be achieved. In the count of the 49 required saplings, no more than 25% or 12 saplings can be native volunteer saplings. For the native volunteer saplings to be included in wetland areas, they must be on the National List of Plant Species that Occur in Wetlands, with a Region 2 indicator of FAC or wetter. Replanting each year, as necessary to achieve the 49 sapling per acre survival rate, shall be done for a minimum of five (5) years. Herbaceous hydrophytic vegetation shall achieve greater than 50 percent (50%) of available ground cover in created wet meadow mitigation areas, with the remaining area to be open water.

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f. You shall monitor the stream and wetland mitigation areas for a minimum of 5 years. You shall submit a monitoring report to the Little Rock District each year by December 31. The monitoring reports shall contain the following information at a minimum:

(1) Map of the mitigation area with all sampling plots marked. Sample plots shall be consistent year to year.

(2) The counts of all planted and native volunteer saplings within the mitigation areas, observations of natural regeneration of saplings, and total calculated number of saplings per acre. The succession rate of the container trees shall be separately indicated.

(3) Observations of herbaceous hydrophytic vegetation developing on the mitigation site.

(4) Description of hydrology at the time of the report. Description of hydrology fluctuations during the reporting period and actions taken to maintain adequate hydrology for the survival of the plantings.

(5) Descriptions of stream conditions in areas of required stream mitigation.

(6) Photographs of key areas of the wetland and stream mitigation areas. Location and direction of photographs shall be shown on the map in (1) above.

h. You shall submit a final report on the success of the mitigation area, including a wetland delineation of the mitigation areas, at the end of the 5-year initial monitoring period. If any element of the mitigation is not successful, then further plans and mitigation shall be required.

6. The mitigation areas shall remain as wetlands and wildlife habitat in perpetuity and shall not be converted to another use, including but not limited to: clearing, logging, bushhogging or mowing (except in pre-approved areas clearly identified within the final mitigation plan), spraying with herbicides, filling, levelling, draining, dumping, construction of any structure, or any other activity that would adversely impact the natural state of the area. Natural resource management, wildlife enhancement, or floodplain management activities involving alteration of the property or vegetation thereon would require prior written approval from the Little Rock District Corps of Engineers.

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Further Information:

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S. Code 403).

(X) Section 404 of the Clean Water Act (33 U.S. Code 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. **Limits of this authorization:**

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability:** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision:** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions:** General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Marjorie S. Brooks
(PERMITTEE) MARJORIE S. BROOKS

1-2-99
(DATE)

Charlotte S. Steele, Sec.
CHARLOTTE S. STEELE, SEC.-NANCHAR, INC.

Nancy S. Ruback, Pres.
NANCY S. RUBACK, PRES.-NANCHAR, INC.

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This permit becomes effective when the Federal official,
designated to act for the Secretary of the Army, has signed
below.


Thomas A. Holden Jr.
Colonel, Corps of Engineers
District Engineer

9/8/99
(DATE)

When the structures or work authorized by this permit are still
in existence at the time the property is transferred, the terms
and conditions of this permit will continue to be binding on the
new owner(s) of the property. To validate the transfer of this
permit and the associated liabilities associated with compliance
with its terms and conditions, have the transferee sign and date
below.

(TRANSFEE)

(DATE)

Attachment

0000000007

EXHIBIT D

RESTRICTIVE COVENANTS FOR CENTERWOOD SUBDIVISION

**TO: THE FAYETTEVILLE PLANNING COMMISSION
AND THE FAYETTEVILLE CITY COUNCIL**

This 7TH day of July, 1995, the RESIDENTS OF CENTERBROOK SUBDIVISION, hereinafter referred to as "Residents" and NANCHAR, INC. and MARJORIE S. BROOKS, hereinafter referred to as "Developers" hereby submit the following for consideration:

I. BACKGROUND.

1. The Developers have submitted an application for the rezoning of certain real property immediately adjacent to the east and north boundaries of Centerbrook Subdivision.
2. The Residents, through their designated representatives, have expressed to the Developers their concerns in regard to such development and their desires to preserve the character of their neighborhood.
3. Through negotiation, the Residents and Developers have reached certain agreements in regard to the property described in Exhibit "A", attached hereto and made a part hereof.

II. AGREEMENT.

1. RESIDENTS: Contingent upon approval by the Planning Commission and the City Council of all sections and clauses of this agreement, the Residents hereby express their support of rezoning requests R95-24 and R95-25.
2. DEVELOPERS: Contingent upon approval by the Planning Commission and the City Council of rezoning requests R95-24 and R95-25, the developers agree as follows:
 - a. The Developers agree they shall not request or pursue the opening of Northwood Avenue. Further, they agree to support the residents and advocate to the Planning Commission and the City Council that Northwood Ave. shall remain closed.
 - b. The Developers shall reserve on the final plat and in the subdivision covenants a 20' strip running adjacent to and along the entire east boundary and a 15' strip running adjacent to and along the entire north boundary of Centerbrook Subdivision as a "natural buffer". Such buffer shall serve as a noise and sight buffer between the two zoning districts and shall remain in its natural state.
 - c. Developers shall require the placement of a solid fence or a masonry wall not less than 6 feet in height along the east boundary and the north boundary of the natural buffer. The materials used shall be consistent and compatible with the

Exhibit "E" - Centerbrook Covenants

materials used for the building construction. Such requirements shall be reflected on the final plat and in the subdivision covenants.

d. Developers hereby agree to calculate the rear setback from the fence provided for in c. above, instead of the rear property line. This yields a minimum of a 40' building setback, in lieu of a 20' setback from the subdivision boundary, on the east, and yields a minimum on a 35' building setback, in lieu of a 20' setback from the subdivision boundary, on the north. These building setbacks will be reflected on the final plat and in the subdivision covenants.

e. Developers agree to calculate the height regulations set forth in the Code of Fayetteville from the placement of the fence instead of the subdivision boundary, and such shall be reflected on the final plat and in the subdivision covenants.

f. Developers agree to impose restrictive covenants, in regard to the construction material allowed, which are consistent with those covenants imposed in the CMN Business Park-South.

g. Developers shall design and construct a drainage system in compliance with the Drainage Control Ordinance and the Drainage Design Manual of the City of Fayetteville. The drainage plan shall address all drainage adjacent to the Centerbrook Subdivision and shall provide for a system to relocate the drainage onto the Developers' property. The system shall be approved by the City Engineer of the City of Fayetteville.

h. Developers agree to restrict the following uses which may otherwise be allowed in a C-2 zone for that area described in Exhibit "A": (those areas stricken are designated below with the letter, word or phrase stricken out).

USES BY RIGHT:

Unit 1 - City-Wide Uses by Right

- consists of public uses, essential services, agricultural uses, open land uses, and similar uses which are either subject to other public controls or which do not have significantly adverse effects on other permitted uses and are, therefore, permitted as uses of right in all districts.

Includes:

-Agricultural, forestry, and fishery:
fields crop farms
fishery

forest
fruit, tree, and vegetable farm

-Essential services located in public rights-of-way:

fire alarm box
fire hydrant
passenger stop for bus
police alarm box
sidewalk
street, highway, and other thoroughfare street
signs, traffic signs and signals
utility main line, local transformer and station
and similar facilities customarily located in
public right-of-way

-Recreation and related use:

arboretum
historical marker
park area
parkway
wildlife preserve

-Water facilities:

reservoir (open)
watershed conservation or flood control project

Unit 4 - Cultural and Recreational Facilities

- consists of cultural and recreational uses to serve the residents of the community.

includes:

-art gallery, library, museum
-child care center, nursery school
-church
-college or-university
-dormitory
-auditorium
-stadium
-community center
-detention-home
-golf courses
-hospital
-park
-playfield, playground
-private-club-or-lodge
-riding stables
-school (elementary, junior high, senior high)
-swimming pool
-tennis court
-theater (legitimate)
-zoo

Unit 12 - Offices, Studios and Related Services

-consists of offices, studios, medical and dental labs, and other compatible or supporting services and sales.

includes:

- advertising agency
- artist's studio
- barber and beauty shops with six or few chairs
- computing service
- data processing service
- drafting service
- dental clinic
- financial institution
- funeral home
- medical clinic
- office buildings
- social and welfare agencies
- studio for teaching any of the fine arts
- sales of supplies and equipment:
 - architects and artists supplies
 - business machines
 - dental supplies
 - medical and optical supplies
 - office furnishings
 - scientific instruments
- services:
 - auto-parking-garage
 - blue printing
 - employment agency
 - photo copying
 - printing
 - ticket office (transportation and amusement)
 - travel agency
 - veterinary small animal out-patient clinic

~~Unit 13 - Eating Places~~

~~established so that eating places can be located as needed without necessarily introducing other commercial uses.~~

~~includes:~~

~~eating places, other than drive ins, which do not provide dancing or entertainment.~~

* NOTE: No Fast Food

Unit 14---Hotel, Motel and Amusement Facilities

-----consists of hotels, motels and certain types of amusement facilities.

-----includes:

-----auditorium
-----dance hall
-----hotel
-----membership lodge
-----motel
-----motion picture theater
-----night club
-----restaurant providing dancing and/or entertainment
-----tavern

Unit 15 - Neighborhood Shopping Goods

- variety of frequently purchased commercial goods, where convenience of location is more important than comparative shopping. These uses are grouped in limited areas while prohibiting all others not necessary near the residential areas.

includes:

-retail trade:
bookstores

food:

GL:
C.D.
Fit
bakery
food specialties store
dairy products
~~grocery~~
~~super markets~~
delicatessen
health food store
drug store
florist
hardware store
home furniture store
service establishment :
dry-cleaning
barber and beauty shop
laundry
news and magazine stand
laundry-(coin-operated)
service station
picture framing (retail)

Unit 16 - Shopping Goods

-stores selling retail goods which are ordinarily purchased less frequently and often have a community-wide or regional market.

includes:

-retail trade establishment:

- antique shop
- apparel and accessory
- clothing
- fur apparel
- liquor-store
- millinery
- shoe
- tailoring

-automotive-marine craft establishment:

- auto-accessory-store
- auto-sales
- boat-and-accessories
- bicycle shop
- book store
- camera shop
- dry goods
- garden supply

-general merchandise establishment:

- department store
- mail order
- trading stamp redemption store
- hardware store
- hobby shop
- home furniture:
 - appliances
 - china
 - glassware
 - draperies
 - curtains
 - floor coverings
 - furniture
 - music instruments
 - radio and television store
 - record and tape shop
 - jewelry
 - leather goods and luggage
 - optical goods
 - pet shop
 - sporting goods
 - stationery store
 - toy shop

-service establishment:

- branch community facility

~~boats and accessories~~
medical and orthopedic appliances
personal help:

~~animal hospital~~

~~auctioneer~~

barber and beauty shops

bindery

~~cabinet-maker~~

~~freeze-food-locker~~

drapery service

dry cleaning

laundry

~~linen supply and industrial laundry~~

~~packing and crating~~

rug cleaning

~~taxidermist~~

~~tool sharpening~~

~~repair service~~

~~armature rewinding~~

~~auto repair~~

~~auto wash~~

~~electrical repair service~~

~~furniture~~

~~mattresses~~

~~motors~~

radio and television repair

shoe

tailoring

~~upholstery~~

~~rug repair~~

~~Unit 18--Gasoline-Service Stations and Drive-In Restaurants~~

~~gasoline service stations and drive-in restaurants can be significantly objectionable to nearby uses, so, therefore, have been allowed only in districts where necessary to provide this use.~~

~~included:~~

~~gasoline service station~~

~~self-service auto wash in conjunction with~~

~~a gasoline service station~~

~~drive-in restaurant~~

~~Unit 19--Commercial Recreation~~

~~commercial amusements which ordinarily do not require large sites and often seek location in or near developed commercial areas.~~

-----included:

- billiard-and-pool-parlor
- bowling-alley
- domino
- slot-car-track
- skating-rink
- penny-arcade
- indoor-theater

Unit-20---Commercial-Recreation,-Large-Sites

-----commercial-recreation-facilities-which-are-usually conducted-out-of-doors,-on-large-sites,-and-in-undeveloped, outlying-parts-of-the-city,-uses-in-the-unit-have-an-adverse effect-on-certain-other-uses,-in-that-they-are-often-noisy-and are-large-traffic-generators-

-----included:

- amusement-park
- drag-strip
- drive-in-theater
- fairgrounds
- fishing-dock
- go-cart-track
- golf-range
- miniature-golf
- race-track

Unit-24---Outdoor-Advertising

-----consists-of-outdoor-advertising-signs-(billboards)-on-which space-is-leased-or-rented-by-the-owners-thereof-to-others-for-the purpose-of-conveying-a-commercial-or-noncommercial-message;- outdoor-advertising-is-set-forth-as-a-single-use-unit-in-order-to provide-maximum-control-over-the-location-of-outdoor-advertising signs-

* NOTE: It is our understanding that Use Unit 25 is also an allowed use in a C-2 zoning district.

Unit 25 - Professional Offices

-small professional offices that are compatible with medium and high density residential areas.

includes:

- office for no more than four doctors
- office for no more than four dentists
- insurance sales

- studio for teaching any of the fine or liberal arts
- photography studio
- welfare agencies
- architect
- engineer
- attorney
- accountant
- business or management consultant
- realtor
- broker
- interior decorator
- veterinary small animal out-patient clinic

CONDITIONAL USES:

Unit 2 - City Wide Uses by Conditional Use Permit

-uses which may be conducted anywhere in the territorial jurisdiction, but which can be objectionable to nearby uses and are therefore permitted subject to conditional use permits in all district.

includes:

-public and private facilities:

- antique shop
- airport, flying fields and heliport
- bed and breakfast facilities
- campground
- plant nursery
- sewage disposal facility
- solid waste disposal facility
- water recreation area

-temporary facilities:

- carnival, circus and tent revival
- construction facility
- real estate sales office located at a specific location in an underdeveloped or partially developed subdivision and operated for the purpose of developing said subdivision.
- sanitary landfill area

Unit 3 - Public Protection and Utility Facilities

-primarily of public protection and utility equipment which a) is ordinarily not located in the street right-of-way and can be significantly objectionable to nearby residential, commercial, and light industrial uses, and

b) have requirements for specific locations or are needed to serve residential neighborhood or other local areas, and
c) are, therefore, permitted only on review.

includes:

- facilities of public service corporation
 - electric-regulating-station
 - pressure-control-station
 - transmitting-station-or-tower, radio, telegraph,--
 - telephone, television
 - other-utility-and-protective-facilities
 - airway-beacon
 - fire protection
 - police protection
- public-utility-maintenance-building, warehouse, or-storage-building-
- water-pipeline-rights-of-way, treatment-plant, water-storage-facility
- railroad-rights-of-way-communication-and-utility--
- transmission-line-rights-of-way

* NOTE: the above restricted uses are applicable to above ground facilities, not those located below the ground.

Unit 21 - Warehousing and Wholesale

-includes warehousing, wholesaling and trucking of the type which is usually located to serve the central business district and is easily served by rail and highway transportation.

includes:

- warehouses
 - wholesale-establishments
 - trucking-establishments
 - building-material-establishments
 - air-conditioning
 - building-materials
 - electrical-supply
 - glass
 - heating-equipment
 - lumber
 - paint
 - plumbing-supplies
 - wall-paper
 - fuel-and-ice-establishments
 - bottled-gas
 - fuel-dealer
 - fuel-oil
 - ice-house
 - monument, including-processing

Unit-28---Center-for-Collecting-Recyclable-Materials

NANCHAR INC. AND MARJORIE S. BROOKS

MELVIN L. MILLHOLLAND
Print Name

205 W. CENTER, FAUETTEVILLE
Address

12

၁၈၈၆-၁၈၈၇

RESIDENTS:

Charles O. Davis
Signature

CHARLES O. DAVIS
Print Name

3359 SANDPIPER, FAY.
Address

(501) 444-7562
Phone Number

Laura D. McPart
Signature

Laura D. McPart
Print Name

3504 NORTHWOOD, FAY
Address

(501) 444-7183
Phone Number

Jay Ellis
Signature

Jay Ellis
Print Name

3441 Northwood Ave., Fay.
Address

(501) 521-6592
Phone Number

Linda M. Hatcher
Signature

Linda M. Hatcher
Print Name

3532 Northwood Ave.
Address

(501) 443-5294
Phone Number


Signature

Glenn D. Clancy
Print Name

3549 Sandpiper ST
Address

443-9445
Phone Number

REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
LITTLE ROCK DISTRICT, CORPS OF ENGINEERS
POST OFFICE BOX 887
LITTLE ROCK, ARKANSAS 72203-0887
www.swl.usace.mil/

Regulatory Office

FEB 16 2007

File No. 11252-3

Michele A. Harrington, P.A.
Harrington, Miller, Neihouse & Kieklak
113 E. Emma Avenue
P.O. Box 687
Springdale, Arkansas 72765-0687

Re: CMN Business Park II

Dear Ms. Harrington:

Please refer to your letters concerning the Section 404 permit issued for the CMN development and the associated mitigation and monitoring requirements for the project.

The mitigation and monitoring for Phases I and II of the project have been fully completed. We have reviewed the 5th-year monitoring report and the preliminary wetland assessment, and have also performed several site inspections. We have determined that the mitigation for Phases I and II has been successful and is in compliance with the permit conditions. There are no further mitigation requirements for these project areas.

Several of the mitigation activities within the Phase III area of the project have been completed as required. However, some of the proposed stream mitigation activities within Scull Creek could not be done until construction of the Van Asche Bridge. Therefore, a portion of the Phase III mitigation work still needs to be undertaken and monitored. This work would include stream restoration and enhancement through the bridge area with installation of a minimum flow channel, rock deflectors, and tree revetments. Monitoring of the Phase III mitigation would be required for two years after completion of the work.

The completed mitigation and deed restricted areas within the project may be donated to the Northwest Arkansas Land Trust for future environmental stewardship of the area. Further, if the land trust intends to retain responsibility for completion of the Phase III mitigation work, then the Phase III area could also be donated to the land trust. This is provided that the Section 404 permit is transferred to the land trust. The Land Trust Board of Directors would need to sign the transferee line of the permit and then submit it to Corps so that a permit transfer letter could be issued.

We appreciate the good cooperation from you and your clients throughout this successful mitigation project. If you have any questions about the permit, please contact Rocky Presley at (417) 334-4101. Mr. Kyle Clark at our Rogers office will be handling further compliance for the remaining mitigation work within Phase III. Future monitoring reports should be submitted to

APR-26-2007 THU 02:58 PM

FAX NO.

A. 3
Steele Crossing Investment III, LLC
Page 34 of 34
P. 03

Mr. Clark at the following address: Rogers Field Office, 2260 North 2nd Street, Rogers, AR 72756.

Sincerely,

Joyce C. Perser
for Jerry L. Harris, P.E.
Chief, Regulatory Office

Copy Furnished:

Steele Crossing POA
64 W. Colt Square
Fayetteville, Arkansas 72703

Mr. Manuel Barnes
EGIS, Inc.
314 South Main Street
Bentonville, AR 72712-5903

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

3-Jun-08
City Council Meeting Date

Karen Minkel
Submitted By

Long Range Planning
Division

Operations
Department

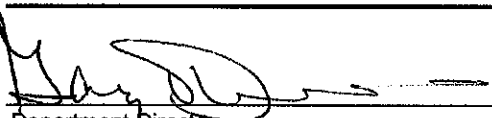
Action Required:

Complete Neighborhood Plan Year 2: Submitted by Planning Staff to approve a resolution to create a neighborhood Master Plan for the Technology Development Corridor area and approval of a budget adjustment.

\$4,000.00	\$ 4,000.00	Complete Neighborhood Plan
Cost of this request	Category/Project Budget	Program Category / Project Name
1010.6600	\$ -	Miscellaneous
Account Number	Funds Used to Date	Program / Project Category Name
08056.0801	\$ 4,000.00	Economic Development/ Wilson Springs
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☒

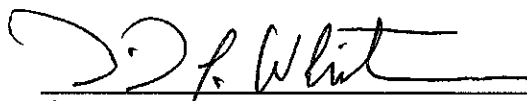

Department Director

5-15-08
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

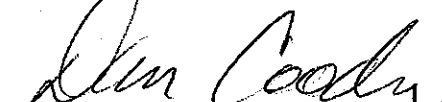
5/19/08


Finance and Internal Service Director

5-19-08
Date

Received in City Clerk's Office

5-15-08
ENTERED


Mayor

5/21/08
Date

Received in Mayor's Office

ENTERED
5/19/08

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Karen Minkel, Senior Long Range Planner

Date: May 9, 2008

Subject: Complete Neighborhood Plan Year 2: Submitted by Planning Staff to approve a resolution to create a neighborhood Master Plan for the Technology Development Corridor area.

RECOMMENDATION

Planning Staff recommends approval of a resolution to create a neighborhood Master Plan for the Technology Development Corridor area.

BACKGROUND

The City Council adopted City Plan 2025 by Res. No. 123-06 on July 17, 2006. The Plan states that Planning staff will create one complete neighborhood plan each year, beginning with the first plan in the fall of 2007. These plans will embody the goals and principles of City Plan 2025 and target strategic areas throughout the City. City staff developed the first Master Plan in-house for the Walker Park Neighborhood, which was adopted by City Council on February 5, 2008 by Res. No. 19-08. Proposed rezoning for the Walker Park Neighborhood has been heard by the Planning Commission twice and will soon be forwarded to the City Council.

DISCUSSION

Planning staff will present a recommendation for a complete neighborhood plan annually. The following products can be expected from this process:

- Public participation: Staff will facilitate a five- to seven-day charrette that encourages quality public participation from neighborhoods and other stakeholders;
- Complete Neighborhood Plan vision document, which will include an analysis and recommendations for applicable ordinances and zoning districts; and
- Illustrative maps.

Staff anticipates that the second charrette will be conducted in September 2008. Planning staff discussed multiple areas and are recommending the Technology Development Corridor area for the second complete neighborhood plan. The criteria used to compare

City Council Meeting of June 3, 2008
Agenda Item Number

sites included: 1) Meets the City's goals as outlined in the City Council's Strategic Plan and City Plan 2025; 3) Is experiencing or will experience development pressure; 4) Has a high percentage of vacant or underutilized land; 6) Has potential partners in the design process; and 7) The Plan would be developed concurrently with road improvement projects.

Planning staff recommends creating a complete neighborhood plan for an area in South Fayetteville that has a rough boundary of I-540, 15th Street, and the natural boundary formed by the floodplain. This area contains approximately 662 acres and serves as the southern gateway to the City and been designated as part of the Technology Development Corridor:

City Goals: The Strategic Plan adopted by the City Council specifically mentions the need for revitalization and greater commercial development in South Fayetteville that would offer a variety of places to shop and eat. City Plan 2025 states, "We will make appropriate infill and revitalization our highest priorities." This area offers multiple opportunities for addressing all the goals outlined in City Plan 2025, with infill and revitalization remaining the highest priority.

Development Pressure: Development in this area of South Fayetteville is inevitable over the next several years. The proximity to the Arkansas Research and Technology Park as well as the development of companies such as BioBased Technologies and the wealth of existing infrastructure make this area a likely candidate for development and redevelopment. A Master Plan for this area will create a vision that directs new development toward the creation of a complete, compact and connected neighborhood. A vision that meets the goals of City plans and policies and promotes economic development is the desired outcome.

Vacant or Underutilized Land: Approximately 30 percent of the site is developable land that is vacant or underutilized, indicating opportunities for infill and revitalization.

Potential Partners in the Process: This area of South Fayetteville offers multiple resources and partners in the design process. The Long Range Planning Division intends to work closely with the University of Arkansas, the two established residential neighborhoods, developers and existing businesses located within the area.

Street Bond Projects: The Arkansas Highway Department will begin the 15th Street Improvement project sometime after 2009. Construction on the Cato Springs Street Improvement project is scheduled to begin in late 2008 or early 2009. Both these projects will add to or improve the existing infrastructure in the proposed master plan area.

BUDGET IMPACT

Planning staff estimates that the total budget needed for an in-house charrette process will be approximately \$4,000. This budget includes advertising and publicity, an architect, supplies and potential rent fees for studio and presentation space within the planning area.

City Council Meeting of June 3, 2008
Agenda Item Number

These funds would be taken from the Economic Development Fund Wilson Springs proceeds for the proposed project.

RESOLUTION NO. _____

A RESOLUTION APPROVING THE CREATION OF A NEIGHBORHOOD MASTER PLAN FOR THE TECHNOLOGY DEVELOPMENT CORRIDOR; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$4,000.00.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves a Neighborhood Master Plan for the Technology Development Corridor.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a Budget Adjustment in the amount of \$4,000.00.

PASSED and APPROVED this 3rd day of June, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

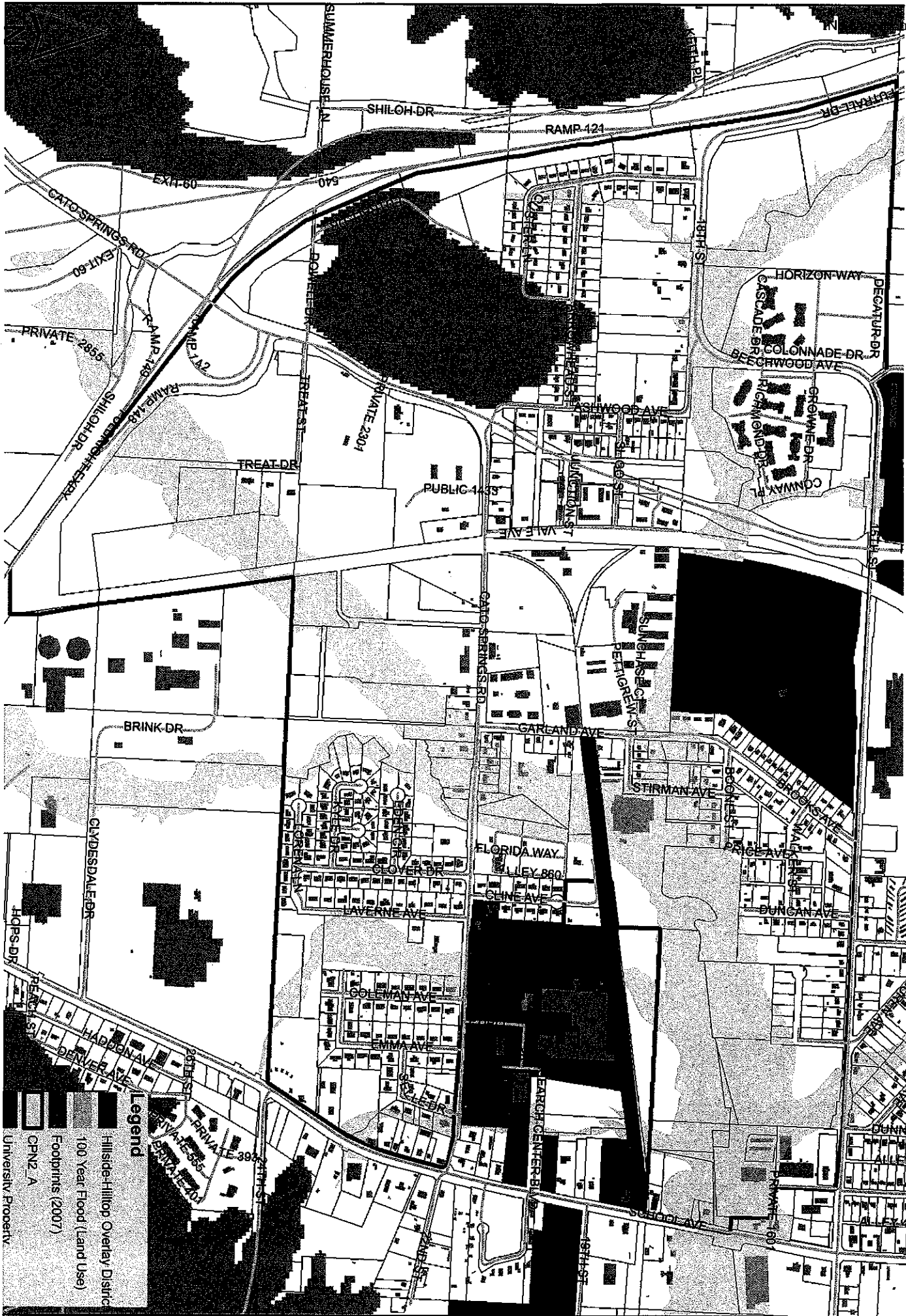
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

A. 4
 Sub Master Plan
 Page 6 of 6

Complete Neighborhood Plan: Technology Development Corridor

Boundary Proposal

June 3, 2008



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

A. 4
Neighborhood Master Plan
Page 7 of 8

Budget Year 2008	Department: Operations Division: Planning & Development Management Program: Long Range Planning	Date Requested 5/15/2008	Adjustment Number
-------------------------	---	---------------------------------	-------------------

Project or Item Added/Increased: \$1,800 is requested in the Public Notification Account, \$700 is requested in the Professional Services Account, \$400 is requested in the Business Meals Account, and \$1,100 is requested in the Office Supplies/Printing Account.	Project or Item Deleted/Reduced: \$4,000 for the Economic Development Fund Wilson Springs proceeds.
---	---

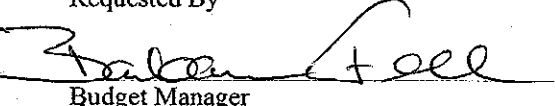
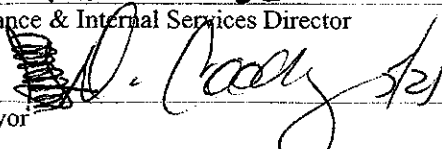
Justification of this Increase: A budget of \$4,000 is needed to conduct a charrette and create a Master Plan for the Technology Development Corridor.	Justification of this Decrease: The Master Plan will encourage economic development along the Technology Development Corridor. Sufficient funding remains to comply with City policy.
--	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number					Amount	Project Number	
Business Meals/Expenses	1010	6600	5306	00		400	08056	0801
Public notification	1010	6600	5301	00		1,800	08056	0801
Office supplies/printing	1010	6600	5200	00		1,100	08056	0801
Professional services	1010	6600	5314	00		700	08056	0801

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number					Amount	Project Number
Use of Designated Fnd Bal	1010	0001	4999	98		4,000	

Approval Signatures		Budget Office Use Only	
Requested By	Date	Type:	A B C <u>D</u> E
	5/15/08	Posted to General Ledger	Initial Date
Department Director	Date	Posted to Project Accounting	Initial Date
	5-19-08	Entered in Category Log	Initial Date
Finance & Internal Services Director	Date		
	Date		
Mayor	Date		

City of Fayetteville Staff Review Form

A. 5
Secure Our Schools Grant
Page 1 of 4City Council Agenda Items
and
Contracts, Leases or Agreements

6/3/2008

City Council Meeting Date
Agenda Items Only

Greg Tabor

Submitted By

Police

Division

Police

Department

Action Required:

City Council approve an application to Department of Justice Community Oriented Policing Services for a "Secure Our Schools" grant in the amount of \$87,325.00. This is a 50% matching requirement for this grant and the City of Fayetteville will need to supply \$37,175.00 from Use of Fund Balance and Fayetteville Public School will provide \$50,150.00. The total project if approved will be \$174,650.00.

\$ 174,650.00

Cost of this request

\$ -

Category / Project Budget

Secure Our Schools

Program Category / Project Name

\$ -

Funds Used to Date

Program / Project Category Name

\$ -

Remaining Balance

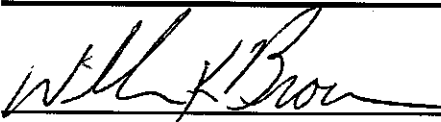
General

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

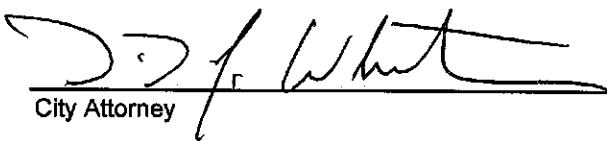
5-16-08

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

5/20/08

Date



Finance and Internal Service Director

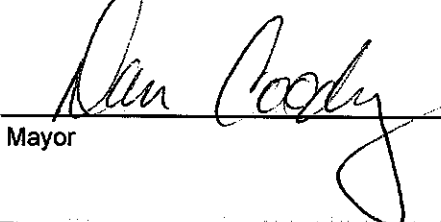
5-20-08

Date

Received in City
Clerk's Office

5-16-08

ENTERED



Mayor

5/21/08

Date

Received in
Mayor's OfficeENTERED
5/29/08
P.H.

Comments:

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

DEPARTMENTAL CORRESPONDENCE

To: Dan Coody, Mayor
Thru: Greg Tabor, Police Chief 
From: Judy Cohea, Records Services Manager
Date: May 16, 2008
Re: Approval of Application for a Secure Our Schools matching grant.

Background

The U.S. Department of Justice, Community Oriented Policing Services is offering a grant opportunity for a Secure Our Schools matching grant. This grant will be a joint effort between the Fayetteville Public School and the City of Fayetteville with the school providing \$50,150.00 and the City providing \$37,175.00 from Fund Balance to receive \$87,325.00. This will bring the total project to \$174,650.00.

Discussion

The Fayetteville Police Department will utilize their funding to purchase software to access the Schools camera system during a crisis; software for each of our mark police vehicles to be able to access the dispatch center mapping system; 2 entry tool sets; and training for our officers and school personnel to prepare for a intruder in the school. Fayetteville Public School will request additional cameras, portable and hand held metal detectors, alcohol sensors, Security Assessments for each school by training the School Resource Officers and paying overtime for them to perform the assessments, two-way radio equipment and security training. All of the above items are currently recognized as needed but remain unfunded. This grant provides 50% of the funding necessary to purchase them. The Police Department will work with School personnel to make sure all grant requirements are understood and a written plan is in place to adhere to all requirements.

Recommendation

Staff recommends approval of the application and we will continue to work with the School personnel to create the written plan for grant compliance.

Budget Impact

When the grant is awarded the City Council will be asked to accept the grant and adopt a budget adjustment in the amount of \$37,175.00 from General Fund, Fund Balance.

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING THE FAYETTEVILLE POLICE
DEPARTMENT TO APPLY FOR A DEPARTMENT OF JUSTICE
"SECURE OUR SCHOOLS" GRANT IN THE AMOUNT OF
\$87,325.00.**

**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 authorizes the Fayetteville Police Department to apply for a Department
of Justice "Secure Our Schools" Grant in the amount of \$87,325.00.

PASSED and APPROVED this 3rd day of June, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville Staff Review Form

A. 6
Roll Off Service, Inc.
Amendment No. 1
Page 1 of 8

City Council Agenda Items and Contracts, Leases or Agreements

6/3/2008

City Council Meeting Date
Agenda Items Only

Gary Dumas

Submitted By

Solid Waste & Recycling

Division

Operations

Department

Action Required:

A resolution approving Amendment No. 1 to the agreement with Roll Off Service, Inc. approving a rate adjustment to provide temporary hauling of municipal, residential and commercial solid waste.

\$ -

Cost of this request

\$ 2,269,618.00

Category / Project Budget

Program Category / Project Name

5500.5000.xxxx.xx

Account Number

\$ 812,869.00

Funds Used to Date

Solid Waste Oper & Admin

Program / Project Category Name

\$ 1,456,749.00

Project Number

Remaining Balance

Solid Waste

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Service Director

Date

Received in City
Clerk's Office

5-16-08

ENTERED

Mayor

Date

Received in
Mayor's Office

5/22/08

ENTERED

Comments:

City Council Agenda Item

To: Mayor and City Council
From: Gary Dumas, Director of Operations
Date: May 16, 2008
Subject: A resolution approving Amendment No. 1 to the agreement with Roll Off Service, Inc. approving a rate adjustment to provide temporary hauling of municipal, residential and commercial solid waste.

Recommendation: Staff recommends approving a per ton rate adjustment, based upon outgoing weight from the City Transfer Station, to the current agreement with Roll Off Service, Inc. to provide temporary hauling of municipal, residential and commercial solid waste from the City's Transfer Station.

Background: Due to the closure of the Cherokee Nation landfill in October 2007, a temporary hauling contract with Roll Off Service, Inc. was awarded in November 2007. The City is still under contract with the Cherokee Nation for the receiving, handling, hauling and disposing of municipal residential and commercial waste at the City of Fayetteville's Transfer Station, and the Cherokee Nation is reimbursing the City's cost operating the Transfer Station.

Discussion: Due to the escalation in fuel prices, Roll Off Service, Inc. has requested a rate adjustment factor to be included in their current contract. The costs involved with the hauling contract with Roll Off Service and internal personnel, equipment and fuel are being tracked and billed to the Cherokee Nation for reimbursement.

The factor would be as follows:

In the event that the cost of diesel fuel changes from the base rate of \$3.35 per gallon (Department of Energy, Energy Information Administration diesel fuel price on 11/12/07), a fuel charge adjustment will be made weekly to the contract as follows: for each \$0.10 change in the fuel price from the \$3.35 base, an adjustment of .0087 in the base hauling contract shall be made. For example:

Fuel Price on 11/12/07	Fuel Price on 5/19/08	Difference	\$0.10	Factor .0087	Base Rate	Adjustment per Ton
\$3.347	\$4.443	\$1.096	10.96	.095352	\$6.00	\$0.57

$\$4.443 - \$3.347 = \$1.0968 / .10 = 10.96 * .0087 = .095352 * \$6.00 = \$0.57$ per ton adjustment

Budget Impact: Additional costs will be fully reimbursed by Cherokee Nation.

RESOLUTION NO. _____

**A RESOLUTION APPROVING CONTRACT AMENDMENT NO. 1
TO THE TEMPORARY HAULING CONTRACT WITH ROLL OFF
SERVICE, INC. IMPLEMENTING A PER-TON RATE
ADJUSTMENT TO COMPENSATE FOR THE RAPID AND
SIGNIFICANT INCREASE IN DIESEL FUEL COSTS.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby approves Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs. A copy of Amendment No. 1, marked Exhibit "A" is attached hereto and made a part hereof.

PASSED and APPROVED this 3rd day of June, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

AMENDMENT #1

**Contract with Roll Off Service, Inc.
For the Temporary Hauling of Municipal,
Residential and Commercial Solid Waste**

The City of Fayetteville, by agreement dated December 3, 2007, contracted with Roll Off Service, Inc. for the temporary hauling of municipal, residential and commercial solid waste. Amendment #1 does hereinafter amend the contracted fee structure as specified in Section 2 of the contract document. The approved amendment to Section 2 of the contract document is as follows:

Section 2. (a) For outgoing transport of solid waste delivered to the City Transfer Station, based on outgoing weight from the Transfer Station the per ton rate will be adjusted in the event that the cost of diesel fuel changes from the base rate of \$3.35 per gallon (Department of Energy, Energy Information Administration diesel fuel price, Gulf Coast, on 11/12/07), as follows: for each \$0.10 change in the fuel price from the \$3.35 base, an adjustment of .0087 in the base hauling contract shall be made. For example:

Fuel Price on 11/12/07	Fuel Price on 5/19/08	Difference	\$0.10	Factor .0087	Base Rate	Adjustment per Ton
\$3.347	\$4.443	\$1.096	10.96	.095352	\$6.00	\$0.57

$\$4.443 - \$3.347 = \$1.0968 / .10 = 10.96 * .0087 = .095352 * \$6.00 = \$0.57$ per ton adjustment

IN WITNESS WHEREOF, the parties to these presents have executed this Amendment #1 of the contract for the temporary hauling of municipal, residential and commercial solid waste to be retroactive to _____, 2008.

ROLL OFF SERVICE, INC.

**CITY OF FAYETTEVILLE,
Fayetteville, Arkansas**

By: _____
NAME AND TITLE

DAN COODY, Mayor
Attest:

Business Address

SONDRA SMITH, City Clerk



Official Energy Statistics from the U.S. Government

Home > Petroleum > Weekly Retail On-Highway Diesel Prices > Average All Types - Last 53 Weeks

[Glossary](#)[search](#)

Weekly Retail On-Highway Diesel Prices

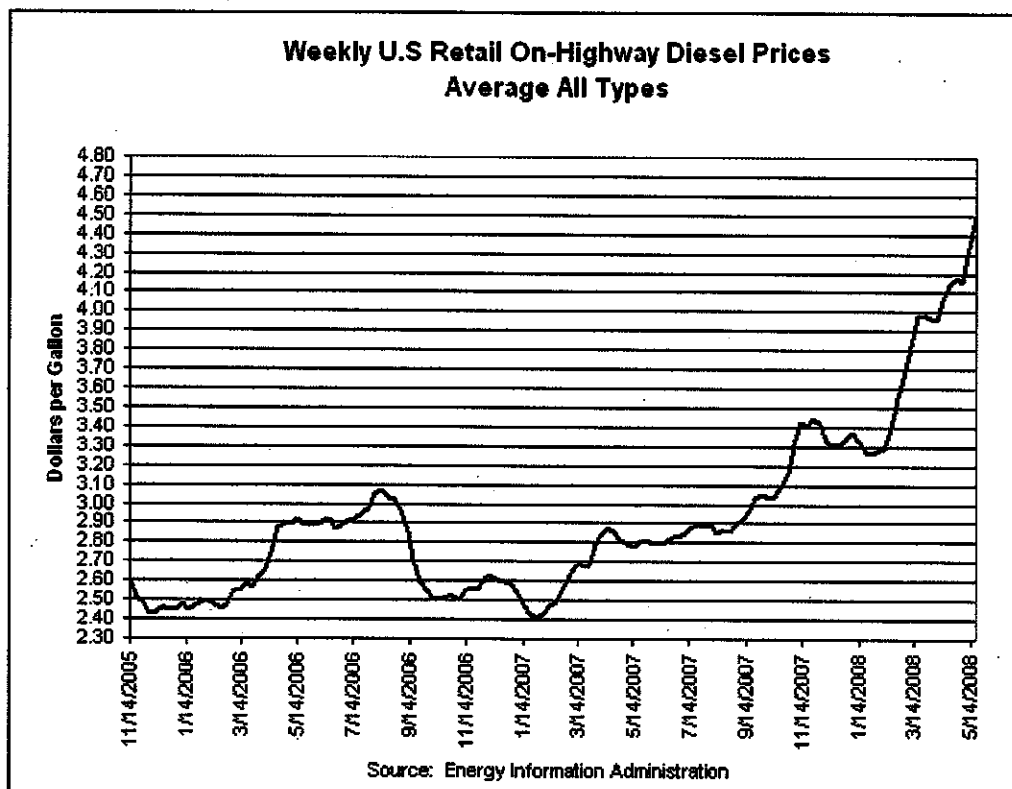
Average All Types - Last 53 Weeks

(Dollars per gallon, including all taxes)

Date	U.S. Average	East Coast	New England	Central Atlantic	Lower Atlantic	Midwest	Gulf Coast	Rocky Mtn	West Coast	CA
05/19/08	4.497	4.544	4.610	4.682	4.480	4.463	4.443	4.442	4.610	4.737
05/12/08	4.331	4.377	4.463	4.516	4.310	4.298	4.268	4.276	4.454	4.547
05/05/08	4.149	4.194	4.337	4.345	4.117	4.101	4.084	4.156	4.303	4.382
04/28/08	4.177	4.230	4.346	4.376	4.157	4.133	4.113	4.141	4.312	4.390
04/21/08	4.143	4.207	4.346	4.370	4.126	4.098	4.077	4.111	4.255	4.317
04/14/08	4.059	4.117	4.239	4.266	4.043	4.013	4.000	4.039	4.176	4.234
04/07/08	3.955	4.005	4.121	4.142	3.936	3.917	3.894	3.974	4.052	4.118
03/31/08	3.964	4.014	4.130	4.160	3.941	3.929	3.907	3.972	4.049	4.112
03/24/08	3.989	4.045	4.142	4.186	3.975	3.964	3.928	3.953	4.056	4.119
03/17/08	3.974	4.035	4.119	4.177	3.967	3.958	3.914	3.892	4.018	4.083
03/10/08	3.819	3.870	3.938	3.989	3.814	3.784	3.798	3.732	3.885	3.955
03/03/08	3.658	3.700	3.813	3.825	3.636	3.639	3.609	3.573	3.736	3.803
02/25/08	3.552	3.608	3.710	3.693	3.562	3.525	3.510	3.473	3.609	3.672
02/18/08	3.396	3.444	3.588	3.526	3.396	3.365	3.367	3.350	3.454	3.511
02/11/08	3.280	3.324	3.542	3.412	3.266	3.249	3.239	3.264	3.347	3.393
02/04/08	3.280	3.338	3.566	3.438	3.275	3.243	3.247	3.260	3.325	3.377
01/28/08	3.259	3.327	3.583	3.432	3.258	3.218	3.218	3.236	3.301	3.346
01/21/08	3.270	3.343	3.594	3.472	3.264	3.228	3.222	3.229	3.327	3.360
01/14/08	3.326	3.391	3.621	3.510	3.318	3.288	3.266	3.261	3.420	3.459
01/07/08	3.376	3.436	3.644	3.554	3.366	3.345	3.318	3.276	3.474	3.526
12/31/07	3.345	3.399	3.600	3.519	3.328	3.309	3.293	3.269	3.451	3.491
12/24/07	3.308	3.356	3.584	3.497	3.275	3.277	3.246	3.268	3.411	3.434
12/17/07	3.309	3.359	3.581	3.511	3.273	3.271	3.245	3.319	3.415	3.426
12/10/07	3.325	3.372	3.570	3.514	3.293	3.276	3.265	3.397	3.440	3.455
12/03/07	3.416	3.444	3.595	3.570	3.376	3.385	3.345	3.487	3.532	3.567
11/26/07	3.444	3.453	3.590	3.574	3.389	3.423	3.360	3.527	3.587	3.620
11/19/07	3.410	3.407	3.488	3.524	3.350	3.389	3.324	3.507	3.586	3.624
11/12/07	3.425	3.415	3.484	3.523	3.362	3.403	3.347	3.532	3.608	3.663
11/05/07	3.303	3.290	3.375	3.381	3.244	3.278	3.219	3.411	3.508	3.524
10/29/07	3.157	3.148	3.250	3.251	3.095	3.122	3.062	3.281	3.394	3.406
10/22/07	3.094	3.078	3.182	3.186	3.022	3.067	2.994	3.229	3.323	3.338
10/15/07	3.039	3.023	3.122	3.125	2.970	3.025	2.941	3.169	3.229	3.249

Diesel Prices Details - Last 53 Weeks

10/08/07	3.035	3.031	3.123	3.137	2.977	3.028	2.946	3.139	3.167	3.197
10/01/07	3.048	3.052	3.117	3.141	3.008	3.061	2.975	3.100	3.090	3.143
09/24/07	3.032	3.037	3.100	3.124	2.993	3.054	2.971	3.028	3.054	3.093
09/17/07	2.964	2.961	3.025	3.054	2.916	2.984	2.903	2.972	2.998	3.023
09/10/07	2.924	2.912	2.968	2.991	2.872	2.942	2.865	2.955	2.982	2.995
09/03/07	2.893	2.867	2.915	2.934	2.835	2.910	2.836	2.939	2.972	2.985
08/27/07	2.863	2.834	2.906	2.898	2.800	2.870	2.808	2.947	2.965	2.986
08/20/07	2.868	2.842	2.915	2.905	2.808	2.864	2.807	2.977	2.996	3.016
08/13/07	2.847	2.820	2.923	2.901	2.776	2.835	2.771	2.980	3.019	3.054
08/06/07	2.898	2.866	2.955	2.945	2.825	2.887	2.824	3.012	3.077	3.140
07/30/07	2.886	2.847	2.946	2.923	2.806	2.885	2.808	3.003	3.058	3.152
07/23/07	2.889	2.860	2.950	2.945	2.815	2.882	2.815	2.988	3.061	3.158
07/16/07	2.889	2.874	2.959	2.949	2.834	2.878	2.821	2.977	3.031	3.147
07/09/07	2.849	2.853	2.942	2.936	2.810	2.822	2.785	2.955	2.987	3.090
07/02/07	2.829	2.827	2.930	2.916	2.779	2.805	2.766	2.936	2.972	3.067
06/25/07	2.835	2.832	2.920	2.915	2.789	2.806	2.780	2.936	2.985	3.073
06/18/07	2.805	2.800	2.877	2.869	2.764	2.774	2.753	2.907	2.958	3.033
06/11/07	2.792	2.789	2.882	2.873	2.744	2.753	2.742	2.937	2.941	2.997
06/04/07	2.799	2.794	2.882	2.870	2.753	2.764	2.749	2.958	2.931	2.972
05/28/07	2.817	2.811	2.888	2.882	2.773	2.783	2.776	2.980	2.939	2.975
05/21/07	2.803	2.798	2.884	2.873	2.758	2.773	2.747	2.993	2.921	2.955



City of Fayetteville
Bid 07-77, Solid Waste Hauling Services

CONTRACT

This contract executed this 3rd day of December, 2007, between the City of Fayetteville, Arkansas, and **Roll Off Service, Inc.** In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Roll Off Service, Inc.** at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items bid per bid 07-77 as stated in **Roll Off Service, Inc.**'s bid proposal, and in accordance with specifications attached hereto and made a part hereof under Bid #07-77, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay **Roll Off Service, Inc.** based on their bid proposal in an amount not to exceed \$6.00 per ton of solid waste hauled. Payments will be made after submission of invoice. Payments will be made approximately 30 days after receipt of invoice.
3. The Contract documents which comprise the contract between the City of Fayetteville and **Roll Off Service, Inc.** consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Bid form identified as Invitation to Bid 07-77 with the specifications and conditions typed thereon.
 - B. **Roll Off Service, Inc.**'s bid proposal.
 - C. The Notice to Prospective Bidders and the Bid Tabulation.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and **Roll Off Service, Inc.** and may be modified only by a duly executed written instrument signed by the City of Fayetteville and **Roll Off Service, Inc.**
5. **Roll Off Service, Inc.** shall not assign its duties under the terms of this agreement.
6. **Roll Off Service, Inc.** agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from **Roll Off Service, Inc.**'s performance of this contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. **Roll Off Service, Inc.** shall furnish a certificate of insurance addressed to the City of Fayetteville, as an additional insured, showing that he or she carries the insurance stated in Bid 07-77 which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance.

In case any employee engaged in work on the project under this contract is not protected under Worker's Compensation Insurance, **Roll Off Service, Inc.** shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.

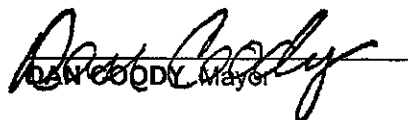
The premiums for all insurance and the bond required herein shall be paid by **Roll Off Service, Inc.**

8. **Roll Off Service, Inc.** to furnish proof of licensure as required by all local and state agencies.

9. This contract may be terminated by the City of Fayetteville or Roll Off Service, Inc. with 7 days written notice.
10. Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.
11. Changes in Scope or Price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

WITNESS OUR HANDS THIS 20th DAY OF December, 2007.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS


DAN COODY, Mayor

Attest:

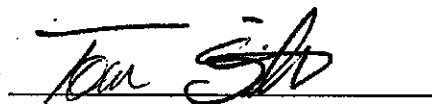

SONDRA SMITH, City Clerk



1
ROLL OFF SERVICE, INC.

BY 
NAME AND TITLE

ATTEST: COMPANY SECRETARY



P.O. Box 1700
BUSINESS ADDRESS
Lowell, AR 72745

**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] 4/16/08
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 4/17/08
City Attorney

Original Contract Number: n/a

Paul a. Buhn 4-17-08
Finance and Internal Service Director Date

Received in City Clerk's Office
4-16-08 **ENTERED**

[Signature] 4/17/08
Mayor Date

Received in Mayor's Office
4/17/08 **ENTERED**

Comments:

*left on the second reading 5/24/08
left on the first reading 5/6/08*

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"

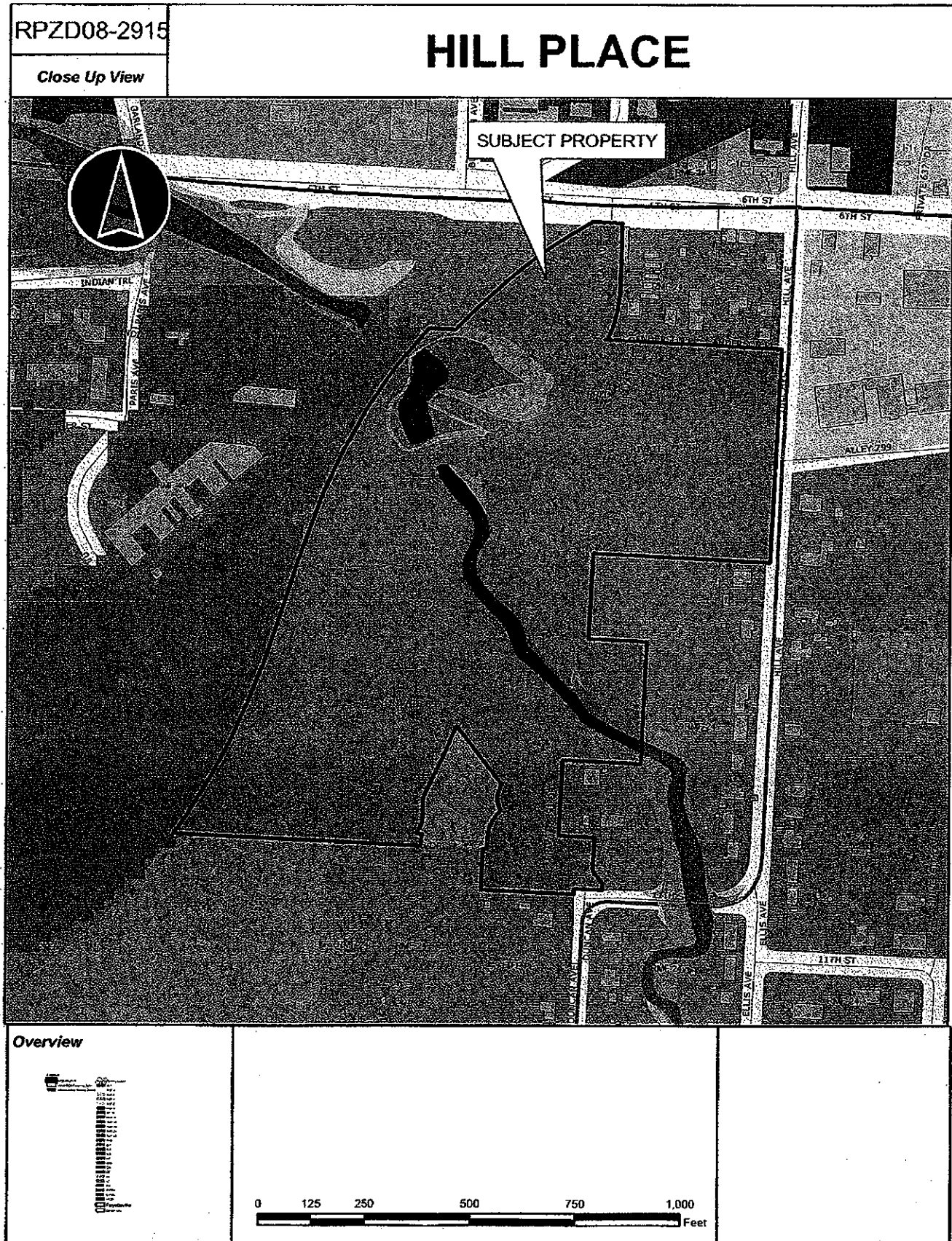


EXHIBIT "B"
R-PZD 08-2915

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

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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.

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.
8. The internal sidewalks along internal private streets and parking lots as presented in the PZD shall be constructed as indicated.
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:

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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.

Tree Preservation Conditions:

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:

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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.
25. 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%.
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).
 - 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.

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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.

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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.*

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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.
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constructed as indicated in the plans submitted for PZD approval.

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 - 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.
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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 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.

25. 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%.
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.
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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.

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.

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

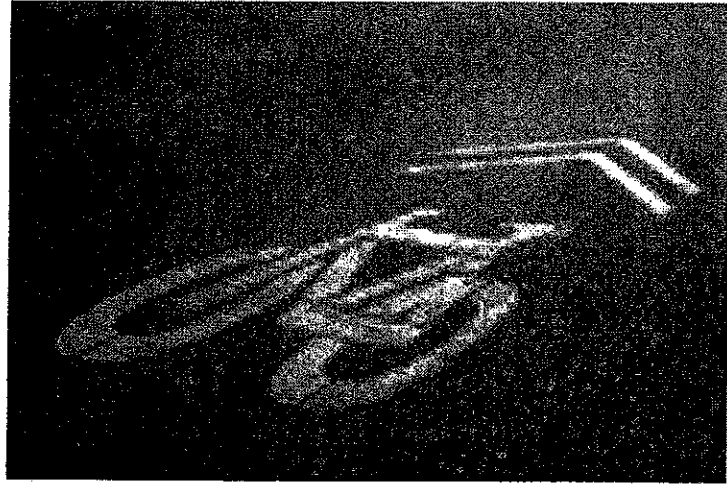
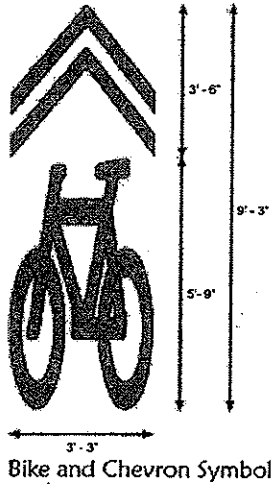
Date: April 1, 2008

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 its 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

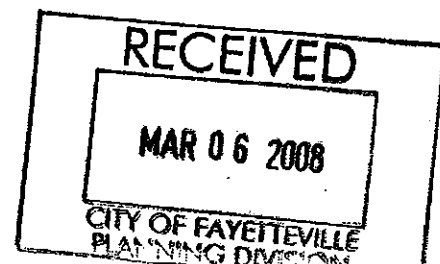
Please consider the following as grounds for granting the waivers:

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

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's 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,

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

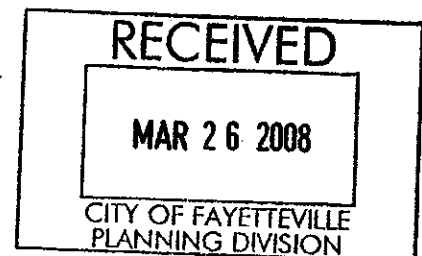
- ☒ I have been notified of the above meetings for the described project.
- ☒ I do not object to the project described above.
- ☐ I do object to the project described above because:

RAYMOND F. VAUGHN

Name of Property Owner (Printed)

Leon Harmon - For Raymond F. Vaughn

Signature of Property Owner *J. G. ON*



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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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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 Green Boston
Name of Property Owner (Printed)
Norm Green Boston
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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ADJOINING PROPERTY OWNERS COMMENTS

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125 W. Mountain Street
Fayetteville, AR 72701

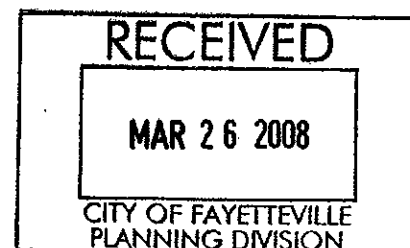
☒ I have been notified of the above meetings for the described project.

☒ 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. Mounson
Signature of Property Owner
President



turn over every year. We have also been told that it will not increase ^{the} ~~the~~ ^{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 he obtained his degree, in Arkansas that statement does not hold water, or that dog won't hunt, whichever way you ~~the~~ 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.

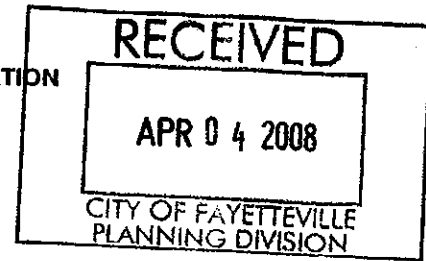
I would like to close by asking where else can you obtain 26 acres in the City?

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

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Fayetteville City Administration Building
113 W. Mountain Street, Room 219

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Fayetteville City Administration Building
113 W. Mountain Street, Room 219

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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 runoff 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 Line are in deperdy. 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 "JG", followed by a large arrow pointing to the right.

RPZD08-2915

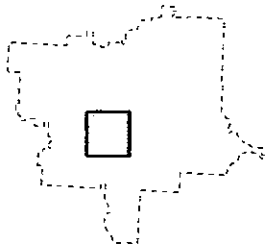
R-PZD 08-2915 (Hill Place)
Page 69 of 78

One Mile View

HILL PLACE



Overview



Legend

Subject Property
RPZD08-2915

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

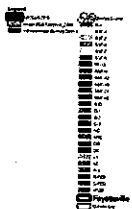
RPZD08-2915

Close Up View

HILL PLACE



Overview



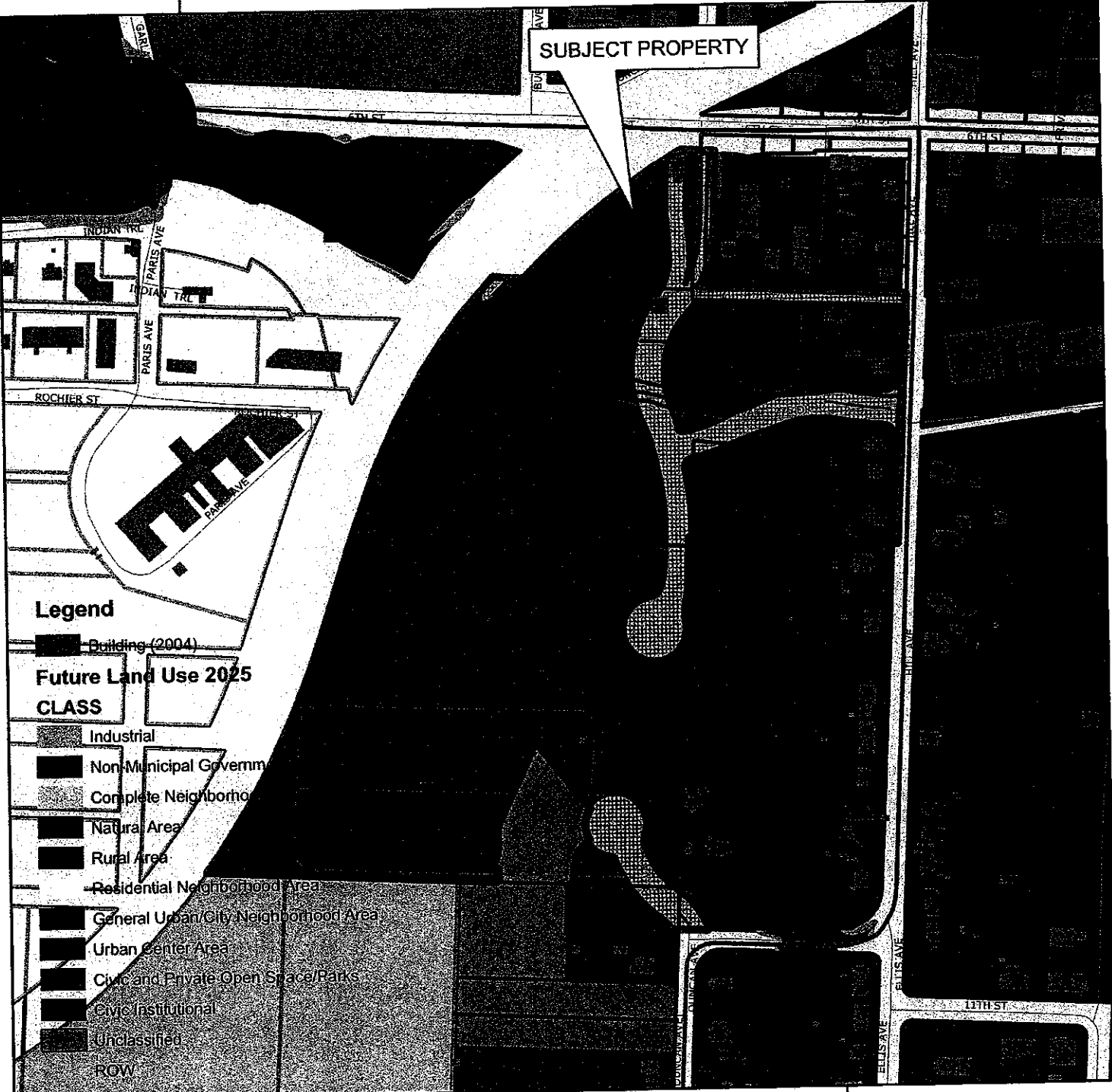
0 125 250 500 750 1,000 Feet

RPZD08-2915

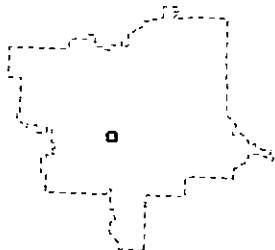
HILL PLACE

Future Land Use

SUBJECT PROPERTY



Overview



Legend

Subject Property

RPZD08-2915

Streets

Existing

Planned

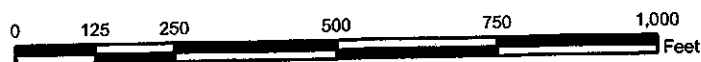
Boundary

Planning Area

Overlay District

Outside City

Legend



AMENDED
Conditions of Approval
R-PZD 08-2915
Hill Place
Amended 06 May 2008

CONDITIONS OF APPROVAL:

R-PZD 08-2915

Page 1 of 6

Conditions of Approval for R-PZD 08-2915 (Hill Place) AS AMENDED AND ADOPTED BY THE CITY COUNCIL

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 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*

CONDITIONS OF APPROVAL:

R-PZD 08-2915

Page 2 of 6

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 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

CONDITIONS OF APPROVAL:

R-PZD 08-2915

Page 3 of 6

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.
8. The internal sidewalks along internal private streets and parking lots as presented in the PZD shall be constructed as indicated.
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.*
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.

CONDITIONS OF APPROVAL:

R-PZD 08-2915

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- 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.

Tree Preservation Conditions:

- 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 Architect licensed within the state of Arkansas.

CONDITIONS OF APPROVAL:

R-PZD 08-2915

Page 5 of 6

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.
25. 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%.
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.
34. Staff approval of final detailed plans, specifications and calculations (where applicable) for

CONDITIONS OF APPROVAL:

R-PZD 08-2915

Page 6 of 6

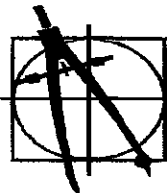
grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements 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:
- Grading and drainage permits
 - An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - Project Disk with all final revisions
 - One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
 - 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.

ADDED CONDITION:

37. The applicant shall provide a guarantee acceptable to the City of Fayetteville prior to issuance of a grading/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 proper maintenance of the plan. The guarantee shall remain in place until permanent stabilization has been achieved for the site. Once permanent stabilization/revegetation has been achieved and approved by the City of Fayetteville, the guarantee will be released.

AS AMENDED BY THE CITY COUNCIL 05-06-08



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

Tabled to June 3, 2008 5/30/08
left on the second reading 5/6/08

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

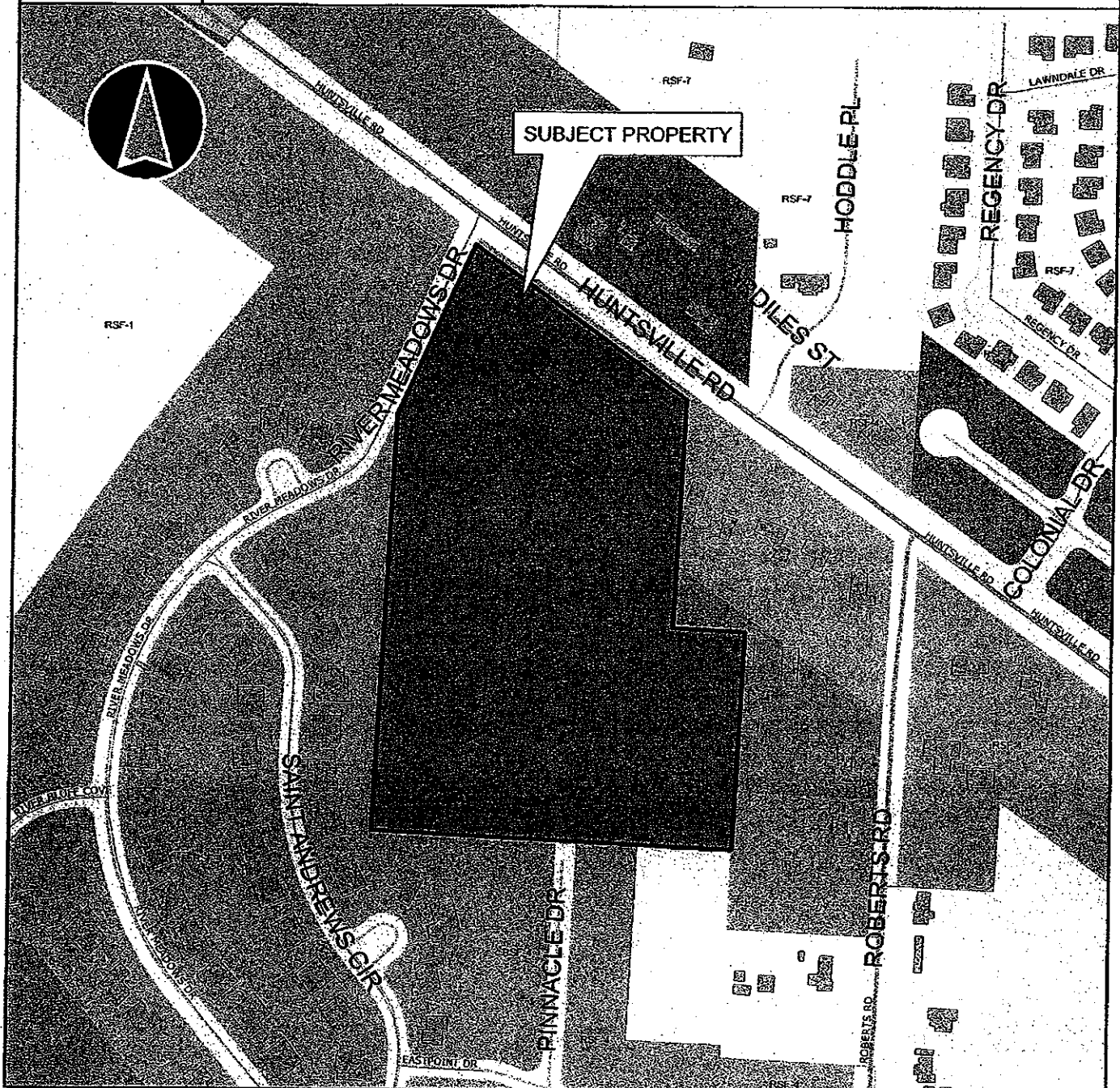
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

IPZD08-2904

Close Up Map

BRIDGEDALE PLAZA



Overview



0 125 250 500 750 1,000
Feet

EXHIBIT "B"
C-PZD 08-2904

A PART OF THE W $\frac{1}{2}$ OF THE NW $\frac{1}{4}$ 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

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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

MARCH 24, 2008

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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

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

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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 Rd in Fayetteville Arkansas and I support the Bridgedale Plaza development on the corner of Huntsville/Hwy16 and River Meadows Drive.

Sincerely,

Theta Mitchell

To Whom It May Concern:

I live at 4175 E HuntsvilleRD 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.

343

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 compatability 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 corrdior 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 tonights 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 <laddydiebold@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,

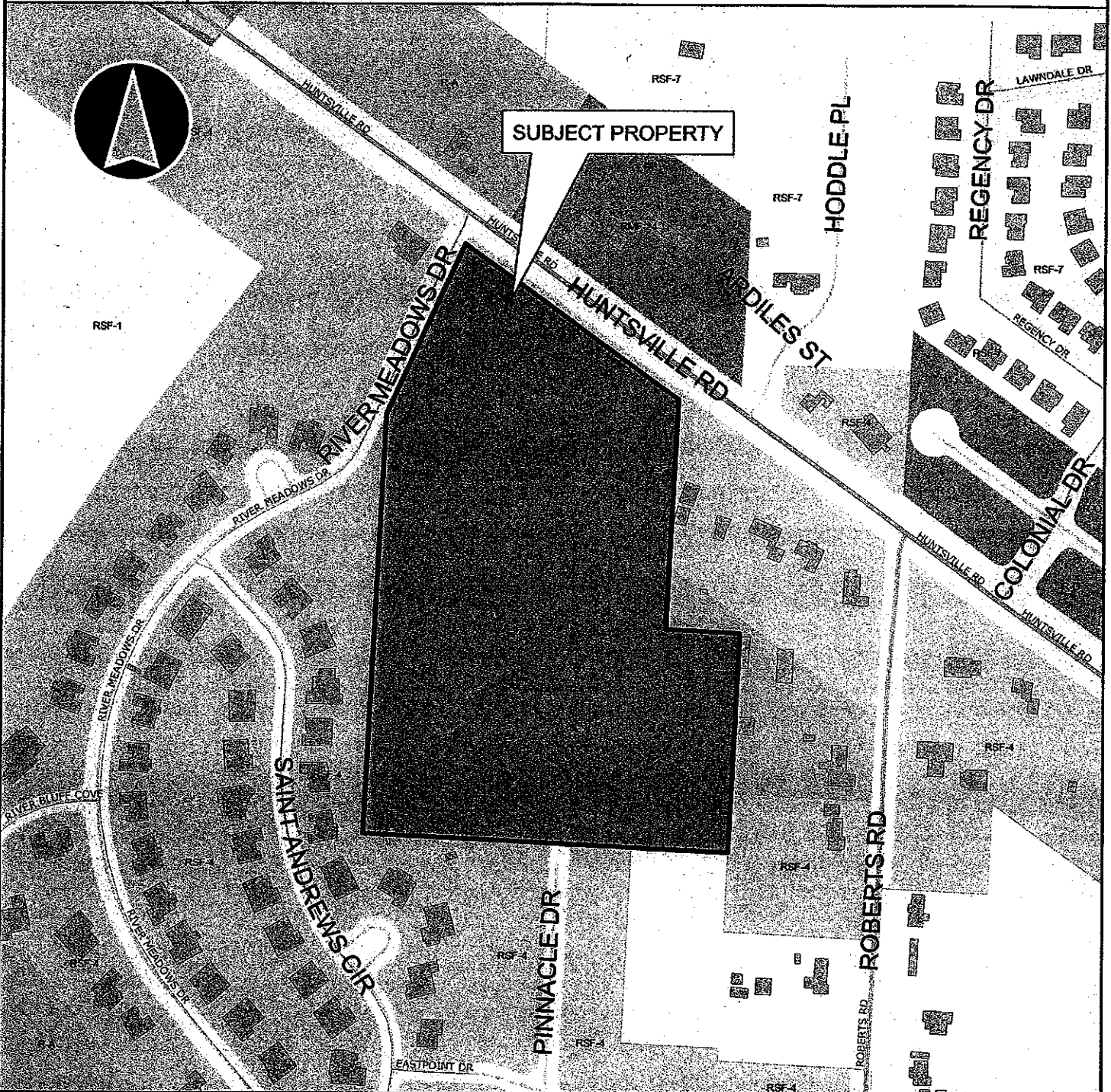
Laddy Diebold
Associate Broker
Re/Max Associates
(479) 841-1000

Be a better friend, newshound, and
know-it-all with Yahoo! Mobile. Try it now.
http://mobile.yahoo.com/;_ylt=Ahu06i62sR8HDtDypao8Wcj9tAcJ

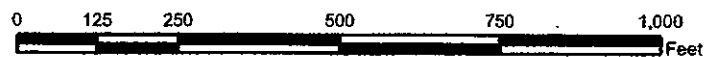
CPZD08-2904

Close Up Map

BRIDGEDALE PLAZA



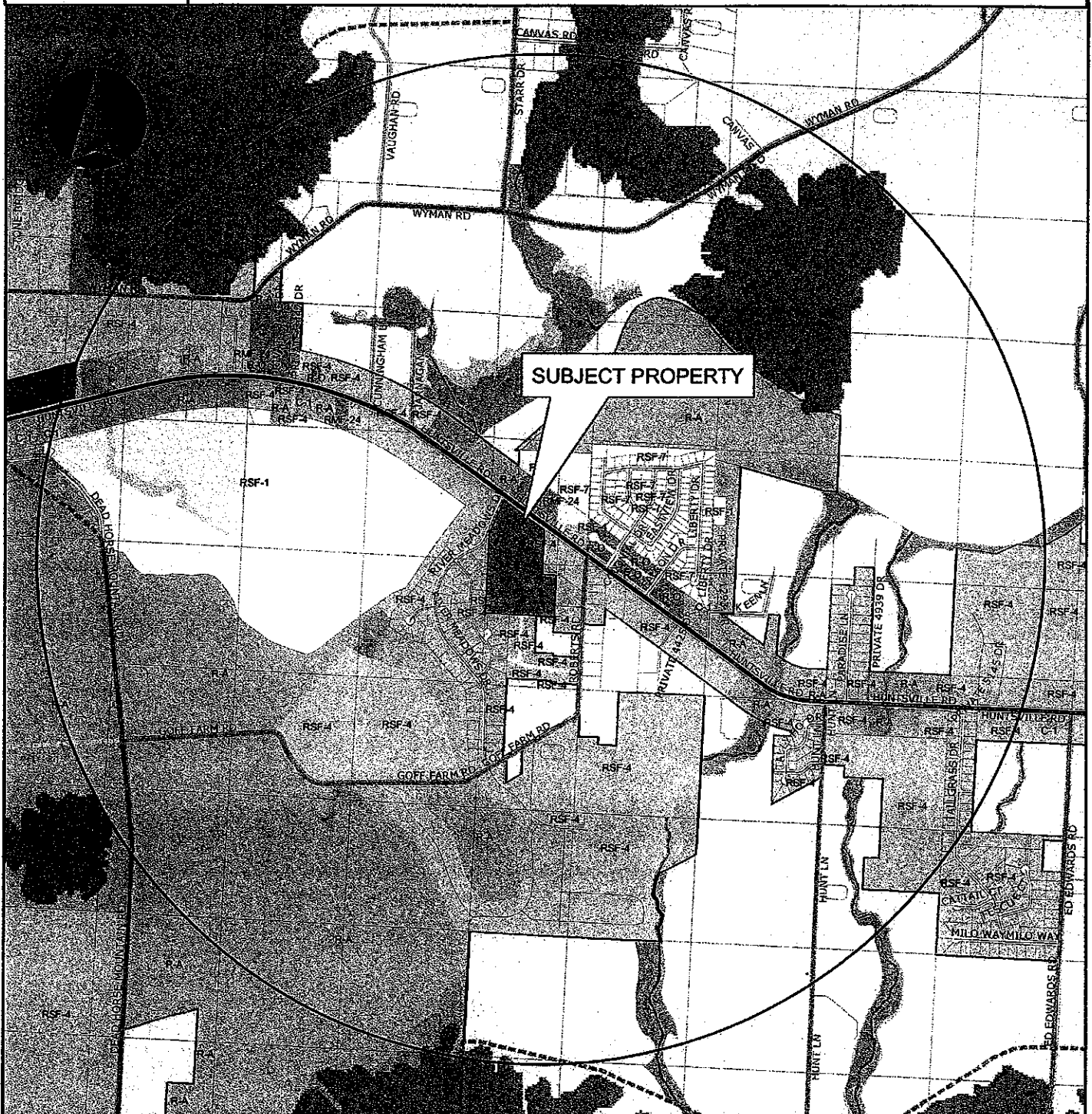
Overview



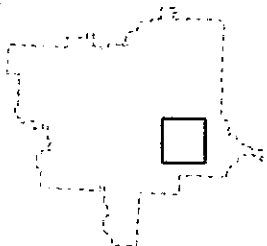
IPZD08-2904

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

ASSESSMENT OF THE PERMISSIBILITY OF THE PROPOSED REZONING OF BRIDGEDALE PLAZA

PREPARED AND SUBMITTED BY

LAUREN E. RUFF
RESIDENT, STONEBRIDGE MEADOWS
1125 S. SAINT ANDREWS CIRCLE
FAYETTEVILLE, AR 72701
(706) 536-3923 (cell)
(479) 444-6237 (home)

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TABLE OF AUTHORITIES

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2. Smith v. Little Rock, 279 Ark. 4, 648 S.W.2d 454 (Ark. 1983)	1, 2
3. West Helena v. Davidson, 250 Ark. 257, 464 S.W.2d 581 (Ark. 1971)	1

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2. Arkansas Code of Rules and Regulations. Gross Receipts Tax Rules. Definitions. 006 05 009 Ark. Code R. GR-3(C)(1), (Weil 2008)	4
3. Arkansas Code of Rules and Regulations. Gross Receipts Tax Rules. Amount and Nature of Tax. 006 05 009 Ark. Code. R. GR-4, (Weil 2008)	4
4. Arkansas Code of Rules and Regulations. Gross Receipts Tax Rules. Local Gross Receipts Taxes. 006 05 009 Ark. Code. R. GR-91, (Weil 2008)	4

Articles

1. R. Wright, <i>Zoning Law in Arkansas: A Comparative Analysis</i> , 3 Ark.L.Rev. 421 (1980)	2
2. Greenspan, Allan, <i>The Roots of the Mortgage Crisis</i> , The Wall Street Journal (December 12, 2007)	5

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1. Arkansas Self Storage Association, http://www.arssa.org/salestax.htm	5
2. Foreclosure.com, http://www.foreclosure.com	5

I. INTRODUCTION.

Before the Fayetteville City Council is a proposal to change the zoning of property located along Arkansas Highway 16 East from Single Family Residential (RSF4) to Commercial (CPZD). In consideration of this new development, Bridgedale Plaza, many documents, letters, and petitions have been submitted to the Council. This particular document focuses on only one legal aspect of the rezoning of the property in question. For the reasons stated herein, rezoning this property is not permissible under the laws of the State of Arkansas.

II. CHANGING THE ZONING OF PROPERTY PROPOSED AS "BRIDGEDALE PLAZA" IS SPOT ZONING, ARBITRARY AND CAPRICIOUS, AND THEREFORE IS NOT PERMISSIBLE.

A. Spot Zoning and the Arbitrary and Capricious Rule.

According to the Arkansas Supreme Court, the rezoning of land as well as the failure to rezone land is illegal when it is arbitrary and capricious. *Smith v. Little Rock*, 279 Ark. 4, 648 S.W.2d 454, (Ark. 1983); *Riddell v. Brinkley*, 272 Ark. 84, 612 S.W.2d 116 (Ark. 1981). Spot Zoning is arbitrary and capricious, and therefore is itself illegal. *West Helena v. Davidson*, 250 Ark. 257, 464 S.W.2d 581 (Ark. 1971).

A decision is arbitrary and capricious when it is "made without any reasonable decision." *Id.* at 265. Spot Zoning is considered arbitrary. *Riddell v. Brinkley*, 272 Ark. 84, 87, 612 S.W.2d 116, 117 (Ark. 1981). Spot zoning departs from the comprehensive treatments with the other use classifications in the area that do not call for different treatment under apparent circumstances. *Id.* Specifically, Spot Zoning occurs where a parcel of land is singled out for use in a manner inconsistent with the other land uses in

the area. *Smith v. Little Rock*, 279 Ark. 4, 13-14, 648 S.W.2d 454, 459, (Ark. 1983). See also R. Wright, *Zoning Law in Arkansas: A Comparative Analysis*, 3 Ark.L.Rev. 421, 442 (1980). Compare *West Helena v. Davidson*, 250 Ark. 257, 258, 464 S.W.2d 581, 581-82, (Ark. 1971) (rezoning from residential to commercial allowed where property was located on a main thoroughfare between cities, abutted a church on one side and a bowling alley on the other).

B. Preliminary description of the property surrounding the proposed Bridgedale Plaza.

The property named herein as Bridgedale Plaza is located on the south side of Arkansas Highway 16 East. Currently, this property is zoned as Single Family Residential (RSF4). On the south and west it is abutted by Stonebridge Meadows subdivision, which has the same zoning classification. Stonebridge Meadows contains a professional golf course, Stonebridge Meadows Golf Course, however the hours of operation are limited and no food or beverages are served. The majority of the Stonebridge Meadows subdivision is already developed with families residing throughout the subdivision. *Appendix A.*

The same is true of the Bridgedale subdivision with respect to zoning and occupancy. Bridgedale subdivision rests against the west side of the proposed Bridgedale Plaza. The Bridgedale and Stonebridge Meadows subdivisions are contiguous, with no markers distinguishing them from the other. *Appendix A.*

The proposed Bridgedale Plaza property currently has occupied single family homes located upon it. Some of the property is not developed and that undeveloped portion is surrounded on all sides by single family homes. It is also notable that the property

directly across the street, Arkansas Highway 16 East, and located on the north side of Bridgedale Plaza is also occupied by single family residences, and is zoned the same way (RSF4). *Appendix A.*

While much of the property west of Stonebridge Meadows subdivision, on both the north and south sides of Arkansas Highway 16 East are mixed in zoning, there is a natural barrier between the two areas. This natural barrier is the west fork of the White River. *Appendix B.*

C. There is a more effective location for Bridgedale Plaza, with a lesser burden upon Fayetteville.

In the currently proposed location for Bridgedale Plaza, as described above, the installation of self storage units and other commercial entities would be incongruent with adjacent land use on all sides. Although the commercial entities are proposing to operate as "green" facilities and to place a barrier of a small subdivision between the Stonebridge Meadows and Bridgedale subdivisions, this would not change the outcome of incongruence with surrounding land use.

There are other options available which would provide these same amenities to residents of the immediate area with a lesser impact overall. Less than one mile west of this proposed development, located directly on Arkansas Highway 16 East, is undeveloped property which is zoned for commercial use. Specifically, this property is located at the intersection of Arkansas Highway 16 East and Arkansas Highway 265, otherwise known as "Crossover." *Appendix B.*

That location already has a gas station and a strip mall. One block to the west of it is another gas station. There is also a traffic light located at this intersection, complete with

separate left hand turn lanes and traffic signals. Placing a business in the undeveloped portion of this location is less likely to affect traffic flow on Arkansas Highway 16 East because of the existing traffic light. The business operators would benefit from the volume of traffic already continuing through the area. The city would benefit in tax revenues, the same as it would benefit elsewhere and perhaps even more due to the increase in volume resulting from accessibility. The city would also benefit because the site is prepared to handle higher volume traffic due to the traffic light in place.

The currently proposed location for Bridgedale Plaza may result in higher cost to the city because it does not have a traffic light. Some businesses may be less willing to locate in an area which is not set up to accommodate commercial traffic. Also, the city would incur the cost of performing a traffic study, along with the construction of a traffic light, if indeed it appears to be needed. *Appendix B.*

D. Tax revenues resulting from the proposed self storage business at Bridgedale Plaza may not be available to the city of Fayetteville in the future.

As of March 1, 2004, mini storage facilities are subject to a state wide gross receipts tax. ACA §26-52-316 (2008). 006 05 009 Ark. Code R. GR-4 (Weil 2008). This gross receipts tax is a tax on the total amount of consideration for sale, cash or otherwise, of the mini storage units. 006 05 009 Ark. Code R. GR-3(C)(1) (Weil 2008). In other words, the more storage units leased the more tax revenue that can be collected. This tax is collected by the locality in which the mini storage facility is located. 006 05 009 Ark. Code. R. GR-91 (Weil 2008).

However, this tax revenue may disappear during the beginning of the 2009 state legislative session. Senator Bobby L. Glover will present a bill to repeal the gross receipts

tax as it applies to self storage units. Arkansas Self Storage Association (2008), <http://www.arssa.org/salestax.htm> (last visited May 8, 2008). *See also* Letter from Bobby L. Glover, Arkansas Senator for Dist. 28, to Mr. Bill Humble, President of Arkansas Self Storage Association, <http://www.arssa.org/glove001.pdf> (last visited May 8, 2008) (details Mr. Glover's point of view and states his political agenda in this matter).

E. The Fayetteville Housing market may not be suitable for another subdivision.

As early as December 12, 2007 the current Mortgage Crisis was documented and explained by former chairman of the Federal Reserve, Mr. Allan Greenspan. Greenspan, Allan, *The Roots of the Mortgage Crisis*, The Wall Street Journal (December 12, 2007), <http://www.opinionjournal.com/editorial/feature.html?id=110010981> (last visited May 9, 2007). The effects of this Mortgage Crisis are apparent in Fayetteville.

On May 8, 2008 there were 1,957 foreclosed single family houses available to purchasers in Washington County. <http://www.foreclosure.com> (last visited May 9, 2008). Only one day later, 2,001 foreclosed properties were listed and available to purchasers in Washington County. *Id.* That is a total of 44 homes added to the list of foreclosed properties for sale within a single day.

But, it doesn't stop at Washington County. Shockingly, on May 8, 2008 a total of 1,378 of the 1,957 available foreclosed properties in Washington County were also located within the Fayetteville city limits. *Id.* One day later, 1,409 such properties were listed within the Fayetteville city limits. That means that 31 foreclosed properties were added within a day. Also, it means that 31 of 44 foreclosures added, exactly 75%, were located within the Fayetteville city limits.

III. CONCLUSION.

The rezoning of this property, from residential to commercial, is not permissible. The rezoning is not consistent with surrounding property. The effects upon the city may be detrimental. The revenues from the gross receipts tax on mini storage may not be collected in the future due to a repeal of that tax. The housing market may not support more growth, as evidenced by the rapidly growing number of foreclosures both in Fayetteville and in Washington County. For these reasons, the rezoning of the proposed Bridgedale Plaza property is unreasonable and impermissible.

Appendix A



1106 S. St. Andrews Circle
Stonebridge Meadows Subdivision

Bridgedale Plaza would come to the back of these properties, visible here between the houses.



1020 River Meadows Dr.
Stonebridge Meadows Subdivision

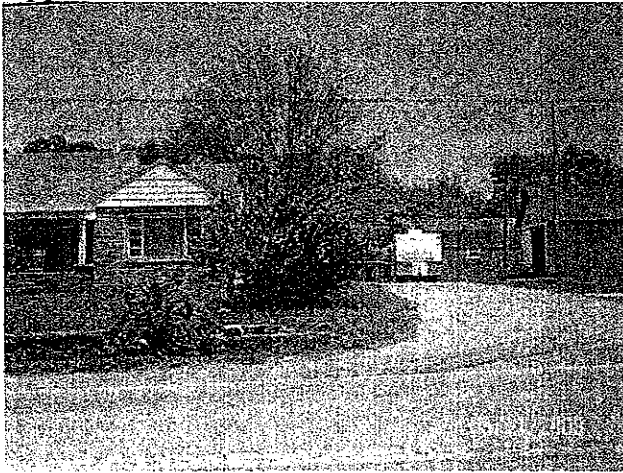
Bridgedale Plaza would come to the edge of this property, visible here as the open field behind the trees.



4045 Huntsville Rd.
Also known as Hwy. 16E.

This is the property upon which Bridgedale Plaza is proposed to be built. From the picture one can see that this property is occupied by a single family residence.

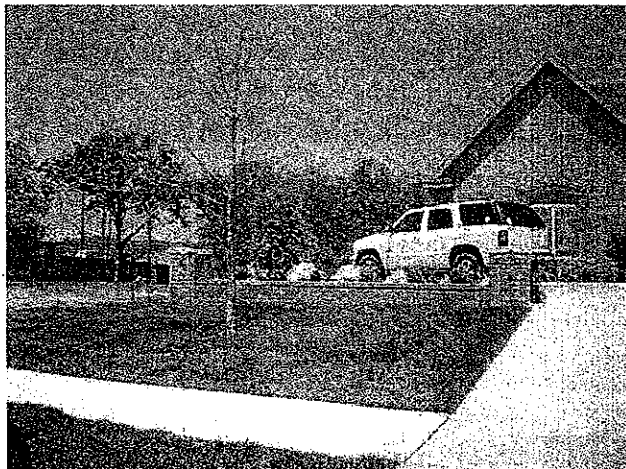
Appendix A



Property directly north of the proposed Bridgedale Plaza on Huntsville Rd./Hwy. 16E.

This property is just west of the intersection of Roberts Rd. and Hwy. 16E.

A single family residence, resembling the single family residences across from the proposed Bridgedale Plaza.



4170 East Point Dr.
Bridgedale Subdivision

This property, owned by George Clegg, is on the east side of the proposed Bridgedale Plaza.

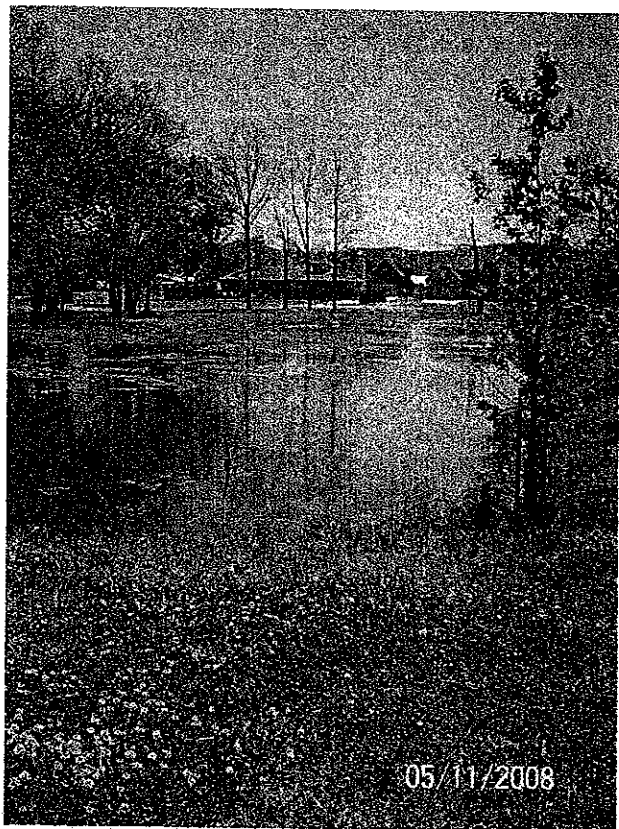
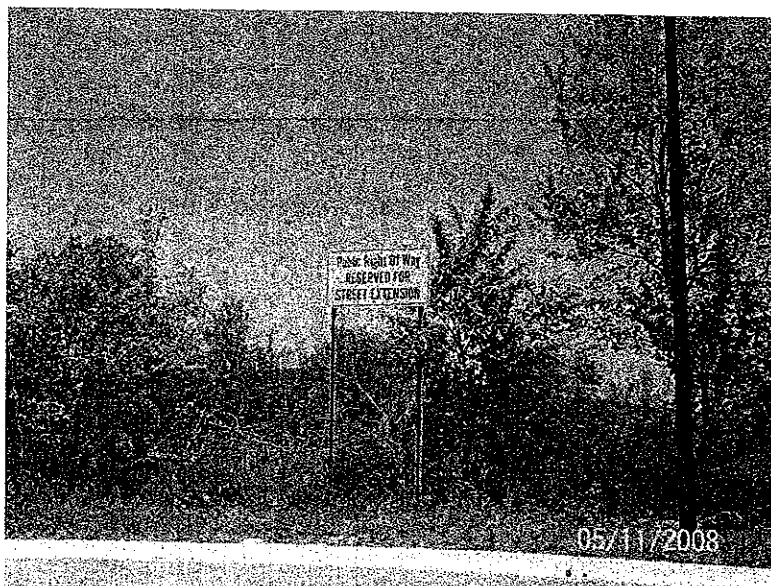


Property located in Bridgedale Subdivision at temporary end to a road proposed to enter Bridgedale Plaza (see next photo). This road intersects East Point Dr.

This property was appraised at \$460,000 but is now listed more than \$100,000 below appraisal with Harris-McHaney Realty.

Appendix A

As is clearly noted, this street will extend into Bridgedale Plaza from the Bridgedale subdivision. This street connects directly with East Point Dr. This property directly connects to the property of the picture above.

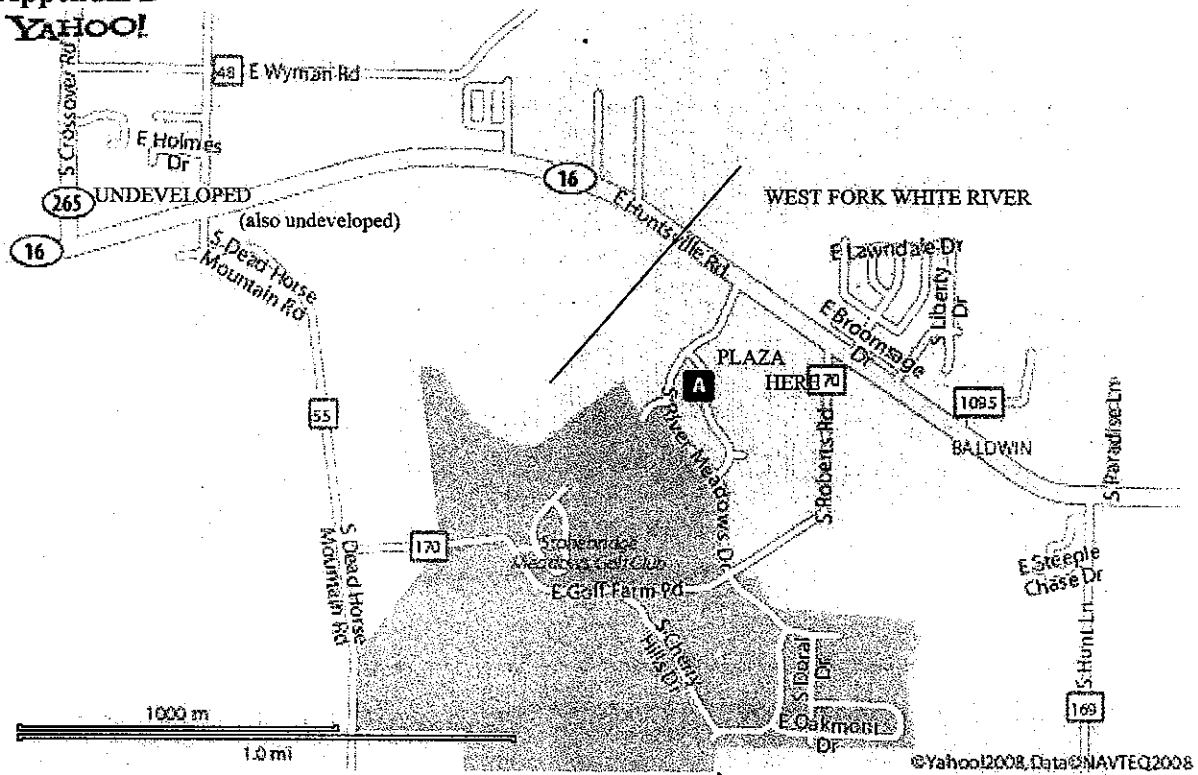


This property consists of wetlands, occupied by frogs and birds, located in the Bridgedale Subdivision on East Point Rd. The property adjacent to this on the northern side also contains a large pond, but is shaded by many trees. Birds and frogs are frequently visible there as well.

Bridgedale Plaza would directly affect this property, being placed against it in the west (from where the picture was taken).

This area may be protected wetlands! Further studies are needed to determine the status of this property.

Appendix B
YAHOO!



This map, from Yahoo! Maps, shows both the area for the proposed Bridgedale Plaza, an undeveloped commercial area, and the West Fork of the White River, which acts as a natural barrier to the left of the Stonebridge Meadows subdivision.

Bridgedale Plaza Appeal
5-6-08 City Council Meeting

B. 3
Bridgedale Plaza Appeal
Page 93 of 104



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.

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>Gavin W. Carlson</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>406 S. Huntsville Rd</u>
<u>[Signature]</u>	<u>5/5/08</u>	<u>4067 Huntsville E</u>
<u>Sheta 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>Cliff M. [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>Darryl 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 [Signature]</u>	<u>5/5/08</u>	<u>Claybourne</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>

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>
Sergio Flores	4-28-08	4242 E Broomage Dr.
Sally Farinck		4293 E. Broomage Dr.
Nary Farik	" "	" "
Peter Nelson		4293 E Broomage Dr.
Joe Smith Carrier		4293 E Broomage Dr.
Janie Bagg		4367 E Falcon Dr.
Angela Henderson		4383 Falcon Dr.
[Signature]		4380 Falcon Dr.
[Signature]		4438 E Falcon Dr.
Wanda Butterfly		4454 E Falcon dr.
Jose Granados		1045 LIBERTY
Mitzi Jones		4491 E. Falcon Dr.
Leslie Henry		963 S. Liberty Dr.
[Signature]		935 S. Liberty Dr.
Monica Sigley		863 S. Liberty Dr.
Shannon Pichee		846 S. Liberty Dr.
[Signature]		818 EASTVIEW DR.

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:

Natalie Doster

5-4-08

10 ACQUA X KING #2

Robert Bridwell

5/5/08

2507 Turtle Creek Dr

Goetz, John

4/5/08

2567 Turtle Creek Dr,

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

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 WINDY AVE

4286 E. LAUNDALE

4135 EAST POINT

4117 East Point

4103 EAST POINT

4085 EAST POINT

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:

Angie Allen

4458 E. Huntville Rd

W. E.

1140 S. Paradise Ln

Shelly Eoman

1140 S. Paradise Ln

Ross M. Eoman

4000 E. HUNTSVILLE RD

Bob

1872 S. MALLY WAGON

Mark Allen

121 N. Green Trl Apt 12

Tim Allen

121 N. Green Trl Apt 12

Lucy

121 N. Green Trl Apt 11

W. Mackey

1135 S. Paradise Ln May 3

Jimmy Mackey

1135 S. Paradise Ln

Kate Springer

1095 S. Liberty Dr

Dan Williams

1125 Liberty Dr

Wright

1125 Liberty Dr Fort

Wendy Kenda

1201 Roberts Rd

Steve Tankersley

1390 Lake Seaway Dr

Denise M. Roberts

901 S. Liberty

John

18713 Lake Seaway Dr

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:

Judy Beard 5/4/08

5263 Mills Way

John Beard 5/2/08

5263 Mills Way

M. H. Beard

1512 Lake Sequoyia

Jerry Riley 5/2/08

18713 King Rd Fayetteville AR

W. Riley 5/2/08

18713 King Rd Fayetteville AR

John Morgan

1388 Lake Sequoyia

W. Morgan 5/2/08

1388 Lake Sequoyia

Matt Gnaab

1212 Kerner Hill Rd

Michael Gnaab

2073 Cherry Hills

Carolyn Roberts

1197 Roberts Rd

Eldon Roberts

1197 Roberts Rd

Doris Roberts

4199 E. Huntsville

Donald Brennan

1356 S Roberts Rd

Ray Brennan

1356 S Roberts Rd

Ray Allen

1160 Roberts Rd

Melba Allen

"

Carl Alderson

9458 E. Huntsville Rd

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>
Brian Robinson	5/5/08	100 Tormaline Apt #1 72701
Mat Abbott	5/5/08	100 Tormaline Way Apt #4 72701
Matthew	5-5-08	100 Tormaline Way #4 72701
Alicia Belmont	5/5	68 Tormaline Way #7 72701
Alicia Inage	5-5-08	
Talisha Gray	5-5-08	209 Lapis Lane Apt 9
John S. Sabin	5-5-08	161 Lapis Ln #9
John Cooper	5-5-08	" " "
John	5-5-08	107 N. Lapis Ln. #8
John	5-5-08	" " "
John S. Sabin	5-5-08	107 N. Lapis Lane #9
John S. Sabin	5/5/08	93 N. Lapis Ln. Apt #7
Connie Vachon	5/5/08	" " " "
Kaei Wyland	5-5-08	93 Lapis Ln Apt. #1
Nicholas Bettioes	5-5-08	" " " "
Alanna Carle		145 N. Lapis Lane Apt 1
Alanna Carle	5/5/08	145 Lapis Ln, Apt. 5

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:

Dallas Nichols

938 S. Eastview

Samuel

938 S. Eastview

Faye Chandler

891 EASTVIEW DR.

Kathy Lenz

952 S. Eastview Dr.

Jim Hill

983 S. Eastview Dr.

Mike Harris

↑

River McElwain

905 S. Eastview Dr.

Michael Johnson

1017 S. Eastview Dr.

MM40

955 S. Regency Dr.

Demarc Howell

960 S. Regency Dr.

James Santos

961 S. Regency Dr.

Paul Rose

973 S. Regency Dr.

Ken Bradley

917 Parkwood St

Quint Jackson

897 S. PARKWOOD DR

Lang Kueis

888 S. Parkwood Dr

Dan Swann

761 S. Parkwood Dr

BZ

919 S. Regency Dr

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>
<u>Denny Wiman</u>	<u>4/30/08</u>	<u>4264 E. Landale Dr</u>
<u>Janet Adams</u>	<u>4/30/09</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>1011 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>1111</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 Biggitt</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayetteville AR</u>
<u>Kerry Biggitt</u>	<u>5-1-08</u>	<u>5633 E Country Ridge Fayetteville AR</u>
<u>LEE PAOLO ESTOENAS</u>	<u>5-1-08</u>	<u>1298 DEERFIELD WAY</u>
<u>ERIN LUPE</u>		<u>1388 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 Shumaker</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

Name:

Date:

Address:

Mark Ross 5/5/08

Geoffrey Jenkins 5/5/08

Carol 5/5/08

Amanda Ann 5/5/08

Karl Ascherli

Alynn Smith

[Signature] 5/5/08

Ben Smith 5/5/08

Brenna E. Davidson 5/5/08

Spencer Page

Ryle Miller

Amy Schillinger

Larry Dwyer

Haley Barker

Lois Lantry

Josh Attoun

Shelly DeMott

1455 Lepus Ln, Fayetteville, AR 72701

201 Lepus Ln Fayetteville, AR 72701

1453 Lepus Ln Fayetteville, AR 72701

1451 LAPIS LN #4 Fayetteville AR 72701

1952 Spinel Link apt #1

1952 E. Spinel Link #7

1965 E Spinel Link

122 Aqua Crossing #2

122 Aqua Crossing #2

122 Aqua Crossing #4

44 Aqua Crossing

78 Aqua Crossing Apt 7

78 Aqua Crossing Apt 8

78 Aqua Crossing #10

70 Aqua Xing #9

70 Aqua Xing #7

70 Aqua Xing #7

70 Aqua Xing #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

Karen Boston

Hal Alderson

Myrtle

Kance Swift

Jan Miller

Tripp Roney

Marica Smith

Donald D. May

Paul Netter

Kelly Scott

Wade Wright

Deanna

K. Martin

J. Orlicell

1649 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.

1917 FISCUE CT.

1945 S. FISCUE CT.

5320 Military



April 16, 2008

Ms. Sondra Smith, City Clerk
City Administration Bldg
113 W Mountain St, Room 308
Fayetteville, AR 72701
479-575-8323

(Via Hand-Delivered)

**Re: Forest Hills PZD Rezone
Appeal Request**

Dear Ms. Smith:

On behalf of the applicant, Forest Hills Partners, LLC and managing member John Alford, we respectfully request an appeal of Planning Commission's decision to deny the rezone request as presented in the April 14th meeting. As you may be aware, only five planning commissioners were able to vote on this request. Out of the five, four voted in favor of the rezone.

The rezone request is for an 82 acre tract on the south side of Wedington across from Salem Street. As shown in the master development plan, the rezone to Planned Zoning Development will allow this property to develop with commercial, office, and residential uses over the next ten years. If approved, Neighborhood Market intends to immediately initiate the commercial development with a 40,000 square foot facility located near Wedington. The grocery store will provide economic benefit to the surrounding smaller out-parcels within the development which in turn will provide a benefit to the community living on the west side of Fayetteville. West Fayetteville residents will not have to travel as far for goods and services.

We would like this item to appear on the May 20th City Council Agenda. If you have any questions or concerns, please feel free to contact me at (479) 273-2209.

Sincerely,
Morrison-Shipley Engineers, Inc.

Heather M. Robason, P.E.
Representative for the Applicant, Forest Hills Partners, LLC

cc: City of Fayetteville Planning

left on the second reading 5/15/08



April 16, 2008

Ms. Sondra Smith, City Clerk
City Administration Bldg
113 W Mountain St, Room 308
Fayetteville, AR 72701
479-575-8323

(Via Hand-Delivered)

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Sincerely,
Morrison-Shipley Engineers, Inc.



Heather M. Robason, P.E.
Representative for the Applicant, Forest Hills Partners, LLC

cc: City of Fayetteville Planning

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: 02 May 2008

Subject: Appeal for Forest Hills Residential Planned Zoning District (R-PZD 07-2793)

RECOMMENDATION

Staff recommends denial of an ordinance to create a Residential Planned Zoning District for Forest Hills (R-PZD 07-2793) as proposed in its current form. Staff finds the rezoning and land use proposal is inconsistent with the adopted goals and policies of City Plan 2025.

If this ordinance is approved, the action would establish a unique zoning district for a multiple-use project with a maximum of 600 dwelling units and approximately 206,000 square feet of nonresidential space on an 82.39-acre tract. The Planning Commission voted to deny the application; the applicant has appealed the Planning Commission decision to the City Council in the time period required by ordinance.

BACKGROUND

The subject property contains approximately 82 acres located south of the intersection of Wedington Drive and Salem Road, extending south to Persimmon Street. The property is primarily zoned R-A, Residential Agricultural and contains a recreational facility, with the majority of the property being undeveloped and either tree-covered or open field.

The request is rezoning and land use approval for a Master Development Plan of a Residential Planned Zoning District with a maximum of 600 dwelling units and approximately 206,000 sq. ft. of nonresidential/commercial space all within five separate Planning Areas. The proposed density overall is 7.28 dwelling units per acre, located on approximately 60% of the site area. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval and/or large scale development approval prior to construction.

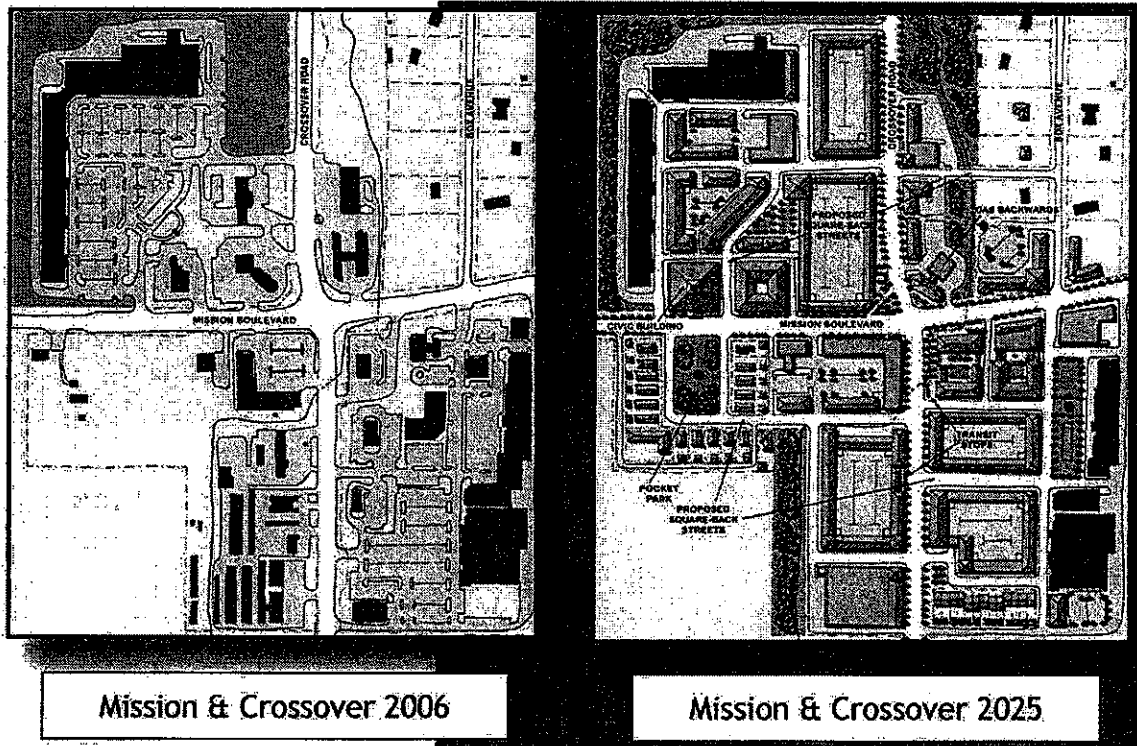
On April 14, 2008, the Planning Commission voted 4-1-2 on a motion to approve this request with Commissioner Cabe voting 'No', Commissioners Lack, Winston, Kennedy and Bryant voting 'Yes', Commissioners Trumbo and Graves recusing, and Commissioners Myres and Anthes absent. The motion to approve failed and the applicant has appealed this decision to the City Council. The main concerns with the project are centered on this R-PZD not complying with the purpose and intent of the PZD ordinance and the City's adopted land use planning objectives, principles, and policies, in particular the Future Land Use Plan.

DISCUSSION

The applicants have stated in their application that this project is designed to be a Traditional Neighborhood Development (TND) containing a variety of commercial businesses, smaller retail storefronts, and residential office areas, built in close proximity to condominiums, zero-lot line garden homes, and townhomes. In staff's opinion, the proposed development does share some common traits with a TND: 1) The development provides a variety of dwelling types; 2) there are

shops and offices for the convenience of the neighbors; 3) some of the buildings are located close to the street; and 4) some of the parking lots and garages are located in the rear yard. However, the aspects of the development that are commonly found in a TND are limited to Planning Areas 2-5, and even they are highly segregated uses. Planning Area 1, which is the commercial hub of the development, lacks any similarities with a Traditional Neighborhood Development. Planning Area 1 consists of large parking lots, drive aisles, and drive-thru lanes situated around the buildings, which prohibits the placement of buildings close to the street or in proximity to one another, thereby discouraging a pedestrian-friendly environment. Staff is not of the opinion that this development, or any Planned Zoning District, is required to develop as a TND; however, traditional town form is a primary goal of City Plan 2025. As such, conventional strip-center developments along major thoroughfares are not encouraged. This particular point is emphasized in the City Plan 2025 diagrams, which discourage the conventional separated, inefficient commercial outlot and parking lot use of land in favor of a more complete, compact and connected, highly efficient use of land. The adopted policy states the desired land use pattern "allows the economic recapture of land value for the developer while producing development that shortens trips for residents and uses existing infrastructure."

Page 10-4, City Plan 2025



City Neighborhood Area: The property is currently designated as a City Neighborhood Area on the Future Land Use Plan. These areas are denser, while still primarily residential in urban fabric, and encourage traditional neighborhood development that incorporates low-intensity nonresidential uses. The land uses proposed can be compatible with the variety of surrounding land uses. While staff does not have a great deal of concern with the proposed density and intensity of the development, provided significant infrastructure improvements and street connections are made to alleviate traffic congestion, the development pattern proposed for the commercial area along Wedington Drive is not in compliance with the adopted land use planning policies and goals.

Beginning with the initial submittal, staff has expressed concerns with the proposed development pattern, finding it to be inconsistent with that which is encouraged by the City for new development. The project is proposed in a conventional development pattern, not unlike other grocery store shopping centers with commercial outlots and multi-family developments in Fayetteville. This is a common development pattern that has been created in large part out of efficiencies of construction for individual product lines and marketability for separate, distinct uses. While this development pattern is allowed by right in most standard commercial and residential zoning districts, the City Council has adopted specific policies discouraging this development pattern with future zoning requests, as it does not contribute to the creation of desirable neighborhoods. The City's adopted policies call for development that is complete, compact and connected, with traditional town form as the primary development pattern. Staff finds that the proposed project is not consistent with the majority of the six goals and policies of the City's Future Land Use plan, and has provided discussion in detail on these findings within the staff report.

Goal 1: *We will make appropriate infill and revitalization our highest priorities.*

Goal 2: *We will discourage suburban sprawl.*

Goal 3: *We will make traditional town form the standard.*

Goal 4: *We will grow a livable transportation network.*

Goal 5: *We will assemble an enduring green network.*

Goal 6: *We will create attainable housing.*

The project does have many of the uses that are essential to a successful neighborhood – places to live, work and shop for daily goods. However, the form of the development lacks identity as a neighborhood and instead seems to be five very separate areas that will be constructed without relationship to one another: residential types are clearly separated from one another, creating a monotonous street environment without a true mixture of housing types; the open space is not located in a place that would strategically provide character / economic / social value for the community and instead is concentrated primarily in areas of detention ponds; the neighborhood market turns its back to the immediate residential community it proposes to serve and fronts the large parking area; commercial areas are surrounded by individual parking lots and do not seem to relate to any of the other uses within the site, nor one another; pedestrian circulation is secondary to the vehicle, which is highly emphasized, as evidenced by the 6-7 lane street sections along Wedington/Salem that are proposed to accommodate the 16,556 vehicle trips per day that are expected to be generated to/from this site; and connectivity by public street is low to adjacent properties, creating higher potential for traffic congestion. Ultimately, the commercial area of the site is modeled after a conventional strip-center development pattern where vehicles, not pedestrians, dominate the environment, and is indicative of older, existing commercial strip centers along 6th Street and College Avenue and the housing is designed as separated pods of buildings types.

Opportunities to improve the site plan are evident, in staff's opinion, and could lead to a project that utilizes the land more efficiently, more economically, and creates more of a community than stand-alone, separated uses that does not reflect the community character Fayetteville envisions. However, significant changes are necessary to meet the guiding policies for a City Neighborhood Area:

- Utilize principles of traditional urban design to create compatible, livable, and accessible neighborhoods, including a mixture of housing types, small lots/blocks, shared and hidden parking lots and slow traffic streets

City Council Meeting of May 20, 2008
Agenda Item Number

- The form of multi-family uses within the development could be mixed, with larger buildings adjacent to the main road and smaller, less dense structures transitioning to adjacent properties. This would discourage the very repetitive nature of duplex/garden home buildings all in a row and the creation of another apartment complex.
- Commercial structures could be grouped into areas along the street that encourage pedestrian friendly environments, and at least provide the opportunity for alternative modes of transportation
- Commercial, office and multi-family uses could relate to one another better, transitioning along the proposed streets in a lot and block pattern, creating the desired urban form
- Parking could be shared between commercial uses, instead of each and every building designed for an anticipated peak-hour demand
- Greenspace should be functionally designed for the neighborhood residents
- Additional street connections could be utilized in order to distribute traffic and reduce the level of service "F" that is currently planned to occur at the Salem/Wedington intersection with several of the turning movements. This would include construction of a street at the Golf Links Road/Wedington intersection, which could greatly reduce traffic congestion and provide multiple points of access into the neighborhood.

In summary, staff finds the rezoning and land use proposal is inconsistent with the adopted goals and policies of City Plan 2025, and does not meet the criteria for approval of rezoning 82 acres as proposed. Several design changes have occurred through the review process to help alleviate some concerns, but the proposal for a conventional strip-center development pattern and separated land use patterns, instead of a traditional town form that provides the community character envisioned with the adoption of the City's Future Land Use Plan, is in direct contrast with City policy. Consequently, staff has recommended denial of the rezoning proposal.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2793 FOREST HILLS, LOCATED AT WEDINGTON DRIVE, SOUTH OF SALEM ROAD, CONTAINING APPROXIMATELY 82.38 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN.

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

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

From R-A, Residential Agricultural, R-O, Residential Office and C-1, Neighborhood Commercial to R-PZD 07-2793 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

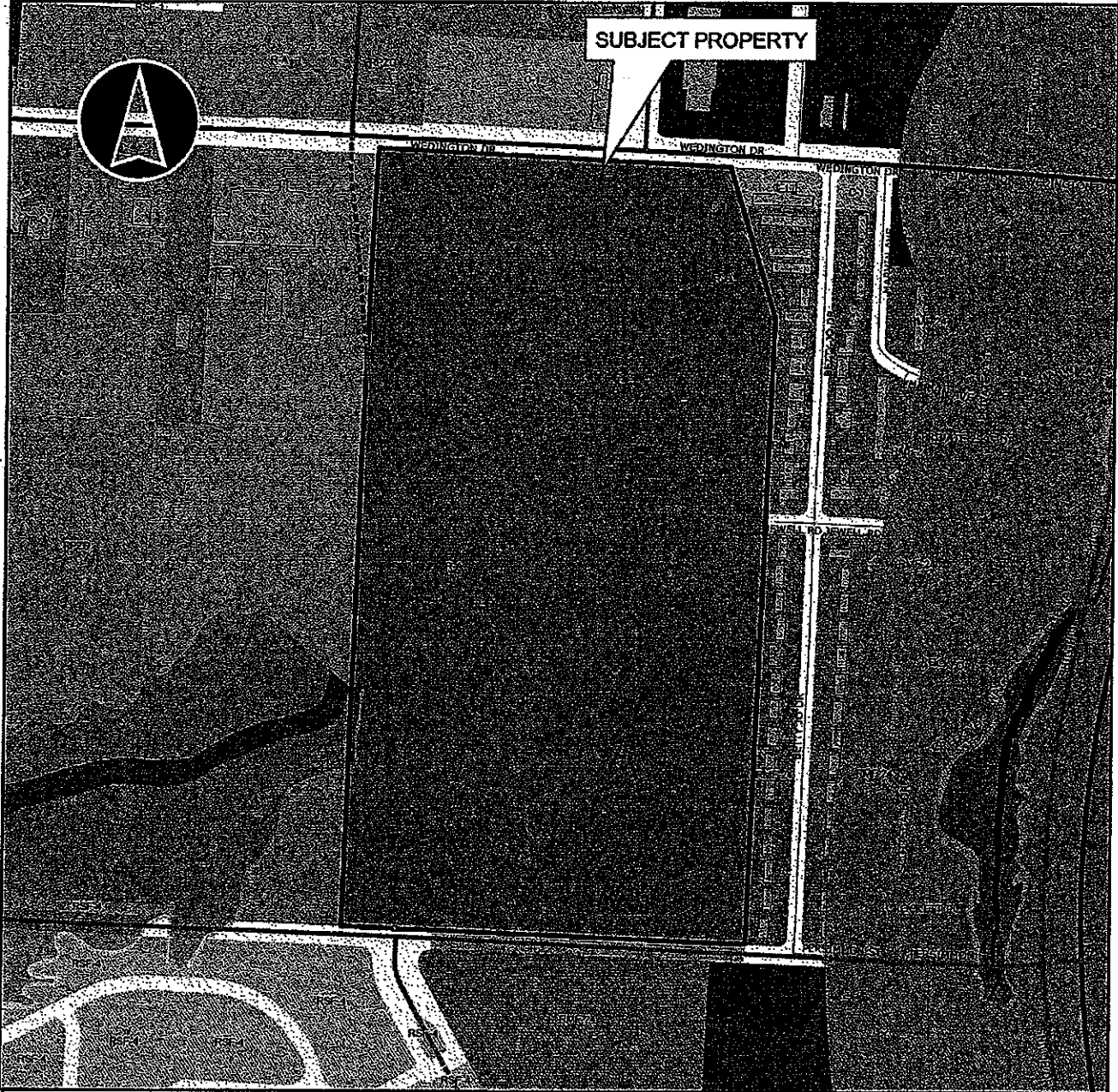
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD07-2793

Close Up View

FOREST HILLS



Overview



0 175 350 700 1,050 1,400 Feet

EXHIBIT "B"
R-PZD 07-2793

PART OF THE SOUTHWEST QUARTER (SW1/4) OF THE SOUTHWEST QUARTER (SW1/4), AND PART OF THE NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4), ALL IN FRACTIONAL SECTION 7, TOWNSHIP 16 NORTH, RANGE 30 WEST, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING THAT PARCEL DESCRIBED IN DEED 93-07592 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SE CORNER OF THE SW1/4 OF THE SW1/4 OF SAID SECTION 7; THENCE ALONG THE SOUTH LINE OF SAID SW1/4 OF THE SW1/4 N87°34'57"W 1369.42 FEET; THENCE N01°54'40"E 1685.93 FEET; THENCE N02°29'51"E 711.94 FEET; THENCE N03°21'53"E 255.36 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF WEDINGTON DRIVE (ARKANSAS STATE HIGHWAY 16); THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE S87°01'26"E 863.49 FEET; THENCE CONTINUING ALONG SAID SOUTH RIGHT-OF-WAY LINE S87°04'49"E 330.00 FEET; THENCE S16°39'02"E 535.19 FEET; THENCE; S02°07'38"W 2136.02 FEET TO THE POINT OF BEGINNING, CONTAINING 3,588,472.8 SQUARE FEET OR 82.38 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS AND RESTRICTIVE COVENANTS OF RECORD OR FACT.

CONDITIONS OF APPROVAL:

R-PZD 07-2793

Page 1 of 3

Conditions of Approval for R-PZD 07-2793 (Forest Hills)

1. *Street improvements.* All final street improvements will be determined by the Planning Commission at the time of development review. It should be noted that staff has consistently recommended the applicant acquire the necessary approvals to provide a public street connection to the Links at Fayetteville, in order to alleviate the congestion and traffic delays in turning movements anticipated by the traffic engineer at Salem and Wedington. This connection could provide a much better level of service, and would provide greater accessibility into the site, as well as providing a direct connection to Ruppel Road, a major north-south arterial. *The following street improvements were recommended based on the findings of the traffic study:*
 - *Roadway lane geometry constructed as shown in Figure 9 of the updated traffic study.*
 - *The westbound approach on Wedington Drive and Salem Road widened to accommodate dual westbound left-turn lanes.*
 - *The eastbound approach on Wedington Drive and Salem Road widened to accommodate the addition of an eastbound right-turn lane.*
 - *The southbound approach on Salem Road and Wedington Drive widened to accommodate a second southbound left-turn lane.*
 - *Salem Road, south of Wedington Drive to Drive C, constructed to consist of two northbound lanes and two southbound lanes.*
 - *Salem Road, at the northbound approach to Wedington Drive, shall be widened to accommodate a northbound right-turn lane, a northbound thru-lane, dual northbound left-turn lanes and two southbound receiving lanes.*
 - *The existing traffic signal at Wedington Drive and Salem shall be re-constructed to accommodate the addition of a south leg to the intersection and the additional proposed lanes on the existing legs.*
 - *Drive B, eastbound and westbound approaches to Salem Road constructed to consist of left-turn lane, a thru-right-turn lane and a receiving lane.*
 - *Drive C eastbound approach to Salem Road constructed to consist of dual left-turn lanes, a thru-right-turn lane and a receiving lane*
 - *Drive C westbound approach to Salem Road constructed to consist of a left-turn lane, a thru-right-turn lane and a receiving lane.*
 - *A fully-actuated traffic signal be installed at the intersection of Salem Road and Drive C coincident with full building-out of the site development (after Phase I).*
 - *Jewell Road eastbound and westbound to Salem Road constructed as single-lane approaches and one receiving lane.*
 - *Salem Road northbound and southbound approaches to Jewell Road constructed to consist of a left-turn lane, a thru/right-turn lane and a receiving lane.*
 - *Salem Road southbound approach to Persimmon Street align with Mountain Ranch Blvd., and constructed to consist of a left-turn lane, a thru/right-turn lane and a receiving lane.*
 - *Jewell Road shall be extended through the development to Salem Road and constructed with single-lane approaches*
 - *Improvements to Persimmon Street shall be in accordance with the current Master Street Plan street section design.*
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 area. Jewell Road will be extended into the development, connecting to Salem Road, which will be extended from Wedington Drive to Persimmon Street. Additionally, a street stub-out will be provided to

CONDITIONS OF APPROVAL:

R-PZD 07-2793

Page 2 of 3

the west property line that lines up with the centerline of an existing stub-out from Westside Village. Staff does recommend that the applicant continue to pursue connection to the Links at Fayetteville public street, in order to create a safer and more accessible traffic condition.

3. Planning Commission determination of a Master Street Plan amendment. *Staff supports the relocation of the collector street from the west property line, provided that the street connection between Salem Road and Mountain Ranch Boulevard is provided. However, staff does find the need for a public street connection from this development to the Links at Fayetteville/Wedington future signalized intersection, as has been consistently recommended. The Master Street Plan amendment shall be approved by the City Council prior to construction, or preliminary plat approval, whichever occurs first. (See associated resolution to amend the Master Street Plan).*
4. Curb-cuts shall be limited to a maximum width based on width of the lot as prescribed by Chapter 172.11 and shall at least 5' from the property line. Shared driveways may be located on the property line and may be up to 24' wide, or as determined at the time of preliminary plat approval. All driveways, drive aisles, parking lots, etc. shall otherwise meet the standards established in Chapter 177 Parking and Loading.
5. Any existing utility easements which conflict with building footprint locations shall be vacated and any existing utility lines relocated at the owner/developers expense prior to construction approval.
6. *Access.* The Planning Commission shall determine, at the time of development, the appropriate access points to surrounding public streets. Individual access points to Wedington Drive shall be prohibited; shared access points to Wedington Drive will be considered based on existing and anticipated traffic, proximity to curb cuts and signalized intersections. Due to the projected delayed traffic turning movements in the area, each curb cut shall be reviewed carefully to ensure traffic movement is not detrimentally effected.
7. *Design Standards.* 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 and building permit to ensure compliance. All homes shall be designed with a "front façade" facing onto adjacent public streets, when present, and to have varied facades to provide variety within the overall development. All urban residential buildings shall comply with urban residential design standards; all non-residential buildings shall comply with commercial design standards.
8. *Signage.* Signage shall be permitted as noted in the project booklet. The only types of freestanding signs permitted are monument signs. Pole/pylon sign are prohibited.
9. *Phasing.* Phasing shall be completed as described in the project booklet. For each large scale development approved, all building permits for that large scale development shall be obtained within one year of Planning Commission approval. For each Preliminary Plat approved, all permits necessary to construct the subdivision shall be obtained within one year of Planning Commission approval. All projects within the PZD shall be completed within three years of obtaining building permits or construction permits, for large scale developments and preliminary plats, respectively.

CONDITIONS OF APPROVAL:

R-PZD 07-2793

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10. *Outdoor Lighting.* All outdoor lighting shall comply with applicable regulations within the Unified Development Code. Single-family and two-family structures are exempt from the Outdoor Lighting Ordinance; however, all other residential, commercial and office structures are subject to said requirements.
11. No portion of any structure (i.e. porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
12. Landscape requirements as outlined in Chapter 177 shall be required with development plat approval.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a minimum of 25% canopy, subject to approval by the Urban Forester.
14. 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.
15. The following revisions shall be completed to the booklets/plats prior to re-submittal for City Council consideration:

Standard conditions of approval:

16. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. 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.
19. 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.**
20. 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.
21. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting April 14, 2008

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 8, 2008 Updated April 16, 2008

R-PZD 07-2793: (FOREST HILLS, 440): Submitted by MORRISON SHIPLEY ENGINEERS, INC. for property located at WEDINGTON DRIVE, S OF SALEM ROAD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 82.38 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with a maximum 600 dwelling units and 206,102 s.f. of non-residential space.

Planner: Jesse Fulcher

Background:

Property Description: The subject property contains approximately 82 acres located south of the intersection of Wedington Drive and Salem Road, extending south to Persimmon Street. The property is primarily zoned R-A, Residential Agricultural and contains a recreational facility. There is also a small amount of R-O, Residential Office and C-1, Neighborhood Commercial property in the northeast corner, which is currently developed as an insurance office building. Surrounding land use and zoning are listed in *Table 1*.

Table 1: Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Commercial-Banks and Retail	C-1 and C-2
South	Multi-family/Single-family	RSF-4, RMF-24 and C-2
East	Multi-family	RMF-24, R-O and C-1
West	Ozarks Electric	R-A

Proposal and Project Description: The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with a maximum of 600 dwelling units and approximately 206,000 sq. ft. of nonresidential/commercial space all within 5 Planning Areas. The proposed density overall is 7.28 dwelling units per acre (see each Planning Area in table below), located on approximately 60% of the site area. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval and/or large scale development approval prior to construction.

Master Development Plan: The proposed uses planned for the site are listed in *Table 2*.

Table 2
Forest Hills PZD 07-2793
Land Use Summary

USE	PLANNING AREA	DENSITY (UNITS/ ACRE)	DWELLING UNITS	NON- RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON- RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Commercial	PA-1	N/A	N/A	5,349	119,866	22.41	27.19%
Mixed Use	PA-2	9.17	100	7,912	86,236	10.90	13.22%
Multi-family	PA-3	22.72	354	N/A	N/A	15.58	18.91%
Two-family	PA-4	4.82	86	N/A	N/A	17.83	21.64%
Multi-family	PA-5	3.83	60	N/A	N/A	15.67	19.02%
TOTAL		7.28	600	2,501	206,102	82.38	100%

Parks and Recreation Advisory Board (PRAB): The Parks and Recreation Advisory Board reviewed this project on December 3, 2007 and made a recommendation of accepting money in-lieu of land based on the proximity to Dale Clark Park, adjacent to the Boys and Girls Club. Fees will be due prior to final plat or building permit approval and will be based on the type of unit constructed.

Solid Waste Service: The multi-family, mixed use and nonresidential portions of this development will require dumpsters and/or compactors. Locations shall be reviewed at the time of large scale development. Detached, single-family residences will be serviced by standard residential trash pick-up.

Phasing: The applicant is proposing to develop the property in four phases between 2008 and 2018 with development occurring as follows:

Phase 1 (2008-2015):

- File lot split application for creation of Wal-Mart property
- Construction of Wal-Mart Neighborhood Market and necessary utilities
- Improve existing traffic signal at Salem Road
- Construct Salem Road from Wedington to Jewell Road
- Install traffic signal at Salem and Jewell Roads
- Extend Jewell from Betty Jo to Salem
- Construct detention facilities
- A preliminary and final plat will be submitted after development of Wal-Mart to create future lots for development in Phase I.
- Development of remaining lots in Planning Area 1

Phase 2 (2011-2013):

- Extension of Salem Road to Persimmon Street
- Construction of homes and necessary infrastructure in Planning Area 4-Garden Homes.

Phase 3 (2013-2016):

- Construction of condominiums and mixed use buildings located in Planning Areas 2 and 3.

Phase 4 (2016-2018):

- Construction of townhomes located in Planning Area 5.

Water & Sewer: All necessary improvements and connections to complete the proposed development will be evaluated with the Preliminary Plat and Large Scale Development reviews.

Adjacent Master Street Plan Streets: Wedington Drive (a Principal Arterial); Persimmon Street (a collector street); Jewell Road (a local street); and Gulf Club Drive (a collector street)

Right-of-way Dedication: Right-of-way in the amount of 48.5' from centerline for Wedington Drive, 35' from centerline for Persimmon, 50' for Jewell Road and 70' for Salem Road, which will be extended through the development. The applicant is requesting a Master Street Plan amendment to relocate the north-south Collector Street that extends from Persimmon to Wedington at the intersection of Gulf Club Drive (Links at Fayetteville) to instead extend Salem Road to Persimmon. Additional right-of-way for new interior streets shall be dedicated as noted on the plats.

Access and Connectivity: Currently, Jewell Road is located at the east of the subject property, and is stubbed out for a future street connection. The applicant proposes to extend Salem Road through the development from Wedington Drive to Persimmon Street. Jewell Road will be extended from the east and connect to Salem Road. A new public street will be stubbed out to the west to line up with a street stub-out from Westside Village, which is under construction on Ruppel Road. Also, a private street will be stubbed out to the west to provide access for Ozarks Electric vehicles and large delivery vehicles for Wal-Mart. Additional public streets will be constructed to serve each area of the development, as noted on the plats.

Master Street Plan Amendment: A Master Street Plan Amendment to relocate the future extension of Gulf Club Drive, collector street that is currently under construction north of Wedington as part of the Links at Fayetteville project, has been submitted by the applicant and will need to be approved by the City Council. As shown on the Master Street Plan map, the collector street is positioned to be constructed north and south along the west side of the subject property. The purpose of the street is to provide a north-south connection from Persimmon Street through the Links at Fayetteville development, which is currently under construction, to Ruppel Road. At the request of staff, the applicants for Forest Hills approached Ozarks Electric Co., who owns the property to the west, and the developers of The Links at Fayetteville to discuss shifting the Link's street further east or otherwise providing this important connection, so that a through connection could be made through Forest Hills (see attached correspondence). Based on comments provided from the applicant, engineers for the development of The Links have stated construction is too far underway to redesign the street connection. Additionally, the location at which the street would enter the Forest Hills property is currently owned by Ozarks Electric Co. The developers of Forest Hills have the parcel under contact; however, Ozarks Electric has stated that they will not sell the property if the street were required to be relocated. The Master Street Plan amendment would allow for the construction of a collector street through the subject development, providing a north-south street connection from Persimmon to Wedington; it would not, however, provide the planned connection to Ruppel Road, a 4-lane boulevard that will ultimately provide a major north-south corridor.

Street Improvements: A traffic study has been conducted based on the overall development with a projected generation of 16,556 vehicle trips per day with full build-out. The traffic study also includes the impacts of surrounding projects approved for development. This is a significant increase over the existing traffic in the area; in comparison, 18,305 vehicle trips per day on Wedington were counted with a 2007 study with the Links at Fayetteville development. The project traffic from this development alone will almost double the traffic that is currently on Wedington, not including that generated by the Links or other projects under construction in the area. While not all traffic will travel to/from Wedington, this is anticipated to be the primary access point as it is the only access to I-540 in the vicinity, and will certainly result in increased congestion and difficulty in turning movements, as noted in the traffic study. All streets constructed interior to the development shall be constructed to Master Street Plan standards. The intersection of Salem Road and Wedington Drive is currently a signalized intersection. Improvements proposed to this intersection include the construction of additional traffic lanes on Salem and Wedington, which will require widening Wedington and the installation of additional traffic signals on the south side of the intersection. Improvements to the north side of Persimmon Street shall occur at the time of development along said street, in compliance with the Master Street Plan. Should the PZD be approved, the Planning Commission will determine all final improvements at the time of development, pursuant to the Unified Development Code.

Public Comment/Review Process:

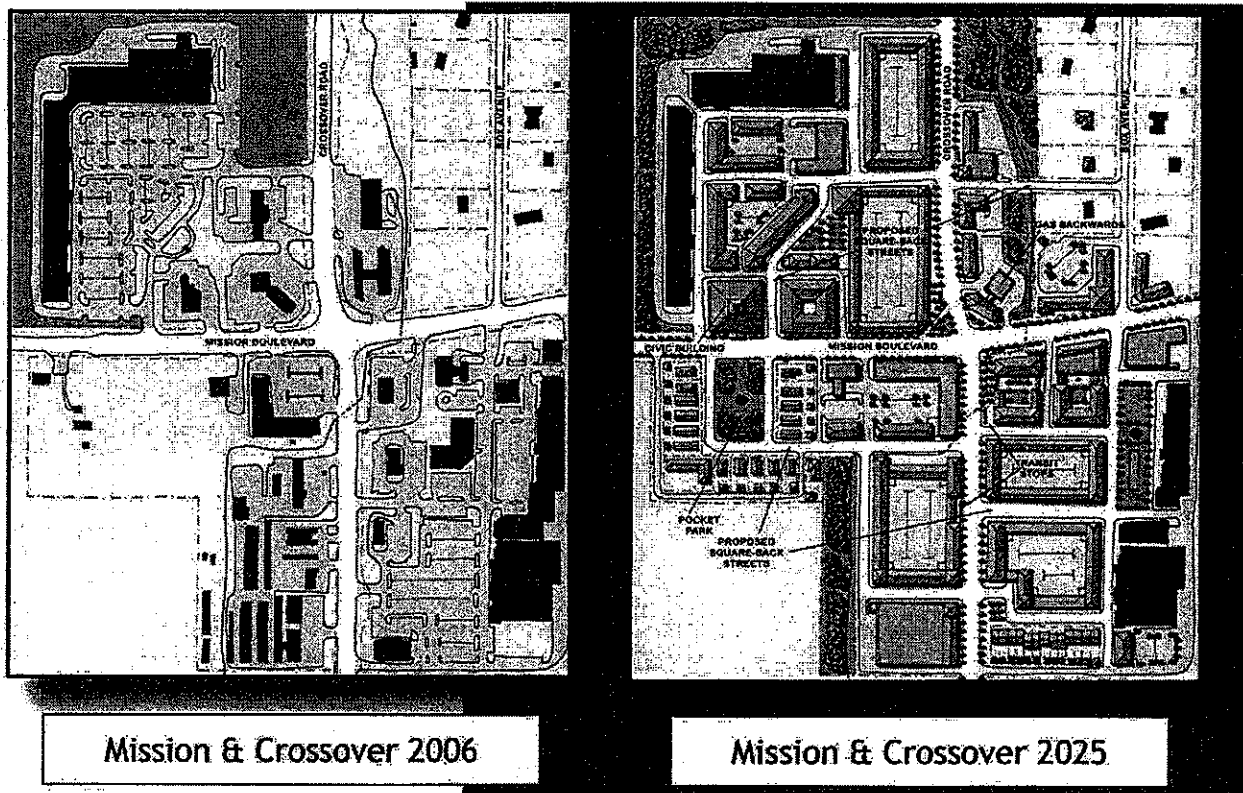
The subject proposal was originally submitted to the City Planning Department on October 18, 2007 with comments provided to the applicant at the Technical Plat Review meeting on October 31, 2007. Staff recommended that the request be reviewed again at the Technical Plat Review meeting based on comments received. The plans were not submitted again for review until March 6, 2008 with comments provided to the applicant at the Technical Plat Review meeting on March 19, 2008. Revisions were submitted on April 7, 2008 for the April 14, 2008 Planning Commission meeting. Staff has noted issues of concern regarding the segregation of land uses, conventional strip commercial development not consistent with the City's adopted goals and policies, and a lack of public street connections at each meeting. Staff has not received any comments from adjacent property owners or members of the public, other than the Ozarks Electric comment regarding the Master Street Plan amendment.

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.

Discussion: The applicants have stated in their application that this project is designed to be a Traditional Neighborhood Development (TND) containing a variety of commercial businesses, smaller retail storefronts, and residential office areas, built in close proximity to condominiums, zero-lot line garden homes, and townhomes. In staff's opinion, the proposed development does share some common traits with a TND: 1) The development provides a variety of dwelling types; 2) there are shops and offices for the convenience of the neighbors; 3) some of the buildings are located close to the street; and 4) some of the parking lots and garages are located in the rear yard. However, the aspects of the development that are commonly found in a TND are limited to Planning Areas 2-5, and they are highly segregated uses. Planning Area 1, which is the commercial hub of the development, lacks any similarities with a Traditional Neighborhood Development. Planning Area 1 consists of large parking lots, drive aisles, and drive-thru lanes situated in front of the buildings, which prohibits the placement of buildings close to the street. Staff is not of the opinion that this

development, or any Planned Zoning District, be required to develop as a TND; however, traditional town form is a primary goal of City Plan 2025. As such, conventional strip-center developments along major thoroughfares should not be encouraged. This particular point is emphasized in the City Plan 2025 diagrams, which discourage the conventional separated, inefficient commercial outlot and parking lot use of land in favor of a more complete, compact and connected, highly efficient use of land. The adopted policy states this practice "allows the economic recapture of land value for the developer while producing development that shortens trips for residents and uses existing infrastructure."

Page 10-4, City Plan 2025



City Neighborhood Area: The property is currently designated as a City Neighborhood Area on the Future Land Use Plan. These areas are denser, while still primarily residential in urban fabric, and encourage traditional neighborhood development that incorporates low-intensity nonresidential uses. The land uses proposed can be compatible with the variety of surrounding land uses and is reasonable based on the street system and infrastructure currently in place. However, significant changes to Planning Area 1 are necessary to meet the guiding policies for a City Neighborhood Area, including; 1) Encouraging pedestrian-friendly, commercial buildings that address the street; 2) encourage a block-and-street layout that promotes walkability, 3) provide cyclist-friendly road designs with slow design speeds; and 4) utilize principles of traditional urban design to create compatible, liveable, and accessible neighborhoods.

Recommendation:

While staff does not have a great deal of concern with the proposed density and intensity of the development, provided significant infrastructure improvements and street connections are made to alleviate traffic congestion, the development pattern proposed for the commercial area along Wedington Drive is not in compliance with the adopted land use planning policies and goals. Beginning with the initial submittal, staff has expressed concerns with the proposed development pattern, finding it to be inconsistent with those encouraged by the City for new development. While certain changes have been incorporated into the plans through the review process, the primary concern of creating a contributing neighborhood environment that is complete, compact and connected has not been addressed. Based on the findings included herein, staff recommends the Planning Commission deny R-PZD 07-2793 (Forest Hills).

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.* All final street improvements will be determined by the Planning Commission at the time of development review. It should be noted that staff has consistently recommended the applicant acquire the necessary approvals to provide a public street connection to the Links at Fayetteville, in order to alleviate the congestion and traffic delays in turning movements anticipated by the traffic engineer at Salem and Wedington. This connection could provide a much better level of service, and would provide greater accessibility into the site, as well as providing a direct connection to Ruppel Road, a major north-south arterial. *The following street improvements were recommended based on the findings of the traffic study:*
 - *Roadway lane geometry constructed as shown in Figure 9 of the updated traffic study.*
 - *The westbound approach on Wedington Drive and Salem Road widened to accommodate dual westbound left-turn lanes.*
 - *The eastbound approach on Wedington Drive and Salem Road widened to accommodate the addition of an eastbound right-turn lane.*
 - *The southbound approach on Salem Road and Wedington Drive widened to accommodate a second southbound left-turn lane.*
 - *Salem Road, south of Wedington Drive to Drive C, constructed to consist of two northbound lanes and two southbound lanes.*
 - *Salem Road, at the northbound approach to Wedington Drive, shall be widened to accommodate a northbound right-turn lane, a northbound thru-lane, dual northbound left-turn lanes and two southbound receiving lanes.*
 - *The existing traffic signal at Wedington Drive and Salem shall be re-constructed to accommodate the addition of a south leg to the intersection and the additional proposed lanes on the existing legs.*
 - *Drive B, eastbound and westbound approaches to Salem Road constructed to consist of left-turn lane, a thru-right-turn lane and a receiving lane.*
 - *Drive C eastbound approach to Salem Road constructed to consist of dual left-turn lanes, a thru-right-turn lane and a receiving lane*
 - *Drive C westbound approach to Salem Road constructed to consist of a left-turn lane, a thru-right-turn lane and a receiving lane.*

- *A fully-actuated traffic signal be installed at the intersection of Salem Road and Drive C coincident with full building-out of the site development (after Phase I).*
 - *Jewell Road eastbound and westbound to Salem Road constructed as single-lane approaches and one receiving lane.*
 - *Salem Road northbound and southbound approaches to Jewell Road constructed to consist of a left-turn lane, a thru/right-turn lane and a receiving lane.*
 - *Salem Road southbound approach to Persimmon Street align with Mountain Ranch Blvd., and constructed to consist of a left-turn lane, a thru/right-turn lane and a receiving lane.*
 - *Jewell Road shall be extended through the development to Salem Road and constructed with single-lane approaches*
 - *Improvements to Persimmon Street shall be in accordance with the current Master Street Plan street section design.*
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 area. Jewell Road will be extended into the development, connecting to Salem Road, which will be extended from Wedington Drive to Persimmon Street. Additionally, a street stub-out will be provided to the west property line that lines up with the centerline of an existing stub-out from Westside Village. Staff does recommend that the applicant continue to pursue connection to the Links at Fayetteville public street, in order to create a safer and more accessible traffic condition.*
3. *Planning Commission determination of a Master Street Plan amendment. Staff supports the relocation of the collector street from the west property line, provided that the street connection between Salem Road and Mountain Ranch Boulevard is provided. However, staff does find the need for a public street connection from this development to the Links at Fayetteville/Wedington future signalized intersection, as has been consistently recommended. The Master Street Plan amendment shall be approved by the City Council prior to construction, or preliminary plat approval, whichever occurs first. (See associated resolution to amend the Master Street Plan).*
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17. Staff approval of final detailed plans, specifications and calculations (where applicable) for

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

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20. 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.
21. 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: Lack

Second: Kennedy

Vote: 4-1-2 (The motion to forward with a recommendation for approval failed)

Meeting Date: April 14, 2008

Sec. 166.06. Planned Zoning Districts (PZD) R-PZD 07-2793 Forest Hills

(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 that while there are aspects of the development/rezoning proposal that meet the intent and purpose of the Unified Development Code, it is not to a degree that justifies the rezoning request as meeting the policies and objectives of City Plan 2025 as established by the City Council.

The Future Land Use Map adopted as part of City Plan 2025 designated this site as a City Neighborhood Area. City Neighborhood Areas are intended to have a wide range of residential building types, encourage complete, compact and connected neighborhoods, provide non-residential uses that are accessible for the convenience of individuals living in residential districts, encourage walkability as part of the street function, provide neighborhood shopping within walking distance of residential uses, or approximately one-quarter mile, and encourage pedestrian-friendly, mixed-use buildings through the use of transparent glass for commercial uses at street level and building entrances that address the street.

The development incorporates a range of residential uses, including tradition apartment buildings, townhouses and two-family/garden home structures, and provides residents with the ability to live, work and shop in one area. However, all of the different residential types are complete separated from one another, creating a monotonous street environment, without a true mixture of housing types in close proximity. The commercial district does not encourage walkability, or address the street, creating a pedestrian friendly environment. Ultimately, the commercial area of this development is modeled after a conventional strip-center development pattern where vehicles, not pedestrians, dominate the environment. In staff's opinion, the development style proposed for the commercial area is in direct contrast with the goals of City Plan 2025, as noted in the diagrams and stated polices within that land use document. The development pattern is instead much like almost directly across the street, where Harps Grocery anchors a large commercial strip center, with surrounding outlots occupied by banks, restaurants, and other commercial uses.

Goal 1 of City Plan 2025 is to *"...make appropriate infill and revitalization our highest priorities."* This site is surrounded by developed properties and is located between a principal arterial and collector street with indirect access to I-540. The density and intensity of this development is appropriate and compatible with surrounding properties and is supported by existing infrastructure. The site is primarily a greenfield development,

due to the fact that much of the site has not been developed before; this would be the first major land disturbance, other than for agricultural uses and the small amount of land currently utilized for the recreational facility. However, there are uses either developed or developing on all sides. The objectives of this goal, however, are to “minimize the impacts of sprawl, ensuring quality development and promote appropriate development that reflects the existing community character of Fayetteville’s neighborhoods.” Staff does not find that this project reflects the community character Fayetteville envisions.

Goal 2 states “we will discourage suburban sprawl.” The subject property is located well within the City boundaries with access to major roadways, an elementary school, parks and adequate infrastructure to support the development intensity, with appropriate improvements in place. However, the commercial component of the development, specifically, is not compact, and indeed sprawls over the site, with conventional outlot and parking lot development patterns indicative of conventional strip commercial centers along College Avenue or 6th Street. In addition, the separation of uses over the site is prevalent, which does not encourage social interaction or community neighborliness.

Goal 3 states “We will make traditional town form the standard.” As noted previously, the development proposes some aspects of a traditional development style, incorporating a variety of dwelling types and providing commercial and office services in close proximity. However, the development lacks meaningful and useful open spaces, a true “center” to the development, small blocks and is proposed to be established by a commercial node that lacks any traditional town form. The range of housing type that are proposed are separated by major roads into distinct pods. While staff understands the need for efficiency in construction/marketability for units, many very successful projects have incorporated a variety of housing types alongside one another, thereby contributing to the community diversity. This goal is the source of the “complete, compact and connected” concept that is required of new growth. Staff finds the proposal in contrast to this adopted policy.

Goal 4 states “we will grow a livable transportation network.” Internal streets south of the commercial area have provided more walkable, pedestrian and cyclist-friendly opportunities as part of the street function. Connections to Betty Jo Drive and Persimmon will help alleviate traffic congestions at Wedington Drive and provide several points of ingress/egress. Additionally, a stub-out to the west has been provided, which lines up with a stub-out from Westside Village. Staff finds that the proximity to I-540 can support a range of density and intensity of development, and maintain community character, if designed in a traditional town form. One of the objectives of this policy is that community design should precede and outrank traffic planning; once the community design is established, the transportation plans for balanced mobility should follow. The proposal to create a 7-lane wide highway section in order to increase the level of service is in contrast to the adopted policy to create “multiple corridors instead of single oversized ones.” An additional connection to the Links at Fayetteville/Wedington interchange would begin to create a street network capable of distributing traffic in multiple directions, at signalized intersections, instead of funneling everyone through one primary intersection.

Goal 5 states “we will assemble an enduring green network.” The developers have proposed a trail system through the tree preservation areas, with connections to public sidewalks, which

together should be a great benefit to the general public. Trees will be required along all public streets. In addition, the applicant is proposing to preserve a large tree preservation area to the south, with several smaller pockets internal to the development. Regional detention is planned to provide the open spaces within the development, though meaningful, useful open spaces have not been planned.

Goal 6 states "we will create attainable housing." The development will provide a variety of housing types and sizes, which could create a wider variety of opportunity for the homebuyer, in differing price points. However, as noted by the applicants in the project booklet, "attainable housing is challenging to accomplish when developers are required to fund and/or construct large amounts of public improvements, set aside large amounts of land for park land dedication, and retain 25% of the existing tree canopy." Staff finds that the land being proposed for development could be utilized, as noted in the City Plan 2025 study, much more efficiently, with less expenditure on infrastructure internal to the development, and with preservation of more tree canopy, (no parkland dedication is occurring on this site), in a traditional town form. Less land would initially be developed, with perhaps the same density and intensity.

In summary, staff finds the rezoning and land use proposal is inconsistent with the adopted goals and policies of City Plan 2025. Several design changes have occurred through the review process to help alleviate some concerns, but the larger policy issue of the proposal for a conventional strip-center development pattern and separated land use patterns, is in direct contrast with City policy. Consequently, staff has recommended denial of the PZD proposal.

(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 infrastructure improvements are made so the level of service will not decline due to the proposed development. Sections of the traffic study have been included as part of the report to provide a detailed summary of intersection improvements and design. Should the project be approved, staff will work with the applicants to determine the necessary and ultimate improvements for each phase of the project.

(4) Whether the rezoning is compatible with the surrounding land uses;

FINDING: The rezoning request, combined with the Master Development Plan, would allow a mix of uses and density over the site. The proposed zoning criteria concentrates the

commercial out-lots along the major thoroughfare, State Highway 16/Wedington Drive, and then transitions to office and then residential uses. Staff finds that the combination of residential, office and commercial uses to be compatible with the surrounding land uses, which are comprised of a similar mixture of uses.

- (5) Whether the subject land is suitable for the intended use and is compatible with the natural environment;

FINDING: The intended uses are suitable for the subject property. However, natural site features including floodplain, tree canopy and wetlands will have to be carefully considered at the time of development.

- (6) Whether the intended land use would create traffic congestion or burden the existing road network;

FINDING: The project will burden the existing road network. Approximately 18,000 vehicle trips per day are currently logged on Wedington Avenue; this project alone will contribute 16,000 more vehicle trips in the vicinity, with a majority of those traveling to Wedington. The applicant has 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 and expand the intersection of Wedington and Salem, so that an acceptable level of service is maintained. A 7-lane section is proposed along portions of the development frontage, in order to "average out" the level of service that is anticipated to be delayed for turning movements around the Salem/Wedington interchange. In general, combining residential and non-residential uses could help reduce the traffic generated by this development, by providing better pedestrian opportunities and the ability for persons within close proximity to travel smaller distances for daily goods and services. Additionally, future connections to Betty Jo and Permission will provide alternative routes for vehicular traffic, dispersing traffic to streets other than Wedington Drive. Staff has also recommended the applicant continue discussions with the adjacent property owner to provide a public street connection to the future signalized intersection of the Links/Wedington interchange. This would further distribute traffic and provide a direct connection to Ruppel Road.

- (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 uses for the site should be compatible with surrounding development as there is a variety of land uses surrounding the property. Commercial properties have been situated along Wedington Drive with 2-family dwellings and townhomes located near Persimmon Street, which is being developed with residential units on the south side of the road. Mixed use office and multi-family buildings will line the east side of the property, adjacent to existing multi-family buildings along Betty Jo. Drive. However, staff finds the overall development pattern will not enhance the surrounding neighborhoods, and will instead perpetuate a pattern of development that is not encouraged within the City.

Since the proposal is not for development rights, a detailed tree preservation plan has not been reviewed; however, the applicant proposes to preserve a large section of existing canopy adjacent to Persimmon Street with smaller areas of tree preservation provided interior to the development, where possible. There are two existing ponds on the property that will be expanded to serve as detention for the development. Additionally, preliminary studies have identified two small wetland areas. A great deal of common usable space is not provided, though the proposal does include a trail within the tree preservation area, and the Boys and Girls Club/Dale Clark Park is in close proximity.

In staff's opinion the land uses proposed are appropriate for this site. However, building locations, vehicular circulation and parking areas have not been designed to further the health, safety amenity and welfare of the community. The commercial area is comprised of large expanses of parking, which will be utilized during peak hour demands, but will ultimately be underutilized during off-peak hours. Vehicular circulation on Salem Road, between Jewell Road and Wedington Drive will likely be congested given the number of travel lanes required to be constructed to maintain an acceptable level of service. High peak hour traffic generating businesses combined with a multitude of turning movements will result in similar problems experience by other shopping areas, which are solely reliant on the automobile. This may in turn result in increased driving times and congestion for the overall region.

- (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 east and south property lines to preserve existing natural features and to provide a natural buffer adjacent to the residential neighborhood to the east. Where necessary, screening shall be provided between residential and nonresidential land uses. A landscape plan will be provided at the time of development and trees along the frontages of all streets, both public and private, will be required.

- (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 recommendations from a traffic study of the development in order to address the projected traffic volumes generated from the proposed uses. Salem Road, which will extend through the development, is planned to be constructed with six travel lanes at the north end of the property to serve the high volume of traffic associated with the commercial area. Salem Road will be reduced to a two-lane

section adjacent to the residential properties, which should create slower, safer vehicle speeds. Traffic congestion near the intersection of Wedington Drive and Salem Road is expected due to the proposed and existing land uses. Staff has recommended an additional connection to the future signalized intersection at Wedington and the Links, to help distribute traffic and relieve congestion and delayed turning movements at Salem and Wedington. No specific traffic improvements or street designs are being reviewed and approved with this master plan proposal.

- (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. Each commercial use within Planning Area 1 and 2 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: Buffer strips, open space and screening shall be reviewed in detail at the time of development and shall be provided as required by ordinance.

- (6) *Sidewalks.* As required by §166.03.

FINDING: A 5' sidewalk is to be constructed at the right-of-way line along Wedington Drive 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 intersections 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)

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 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. 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, commercial design requirements, and urban residential 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: 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 that some components of this proposal meet the intent of 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 several types of housing choices, and providing opportunity for local goods and services for area residents, as well as places to live and work. Staff is hopeful that natural site amenities including water ways and trees are considered in the final design of each planning area, and that useful, open spaces are preserved for the enjoyment of the general public and residents of the area.

Staff finds that the development is not consistent with the majority of the guiding policies of the Future Land Use Plan. This greenfield development will have large expanses of parking areas, which in staff's opinion will ultimately become future sites for infill and revitalization, to make a more efficient and sustainable use of the land. It seems that creating sites for future infill opportunities is in direct opposition with a policy that encourages infill. Furthermore, buildings are located 40-50' from the street, a development pattern that discourages pedestrian activity. The proposed development could have a negative impact on the surrounding area, by increasing traffic congestion near the I-540 interchange, which has already been determined in need of improvements. The project does not provide a harmonious, creative arrangement of land uses as stated in the above goals; rather, the land use pattern is generally in a more conventional separated land use pattern.

(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.

(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 finds the project proposes a variety and flexibility of land uses that is predominantly available in a PZD application, but in a manner that is inconsistent with the City's City Plan 2025. Heavy traffic and congestion are anticipated by the development, and will place demands on public infrastructure in the area without significant improvements. In general, the overall land use pattern is more typical of a strict rezoning application: C-2, R-O, RMF-24 and RT-12 could be considered in each of the planning areas, respectively, with the exception of reduced building setbacks in some instances.

- (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) *Conditions.* In no instance shall the residential use area be less than fifty-one percent (51%) of the gross leaseable floor area within the development.

FINDING: The residential uses on this property are at least 51% of the overall land area within the development.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:

- (a) The densities of surrounding development;
- (b) the densities allowed under the current zoning;
- (c) the urban development goals and other policies of the city's General Plan;
- (d) the topography and character of the natural environment; and
- (e) the impact of a given density on the specific site and adjacent properties.

FINDING: Surrounding development is multi-family residential and commercial. Therefore, a mixture of housing types and densities combined with office and commercial uses is appropriate. Additionally, the city's development goals, future land use plan, and infrastructure for this area supports a higher density.

- (2) *Lot area and setback requirements.* Taking into consideration the unique aspects of each project, preliminary development plans for Planned Zoning Districts shall conform as closely as possible to the existing standards for lot area minimums and setback requirements under this chapter.

FINDING: Lot area minimums and setbacks are varied on this project with residential structures oriented to the street and minimal front setbacks. This project provides for a variety of building footprints, though located in separate planning areas and separated, with a mixed unit type and mixed density.

Setbacks have also been reduced for the commercial areas along Wedington Drive; however, this has not transferred to buildings being located at and addressing the street. Rather, parking lots, drive aisles and drive-thru lanes disconnect the public realms from the private developments, creating an auto-dependent environment.

- (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 are varied on this project, due to the mixture of uses proposed. However, sufficient setbacks have been provided based on the proximity of adjacent developments, to provide adequate light and air.

- (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 maximum building areas are very similar to those found in comparable zoning districts and are therefore found to be appropriate.

***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 that a proposal for a mixture of land uses on the subject property to be appropriate giving the location with direct access to Wedington Drive and Persimmon Street and indirect access to I-540. Additionally, the property is located within one mile of Owl Creek Elementary School, the Boys and Girls Club and Dale Clark Park. Adequate infrastructure and access to public and commercial services supports the development of a dense, mixed use development.

However, the proposal is not consistent with the City's policy to make traditional town form standard and to discourage the proliferation of conventional strip-commercial uses along major thoroughfares. The development ultimately lacks several key aspects of a traditional town form, including meaningful open spaces, small blocks, civic uses and street oriented buildings. Furthermore, there are only three building types proposed for 600 dwelling units. A greater variety and mixture of housing would be beneficial. The most conflicting aspect of the development is the placement and orientation of the commercial structures along Wedington Drive. Standard strip centers, big-box retail and commercial out lots are associated with expansive and underutilized parking lots which are highly visible from the street. These areas are auto-dominated and prevent the creation of a pedestrian friendly environment. Images of car dominated shopping centers were included as part of the City Plan 2025 document to illustrate the City's desire to avoid this development pattern and to reinvent existing developments, reinvesting in a more efficient, economic development pattern.

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 under the current zoning of R-A 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 could allow for a development pattern that is a benefit to the citizens of Fayetteville. However, in staff's opinion, significant and fundamental changes to the form of this development are necessary to create a new neighborhood that is consistent with the City's adopted policies and goals.

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 certainly appreciably increase traffic congestion, and may contribute to traffic danger in the area; however, traffic congestion is currently a problem and therefore congestion will continue to increase as development occurs under the same development patterns. The applicants have conducted a traffic study based on development of the subject property in conjunction with other developing properties along Wedington Road. Improvements to the surrounding streets are proposed with development. Staff has recommended, as outlined in the adopted policy by the City Council, that the applicant pursue multiple means of access, as opposed to creating one, over-sized intersection.

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 alter population density in the area with the addition of 600 dwelling units, but with improvements to water and sewer systems, should not create an undesirable increase in load on public services based on the increase in population density.

Fire: These 76 acres are covered by Engine 7 located at 835 Rurple Road. It is 0.7 miles from the station with an anticipated response time of 2.75 minutes.

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



THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3469

TO: Jesse Fulcher, Planner
FROM: Alison Jumper, Park Planner
DATE: March 12, 2008
SUBJECT: Parks & Recreation Technical Plat Review Comments

Meeting Date: March 19, 2008
Item: C-PZD 08-2793 Forest Hills, 440))
Park District: NW
Zoned: RSF-4
Billing Name & Address:

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	@ .024 acre per unit = _____ acres	@ \$960 per unit = \$ _____
Multi Family	@ .017 acre per unit = _____ acres	@ \$680 per unit = \$ _____
Lot Split		@ \$960 per unit = \$ _____

COMMENTS:

- PRAB reviewed this project at the December 3rd 2007 meeting and recommended accepting money in lieu of land due to the proximity to Dale Clark park and the greenspace being provided by the POA.
- Fee is due at time of building permit.
- Each additional housing unit that is constructed in Fayetteville places an increased demand on the Parks and Recreation System. The money collected as part of this lot split will be used to fund future park acquisitions and improvements for this park quadrant.



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

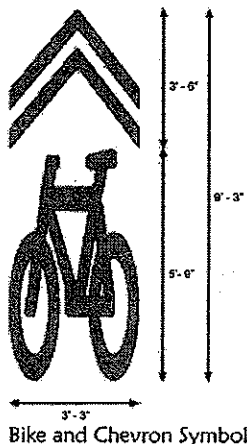
Date: March 18, 2008

Subject: Technical Plat Review Comments

ITEM #: C-PZD: 08-2793: Forest Hills

TRAIL COMMENTS

1. Owl Creek Trail is identified on the Fayetteville Alternative Transportation and Trails Master Plan along the north side of Persimmon Street. Show and label the 12 foot wide asphalt trail along the proposed south right of way line for Persimmon from the west to east property lines.
2. Salem Road is designated as an on-street bikeway. Please include thermoplastic bike symbol "sharrows" spaced every 300 feet along entire distance of the new Salem Street. Share the Road signs shall also be installed every 900 feet or as needed. Contact the Trails Coordinator for exact layout prior to installation.





PC Meeting of April 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: (479) 444-3472

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: April 8, 2008

ITEM #: C-PZD 07-2793: Master Development Plan (Forest Hills)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. At the time of development, staff will assess the plans with a minimum canopy cover of at least 25%. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.
4. All preserved canopy in the southern portion of the site and preserved canopy found on POA maintained lots is required to be placed within Tree Preservation Areas to ensure protection in perpetuity.

LANDSCAPE REGULATIONS

1. Landscape Regulations as defined in Chapter 177 will be required with development plan approval. This shall include but not be limited to street trees, detention facility plantings, adequate greenspace, etc.



Fayetteville Fire Department

303 W Center
Fayetteville, AR 72701
575-8365

TECH PLAT REVIEW COMMITTEE

Item: C-PZD 08-2793 (Forest Hills)
Presented by: Morrison Shipley Engineers, Inc
Reviewed by: Dale Riggins, Captain, Fayetteville Fire Department
Date: March 18, 2008

FIRE DEPARTMENT REQUIREMENTS:

1. **AFC 505.** New buildings shall have an approved address numbers, building numbers, or approved building identification placed in a position to be plainly legible and visible from the street or road fronting the property.
2. **AFC 503.2.1.** Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches.
3. **Aerial Apparatus Access**
 - a. **D105.1 Where required.** Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
 - b. **D105.2 Width.** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.
 - c. **D105.3 Proximity to building.** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572 mm) and a maximum of 30 feet (9144 mm) from the building, and shall be positioned parallel to one entire side of the building.
4. **AFC D103.6.1.** Fire apparatus access roads 20 – 26 feet wide shall be posted on both sides of the fire lane.
5. **AFC D103.6.2.** Fire apparatus access roads 26 - 32 feet wide shall be posted on one side of the fire lane.

6. **AFC C105.** Maximum distance between hydrants is 500' in residential developments. Closer distances may be required in area of commercial development.

7. **Fire Department Connections**

- a. **912.2 Location.** With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be located within 100' of a dedicated hydrant and so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of fire department connections shall be approved and shown on the plat.
 - b. **912.2.1 Visible location.** Fire department connections shall be located on the street side of buildings, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the fire code official.
 - c. Fire department connection shall be located no closer than the height of the building + 15% from the structure.
 - d. All Fire Department Connections are required to have signage that will indicate which structure the connection serves.
8. **503.2.4 Turning radius.** The required turning radius of a fire apparatus access road shall be determined by the fire code official. The Fayetteville Fire Department recommends a 30' turning radius to meet the needs of our aerial apparatus.
9. **503.2.5 Dead ends.** Dead-end fire apparatus access roads in excess of 50 feet in length, shall be provided with an approved area for turning around fire apparatus.
10. **503.2.5 Dead ends.** Dead-end fire apparatus access roads in excess of 50 feet in length, shall be provided with an approved area for turning around fire apparatus.

If you have any questions, please feel free to contact the Fire Marshal (718-7639) or myself (575-8365) to discuss these fire code requirements

+★ . . .

Dale Riggins
Fayetteville Fire Department



Fayetteville Fire Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Asst. Chief Bud Thompson
From: Captain Dale Riggins
Date: November 8, 2007
Re: November 7, 2007 Zoning Review – Fire Department Comments

C-PZD 07-2793 (Forrest Hills)

These 76 acres are covered by Engine 7 located at 835 Ruppel Road. It is 0.7 miles from the station with an anticipated response time of 2.75 minutes. Measure hydrant flow in this area is measured at 1696 gallons per minute. The Fire Department anticipates 118 (72 EMS and 46 Fire/Other) calls for service after the development is completed and all units are filled.

The service impact of this development will typically take eighteen months, after the development is started, to occur. We do not anticipated any effects on our response times or calls for service with this development. We can not calculate the calls for service regarding the commercial development located on this property. Typically commercial developments, like these, do not affect our calls for service.

R-PZD 07-2794 (Stonewood Gardens)

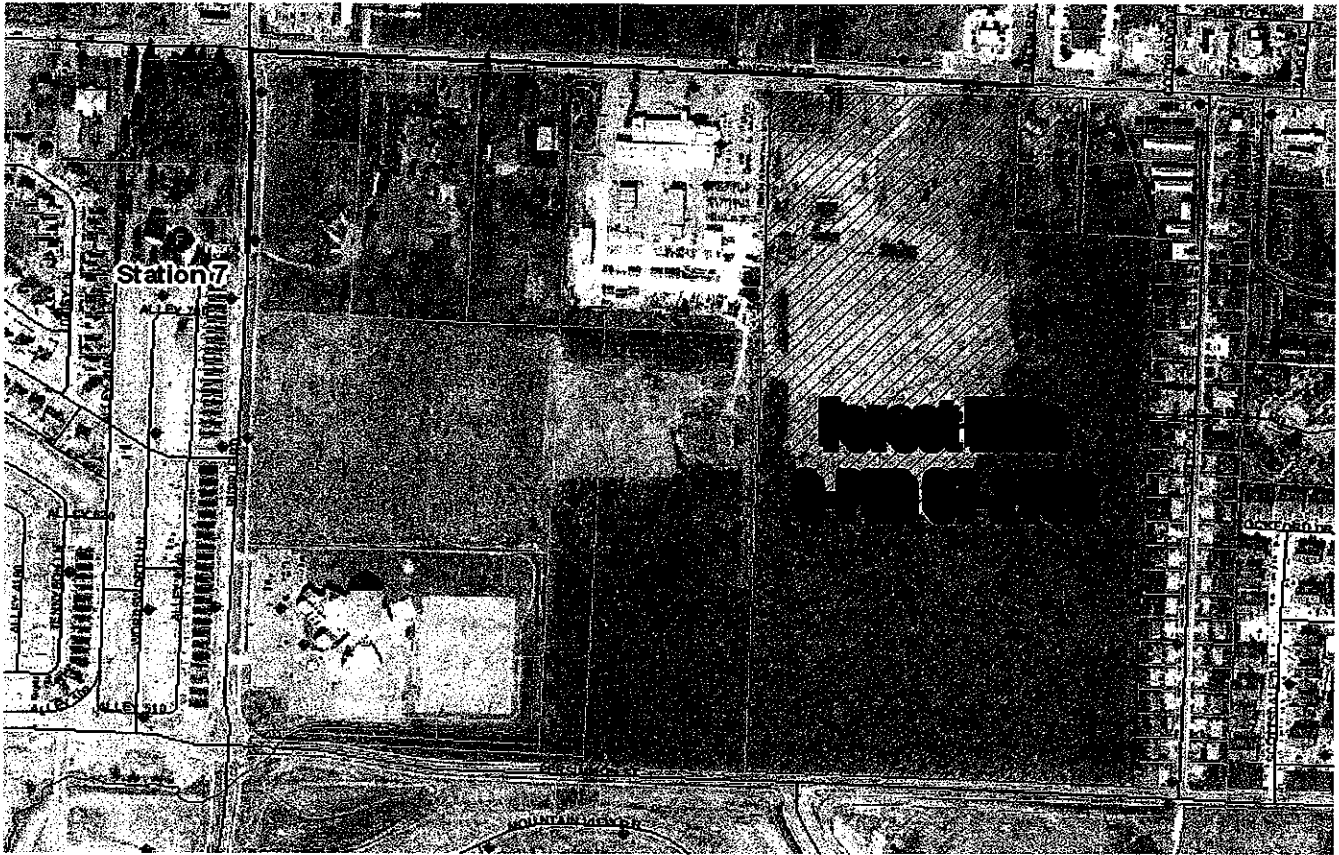
These 4.64 acres are covered by Engine 5 located at the corner of Crossover and Old Wire Road.

It is 2.5 miles from the station with an anticipated response time of 3.25 minutes. Measured hydrant flow in this area is measured at 1710 gallons per minute. The Fire Department anticipates 4 (3 EMS and 1 Fire/Other) calls for service after the development is completed and all units are filled.

The service impact of this development will typically take eighteen months, after the development is started, to occur. We do not anticipated any effects on our response times or calls for service with this development.

Please feel free to contact me if you have any questions concerning these comments.

Dale Riggins



APPLICANT'S DOCUMENTS



March 4, 2008

City of Fayetteville
Mr. Jesse Fulcher
125 W. Mountain Street
Fayetteville, AR 72701
479-575-8267

Re: *The Shoppes and Residences at Forest Hills*
 R-PZD 07-2793
 Master Street Plan Amendment

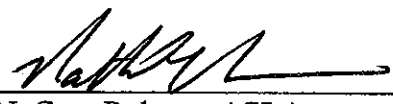
Dear Mr. Fulcher:

On behalf of Mr. John Alford of Forest Hills Development Group, LLC., I would like to request a Master Street Plan amendment for the planned extension of a collector street across the west side of Mr. Alford's property and across the east side of Ozarks Electric's property. According to the latest approved Master Street Plan, this proposed collector street would connect the driveway at the southeast corner of The Links at Fayetteville development to Mountain Ranch Boulevard which is located on the south side of Persimmon Street and at the southwest corner of Mr. Alford's property. We would like to relocate this connection as Salem Street, which goes through the interior of our site. Our current planned zoning district layout shows this street transitioning between 3 different cross sections. The northern 750' (plus or minus) will be a Minor Arterial, residential neighborhood street with an 85' right-of-way and a 54' face of curb to face of curb dimension. The middle 520' (plus or minus) will be a Collector (Intersection), residential neighborhood/city neighborhood street with a 70' right-of-way and a 41' face of curb to face of curb dimension. The southern 1700' (plus or minus) will be a Through Collector, residential neighborhood/city neighborhood street with a 59' right-of-way and a 30' face of curb to face of curb dimension.

This Master Street Plan amendment has also been discussed and agreed upon by Mr. Mitchell Johnson who is the President/CEO of Ozarks Electric Cooperation Corporation.

If you have any questions or concerns, please feel free to contact me at (479) 273-2209.

Sincerely,



N. Cory Roberts, ASLA

ELDRIDGE LAW FIRM
P.O. BOX 580
201 N. EAST AVENUE, SUITE 100
FAYETTEVILLE, ARKANSAS 72702-0580

JOHN R. ELDRIDGE, III
johnr@eldridgelawfirm.com

REBECCA L. PRICE
rlpriceatty@msn.com
Licensed AR and TX

TELEPHONE 479.443.0908
FACSIMILE 479.443.2713

March 31, 2008

VIA U.S. MAIL and EMAIL

Mr. John D. Alford
John D. Alford, P.A.
6301 Cliff Dr.
P. O. Box 10210
Fort Smith, AR 72917

Re: Ozarks Electric Cooperative Corporation – Forest Hills Partners, LLC

Dear John:

This letter confirms our meeting of March 29, 2008, held at Ozarks Electric Cooperative Corporation between you, Mitchell Johnson, CEO/President of Ozarks Electric, and me.

At that time, you provided us with copies of correspondence, memos, and other documents from the City of Fayetteville, Arkansas, in connection with your development on property immediately adjacent to and east of Ozarks Electric.

We have entered into a general understanding between Ozarks and Forest Hills Partners concerning that development which involves the possible sale to Forest Hills Partners by Ozarks of a one-acre tract of land on the northwest corner of the proposed development and on the northeast corner of the Ozarks' property.

The documents you provided show, among other things, that the City has asked Forest Hills Partners to explore a proposed public road from the Links project north of Highway 16 to line up with the west line of the Forest Hills development which would cross the one-acre tract which Ozark is considering selling to Forest Hills Partners. The purpose of this letter is to advise you that if the City makes that requirement, Ozarks will not sell the one-acre tract as such a road would interfere with the use of the Ozarks property. Not only would that proposed street be contrary to the traffic situation and usage of the Ozarks' property; it is definitely a deal killer to the proposed sale of the one-acre tract to the Forest Hills Partners, LLC. We hope that the City of Fayetteville will not make such a requirement of your development and that we are able to enter into a sale of this property to Forest Hills Partners based on the terms and conditions we have discussed.

Mr. John D. Alford
Page Two
March 31, 2008

If you desire additional information about our position, please do not hesitate to contact me.

Yours very truly,

John R. Eldridge, III

JRE/mlb

cc: Mr. Mitchell Johnson



March 4, 2008

City of Fayetteville
Ms. Carol Jones
125 W. Mountain Street
Fayetteville, AR 72701
479-444-3470

**Re: *The Shoppes and Residences at Forest Hills
R-PZD 07-2793
Technical Plat Review Response Letter***

Dear Ms. Jones:

The following responses correspond with Sarah Patterson's review of Forest Hills Master Development Plan letter dated October 29, 2007.

TREE PRESERVATION PLAN:

1. It is understood that a full Tree Preservation Plan will be required once this development comes through large scale development. The tree inventory has been completed and two copies are enclosed herein.
2. It is understood that we will be required to preserve 25% of existing tree canopy in order to receive staff's approval.
3. It is understood that significant trees and canopy found within the floodway are a high priority for preservation.
4. The decision to use a paved path or soft surface footpath will be made at the time of the large scale development.
5. The referenced staff recommendation of tree preservation locations has been considered in the revised plan layout. Every effort will be made to preserve trees throughout the entire project development.

LANDSCAPE REGULATION

1. It is understood that Landscape Regulations as defined by Chapter 177 will be required with the development plan approval and this shall include but not be limited to street trees, detention facilities, adequate green space, etc.

If you have any questions or concerns, please feel free to contact me at (479) 273-2209.

Sincerely,



N. Cory Roberts, ASLA

- b. **D105.2 Width.** Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925mm) in the immediate vicinity of any building or portion of building more than 30 feet (9144mm) in height.
- c. **D105.3 Proximity to building.** At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572mm) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building.
- 4. **AFCD103.6.1** Fire apparatus access roads 20-26 feet wide shall be posted on both sides of the fire lane.
- 5. **AFCD103.6.2** Fire apparatus access roads 26-32 feet wide shall be posted on one side of the fire lane.
- 6. **AFCD105** Minimum distance between hydrants is 500' in residential developments. Closer distances may be required in area of commercial development.
- 7. **Fire Department Connections**
 - a. **912.2 Location.** With respect to hydrants, driveways, buildings and landscaping, fire department connections shall be located within 100' of a dedicated hydrant and so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of fire department connection shall be approved and shown on the plat.
 - b. **912.2.1. Visible location.** Fire department connections shall be located on the street side of buildings, fully visible and recognizable from the street or nearest point of fire department vehicle access or as otherwise approved by the fire code official.
 - c. Fire department connection shall be located no closer than the height of the building + 15% from the structure.
 - d. All Fire Department Connections are required to have signage that will indicate which structure the connection serves.
- 8. **503.2.4 Turning radius.** The required turning radius of a fire apparatus access road shall be determined by the fire code official. The Fayetteville Fire Department recommends a 30' turning radius to meet the needs of our aerial apparatus.
- 9. **503.2.5 Dead ends.** Dead-end fire apparatus access roads in excess of 50 feet in length, shall be provided with an approved area for turning around fire apparatus.

If you have any questions, please feel free to contact Fire Marshal (718-7639) or myself (575-8365) to discuss these fire code requirements.

GLENN NEWMAN-STAFF ENGINEER COMMENTS:

- 1. Recommend meeting with the Links of Fayetteville to discuss changing the alignment of the proposed public road on the Links project to line up with the west property line of the Forrest Hills Development which would provide two signalized intersections for this project ultimately providing a higher level of service at Salem and Wedington.

✓ Please see response to the second Planning comment under "General Comments". In addition to conversations with Ozarks Electric, I contacted Jerry Kelso at Crafton Tull on 3/27/08. Jerry's opinion was that they were too far into construction to consider realigning

the road. He thought the water and storm along Links Drive was installed. Also moving the road from their west property line to the east would impact their tree preservation area. And lastly, Jerry said that this road was designed to line-up with the club house which is currently under construction. By moving the road, this would not be the case and more than likely not be supported by the owner.

2. Remove the commercial drive immediately south of the Salem and Wedington intersection.
✓ Done.
3. Increase the length of the transition for pavement widening at the intersection of Salem and Wedington based on formula $L=(W*S^2)/60$ where W is the width in feet and S is design speed in MPH and L is the length in feet. Provide Grading for transitions.
✓ The transitions along Salem and Wedington were increased to the appropriate lengths.
4. Move Drive B and the apposing driveway south so that the driveways are not in the transition length for the extra lanes.
✓ As discussed with staff, we have increased the transition length but will leave drive B in the original location.
5. Increase the right of way on Wedington and Salem as required for the new lanes, greenspace, and sidewalk relocations.
✓ Done.
6. Increase the distance between Drive C and Jewel to allow for a transition between the required 100 ft stacking at each intersection.
✓ As discussed with Peters, 100 ft stacking is not the actual peak queue length (see appendix capacity and LOS calculations). For PM peak flows the stacking for NBL at drive C is 28' and stacking for SBL at Jewell is 4'. 200' between the two intersections should be more than adequate.
7. Provide transitions as required east and west of the street widening along Persimmon.
✓ Persimmon will connect to the widened section on the west (currently being widened by Ozarks Electric). A taper on the east side is shown.
8. Redesign so that alley's do not intersect with the public street in an extreme curve.
✓ Revised so alley does not intersect public street.
9. Designate the potential wetlands as described in the Olloson Report on the existing survey map.
 - a. Explain how the wetlands will affect this project.
✓ This will be done during the design phase and after the Corps has made a wetlands determination.
10. Remove the existing utility easement from the site plan for clarity.
✓ We were asked to show and label all existing utility easements on the tech review comments from 10-31-07. We have revised the shading for clarity.
11. Off site sanitary sewer improvements are anticipated for full build out.
✓ Please explain.
12. This project is located in the potential assessment area for the future Salem bridge over Hamstring Creek.
✓ We are waiting to hear from staff on the location of the assessment area.
13. This review was for the concept of this project only. Further comments and requirements will be presented after a review of more detailed plans.

TRAFFIC STUDY DOCUMENTS

Traffic Study

Mixed-Use Development

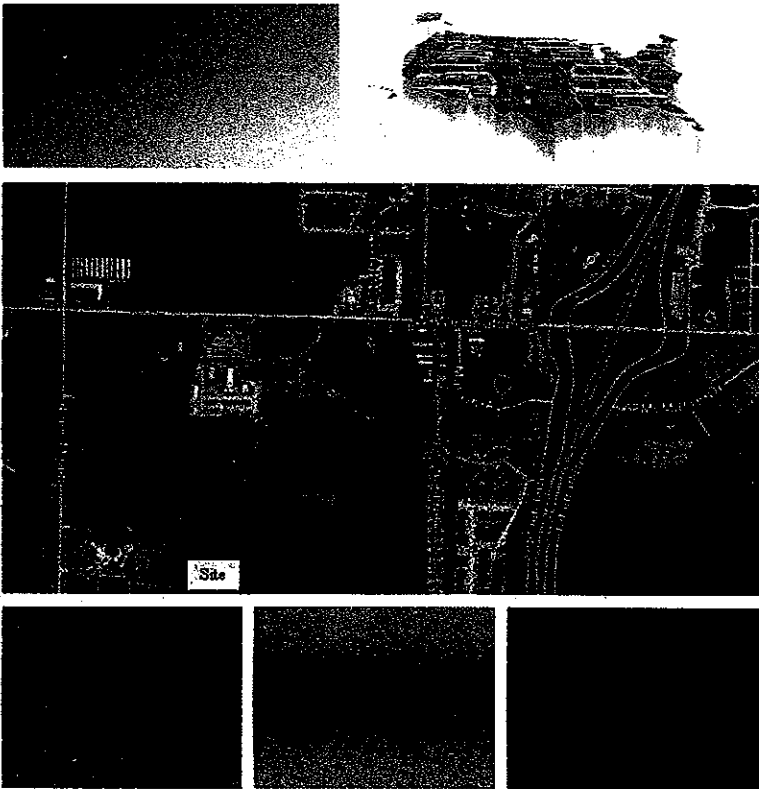
prepared for:

The essential building blocks...



Civil Engineers - Landscape Architects - Land Surveyors

Freeland - Kauffman & Fredeen, Inc.



Wedington Drive
and
Salem Road

Fayetteville, Arkansas



PETERS & ASSOCIATES
ENGINEERS, INC.

• CIVIL & TRAFFIC ENGINEERING •

5507 Ranch Drive - Suite 205 (501) 868-3999
Little Rock, Arkansas 72223 Fax (501) 868-9710

Project No.: P-1261

March 4, 2008

Traffic Study

EXECUTIVE SUMMARY

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development to be located on the south side of Wedington Drive (also Highway 16), immediately south of the Wedington Drive and Salem Road existing T-intersection in Fayetteville, Arkansas. The site is approximately 0.3 mile west of I-540. As a part of this development, Salem Road is proposed to be constructed south of Wedington Drive. Eventually, Salem Road will connect to Persimmon Street, south of the site. Also, Jewell Road is proposed to connect to Betty Jo Drive, immediately east of the site. The mixed-use development is proposed to consist of a variety of retail, office and residential uses as indicated on the project site plan. As a part of this study, additional analysis was conducted to include trips expected to be generated by the development of Planning Area 1 (retail uses only) of the site and not including a connection to Persimmon Street.

There are no planned roadway improvements by AHTD or the City of Fayetteville in the immediate vicinity of the site.

Existing AM and PM peak hours vehicle turning movement counts were made by this consultant for the intersection of Wedington Drive and Salem Road.

Projected traffic volumes for full build-out of the proposed development were calculated. These projected site-generated trips were added to the existing traffic volumes (with vehicle trips expected to be generated by other planned developments in the vicinity included). Per the City of Fayetteville Plat Review comments dated October 29, 2007, other planned developments in the vicinity have been included in projected traffic conditions at full build-out. These other developments are the following:

- o The Links at Fayetteville
- o Woodstock Community
- o Mountain Ranch Phase 1
- o Mountain Ranch Phase 2
- o Westside Village
- o Ruppel Row.

Traffic Study

Additionally, projected traffic volumes for Planning Area 1 only of the proposed development were calculated with-
out Salem Road connection to Persimmon Street. These projected Planning Area 1 site-generated trips were added to the existing traffic volumes (with vehicle trips expected to be generated by other planned developments in the vicinity also included).

Recommendations of this study are summarized as follows:

- It is recommended that the roadway lane geometry be constructed as shown on Figure 9, "Recommended Schematic Lane Geometry." These improvements should be constructed coincident with full site development.
- It is recommended that the westbound approach on Wedington Drive at Salem Road be widened to accommodate dual westbound left-turn lanes and a westbound right-turn lane.
- It is recommended that the eastbound approach on Wedington Drive at Salem Road be widened to accommodate the addition of an eastbound right-turn lane.
- It is recommended that the southbound approach on Salem Road at Wedington Drive be widened to accommodate a second southbound left-turn lane.
- It is recommended that Salem Road, south of Wedington Drive to Drive C be constructed to consist of two northbound lanes and two southbound lanes. At the northbound approach to Wedington Drive, Salem Road should widen to accommodate a northbound right-turn lane, a northbound thru lane, dual northbound left-turn lanes and two southbound receiving lanes.



Traffic Study

- It is recommended that the existing traffic signal at Wedington Drive and Salem Road be re-constructed to accommodate the addition of a south leg to this intersection and the additional proposed lanes on the existing legs.
- It is recommended that Drive A (right-in / right-out) intersecting Wedington Drive be constructed to consist of an inbound lane and an outbound lane with a raised right-turn channelizing island.
- It is recommended that the Drive B eastbound and westbound approaches to Salem Road be constructed to consist of a left-turn lane, a thru / right-turn lane and a receiving lane.
- It is recommended that the Drive C eastbound approach to Salem Road be constructed to consist of dual left-turn lanes, a thru / right-turn lane and a receiving lane, and the westbound approach to Salem Road be constructed to consist of a left-turn lane, a thru / right-turn lane and a receiving lane.
- It is recommended that a fully-actuated traffic signal be installed at the intersection of Salem Road and Drive C coincident with full build-out of the site development (after the completion of Planning Area 1). This recommended traffic signal should have provisions to be interconnected to the exiting traffic signal at the intersection of Wedington Drive and Salem Road.
- It is recommended that the Jewell Road eastbound and westbound approaches to Salem Road be constructed as single-lane approaches and one receiving lane. It is recommended that the Salem Road northbound and southbound approaches to Jewell Road be constructed to consist of a left-turn lane, a thru / right-turn lane and a receiving lane.

Traffic Study

- It is recommended that the Salem Road southbound approach to Persimmon Street align with Mountain Ranch Boulevard and be constructed to consist of a left-turn lane, a thru / right-turn lane and a receiving lane.
- Intersection improvements and curb cuts along Wedington Drive should be constructed in accordance with intersection design standards of AHTD and the City of Fayetteville and will require approval by both AHTD and the City.
- New intersections and traffic signal design along the planned Salem Road south of Wedington Drive and north of Persimmon Street should be constructed in accordance with intersection design standards of the City of Fayetteville and will require approval by the City.

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

The Trip Generation, an Informational Report (7th Edition), 2004, published by the Institute of Transportation Engineers (ITE) and The Trip Generation Software (Version 5 by Microtrans), were utilized in calculating the magnitude of traffic volumes expected to be generated by the proposed residential, office and retail land uses of this development. These are reliable sources for this information and are universally used in the traffic engineering profession.

Using the selected trip-generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip-generation rates to the land-uses proposed for the development makes these calculations. Results of this calculation are summarized on Table 1, "Trip Generation Summary - Full Build-Out," below.

FULL BUILD-OUT				24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
LOT REFERENCE	PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE		ENTER	EXIT	ENTER	EXIT
Retail	Grocery Store	40,461 Sq. Ft.	850	4,137	80	51	216	207
Outparcel 1	Assumed Pharmacy with Drive-Thru*	15,000 Sq. Ft.	881	1,058	18	14	50	53
Outparcel 2	Assumed Coffee Shop*	1,800 Sq. Ft.	933	1,190	54	51	22	20
Outparcel 3	Assumed Sit-Down Restaurant*	5,000 Sq. Ft.	932	509	24	22	26	17
Outparcel 4	Assumed Bank*	4,000 Sq. Ft.	912	789	22	18	73	73
Outparcel 5	Assumed Sit-Down Restaurant*	5,000 Sq. Ft.	932	509	24	22	26	17
Outparcel 6	Assumed Quality Restaurant*	5,000 Sq. Ft.	931	360	0	0	20	10
Outparcel 7	Assumed Specialty Retail *	10,000 Sq. Ft.	814	354	0	0	10	12
Outparcel 8	Assumed Specialty Retail *	2,162 Sq. Ft.	814	77	0	0	2	2
	General Office	2,162 Sq. Ft.	710	24	3	0	1	3
Outparcel 9	Gas Station*	8 Fuel Positions	944	1,078	38	38	44	44
Retail	Assumed Specialty Retail *	18,637 Sq. Ft.	814	690	0	0	18	22
Office Park	General Office	48,500 Sq. Ft.	710	534	66	9	12	60
Office Park	Assumed Specialty Retail *	37,720 Sq. Ft.	814	1,338	0	0	36	46
Office Park	Multi-Family Residential Apartments	100 Units	220	672	10	41	40	22
Residential	Single-Family Detached Housing	86 Lots	210	823	16	48	55	32
Residential	Residential Condominiums	354 Units	230	2,074	25	131	124	60
Residential	Residential Townhomes	58 Units	230	340	4	21	20	10
*These volumes adjusted to reflect 20% internal capture				TOTALS:	16,556	384 466	795	710
TOTAL ENTERING + EXITING					850		1,505	

Table 1 - Trip Generation Summary - Full Build-Out

Traffic Study

CAPACITY ANALYSIS

Results and Level of Service Analysis

Existing Traffic Conditions

Capacity and level of service analysis was performed for existing traffic conditions for the adjacent street AM and PM peak hours for the intersection of Wedington Drive and Salem Road.

As indicated in Table 2, "Level of Service Summary – Existing Traffic Conditions," all existing vehicle movements for existing traffic conditions at the intersection of Wedington Drive and Salem Road presently operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours. Traffic volumes used for this analysis are shown on Figure 3, "Existing Traffic Volumes."

EXISTING TRAFFIC CONDITIONS			Traffic Control				WB LT	WB TH	WB RT				Overall Intersection	
INTERSECTION														
PEAK HR				PEAK HOUR - LEVEL OF SERVICE										
AM	Wedington Drive and Salem Road		SIGNAL	A	A			A			C		C	B
PM				A	A			B			C		C	B

Table 2 - Level of Service Summary - Existing Traffic Conditions

Traffic Study

- Eastbound left-turn vehicle movement on Drive B at Salem Road with "Stop" sign control (LOS "E") during the PM peak hour. Vehicle delay associated with this movement should only occur for a short time during the PM peak hour with all other hours operating at better LOS.
- Eastbound left-turn vehicle movement on Drive C at Salem Road with "Stop" sign control during the PM peak hour (LOS "F"). These vehicle movements improve to an acceptable LOS "D" with proposed traffic signal control.

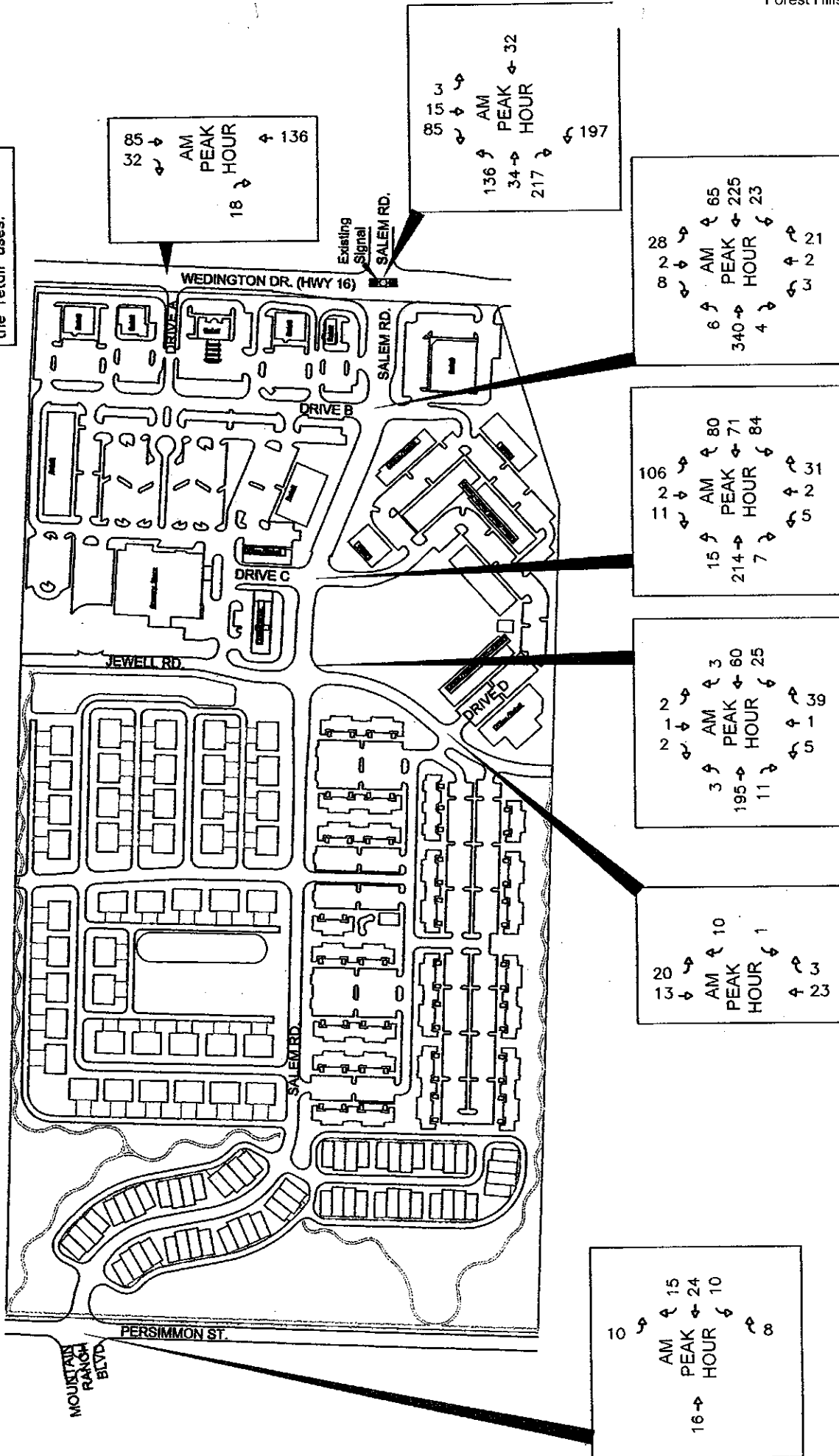
As a part of this study, for projected traffic conditions, queue length analysis was conducted for the study intersections. With the recommended lane geometry, analysis shows vehicle queue lengths will not exceed proposed storage lengths. The queue length analysis is included in the Capacity and Level of Service section in the Appendix for reference.

PROJECTED TRAFFIC CONDITIONS FULL BUILD-OUT		Traffic Control													Overall Intersection
INTERSECTION			PEAK HOUR - LEVEL OF SERVICE												
PEAK HR															
AM	Wedington Drive and Salem Road	SIGNAL	D	D	A	D	B	A	D	D	C	D	D	C	C
PM			D	D	B	D	C	A	D	D	D	D	D	C	C
AM	Wedington Drive and Drive A	SIGN		A		A					C				n/a
PM				A		A					C				n/a
AM	Salem Road and Drive B	SIGN	C	B	C	B		A			A				n/a
PM			E	B	C	B		A			A				n/a
AM	Salem Road and Drive C	SIGN	C	B	C	B		A	A	A	A	A			n/a
		SIGNAL	D	D	D	D		A	A	A	A	A			B
		SIGN	(F)	B	C	B		A	A	A	A	A			n/a
PM		SIGNAL	D	C	D	D		A	A	A	A	A			C
AM	Jewell Road and Drive D	SIGN	A			A				A			A		n/a
PM			A			A				A			A		n/a
AM	Salem Road and Jewell Road	SIGN		B		B		A	A	A	A	A			n/a
PM				B		B		A	A	A	A	A			n/a
AM	Salem Road and Persimmon Street	SIGN	A	A	A	A		C	B	C	B				n/a
PM			A	A	A	A		C	B	C	B				n/a

Table 3 - Level of Service Summary - Projected Traffic Conditions



NOTE: Site-generated traffic has been adjusted to reflect an Internal Capture Rate of 20% for several of the retail uses.



MIXED-USE DEVELOPMENT

TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

SITE-GENERATED
TRAFFIC VOLUME
AM PEAK HOUR

PROJECT No. P-1261
DATE: 2-25-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

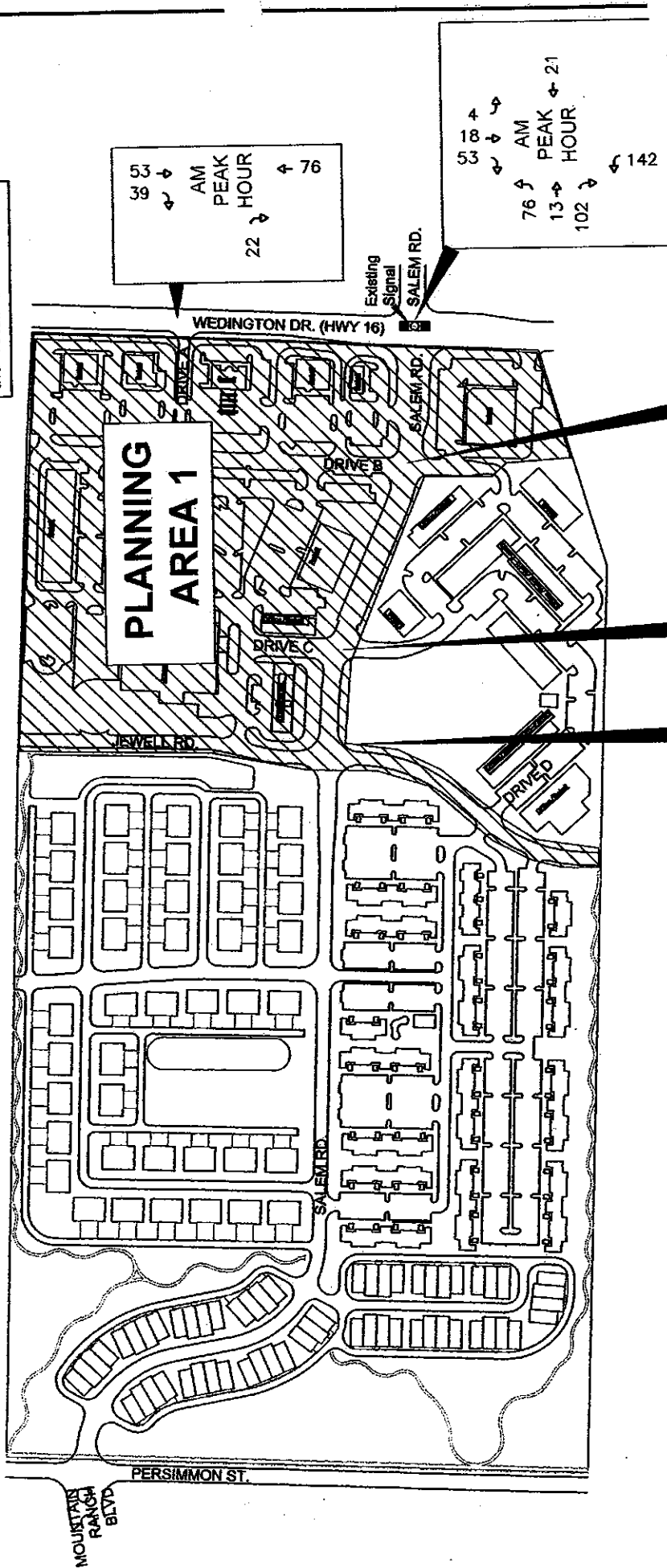
CIVIL & TRAFFIC ENGINEERING





NOTE: Site-generated traffic has been adjusted to reflect an internal Capture Rate of 20% for several of the retail uses.

NOTE: Planning Area 1 does not include connection to Persimmon Street.



53
39
22
AM
PEAK
HOUR
76

18
53
76
13
102
AM
PEAK
HOUR
21
142

56
1
2
3
133
3
AM
PEAK
HOUR
92
105
18

127
2
3
11
AM
PEAK
HOUR
100
9

6
1
AM
PEAK
HOUR
5
6
8
1

PLANNING AREA 1 SITE-GENERATED TRAFFIC VOLUMES AM PEAK HOUR

MIXED-USE DEVELOPMENT TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1261
DATE: 2-25-2008

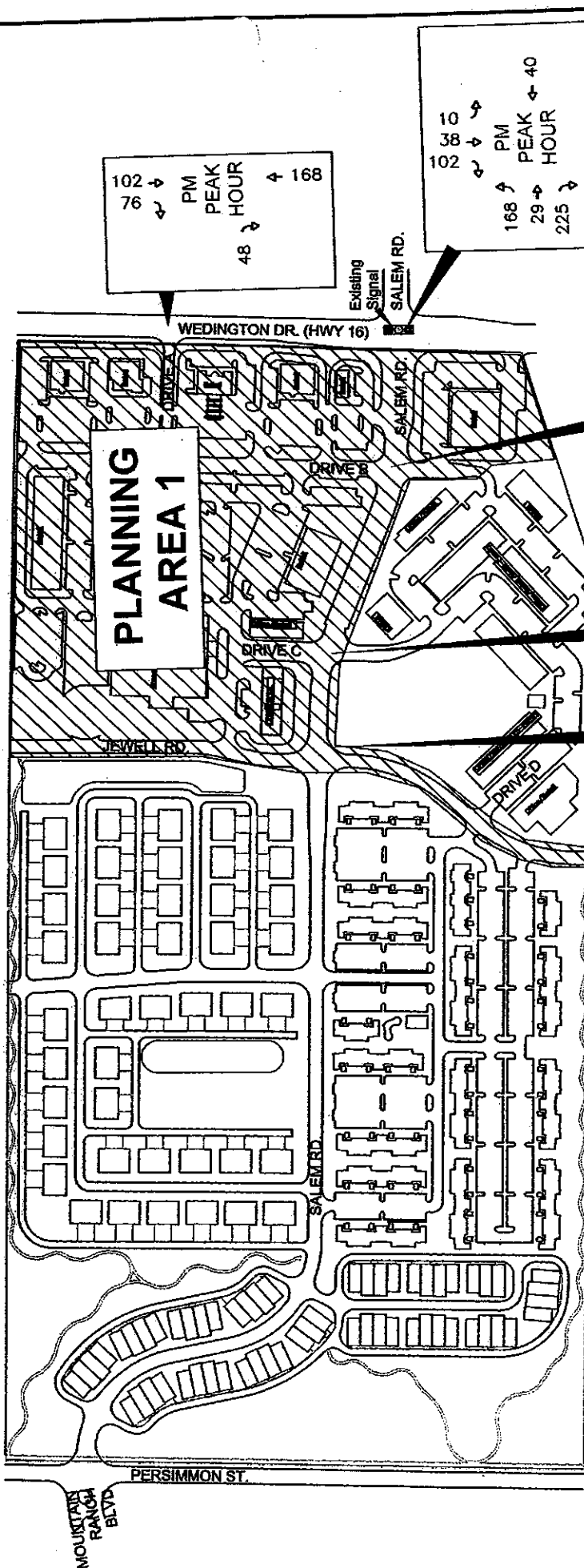
PETERS & ASSOCIATES
ENGINEERS, INC.
• CIVIL & TRAFFIC ENGINEERING





NOTE: Site-generated traffic has been adjusted to reflect an Internal Capture Rate of 20% for several of the retail uses.

NOTE: Planning Area 1 does not include connection to Persimmon Street.



102 → PM
76 → PEAK
48 → HOUR
168

10 → PM
38 → PEAK
102 → HOUR
168 →
29 →
225 →
274

125 → PM
2 → PEAK
5 → HOUR
178 →
203 →
298 →
36 →
14 →
2 →
5 →

283 → PM
5 → PEAK
5 → HOUR
193 →
20 →
24 →
36 →

14 → PM
2 → PEAK
10 → HOUR
14 →
15 →
2 →

Forest Hills

PLANNING AREA 1 SITE-GENERATED
TRAFFIC VOLUMES
PM PEAK HOUR

MIXED-USE DEVELOPMENT
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1261
DATE: 2-25-2008

PETERS & ASSOCIATES
ENGINEERS, INC.
CIVIL & TRAFFIC ENGINEERING

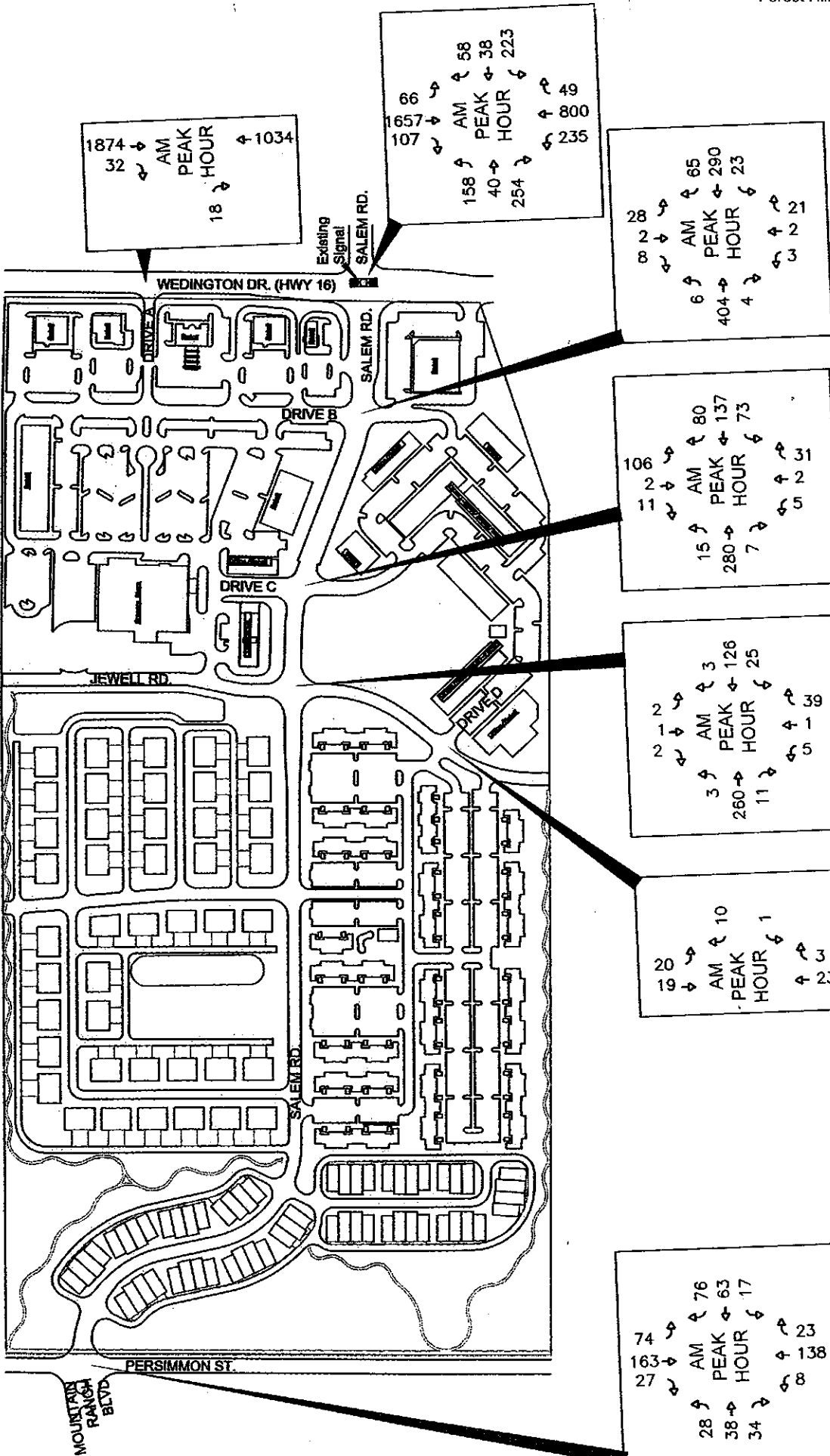


FIGURE 6-4
6-4



NOTE: Vehicle trips expected to be generated by planned developments by others in the vicinity (Woodstock Community, The Links at Fayetteville, Mountain Ranch, Westside Village and Ruppel Row) are included in the volumes depicted on this figure.

NOTE: Site-generated traffic has been adjusted to reflect an Internal Capture Rate of 20% for several of the retail uses.



SITE-GENERATED TRAFFIC PLUS
EXISTING TRAFFIC VOLUMES
AM PEAK HOUR

MIXED-USE DEVELOPMENT
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1261
DATE: 2-25-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING

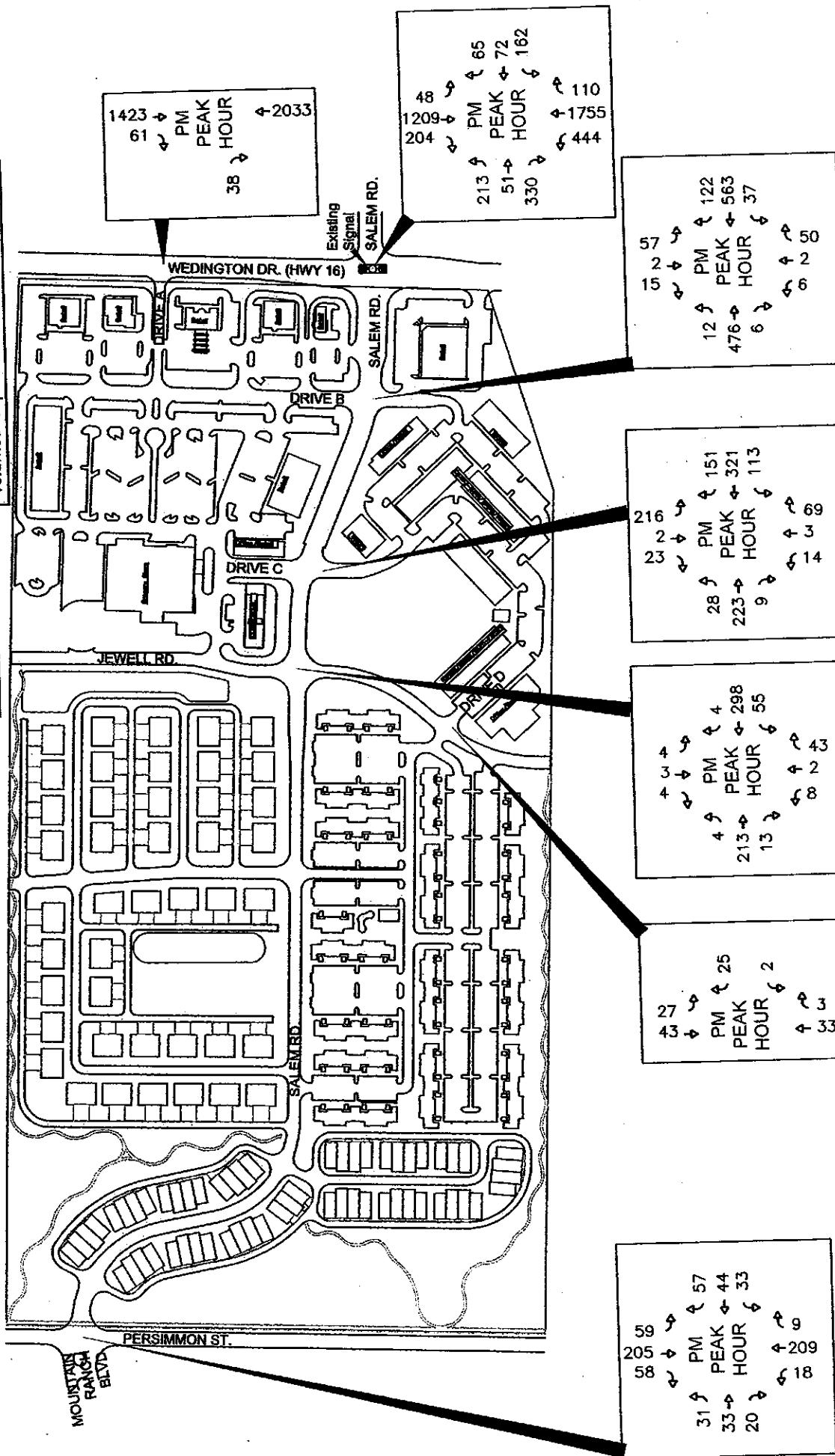


Forest Hills
Appeal
Figure 2
B 4
0



NOTE: Vehicle trips expected to be generated by planned developments by others in the vicinity (Woodstock Community, The Links at Fayetteville, Mountain Ranch, Westside Village and Ruppel Row) are included in the volumes depicted on this figure.

NOTE: Site-generated traffic has been adjusted to reflect an Internal Capture Rate of 20% for several of the retail uses.



SITE-GENERATED TRAFFIC PLUS
EXISTING TRAFFIC VOLUMES
PM PEAK HOUR
FIGURE 8

MIXED-USE DEVELOPMENT TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1261
DATE: 2-25-2008

PETERS & ASSOCIATES

ENGINEERS, INC.

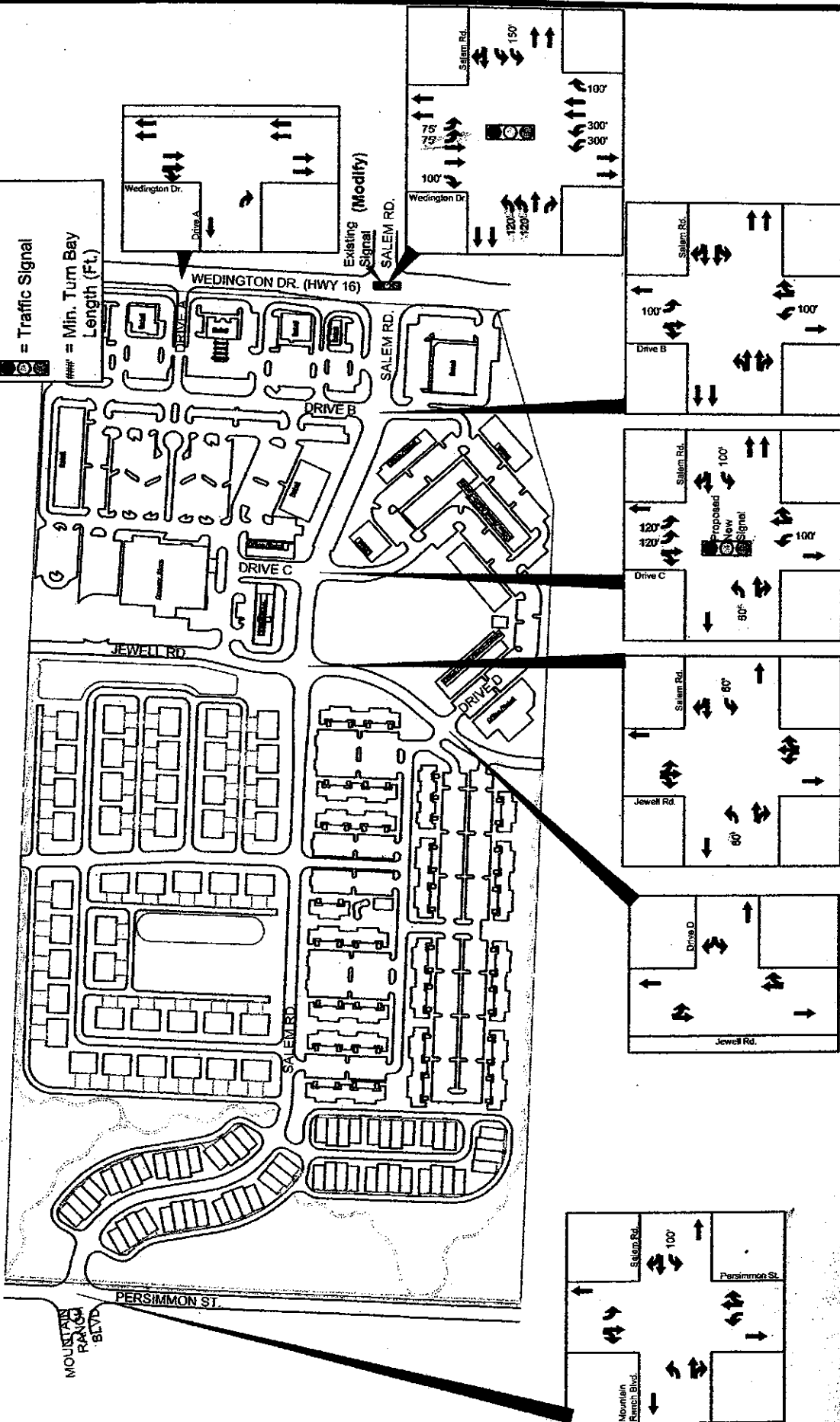
CIVIL & TRAFFIC ENGINEERING



4-14-08 PC Forest Hills ZxLU CPZD 07-2793



- ↓ = Existing Lane
- ↓ = Proposed New Lane
- ⬤ = Traffic Signal
- ### = Min. Turn Bay Length (Ft.)



RECOMMENDED SCHEMATIC
LANE GEOMETRY

MIXED-USE DEVELOPMENT
TRAFFIC STUDY

FIGURE No.
9

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1261
DATE: 4-3-2008

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



CPZD07-2793

Close Up View

FOREST HILLS



Overview

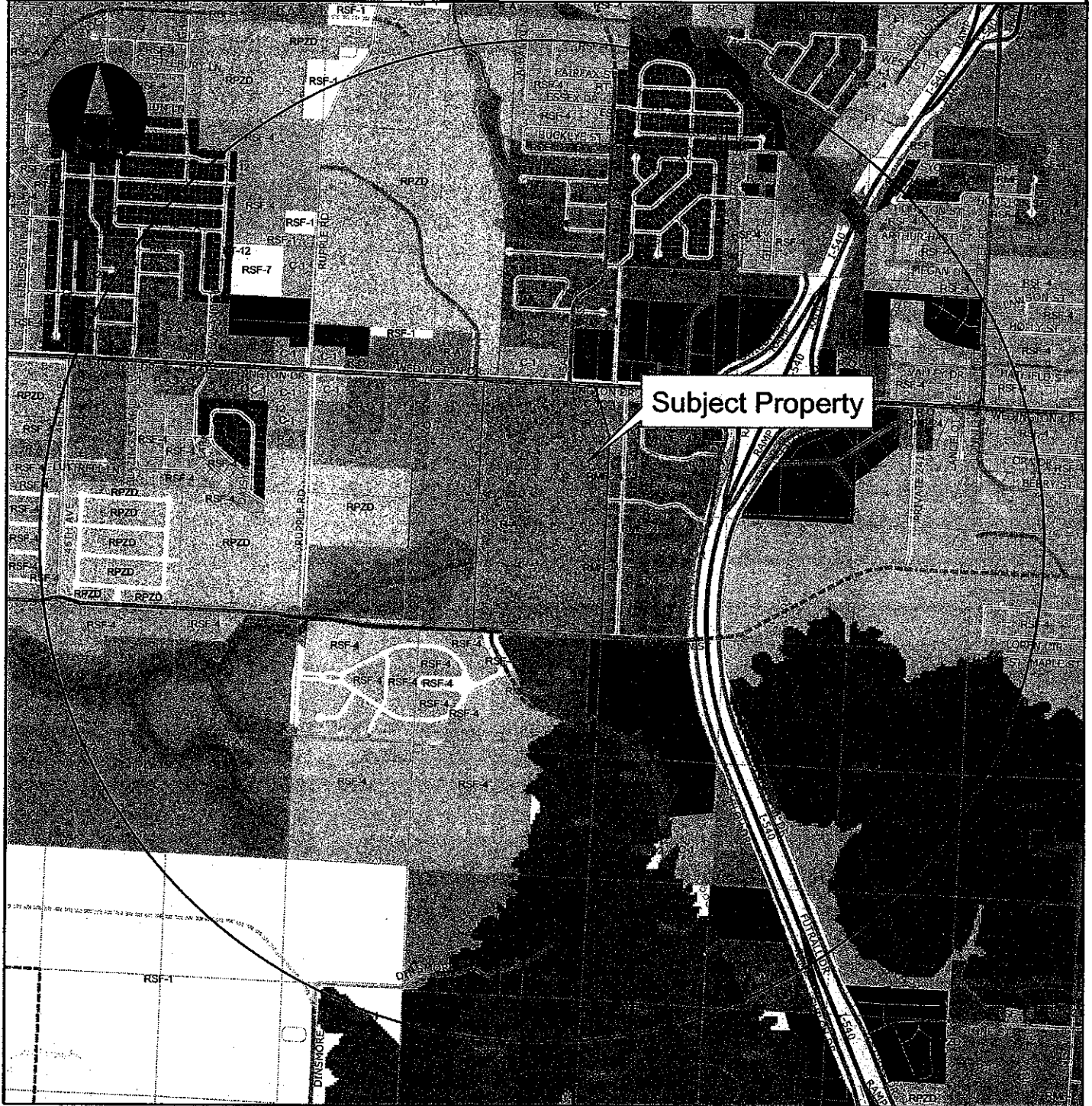


0 175 350 700 1,050 1,400
Feet

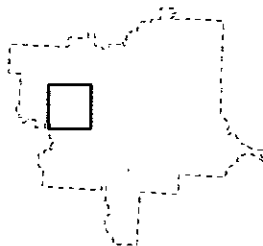
CPZD08-2793

FOREST HILLS

One Mile View



Overview



Legend

Subject Property
CPZD08-2793

Boundary

Planning Area
Overlay District
Outside City

Legend

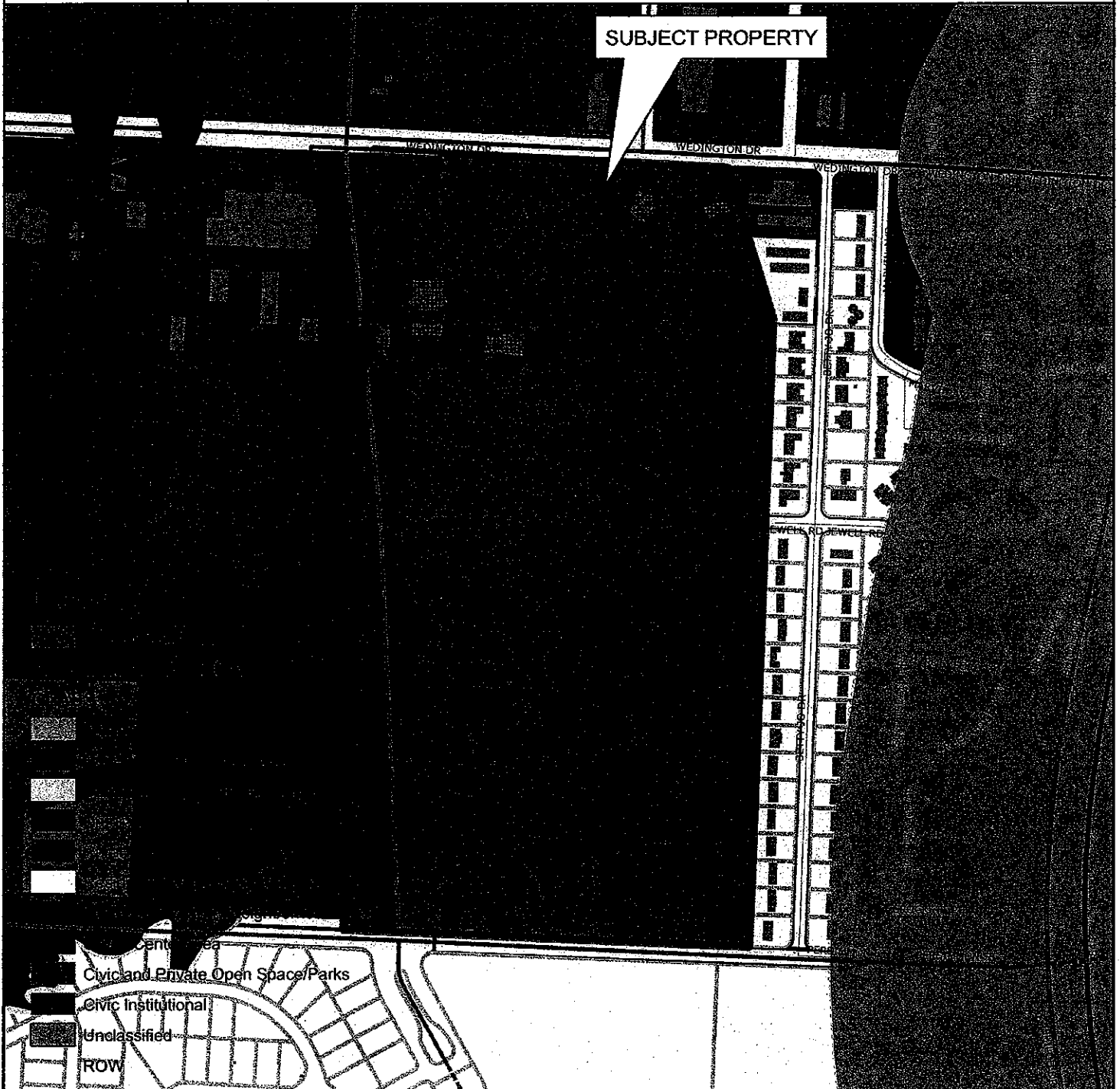
Hillside-Hilltop Overlay District

0 0.2 0.4 0.8
Miles

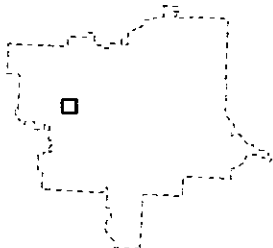
CPZD07-2793

Future Land Use

FOREST HILLS



Overview



Legend

Subject Property

CPZD07-2793

Streets

Existing

Planned

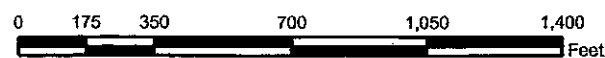
Boundary

Planning Area

Overlay District

Outside City

Legend





RECEIVED

APR 17 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

April 17, 2008

Ms. Sondra Smith, City Clerk
City Administration Bldg
113 W Mountain St, Room 308
Fayetteville, AR 72701
479-575-8323

(Via Hand-Delivered)

**Re: Forest Hills
Master Street Plan Amendment Request**

Dear Ms. Smith:

On behalf of the applicant, Forest Hills Partners, LLC and managing member John Alford, we respectfully request a Master Street Plan Amendment for the future extension of a collector street across Ozarks Electric Cooperative Corporation's property and the southwest corner of Forest Hills Partners' property. According to the latest approved Master Street Plan, this proposed collector street would connect Wedington to Persimmon Street. We are requesting to relocate this connection by extending Salem Street through the subject property to Persimmon Street.

This Master Street Plan amendment has been discussed and agreed upon by Mr. Mitchell Johnson who is the President/CEO of Ozarks Electric.

We would like this item to appear on the May 20th City Council Agenda. If you have any questions or concerns, please feel free to contact me at (479) 273-2209.

Sincerely,

Morrison-Shipley Engineers, Inc.

Heather M. Robason, P.E.
Representative for the Applicant, Forest Hills Partners, LLC

cc: City of Fayetteville Planning

Tabled to June 3, 2008 5/20/08

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 15, 2008

Subject: Forest Hills (R-PZD 07-2793) Master Street Plan Amendment

RECOMMENDATION

Staff recommends approval of a Master Street Plan Amendment to a north-south Collector Street (Golf Club Drive), associated with the Forest Hills Residential Planned Zoning District Master Development Plan.

BACKGROUND

On April 14, 2008, the Planning Commission voted 4-1-2 on a motion to approve the Forest Hills Residential Planned Zoning District Master Development Plan. The motion to approve failed and the applicant has appealed the request to the City Council. As part of the planned zoning district request, the applicant has proposed to extend Salem Road, a Collector Street, through the development and amend the Master Street Plan to remove the future extension of Golf Club Drive.

As shown on the Master Street Plan map (see attached), Golf Club Drive is positioned to extend south from The Links at Fayetteville project on the north side of Wedington Drive, through Ozarks Electric property before entering the Forest Hills development and connecting to Persimmon Street. The purpose of the street is to provide a north-south connection from Persimmon Street through the Links at Fayetteville development, which is currently under construction, to Ruppel Road.

The applicant requests the following amendment:

- 1) Remove the designated extension of Golf Club Drive, a Collector Street, from the Master Street Plan and in its place, extend Salem Road, a Collector Street, through the development from Wedington Drive to Persimmon Street.

Staff does not recommend removing Golf Club Drive entirely from the Master Street Plan map. Though the designed north-south extension of Salem Rd. will provide a connection from Persimmon to Wedington, it will not provide the connection through to Ruppel Road. Rather, staff finds that Golf Club Drive should be realigned, south of Wedington Drive, to intersect the west property line of Forest Hills, which will provide the ability for a connection to Ruppel Road with future development of Ozarks Electric's property. Staff has consistently voiced concern that the associated development, Forest

Hills PZD, should provide this second street connection in order to not create significant traffic congestion at the Salem/Wedington intersection. The traffic anticipated to result from this development will result in a poor level of service at the Salem/Wedington intersection for several turning movements. Approval of the Master Street Plan amendment as recommended by staff would still allow for this important connection now, or in the future, and will ultimately reduce traffic congestion.

DISCUSSION

At the request of staff, the applicants for Forest Hills approached Ozarks Electric Co., who owns the property to the west, and the developers of The Links at Fayetteville to discuss shifting the Link's street further east or otherwise providing this important connection, so that a through connection could be made through Forest Hills (see attached correspondence). Based on comments provided from the applicant, engineers for the development of The Links have stated construction is too far underway to redesign the street connection. Additionally, the location at which the street would enter the Forest Hills property is currently owned by Ozarks Electric Co. The developers of Forest Hills have a parcel of land owned by Ozarks Electric under contract; however, Ozarks Electric has stated that they will not sell the property if the street were required to be relocated to align with Golf Club Drive.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION FOR R-PZD 07-2793 FOREST HILLS AMENDING THE MASTER STREET PLAN, REALIGNING GOLF CLUB DRIVE, A PROPOSED NORTH-SOUTH COLLECTOR STREET, AS DESCRIBED AND DEPICTED IN THE ATTACHED MAPS.

WHEREAS, Collector Streets are intended to provide traffic circulation within residential, commercial and industrial areas, collecting traffic to channel it into the arterial system, and providing direct connections between arterials in order to disperse traffic throughout the City; and

WHEREAS, Salem Road is proposed to be extended through the Forest Hills development, providing a north-south connection from Wedington Drive to Persimmon Street; and

WHEREAS, realigning the extension of Golf Club Drive to connect to the proposed public street within the Forest Hills PZD will provide a future connection to Ruppel Road as intended by the Master Street Plan; and

WHEREAS, the City Council finds that the proposed realignment of Golf Club Drive as indicated on the attached maps maintains the integrity of each Collector Street connection while also providing alternative transportation routes and connectivity between neighborhoods;

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 amends the Master Street Plan to realign the extension of Golf Club Drive to connect to the proposed public street within the Forest Hills PZD as indicated in Exhibit "A", attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

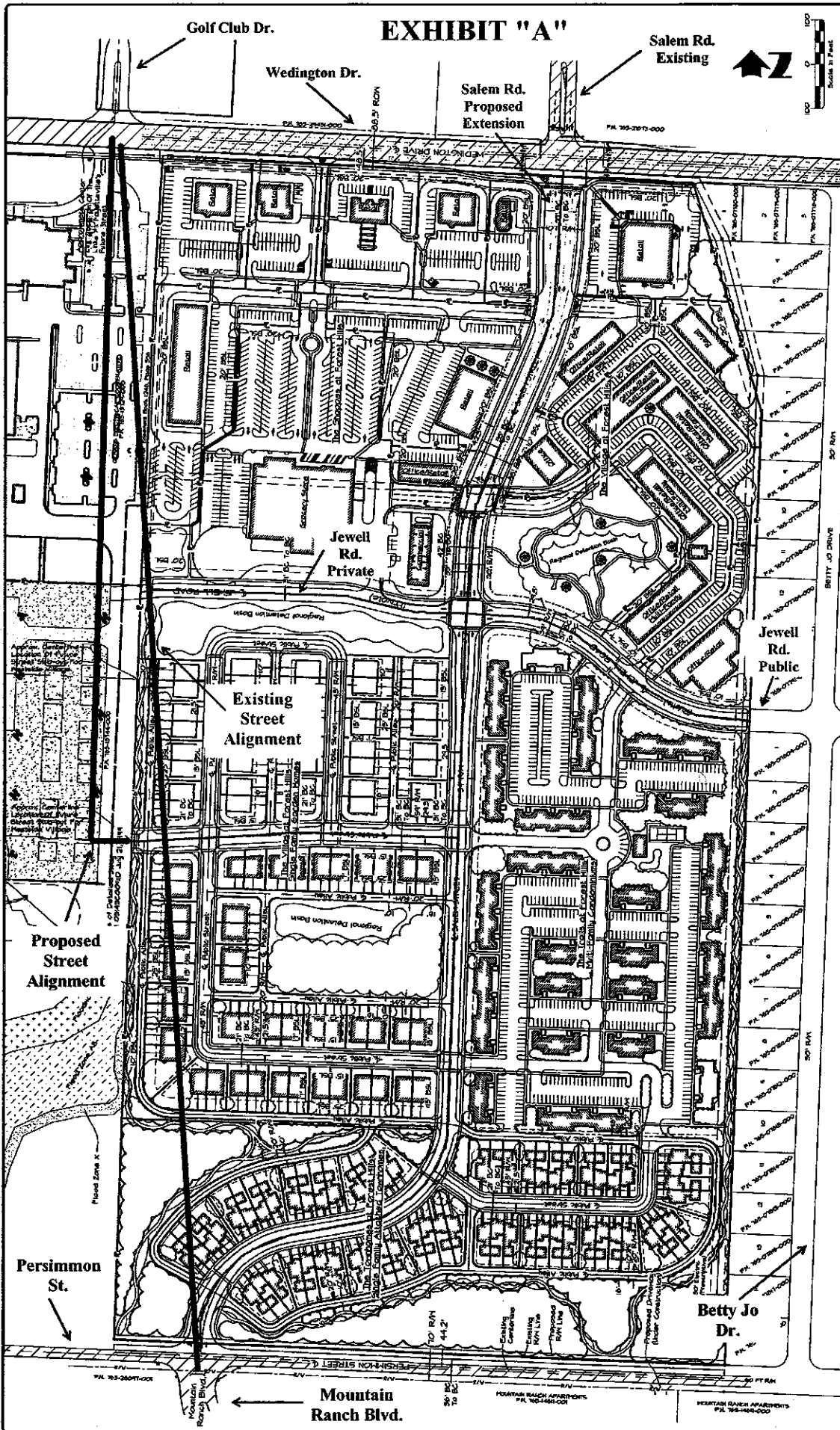
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"



4

6

MASTER LAND DEVELOPMENT PLAN

Issued for Review

THE SHOPPES AND RESIDENCES AT FOREST HILLS

Fayetteville, Washington County, Arkansas

Version	Description	Date
1.0	Initial Plan	12/1/00
2.0	Revised Plan	12/1/00
3.0	Revised Plan	12/1/00
4.0	Revised Plan	12/1/00
5.0	Revised Plan	12/1/00
6.0	Revised Plan	12/1/00
7.0	Revised Plan	12/1/00
8.0	Revised Plan	12/1/00
9.0	Revised Plan	12/1/00
10.0	Revised Plan	12/1/00

REGISTERED PROFESSIONAL ENGINEER

NO. 9728

MORRISON SHIPLEY

ENGINEERS • SURVEYORS

3407 SE Desha Street • Benton, AR 72715 • 479-271-2299 • morrisonshipley.com

Revision	Description	Date
1.0	Initial Plan	12/1/00
2.0	Revised Plan	12/1/00
3.0	Revised Plan	12/1/00
4.0	Revised Plan	12/1/00
5.0	Revised Plan	12/1/00
6.0	Revised Plan	12/1/00
7.0	Revised Plan	12/1/00
8.0	Revised Plan	12/1/00
9.0	Revised Plan	12/1/00
10.0	Revised Plan	12/1/00

Aldermen

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



Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
June 03, 2008**

A meeting of the Fayetteville City Council will be held on June 03, 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:

Move to
NB# 2 The Role of the Government Channel and its Function – Alderman Nancy Allen

Field Staff: The Inspection Process - Steve Cattaneo, Building Safety Inspector - Informational Only.

University of Arkansas Signage and Wayfinding Program – Mike Johnson and Jill Anthes

Energy Audit and Performance Contracting – John Coleman, Sustainability Coordinator

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Agenda Additions:

A. Consent:

1. Approval of the May 20, 2008 City Council meeting minutes.
2. **MR2 Contract:** A resolution authorizing the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville.
3. **Steele Crossing Investment III, LLC:** A resolution accepting a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II.
4. **Neighborhood Master Plan:** A resolution approving the creation of a Neighborhood Master Plan for the Technology Development Corridor; and approving a budget adjustment in the amount of \$4,000.00.
5. **Secure Our Schools Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Department of Justice "Secure Our Schools" Grant in the amount of \$87,325.00.
6. **Roll Off Service, Inc. Amendment No. 1:** A resolution approving contract Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals: *Add Fleet Manager
Add Parks Maint. Supt.*
2. **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 ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

3. **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 ordinance was left on the Second Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Third Reading and then Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council Meeting.*

This ordinance was left on the Third Reading.

4. **Forest Hills PZD Rezone Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 07-2793 Forest Hills, located at Wedington Drive, south of Salem Road, containing approximately 82.38 acres; amending the Official Zoning Map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

This ordinance was left on the Second Reading.

5. **Forest Hills Master Street Plan Amendment Request:** A resolution for R-PZD 07-2793 Forest Hills amending the Master Street Plan, realigning Golf Club Drive, a proposed north-south collector street, as described and depicted in the attached maps. *This resolution was Tabled at the May 20, 2008 City Council meeting to the June 3, 2008 City Council meeting.*

C. New Business:

1. Abshier Heights
 2. Role of the Government Channel Discussion
- Announcements:**

1. City Council Tour: June 02, 2008

Adjournment:

Pre Agenda Session 5/21/08

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
Ward 2 Position 2 – Nancy Allen
Ward 3 Position 1 – Robert K. Rhoads
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The Role of the Government Channel and its Function – Alderman Nancy Allen

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5. **Secure Our Schools Grant:** A resolution authorizing the Fayetteville Police Department to apply for a Department of Justice "Secure Our Schools" Grant in the amount of \$87,325.00. *okay*

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:
2. **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 ordinance was left on the First Reading at the May 6, 2008 City Council meeting. This ordinance was left on the Second Reading at the May 20, 2008 City Council meeting.*

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C. New Business:

- Consent*
1. **Roll Off Service, Inc. Amendment No. 1:** A resolution approving contract Amendment No. 1 to the temporary hauling contract with Roll Off Service, Inc. implementing a per-ton rate adjustment to compensate for the rapid and significant increase in diesel fuel costs.

Announcements:

1. **City Council Tour: June 02, 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 read 'Kit Williams', with a long horizontal line extending to the right.

DATE: **June 4, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of June 3, 2008**

1. **MR2 Contract:** A resolution authorizing the Mayor to execute a contract with MR2 to haul and dispose of solid waste within the city limits of Fayetteville;
2. **Steele Crossing Investment III, LLC:** A resolution accepting a donation from Steele Crossing Investment III, LLC of approximately 5.06 acres of real property from parts of Lots 8 and 14, CMN Business Park II;
3. **Neighborhood Master Plan:** A resolution approving the creation of a Neighborhood Master Plan for the Technology Development Corridor; and approving a budget adjustment in the amount of \$4,000.00;
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5. **Roll Off Service, Inc. Amendment #1:** A resolution approving contract Amendment #1 to the temporary hauling contract with Roll Off Service, Inc. implementing a person rate adjustment to compensate for the rapid and significant increase in diesel fuel costs;
6. **Hiring Freeze:** A resolution to approve the hiring of replacement employees.

June 3rd

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

From: Tim Conklin
To: awood@ci.fayetteville.ar.us,ssmith@ci.fayetteville.ar.us,mayor@ci.fayett...
Date: 5/11/2008 10:51 AM
Subject: University of Arkansas Signage and Wayfinding Program Agenda Session Only
Presentation May 27th Agenda Session

CC: jpate@ci.fayetteville.ar.us,Janthes@uark.edu
Amber and Sondra - Please add this to the City Council Agenda for Agenda Session only. Thanks

May 27th Agenda Session

Presentation -- University of Arkansas Signage and Wayfinding Program -- Mike Johnson and Jill Anthes

Tim Conklin, AICP
Director of Planning and Development Management
City of Fayetteville
113 West Mountain Street
Fayetteville, AR 72701

Phone: 479-575-8267
Fax: 479-575-8202

planning@ci.fayetteville.ar.us

From: <denisebonanno@gmail.com>
To: <webmaster@ci.fayetteville.ar.us>
CC: <city_clerk@ci.fayetteville.ar.us>
Date: 6/2/2008 9:04 AM
Subject: [Form mail from AccessFayetteville] - Opposed to Bridgedale Plaza Storage Units

From: Denise Bonanno
Email: denisebonanno@gmail.com
To: city_clerk@ci.fayetteville.ar.us
Subject: Opposed to Bridgedale Plaza Storage Units

Message:

My family lives on River Meadows Drive in the Stonebridge Meadows Neighborhood. We are opposed to the development of a large 5+ acre storage facility adjacent to our neighborhood. This residential neighborhood is no place for this type of facility.

I realize development of the property proposed will occur to some extent, and I am not opposed to that occurring, but a self-storage unit is not what is needed or wanted for this residential area.

Sincerely,

Denise Bonanno & Family