

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
August 19, 2008**

A meeting of the Fayetteville City Council will be held on August 19, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Walton Arts Center's Yearly Report given by Terri Trotter, Interim President/CEO and City of Fayetteville Appointee Curt Rom**
- 2. Quarterly Report of Financial Condition of the City – City Clerk**

Agenda Additions: NONE

A. Consent:

- 1. Approval of the August 5, 2008 City Council meeting minutes. APPROVED.**

2. **Bid # 08-59 Thompson Culvert Company:** A resolution awarding Bid # 08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail; and approving a project contingency in the amount of \$1,986.70.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 158-08.

3. **Southern Disposal, Inc:** A resolution authorizing the Mayor to execute a contract with Southern Disposal, Inc. to haul and dispose of solid waste in the City limits of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 159-08.

4. **Nelson Engineering:** A resolution to approve a contract with Nelson Engineering in the amount of \$36,100.00 to provide engineering services for the West Fork Water Quality Monitoring Project.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 160-08.

5. **Don Taylor Representation:** A resolution to authorize the continuation of the representation by Don Taylor of the defense of the Romine case.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 161-08.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals: **NONE.**
2. **Amend Chapter 174 Signs:** An ordinance to amend Unified Development Code Ch. 174.08, Prohibited Signs, to allow "A" frame sandwich/menu board signs under certain conditions. *This ordinance was left on the First Reading at the August 5, 2008 City Council meeting.*

Left on the First Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5166.

3. **R-PZD 08-2980, Markham Hill Cottage Courts:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2980, Markham Hill Cottage Courts, located north of Maine Street, between Sang and Cross Avenue; containing approximately 2.54 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 August 5, 2008 City Council meeting.*

Left on the Second Reading

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5167.

4. **Amend § 161.23, Neighborhood Conservation:** An ordinance to amend § 161.23 Neighborhood Conservation to add Use Unit 26, Multi-family dwellings as conditional use. *This ordinance was left on the Second Reading at the August 5, 2008 City Council meeting.*

Left on the Second Reading

THIS ITEM FAILED.

C. Public Hearing:

1. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00.

THIS ITEM WAS TABLED TO THE SEPTEMBER 2, 2008 CITY COUNCIL MEETING.

D. New Business:

1. **Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5168.

2. **Economic Development Strategic Plan:** A resolution authorizing the Mayor to execute a letter of agreement with the University of Arkansas Technology Development Foundation (UATDF) to cost-share the preparation of an Economic Development Strategic Plan in an amount not to exceed \$75,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 162-08.

3. **VAC 08-3042 (U of A Research Center):** An ordinance approving VAC 08-3042 submitted by Allen Jay Young Development Consultants, Inc. for property located north of Research Center Boulevard and west of South School Avenue to vacate a portion of a water and sewer easement and a portion of a drainage easement.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5169.

4. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A § 14-40-2101.

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

5. **ANX 08-2899 (Frank Sharp):** An ordinance annexing that property described in annexation petition ANX 08-2899 (CC2008-38), for property located 0.5 mile south of Highway 62 West and east of Holland Drive, containing approximately 53.53 acres.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5170.

6. **Sharp Property Rezoning Appeal:** An ordinance rezoning that property described in rezoning petition RZN 08-2900, for approximately 53.53 acres, located 0.5 mile south of Highway 62 West and east of Holland Drive from R-A, Residential Agricultural, to RSF-1, Residential Single-Family, 1 unit per acre.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5171.

7. **ANX 08-2897 (Southpass Development):** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres.

THIS ITEM WAS TABLED INDEFINITELY.

Announcements:

1. **City Council Tour: None**

Adjournment: Meeting adjourned at 7:25 p.m.

City Council Meeting:

August 19, 2008

Adjourn: 7:25 AM

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

9-0

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

Subject: Consent					
Motion To:					
Motion By:		Approve			
Seconded:		Jordan			
		Lucas			
Res. 158-08 to 161-08 <u>Approved</u> Minutes Approved	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Mayor Coody					

8-0

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

Subject:		Hiring Freeze Appeals: <i>NONE</i>			
Motion To:					
Motion By:					
Seconded:					
B. 1 Unfinished Business	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Thiel				
	Mayor Coody				

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

Subject: Amend Chapter 174 Signs					
Motion To:		2nd Read	Amend	3rd Read	Pass
Motion By:		Jordan	Thiel	Ferrell	
Seconded:		Ferrell	Ferrell	Lucas	
B. 2 Unfinished Business <u>passed</u> 5166	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Thiel	✓	✓	✓	✓
Mayor Coody					
		8-0	8-0	8-0	8-0

Subject: R-PZD 08-2980, Markham Hill Cottage Courts					
Motion To:		3rd Read	Pass		
Motion By:		Jordan			
Seconded:		Lucas			
B. 3 Unfinished Business <u>passed</u> 5167	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Thiel	✓	✓		
Mayor Coody					
		8-0	8-0		

Subject: Amend § 161.23, Neighborhood Conservation					
Motion To:		3rd Read	Pass		
Motion By:		Ferrell			
Seconded:		Cook			
B. 4 Unfinished Business <u>Failed</u>	Cook	✓	N		
	Allen	✓	✓		
	Rhoads	✓	N		
	Ferrell	✓	✓		
	Lucas	✓	N		
	Jordan	✓	N		
	Gray	✓	N		
	Thiel	✓	N		
	Mayor Coody				

8-0

2-6

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

City Council Meeting:

August 19, 2008

Subject: Raze and Removal at 402 E. Center Street					
Motion To:		Table to Sept 2, 2008 City Council Meeting			
Motion By:		Gray			
Seconded:		Cook			
C. 1 Public Hearing Tabled to Sept. 2, 2008 City Council Meeting	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Mayor Coody					

8-0

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

Subject: Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Ferrell	Ferrell		
Seconded:		Cook	Cook		
D. 1 New Business <i>Passed</i> 5168	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: Economic Development Strategic Plan					
Motion To:		Approve			
Motion By:		Rhoads			
Seconded:		Gray			
D. 2 New Business <i>Passed</i> 162-08	Cook	✓			
	Allen	N			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Mayor Coody					
		7-1			

Subject: VAC 08-3042 (U of A Research Center)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Thiel	Ferrell		
Seconded:		Cook	Jordan		
D. 3 New Business <i>Passed</i> 5169	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: ANX 08-3036 (Fayetteville Farmington Land Swap)					
Motion To:		2nd Read			
Motion By:		Jordan			
Seconded:		Lucas			
D. 4 New Business <i>Left on the 2nd Reading</i>	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
	Mayor Coody				
		8-0			

Subject: ANX 08-2899 (Frank Sharp)					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D. 5 New Business <u>passed</u> 5170	Cook	✓	✓	N	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
Mayor Coody					
		8-0	8-0	7-1	

Subject: Sharp Property Rezoning Appeal					
Motion To:		2nd Read	3rd Read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D. 6 New Business <u>passed</u> 5171	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Thiel	✓	✓	✓	
Mayor Coody					
		8-0	8-0	8-0	

Subject: ANX 08-2897 (Southpass Development)					
Motion To:		Table indef.			
Motion By:		Thiel			
Seconded:		Jordan			
D. 7 New Business <i>Tabled</i> <i>Indefinitely</i>	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Thiel	✓			
Mayor Coody					

8-0

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

Aldermen

Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



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- 2. Quarterly Report of Financial Condition of the City – City Clerk**

Agenda Additions:

A. Consent:

- 1. Approval of the August 5, 2008 City Council meeting minutes.**
- 2. Bid # 08-59 Thompson Culvert Company:** A resolution awarding Bid # 08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail; and approving a project contingency in the amount of \$1,986.70.

3. **Southern Disposal, Inc:** A resolution authorizing the Mayor to execute a contract with Southern Disposal, Inc. to haul and dispose of solid waste in the City limits of Fayetteville.
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Left on the First Reading

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Left on the Second Reading

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C. Public Hearing:

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D. New Business:

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- 7. ANX 08-2897 (Southpass Development):** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres.

Announcements:

- 1. City Council Tour: None**

Adjournment:

Added at Agenda Session 8/12/08
CITY ATTORNEY AGENDA REQUEST

A. 5
Don Taylor Representation
Page 1 of 6

FOR: COUNCIL MEETING OF AUGUST 19, 2008

FROM:
KIT WILLIAMS, CITY ATTORNEY

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

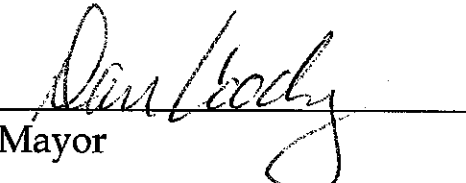
A Resolution To Authorize The Continuation Of The Representation By Don Taylor Of The Defense Of The Romine Case

APPROVED FOR AGENDA:



City Attorney

8-12-08
Date



Mayor

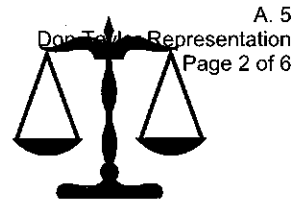
8/12/08
Date

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



LEGAL DEPARTMENT

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

CC: **David Jurgens, Water & Wastewater Director**
Don Taylor, Attorney
Peggy Vice, Purchasing Manager

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: **August 12, 2008**

RE: **Romine v. City of Fayetteville : Attorney Don Taylor**

I am happy to report that Judge Gunn has now signed the Order Granting Summary Judgment To David Jurgens pursuant to the Arkansas Supreme Court's mandate and opinion. I have attached this Order.

Don Taylor of the Davis, Wright, Clark, Butt & Carithers law firm has represented David over a year and has done considerable trial preparation (depositions, discovery, motions, etc.) when we believed the case was about to be tried last year. It was not tried then so that Don with the help of Connie Clark could appeal his Motion For Summary Judgment to the Arkansas Supreme Court.

This very complex case, with several different types of claims against the City still viable and numerous expert witnesses to be presented, is scheduled for a four-day jury trial in October. Don and I have worked together for David and the City over last year. I have been impressed by his diligence, intelligence and understanding of the difficult issues in this case. As we prepare for trial again, I would be greatly assisted in the defense of the City if Don Taylor remained involved as co-counsel for the City.

Don has agreed to represent the City for the same reasonable fees he has been paid during his representation of David Jurgens. I believe this would be money very well spent as the plaintiff is demanding very substantial damages. I am

presenting the attached Resolution for your consideration authorizing Mr. Taylor's representation of the City.

On a final note, I was successful on Friday, August 8, 2008, in the City's Motion To Dismiss Punitive Damage Claims Against the City. There is no Supreme Court case or statute directly answering whether punitive damages could be awarded against cities in Arkansas. Fortunately, Judge Gunn agreed with the City and the United States Supreme Court (in a related, but not controlling case) that it is neither good public policy nor just to award punitive damages to a fully compensated plaintiff when the punitive damages would likely punish innocent taxpayers by reducing services or requiring additional taxes. Judge Gunn also agreed with the City's Response and brief and denied Plaintiff's Motion To Stay the Mandate of the Arkansas Supreme Court.

RESOLUTION NO. _____

**A RESOLUTION TO AUTHORIZE THE CONTINUATION OF THE
REPRESENTATION BY DON TAYLOR OF THE DEFENSE OF THE
ROMINE CASE**

WHEREAS, Don Taylor has ably represented David Jurgens for more than a year during depositions, motions and a successful appeal in the Romine v. City of Fayetteville, et al. case; and

WHEREAS, the City of Fayetteville would be benefited by Don Taylor's intimate and extensive knowledge of the facts and law surrounding this complex case if he was retained to help try this four-day jury trial case scheduled for October of this year; and

WHEREAS, Don Taylor has agreed to continue his representation on the same hourly basis as his previous representation of David Jurgens, and the City Attorney recommends that the City Council authorize his continued representation through the trial and any necessary appeal.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the continued representation by attorney Don Taylor of the Davis, Wright, Clark, Butt and Carithers law firm for the defense of the City of Fayetteville in the Romine v. City of Fayetteville, et al case.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
CIVIL DIVISION

2008 AUG -7 PM 4:28

JEANNY ROMINE

PLAINTIFF

v.

Case No. CV-05-1221

WASHINGTON CO AR
CIRCUIT CLERK
B. STAMPS

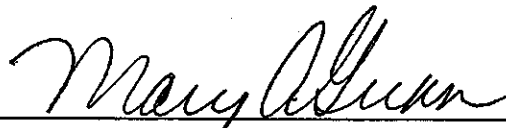
CITY OF FAYETTEVILLE,
ARKANSAS, MARK RISK,
DAVID FOURNET, ANDREA
FOURNET and DAVID JURGENS

DEFENDANTS

ORDER GRANTING SUMMARY JUDGMENT

In compliance with the opinion of the Arkansas Supreme Court delivered May 1, 2008 and the Mandate of the Supreme Court filed herein on June 6, 2008, for the reasons set forth in said Supreme Court opinion, summary judgment is hereby granted in favor of David Jurgens and the plaintiff's Complaint, with all amendments thereto against David Jurgens, are hereby dismissed with prejudice. Further, pursuant to the Mandate of the Arkansas Supreme Court, Judgment is hereby rendered in favor of the City of Fayetteville and David Jurgens against Jeanny Romine in the amount of costs assessed by the Supreme Court of \$2,929.20, said amount to bear interest at the highest lawful rate from and after the date of this Order.

IT IS SO ORDERED.


Hon. Mary Ann Gunn

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE



B. 2
Chapter 174 Signs
Page 1 of 4

LEGAL DEPARTMENT

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

CC: **Jeremy Pate, Director of Current Planning**

FROM: **Kit Williams, City Attorney**

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

DATE: **August 13, 2008**

RE: **A-Frame signs**

Fayetteville is probably the only city in Arkansas that no longer has billboards. Even though Springdale and other cities are taking measures to restrict or eliminate new billboards from being erected, their citizens are stuck with all their existing billboards.

Removing the billboards from Fayetteville was popular with most citizens, but opposed and fought by some business interests. Our sign ordinance survived many legal challenges that went all the way to the Arkansas Supreme Court and one more recent challenge to the Eighth Circuit Court of Appeals. Therefore, I need to evaluate every proposed change to ensure it does not inadvertently weaken the legal basis for our sign ordinance or its constitutionality.

The most important restriction preventing the return of billboards is the sign ordinance's prohibition against **off-site advertising**. Thus, our ordinance allows many types of signs, including very large wall signs advertising the business at the business location. But we do not allow signs at one business location to advertise another business or commercial product.

If we violate this fundamental prohibition against off-site advertising, a national law firm specializing in suing cities to force them to allow billboards and pay damages could sue Fayetteville under an equal protection of the laws argument. We should not take that risk by allowing product placement advertising (the logos, ads or slogans of Coke, Pepsi, Bud, Miller, etc.) on A-Frame signs that

are supposed to inform pedestrians of that restaurant's menu items and lunch specials. Without such prohibition, I could see one whole side of A-Frame signs devoted to advertising "Coke" or "Pepsi" with the restaurants even getting paid by Coke or Pepsi for this advertising. Not only is this not what I believe the restaurants have sought from the City Council, it also would significantly weaken the consistency and legal support for our sign ordinance.

CONCLUSION

I completely concur and agree with Alderman Nancy Allen's effort to promote the walkability of the downtown area and the viability of restaurants which wish to advise pedestrians of their menu or daily specials. Director of Current Planning Jeremy Pate's revised proposal will completely accomplish Alderman Allen's goal where such an A-Frame sign will not make a sidewalk noncompliant with the Americans With Disability Act. It also remains consistent with our decades old Sign Ordinance's prohibition against off-site advertising which helps ensure our billboard ban cannot be successfully challenged.

Please amend the ordinance by amending

Exhibit A to the revised language submitted by Jeremy Pate

with the final agenda.



THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning *JP*
Date: 13 August 2008
Subject: A-Frame Sign Ordinance

As discussed at the last City Council meeting, I have worked with the City Attorney to address some of the concerns voiced by City Council members and to remove the potential legal issues for this sign ordinance amendment regarding discretionary actions that could be challenged in court. It is important to note that our sign ordinance has been challenged in court on numerous occasions, not all of which were successful for the City. In order to maintain the integrity of this important ordinance, staff always strives to vet each and every amendment as much as possible. Staff does support this sign ordinance amendment, and believes it will not detract from or clutter the visual environment and pedestrian movement in our City. Rather, it may provide opportunity for increased business for those eating establishments that are not as readily visible.

Attached is the proposed ordinance, with changes, which we recommend that you adopt. Please feel free to contact me with any questions.

Exhibit "A"
ADM 08-3055

Chapter 174.08 (C) of the Unified Development Code shall be repealed and the following placed in its stead:

§174.08 Prohibited Signs

(C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city, except under the following conditions:

- (1) One (1) freestanding, "A" frame sandwich / menu board for a single permitted business eating establishment may be permitted on a commercially zoned lot or on the adjacent public or private sidewalk in front of the respective business for the duration of the business' hours of operation. The temporary sign shall be removed and placed inside after business hours.
- (2) ~~The permitted sign may not interfere with pedestrian traffic, as determined by the Sign Administrator. Should the Sign Administrator determine said sign interferes with pedestrian traffic, it shall be immediately removed.~~ The sign shall be placed such that the sidewalk remains ADA compliant, and for signs located on the public sidewalk there shall be a minimum of five feet of the total sidewalk width free and clear, to provide adequate and unobstructed pedestrian movement.
- (3) The permitted sign shall only advertise for the adjacent business eating establishment, and is to be utilized for display of menu items or advertised specials. The sign may not be utilized for product placement or to advertise for other commercial or business establishments.
- (4) The size of the sign shall be limited to 36" tall by 24" wide.
- (5) No sign may be displayed or erected that swings, rotates, flashes, fluctuates, or is illuminated, or in any other manner that would violate the provisions of §174.08.

Added at Agenda Session 8/12/08

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

D. 1
Fayetteville Municipal Property
Owners' Improvement District No. 31
- Edgewater Park Subdivision
Infrastructure Project
Page 1 of 14

August 19, 2008

City Council Meeting Date

Sondra Smith/Amber Wood

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 31 - Edgewater Park Subdivision Infrastructure Project. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by S. Richard Levin on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Amber Wood

Department Director

8/8/08

Date

Previous Ordinance or Resolution #

Original Contract Date:

K. Smith

City Attorney

8/8/08

Date

Original Contract Number:

Paul A. Becher

Finance and Internal Service Director

8-8-08

Date

Received in City Clerk's Office

8-8-08 USM

ENTERED

Received in Mayor's Office

ENTERED

8/8/08

PAH

Mayor

8/11/08

Date

Comments:



RECEIVED

AUG 8 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

D. 1
Fayetteville Municipal Property
Owners' Improvement District No. 31
– Edgewater Park Subdivision
Infrastructure Project
Page 2 of 14
113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

City Clerk/Treasurer Division

August 8, 2008

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

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 31-
Edgewater Park Subdivision Infrastructure Project

Dear Mayor:

Pursuant to Arkansas Code Ann. Sec. 14-94-105 (e)(3), you are hereby notified that the enclosed Petition to form Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Amber Wood
Deputy City Clerk

cc: Kit Williams, City Attorney
James N. McCord



D. 1
Fayetteville Municipal Property
Owners' Improvement District No. 3
- Edgewater Park Subdivision
Infrastructure Project
Page 1 of 14
RECEIVED
AUG 08 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 7, 2008

VIA HAND DELIVERY

Sondra Smith
Fayetteville City Clerk
Fayetteville City Hall
113 W. Mountain St.
Fayetteville, AR 72701

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. ____ - Edgewater Park Subdivision Infrastructure Project

Dear Ms. Smith:

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

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

- (a)(1) Upon the filing of the petition with the clerk, it shall be the duty of the clerk to present the petition to the mayor.
- (2) The mayor shall thereupon set a date and time not later than fifteen (15) days after the date of the presentation of the petition to the mayor, for a hearing before the governing body for consideration of the petition.
- (b)(1) At the hearing, it shall be the duty of the governing body to hear the petition and to ascertain whether those signing the petition constitute all the owners of the real property to be located in the district.
- (2) If the govrrning body determines that all the owners of the real property to be located in the district have petitioned for the improvements, it shall be its duty by ordinance to establish and lay off the district as defined in the petition and to appoint the commissioners named in the petition.

* * *

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

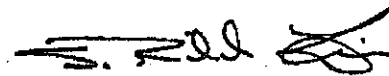
Also enclosed, for filing in the office of the City Clerk, is an executed Title Company Certificate of Property Ownership certifying that the improvement district petition is signed by the owner of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance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

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

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

Should there be any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "S. R. Levin", followed by a stylized flourish or mark.

S. Richard Levin

NOTICE

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

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

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**IN RE: FAYETTEVILLE MUNICIPAL PROPERTY
OWNERS' IMPROVEMENT DISTRICT NO.
____—EDGEWATER PARK SUBDIVISION**

**PETITION FOR FORMATION OF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT
NO. ____—EDGEWATER PARK SUBDIVISION**

**TO: THE HONORABLE DAN COODY
MAYOR, FAYETTEVILLE, ARKANSAS**

The undersigned, VERVE, LLC, an Arkansas limited liability company (the "Petitioner"), representing the record owner of all real property within the boundaries of the proposed municipal property owners' improvement district (the "Proposed District"), does hereby petition the City Council of Fayetteville Arkansas, under Arkansas Code Annotated Section 14-94-101, *et seq.* (the "Municipal Property Owners' Improvement District Law"), to lay off into a municipal property owners' improvement district the real property described in the attached EXHIBIT A which is incorporated herein by this reference.

The Proposed District shall be formed for any one or all of the following purposes:
purchasing, accepting as a gift, constructing or maintaining waterworks, recreational facilities,

systems of gas pipelines, sewers or grading, draining, paving, curbing and guttering streets and highways and laying sidewalks or establishing, equipping and maintaining rural fire departments; or for more than one of these purposes and doing all things reasonably incidental to the accomplishment of any of the foregoing; or doing all things now or hereinafter permitted under applicable law, including without limitation the Municipal Property Owners' Improvement District Law.

Furthermore, a Certificate of Abstractor prepared by an abstract and title company is attached hereto as EXHIBIT B and incorporated herein by this reference and provides that the Petitioner is the record owners of all of the real property located within the area of the Proposed District. The Petitioner further petitions the City Council to name the following persons as commissioners of the Proposed District: John Nock, Wayne Shaw, and Steve Aust. Each of these persons is an individual of integrity and good business ability and is a property holder or a designated representative of a property holder in the District.

The Petitioners further petition the City Council to select the following as the Proposed District's name: "FAYETTEVILLE MUNICIPAL PROPERTY OWNERS' IMPROVEMENT DISTRICT NO. ____—EDGEWATER PARK SUBDIVISION".

This Petition may be circulated to the Petitioners for signature in several identical counterparts, which shall be considered as a whole.

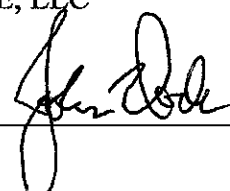
[This space intentionally left blank; signatures to follow]

*[Signature page to Petition for Formation of
Municipal Property Owners' Improvement District]*

This Notice and Petition is submitted by the undersigned to the City Council of the City
of Fayetteville, Arkansas as of this 1 day of August, 2008.

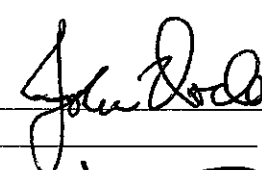
PETITIONER:

VERVE, LLC

By: 

Title:

THE UNDERSIGNED EXECUTE THIS PETITION
IN ORDER TO EVIDENCE THEIR SUPPORT OF THE
REQUESTS SET FORTH HEREIN AND TO EVIDENCE
THEIR AGREEMENT TO SERVE AS COMMISSIONERS
OF THE PROPOSED DISTRICT:





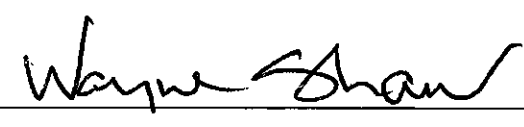


EXHIBIT A
to
Petition for Formation of
Fayetteville Municipal Property Owners' Improvement District No. ____
[Real Property Description]

EXHIBIT B

to

**Petition for Formation of
Fayetteville Municipal Property Owners' Improvement District No. ____**

[Certificate of Abstractor]

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY
OWNERS' IMPROVEMENT DISTRICT NO. ____- EDGEWATER PARK
SUBDIVISION INFRASTRUCTURE PROJECT**

TITLE COMPANY CERTIFICATE OF PROPERTY OWNERSHIP

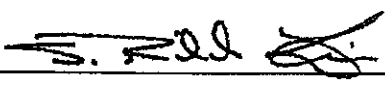
Triad Title, LLC hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following are the owners of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. ____– Edgewater Park Subdivision Infrastructure Project, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Verve, LLC, an Arkansas limited liability company

Triad Title, LLC further certifies that all of said real property is located within the corporate limits of the City of **Fayetteville, Arkansas.**

DATED this 13th day of **August, 2008.**

Triad Title, LLC

By: 

Title: President

RECEIVED

AUG 13 2008

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

EXHIBIT "A"
Edgewater Park Subdivision

A part of the E ½ of the SE ¼ of Section 21, T-16-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Commencing at the SE corner of said 80 acre tract, said point being an existing iron, thence N00°10'38" W along the East line of said 80 acre tract 1008.35 feet to an existing iron on the North Right-of-Way of 19th Street for the True Point of Beginning; thence N00°10'38"W along the East line of said 80 acre tract 843.88 feet to the center of the Town Branch Creek and from which an existing reference on the South bank bears S00°10'38"E 30.00 feet; thence along the center of said creek the following bearings and distances; S72°31'00"W 254.20 feet; S35°20'21"W 186.84 feet; N89°46'05"W 342.18 feet; N65°30'49"W 156.16 feet; N58°28'27"W 221.65 feet; N88°34'42"W 191.66 feet; N25°56'55"W 170.95 feet; N63°49'26"W 42.37 feet to a point on the West line of said 80 acre tract and from which a set reference iron on the South bank of said creek bears S00°14'15"E 30.00 feet; thence leaving the centerline of said Creek S00°14'15"E 656.12 feet to the SW corner of the NE ¼ of the SE ¼ of said Section 21; thence S00°24'02"E along the West line of the SE ¼ of the SE ¼ of said Section 21, 400.97 feet to a set iron pin on the North Right-of-Way of 19th Street; thence along the North Right-of-Way of said Street the following bearings and distances; S88°58'09"E 394.36 feet to a set iron; N86°25'29"E 82.43 feet to a set iron; N84°15'49"E 398.30 feet to a set iron; N84°19'21"E 454.63 feet to the point of beginning, and containing 23.97 acres, more or less. **Less and Except:** A part of the SE ¼ of the SE ¼ of Section 21, T-16-N, R-30-W, Washington County, Arkansas, being more particularly described as follows: Beginning at a point that is South 168.82 feet from the NW corner of said 40 acre tract; thence East 275 feet; thence South 237.6 feet to the North Right-of-Way line of 19th Street; thence along said Right-of-Way line, West 275 feet; thence leaving said Right-of-Way line North 237.6 feet to the point of beginning, and containing 1.5 acres, more or less.

Also being known as the proposed Edgewater Park Subdivision.

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 31 - EDGEWATER PARK
SUBDIVISION INFRASTRUCTURE PROJECT**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 31 - Edgewater Park Subdivision Infrastructure Project (the "District") has been filed with the Fayetteville City Clerk; and

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

WHEREAS, the Mayor has set August 19, 2008, at 6:00 p.m. as the date and time for a hearing before the Fayetteville City Council for consideration of said petition; and

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

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

WHEREAS, the District proposed to sell special assessment bonds in order for the District to purchase the infrastructure improvements for Edgewater Park Subdivision; and

WHEREAS, the District proposes to dedicate said infrastructure improvements for public use.

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

Section 1: That the real property described in Exhibit "A" attached hereto and made a part hereof is hereby established and laid off as Fayetteville Municipal Property Owners' Improvement District No. 31 - Edgewater Park Subdivision Infrastructure Project for all lawful purposes pursuant to the Municipal Property Owners' Improvement District Law.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: John Nock, Wayne Shaw, and Steve Aust.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project.

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

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items Only

Gary Dumas

Submitted By

Division

Operations

Department

Action Required:

Approve resolution authorizing the Mayor to execute a letter of agreement with the University of Arkansas Technology Development Foundation (UATDF) for contract services related to the development of an Economic Development Strategy for Fayetteville

\$75,000

Cost of this request

\$

75,000.00

Category / Project Budget

Program Category / Project Name

\$

Account Number

Funds Used to Date

Program / Project Category Name

\$

75,000.00

Project Number

Remaining Balance

Fund Name

Budgeted Item

XX

Budget Adjustment Attached

Gary Dumas

Department Director

8/6/2008

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City
Clerk's Office

ENTERED

Received in
Mayor's Office

ENTERED

Comments:



OPERATIONS DIRECTOR

To: City Council

From: Gary Dumas, Director of Operations

Date: August 5, 2008

RE: Approving a Letter of Agreement Establishing Economic Development Partnership with University of Arkansas through the Technology Development Foundation (UATDF)

Background

At the City Council's March 18th meeting the Council appropriated revenue to partner with UATDF to undertake an Economic Development program and strategy. This request is a follow-up of that action seeking the approval of a letter of agreement with UATDF. This agreement will allow the UATDF to in-turn enter into a contract with the selected consultant.

At the March 18th agenda the need for this Economic Development program and strategy was discussed and approved. That discussion focused on the following:

The City of Fayetteville like all Arkansas cities derives its primary source of general fund operating revenue from sales tax collections. During 2007 sales tax revenue for Fayetteville declined approximately 2.76% below 2006 collections. This helped to create a shortfall for the general fund of approximately \$1.02 million. Sales tax revenue for 2008 was budgeted for 2% growth above 2007 collections and the split between operations and capital usage was modified from 50-50 to 60% operations and 40% capital. That 2% growth, if achieved and modification of the split to 60-40 will make an additional \$1.72 million available for general fund operations. Even with this change in funding practices cost cutting measures for the 2008 budget were still necessary to balance revenue and expenses.

It has become apparent during the past 18 months that the purchasing dynamics of the region have changed and that the significant sales tax growth that Fayetteville has experienced during the past decade will not return.

For the next few years, adjustments in expenses and/or revenues will allow the government to remain fairly stable. However, decreases in expenses will mean a reduction in services, and an increase in millage will affect every property owner.

The City is not in crisis. But it appears evident that within the next 2 to 6 years those adequate resources may not be available to continue to provide the level of services our citizens deserve and have come to expect. Keep in mind also that many of these services are the ones that are unique to Fayetteville and separate us from our regional competitors.

Discussion

The University of Arkansas and the City of Fayetteville coexist in a cooperative and mutually beneficial relationship.

The University has embarked on its vision of emerging as a nationally competitive, student-centered research university serving Arkansas and the world, lifting into the ranks of the nation's top 50 public research universities.

The state of Arkansas needs a top-tier public research university if it is to become competitive in the "New Economy," which is based on knowledge generation and advanced technology.

According to the "New Economy Index" published in 2001 by the Milken Institute, the state of Arkansas ranks 50th overall in the 12 educational and economic measures required for success in the new economic era. (In the "2007 State New Economy Index" by The Information Technology and Innovation Foundation and the Ewing Marion Kauffman Foundation, Arkansas ranks 47th) The state cannot move forward without a top-ranked public research university, which directly affects a majority of those 12 educational and economic measures.

The University of Arkansas is poised to become that top-tier public research university. The states that will prosper most in the new century are those that nurture knowledge-based and high-tech business and industry while creating a quality of life that attracts and keeps talented people in the state.

These efforts of the University to lift itself to the top tier of public research universities, while benefiting the entire state, will be centered in Fayetteville. Necessary elements of the University's success will be:

- *the ability of the local government to provide the quality of life amenities that will attract and retain the best educators, scientists, researchers, and students and*
- *the ability of the local government to provide an atmosphere that nurtures an entrepreneurial spirit to move research into the marketplace and job creation.*

For that reason the University of Arkansas through the Technology Development Foundation (UATDF) has agreed to partner with the City to begin a process of developing a roadmap to fiscal sustainability for the local government. The City of Fayetteville's ability or lack of ability to fund a stable government and quality of life amenities will greatly help or hinder the mission of the University and the University's success in becoming a top-tier public research university will help the City achieve fiscal stability.

The UATDF has agreed to provide up to 50% or \$75,000 for phase one of an economic development strategic plan for the community. This first phase is envisioned to be a community-based visioning process, building consensus and perspective, utilizing consultant services for this activity.

There has been some discussion concerning an attempt to accomplish this consensus and perspective building using internal or local resources. The purpose of using outside consultant services is to gain from their prior experience and knowledge, and to gain a

new point of view of our local issues. Yes it is true that we all know Fayetteville, and we have our own opinions about what Fayetteville needs. What outside services will bring is the facilitation of a constructive discussion bringing that diverse knowledge and diverse opinion into a consolidated statement with which all sides can identify and move toward the achievement of our common objective – a sustainable, successful Fayetteville economy. That is not a task that will easily be achieved. As with all communities there are great divides of opinion. Preparing the Council and the community for an uncertain future and developing a guide to encourage job and economic growth necessary to maintain and even expand upon the quality of life amenities enjoyed in Fayetteville is perhaps the most important and pressing task at hand.

The UATDF and the City have solicited, interviewed, and selected an Economic Development specialist, Eva Klein and Associates (EKA) to undertake this important task. The Scope of Work developed with EKA, the City and the UATDF is attached for your review.

Recommendation

Approve resolution authorizing the Mayor to execute the letter of agreement with UATDF.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF AGREEMENT WITH THE UNIVERSITY OF ARKANSAS TECHNOLOGY DEVELOPMENT FOUNDATION (UATDF) TO COST-SHARE THE PREPARATION OF AN ECONOMIC DEVELOPMENT STRATEGIC PLAN IN AN AMOUNT NOT TO EXCEED \$75,000.00.

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 authorizes the Mayor to execute a Letter of Agreement with the University of Arkansas Technology Development Foundation (UATDF) to cost-share the preparation of an Economic Development Strategic Plan in an amount not to exceed \$75,000.00.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

LETTER OF AGREEMENT
FOR
ECONOMIC DEVELOPMENT SERVICES

WHEREAS the University of Arkansas and the City share a longstanding interest to promote the economic vitality of Fayetteville and,

WHEREAS volatile sales tax revenues pose a serious threat to sustaining quality of life programs funded by the City and,

WHEREAS the University created the University of Arkansas Technology Development Foundation, a separate 501 c. 3. Organization to assist it in its economic development mission and efforts and,

WHEREAS the University and the City have determined that an economic development strategic plan is essential to providing long-term fiscal sustainability and,

WHEREAS the preparation of an economic development strategic plan by the University of Arkansas Technology Development Foundation will offer an opportunity to engage contractors to work with the public, City Council, University Administration, and key stakeholders to define the economic future of Fayetteville and,

WHEREAS the University of Arkansas Technology Development Foundation shall enter into a contract for the economic development strategic plan,

It is hereby agreed that the parties cost share the economic development strategic plan and the City share not exceed 50% of the project cost or \$75,000.00 whichever is less.

Entered into this _____ day of August, 2008

For the City of Fayetteville:

For the University of Arkansas
Technology

Development Foundation

Dan Coody, Mayor

Phillip Stafford, President



**EVA KLEIN
& ASSOCIATES**

Strategies for the Global Knowledge Economy

503 Seneca Road Great Falls, Virginia 22066 USA
PH: 703.406.6100 F: 703.406.6101
evakleinassociates.com evaklein@evakleinassociates.com

August 11, 2008

TO: Planning Leadership Committee
Fayetteville Economic Development Strategy

VIA: Mr. Phillip S. Stafford, UATDF
Dave Whitmire, UATDF
Gary Dumas, City of Fayetteville
Susan Thomas, City of Fayetteville
Casey Mileham, UATDF

cc: Diane Lupke, Lupke Associates
Anita B. Morrison, Bay Area Economics
Dr. Kathryn Baker Smith, Eva Klein & Associates/Guilford Technical Community College

FROM: Eva Klein 

SUBJECT: Scope of Work for Phase I

With this memo, I enclose the proposal of Eva Klein & Associates (EKA) to provide Phase I of Fayetteville's initiative to develop an *Economic Development Strategy / Plan*.

The enclosed proposal is based on various scope discussions EKA has had with representatives of the Planning Leadership Committee during the last two months—in which different levels of effort and different ways to define first and second phases were considered.

This final version of Phase I is close to the "ULI model" that you originally envisioned, in that our team's on-site time in Fayetteville is scheduled for one single concentrated four-day visit. However, we have added the data collection and analysis tasks that we have been discussing—to precede that visit.

The culmination of Phase I, in this scope, will be EKA's written documentation of the outcomes of the analytical tasks and the Day 4 Closing Workshop, defined as an *"Economic Development Strategy Framework."* The actual economic development strategies and tactics would be the subject of Phase II, as you originally conceived.

Please let me know if you have questions.

Our team looks forward to working with Fayetteville on this important project.

Best regards.



Proposed Scope and Work Program
University of Arkansas Technology Development Foundation and City of Fayetteville
Economic Development Strategy—Phase I
Economic Development Strategy Framework
August 11, 2008

GOALS AND OBJECTIVES

Fayetteville's leadership is seeking to create a new economic development strategy for Fayetteville and to achieve buy-in and commitment to that strategy—so that it will have a high probability of implementation.

The City of Fayetteville is the primary focus, but the leadership acknowledges that some regional strategy elements are sensible to consider, if/as they are necessary to Fayetteville's success. Throughout this scope discussion, references to "Fayetteville" are meant to also include regional elements wherever appropriate and applicable, even if not specified.

As a result of our scope development dialogue, the phases of planning are defined as follows:

- **Phase I: Economic Development Strategy—The Framework.** Phase I is defined to include initial collection and analyses of data; a single visit event to include an Opening Workshop and presentation; stakeholder interviews; consultant work session; and a Closing Workshop in which the future directions, or the *Economic Development Strategy Framework*, will be developed with stakeholders. The deliverable will be written documentation of this *Framework*.
- **Phase II: Economic Development Strategy—The Roadmap.** Phase II is defined as the development of an *Economic Development Strategy / Plan*—including main strategies and primary tactics for implementation, including roles and responsibilities of various organizations in a multi-year implementation plan; resource / investment requirements; refinement of targets relating to goals, etc.

This is a proposal for Phase I. The consultant team's objectives and task outline for Phase I are as follows:

- Collect, organize, and analyze background statistical data and existing strategic plans and other documents that relate to current and future economic development in Fayetteville
- Prepare for and conduct a four-day team visit to Fayetteville that will include workshops and interviews
- Prepare the final deliverable.

WORK PROGRAM

Summary

This project is organized into 4 Tasks:

Task 1—Statistical Data and Reports—Demographic, Economic, Industry, Education, Workforce

Task 2—Review of Existing Plans and Strategies

Task 3—Consultant Team Visit (Workshops and Stakeholder Interviews)

Task 4—Deliverable—Economic Development Strategy Framework

Each task is described below.



Task Descriptions

Task 1—Statistical Data and Reports—Demographic, Economic, Industry, Education, Workforce

Objective: Establish comprehensive, current baseline of relevant statistics about Fayetteville and its region

Tasks:

- 1.A Collect, organize, and analyze statistical, demographic, economic, industry, and other quantitative data pertinent to recent trends, current situation, and future projections (where applicable) of key parameters for Fayetteville and the two-county region, including but not limited to:
- Employment trends by industry
 - Commuting patterns
 - Business creation trends—births, deaths, etc.
 - Population trends, population by age cohorts
 - Education attainment
 - Income trends by households, etc.
 - Patterns of growth
 - Workforce information, including industry, occupation, and wage statistics
- 1.B Request and review any special studies or reports, for example, on tax revenue projections, industry forecasts, or workforce needs, to augment our search of existing, standard data sources.
- 1.C Prepare a bibliography of data and documents and compile an analytical summary

Task 2—Review of Existing Plans and Strategies

Objective: Achieve understanding of ongoing strategies and current plans of major stakeholder organizations, as an additional important element of the baseline for planning

Note: For example, we are aware that the University's ARTP strategy and the Green Valley sustainability initiative already are important strategic initiatives to which there is commitment.

Tasks:

- 2.A Collect and review existing/most current strategic plans or business plans of agencies and institutions relevant to economic development, including but not limited to:
- Fayetteville Economic Development Council
 - University of Arkansas-Fayetteville / UA Technology Development Foundation
 - NW Arkansas Community College
 - NW Arkansas Council
 - Fayetteville Public Schools (and other local public school systems)
 - Local chambers of commerce and other business organizations, if any others
 - State of Arkansas
 - Major corporate members of the community
- 2.B Develop preliminary conclusions about the role in, and impact on, Fayetteville's vision and future strategy that might derive from existing/ongoing plans of stakeholder organizations.



Task 3—Consultant Team Visit to Fayetteville

Objective: Prepare for and conduct a four-day consultant team visit to Fayetteville, as the main event of Phase 1—to collect qualitative interview data and to facilitate a Workshop with stakeholders to develop the *Economic Development Strategy Framework*.

Tasks:

- 3.A Work with the Planning Leadership Committee to plan, organize, schedule, and prepare for the visit, including detailed agenda, presentation materials, interview protocols, etc.
- 3.B Conduct the 4-day visit:
- **Day 0:** Team travel in to Fayetteville and final preparations
 - **Day 1—Morning:** Conduct an Opening Workshop with a large invited audience that will include our presentation on the Knowledge Economy and initial discussion of the rationale for a new economic development strategy for Fayetteville (up to half-day)
 - **Day 1—Afternoon:** Conduct interviews with individuals and groups who broadly represent the stakeholders—both constituents in the community and the “actors” in Fayetteville’s economic development strategy
 - **Day 2—All Day:** Continue interviews
 - **Day 3:** Conduct a consultant team internal work session to organize and analyze the findings of the interviews and to prepare for the Day 4 Closing Workshop
 - **Day 4:** Facilitate a full-day (or nearly full-day) Closing Workshop (or “Summit” or other title) with large group of participants to present the findings (as a preliminary SWOT) and to lead discussion toward development of the *Economic Development Strategy Framework*
 - **Day 4:** Travel out

Note: For budgeting, this is four days on site, including arrival on the prior day and travel out on the fourth day. The number of interviews (individual and group) will be determined based on available time of four consultants for part of Day 1 and all of Day 2 and assuming that one consultant can do five (5) individual interviews per full day and two consultants together can do four (4) group interviews per full day.

Task 4—Deliverable—Framework for Economic Development Strategy

Objective: Document the outcomes of the Day 4 Workshop (incorporating SWOT analysis) and prepare the *Economic Development Framework* that will guide development of the *Strategy / Plan* in Phase II.

Tasks:

- 4.A Integrate and analyze all the data derived from Tasks 1 through 3 and prepare the draft of the deliverable of Phase I, to include:
- The completed SWOT Analysis
 - The *Economic Development Strategy Framework* (as derived in the Day 4 Closing Workshop)
- 4.B Review the draft of the final deliverable in a meeting with the Project Leadership Committee (Meeting to be attended by E. Klein only).
- 4.C Produce the final deliverable.



TEAM

The Phase I core team was selected for complementarity of their skills—as generalists in economic development but also with some specific areas of special expertise, as follows:

- Eva Klein—University-Centered Economic Development Strategies
- Diane Lupke—Community-Based and Regional Economic Development Strategies
- Anita B. Morrison—Economic and Development Market Analyses and Urban / Regional Strategy Development
- Dr. Kathryn Baker Smith—Community College and Technical Education and Workforce Development

All four consultants will participate in the visit and development of the analyses and the deliverable.

DELIVERABLES

Interim Work Products

Interim work products will include:

- Bibliography of Data, Documents, Plans, and Reports
- Interview Plan (Interviewee Selection, Interview Protocols)
- Detailed Schedule / Agendas
- Presentation Materials for Opening Workshop (Day 1)
- Presentation Materials for Closing Workshop (Day 4)

Final Deliverables

The Phase I deliverable will be:

- *Economic Development Strategy Framework* (including SWOT Analysis)—review draft
- *Economic Development Strategy Framework* (including SWOT Analysis)—final

The most important deliverable, of course, is not a written deliverable. It is achievement of much-enhanced enthusiasm among key constituencies for the work of developing an *Economic Development Strategy / Plan*, as Phase II.

BUSINESS TERMS

Form of Contract

Given the inevitable difficulties of predicting the outcomes of a strategic planning process with multiple constituencies, in which achieving consensus is perhaps more important than writing a document, we recommend a “time and materials” contract, based on this initial scope, budget assumptions, and cost estimate, with a not-to-exceed amount established initially. Then, if/as the situation warrants, changes to scope—either additions or reductions of team members or tasks or days on site, with associated changes in costs, can be executed as amendments to the agreement by mutual agreement of the parties.



Schedule

Assuming authorization to proceed by August 29, 2008, the Phase I schedule would be as follows:

Fayetteville Economic Development Strategy							
Phase I--Framework for Economic Development Strategy							
Schedule Overview							
		Aug-08 Month 1	Sep-08 Month 2	Oct-08 Month 3	Nov-08 Month 4	Dec-08 Month 5	Phase II
0	Scope Refinements; Contract Development (City and UATDF; with EKA); Authorization to Proceed	▲					
1	Review of Statistical Data/Reports—Demographic, Economic, Industry, Education, Workforce						
2	Review of Existing Plans and Strategies—Local & Regional Organizations						
3.A	Planning & Preparation for Four-Day Team Visit to Fayetteville						
3.B	Four-Day Team Visit to Fayetteville			●			
4.A	Prepare Deliverable: Economic Development Framework (including SWOT Analysis)—Review Draft				▲		
4.B	Meeting with Project Committee to Review/Discuss Draft of Deliverable				●		
4.C	Prepare Final Deliverable					▲	
▲ = Interim or Final Deliverable ● = Meeting Event							
Note: This schedule assumes a contract in place and authorization for EKA to proceed by August 29, 2008. A full 6 to 8 weeks is needed for Tasks 1 and 2 and 3.A (visit preparation). Target for completion would be early December, depending upon when th							

Professional Fees

Based on the foregoing scope, tasks, and assumptions, fees are estimated in the following table.

Expenses

Travel is estimated for the following number of person-trips:

Task 4.B Review Meeting 1 (Klein)

**EVA KLEIN
& ASSOCIATES^{PC}**



Administrative Expenses

Administrative expenses should be modest, unless we produce many copies of materials for distribution, which can be estimated based on typical copy and document production charges that are the same as FEDEX-Kinko's. Any major duplicating/printing undertaken will be additional expense and agreed upon in advance.

Expense Estimate Summary

Travel	\$ 8,000
Travel—Contingency	\$ 1,000
Administrative	<u>\$ 1,000</u>
Total Estimated Expenses	\$10,000

With estimated expenses included, the total estimated budget is \$150,000.

Invoices and Payments

EKA will invoice monthly for fees and expenses incurred in the month just ended. Invoices will include:

- Total hours incurred
- Total professional fees
- Expenses for travel (with Travel Expense Reports and receipts, if desired)
- Administrative expenses (e.g. LD telephone, fax, printing/duplication—color copies, overnight deliveries, etc., without back-up).

Payment is due 30 days from the invoice date (net 30). Payments may be made via check or electronic funds transfer. Penalties and interest may be applied for payments received later than 30 days.

Confidentiality and Proprietary Materials

All materials provided by client participants to EKA will be treated with suitable confidentiality by EKA, its employees and subcontractors.

Work products created in this study will be owned by the University of Arkansas Technology Development Foundation or the City of Fayetteville. EKA and/or its subcontractors will retain ownership of any proprietary data, methods, or materials which it may use in the course of producing work for Fayetteville.



EXHIBIT 1—NOTES ON STAKEHOLDER INTERVIEWS

Interview Scheduling Assumptions

Interviews are incredibly important to any strategic process, especially one that requires achievement of broad participation and buy-in. But they also are extremely time-consuming and thus expensive, including:

- **Preparation:** Organization, selection of interviewees, scheduling; preparation of interview protocols
- **Interviews:** Days on site to conduct the interviews
- **Analysis:** Conversion of voluminous notes into distilled findings.

The following is provided for the Planning Leadership Committee's consideration of time and costs:

1. All four consultants will conduct interviews for approximately 1.5 days each (about 6 person-days). The actual schedule will be developed based on scheduling of the Workshops.
2. All the following assumes that interviewers stay stationary in assigned conference rooms and do NOT have to travel between interviews, which wastes time.
3. Based on a full day, one consultant can do five (5) individual interviews per day, scheduled as 1.25 hours each, with short amounts of time in between. Very small groups (e.g. 2 or 3 interviewees) can be handled the same way, although it might be better to organize the schedule for at least 1.5 hours if more than one individual. A typical schedule of interviews for one consultant for a full day would be:

<u>Individuals</u>	<u>Very Small Groups (2 or 3)</u>
8:30 – 9:45am	8:30 – 10:00am
10:00 – 11:15am	10:15 – 11:45am
11:30-12:45pm	11:45 – 1:00pm (Break/Lunch)
12:45-2:00pm (Break/Lunch)	1:00 - 2:30pm
2:00 – 3:15pm	2:45 – 4:15pm
3:30-4:45pm	4:30 – 5:45pm

4. Group interviews typically must be scheduled for two hours, with half an hour between. They require two interviewers and they take longer because so many more people have to express answers/views. Two interviewers can comfortably do three groups per full day, or four groups, if the schedule is pushed. Groups of 8-10 are ideal. Somewhat smaller or larger is workable. A typical schedule for group interviews for two consultants for a full day would be:

8:00 – 10:00am
10:30 – 12:30pm
12:30 – 1:45pm (Break/Lunch)
1:45 – 3:45pm (or 2:00 – 4:00pm)
4:15 – 6:15pm (or break up for individual interviews, e.g. 4:00 – 5:15pm)

5. Since half of Day 1 will be for the Opening Workshop; half of Day 1 and all of Day 2 will be available for interviews. The 1.5 days (x 4 consultants) will require a plan to maximize and optimize the available interview time.



Interviewees

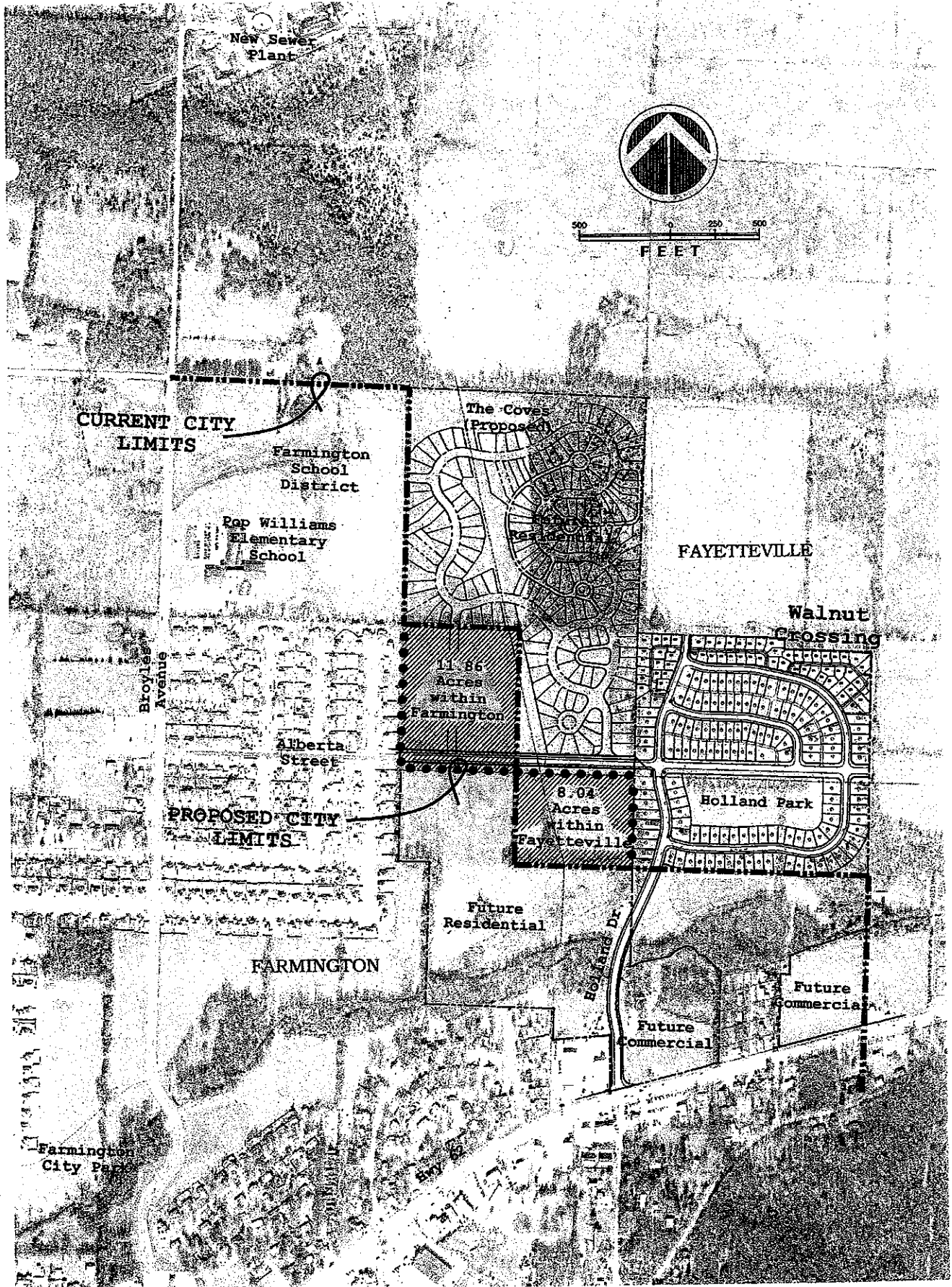
The following lists provide a base of potential interviews from which the Planning Leadership Committee and the consultants will develop the actual schedule of interviews. Not all will be included.

Individuals

1. Mayor Coody
2. Alderwoman Thiel
3. Alderwoman Gray
4. Alderman Cook
5. Alderwoman Allen
6. Alderman Ferrell
7. Alderman Rhoads
8. Alderman Jordan
9. Alderwoman Lucas
10. City Budget Director
11. UofA Chancellor
12. FPS Superintendent
13. Mayor McCaslin
14. Mayor Womack
15. Mayor VanHoose
16. Rogers-Lowell Chamber President
17. Bentonville-Bella Vista Chamber President
18. Springdale Chamber President
19. Steve Rust, Fayetteville, EDC
20. Dan Sanker, CaseStack and Green Valley Initiative
21. Owner/Editor of most influential media in the region

Groups

1. Community Activists
2. FEDC
3. Chamber Board
4. Bankers Association
5. Developers
6. Fayetteville Council of Neighborhoods
7. Industrial Users Group (Tyson, P&G, Superior)
8. Wal-Mart Vendors
9. Utility Execs
10. Sustainability Leaders (UofA, Wal-Mart, City)
11. Senior City Staff
12. Chamber Young Professionals
13. UofA Professors
14. Public School Educators
15. UA Technology Development Foundation
16. NW Arkansas Council
17. Quorum Court Members
18. Journalists / Members of print and electronic media/press
19. Neighborhood/retail revitalization groups or CDCs



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

**City of Fayetteville Arkansas
City Council Meeting Minutes
August 5, 2008**

A meeting of the Fayetteville City Council was held on August 5, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Mayor Coody called the meeting to order.

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

Pledge of Allegiance.

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

Off Street Parking Improvement District No. 1 Board Vacancy:
Approve the appointment of Tonya L. Patrick and George B. Morton
(Appointed by the District and Approved by the City Council)

Mayor Coody: This is to approve the appointment of Tonya L. Patrick and George B. Morton.

Alderman Ferrell moved to approve the appointment of Tonya L. Patrick and George B. Morton to the Off Street Parking Improvement District #1. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

Washington County Regional Ambulance Committee Appointments:
Appoint two people to the committee
(Appointed by the City Council)

Alderman Cook: I asked for suggestions from the Aldermen. Tony Johnson is one of the selections. I wanted to make sure that we had someone that was looking out for the City while

they get the ball rolling. We discussed several different people. I thought we should pick an Alderman to be on that board. After much discussion, Alderman Ferrell is interested in serving on the board. That is our other selection.

Alderman Cook moved to approve the appointment of Fire Chief Tony Johnson and Alderman Bobby Ferrell to the Washington County Regional Ambulance Committee. Alderman Lucas seconded the motion. Upon role call the motion passed 7-0. Alderman Ferrell did not vote.

Agenda Additions: None

Consent:

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

Arkansas Parks and Tourism Outdoor Recreation Grant: A resolution authorizing the Mayor to apply for an Arkansas Parks and Tourism Outdoor Recreation Grant in the amount of \$150,000.00 for the development of the park property on Fairlane Drive.

Resolution 149-08 as Recorded in the office of the City Clerk.

Arkoma Playgrounds and Supply, Inc., Bid # 08-05: A resolution awarding Bid # 08-05 and approving a contract with Arkoma Playgrounds and Supply, Inc. in the amount of \$199,969.00; and approving a 5% contingency in the amount of \$9,998.00 for the construction of Rodney Ryan Park.

Resolution 150-08 as Recorded in the office of the City Clerk.

Bestech Environmental Resources, Inc., Bid # 08-31: A resolution to approve the purchase of a G-8 Therm-Tec animal crematory for \$58,700.00 for use by the Animal Shelter and approve a budget adjustment of \$8,700.00.

Resolution 151-08 as Recorded in the office of the City Clerk.

Future Link of Illinois, Bid # 08-53: A resolution awarding Bid # 08-53 and approving the purchase of twenty-seven (27) mobile computer systems from Future Link of Illinois, Inc. in the amount of \$148, 818.33 for use in Fayetteville Police Patrol Vehicles; and approving a budget adjustment in the amount of \$149,000.00.

Resolution 152-08 as Recorded in the office of the City Clerk.

Automatic Vehicle Wash Program: A resolution approving a budget adjustment in the amount of \$60,000.00 to transfer funds from Project 02082 – (Solid Waste Vehicles/Equipment) to Project 06012 – (Wash Bay and Covered Storage) to complete the installation of the Vehicle Wash System and the Hand-Wash Truck Wash Area.

Resolution 153-08 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. Alderman Lucas seconded the motion. Upon roll call the motion passed unanimously.

Unfinished Business:

Hiring Freeze: Hiring Freeze Appeals: A resolution to approve the hiring of two replacement Fayetteville Police Officers.

Two Police Officers:

Police Chief Greg Tabor: One officer resigned and another was terminated. We currently have three officers on military leave and five on medical leave. It is important that we replace these two positions as soon as possible.

Alderman Jordan moved to approve two Police Officer positions. Alderman Gray seconded the motion. Upon roll call the resolution passed unanimously.

Resolution 154-08 as Recorded in the office of the City Clerk.

ADM 07-2711 (UDC Amendment – Chapter 166.08 Street Design and Access Management Ordinance): An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 166: Development in order to adopt street design and access management design standards. *This ordinance was left on the First Reading at the July 15, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Leif Olson, Long Range Planner: After the meeting on July 15 the Planning staff and City Attorney got together and worked out some of the inconsistencies in this ordinance. We added variance language to three different sections. After working through these changes I think this is an ordinance that the Planning staff can support.

Alderman Ferrell: I would like to thank Planning and Mr. Williams for getting together.

Alderman Ferrell moved to amend Exhibit A to the new Exhibit A that was supplied to the Council by the Planning Division. Alderman Cook seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5156 as Recorded in the office of the City Clerk

Amend Chapter 173 Building Regulations: An ordinance to enact the Arkansas Energy Code as a part of the Unified Development Code and to amend the energy code to add a provision for an energy efficiency certificate. *This ordinance was left on the Second Reading at the July 15, 2008 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5157 as Recorded in the office of the City Clerk

New Business:

Crossland Heavy Contractors, Inc.: A resolution awarding Bid #08-50 and approving a construction contract with Crossland Heavy Contractors, Inc. in the amount of \$2,439,646.00; and approving a 10% contingency in the amount of \$244,000.00 for improvements at the Noland Wastewater Treatment Plant, WSIP Subproject EP-3.

Alderman Cook: The Water and Sewer Committee met and discussed this. We moved it forward to the Council.

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

Resolution 155-08 as Recorded in the office of the City Clerk

2009 Employee Benefits: A resolution to approve the same level and cost of employee benefits in 2009 as are being provided in 2008.

Missy Leflar, HR Division Manager: We are requesting Council approval of the City paid employee benefits for 2009. This will be at the same cost. There will be no increase, and no change.

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

Resolution 156-08 as Recorded in the office of the City Clerk

Amend § 33.018, Parks and Recreation Advisory Board: An ordinance to amend § 33.018 Parks and Recreation Advisory Board of the Code of Fayetteville.

City Attorney Kit Williams read the ordinance.

Alison Jumper, Park Planner II: We would like to increase the membership of the board from eight members to nine members and extend the terms from two years to three. I think this will provide a better makeup for the board.

Alderman Thiel: I think this is a very good ordinance and a very good change to the existing ordinance.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5158 as Recorded in the office of the City Clerk

Amend Chapter 174 Signs: An ordinance to amend Unified Development Code Ch. 174.08, Prohibited Signs, to allow "A" frame sandwich/menu board signs under certain conditions.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning gave a brief description of the change to the ordinance. I have had some questions on this ordinance therefore I would like to hold it on this reading.

Alderman Thiel: The City has had some problems with these being placed on sidewalks and people falling over them. They have created some hazards. Are these going to be allowed anywhere or do they have to make a request to have one?

Jeremy Pate: They would have to be permitted.

Alderman Thiel: If they have to be permitted that eliminates that. That means you will look at location, where they are going to place them, and if it will jeopardize pedestrian traffic.

City Attorney Kit Williams: When you are dealing in the first amendment area we want to have very little discretion. Either it meets the pedestrian safety by being wide enough or it does not. I would like to work with Jeremy to tighten this up.

Alderman Allen: It sounds like these are good suggestions. I think our sign ordinance is one of the things that sets us aside from neighboring communities. I hope we can work with this and make it something that will be helpful to all.

Alderman Rhoads: The only thing that struck me is it might be too restrictive from the standpoint that there has to be other businesses besides restaurants and bars that may be tucked away, as we do more infill and develop different parks of our downtown. You may have some businesses that may be in need of advertisement. I would hope that they could get a permit as well.

City Attorney Kit Williams: I would suggest that we start initially with the restaurants and eating establishments and then if there are other businesses we can take a look at that. If we go beyond the restaurants initially, what is the next limitation? I don't see one really.

Alderman Rhoads: I would say any business that is precluded from advertising an invisible site but for an A-frame sign, something of that nature.

Alderman Ferrell: I think we should do this and then take a look at others.

This ordinance was left on the First Reading.

Bid Waiver for Asphalt: An ordinance waiving the requirements of formal competitive bidding indefinitely for the purchase of asphalt materials for use by the Transportation Division.

City Attorney Kit Williams read the ordinance.

Gary Dumas, Director of Operations: We received notification in July about the lack of material from our contracted supplier. Because of the volatility, long term bidding does not seem viable. We would like to have the ability to get quotes.

City Attorney Kit Williams: I hope the Transportation Division will keep close tabs on this, because once the volatility in the market goes out, we need to repeal this ordinance and go back to a normal bid procedure.

Alderman Cook: I agree with Kit's comment on this.

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

City Attorney Kit Williams read the ordinance.

Alderman Ferrell moved to amend the ordinance to be effective throughout the remainder of 2008 for the purchase of asphalt materials. Alderman Jordan seconded the motion. Upon roll call the motion passed unanimously.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5159 as Recorded in the office of the City Clerk

2009 Budget Request: A resolution to request that the budget to be submitted to the City Council by the Administration be balanced.

Alderman Ferrell: This is really a very simple statement of intent. This is fiscal sustainability. It is a statement of intent that we are not going to project to spend more than we expect to take.

Mayor Coody: The staff is very professional and for years they have done a very good job presenting a well run fiscally conservative balance sheet. I don't want to tie their hands with this kind of a request. If we need to present a balanced budget that is different than this for some reason, the budgeting process is so complex that I think we will need to present to you the best budget that we can that will preserve the quality of services we provide the citizens and preserve the strength of our staff and our employees as well. It is a delicate balancing act.

Alderman Ferrell: I would say and or reallocate resources as needed.

Mayor Coody: We are going to present to you the budget that we think will work the best.

Alderman Thiel: I would like to hear staff's comments.

Paul Becker, Finance Director: If the intent of the resolution is to bind us and not budget any more expenditures than estimated revenues then I would say it ties our hands from possibilities if we see that we need to use reserves to bring the budget in sync. I think we should be able to recommend that. That is a decision for the Council whether to approve the recommendation. I believe we should consider using cash reserves if necessary to make that recommendation.

Mayor Coody: If necessary.

Paul Becker: Yes.

Alderman Lucas: I don't understand the problem with this personally. Every year a budget is brought to us and the Council works very hard to bring us within the budget and not go into reserve. This is merely stating this is what we would like to see to begin with. I would like to see a budget that is brought to us that is balanced. I am not saying it is okay to go into reserves.

Paul Becker: Are you saying I am precluded from recommending use of reserves?

Alderman Lucas: After you bring us the balanced budget you may say we should do this or that. I want to see a balanced budget to begin with.

Mayor Coody: They are saying that whatever money we expect to bring in is exactly what we should budget for. This is a very fiscally distressing time, with the spike in materials and the increase in different costs. Our income is not growing like it use to. I don't feel the need to tie the staff's hands on bringing forward a budget that needs to be completely balanced, if that means as we bring forward a balanced budget that automatically means we would be doing things such as requiring that we raise taxes or requiring that we lay people off, neither of which are acceptable to us.

Alderman Thiel: I disagree with Alderman Ferrell and Lucas regarding this proposal. I certainly want us to have as balanced of a budget that we can. I would like to see what the various divisions feel are necessary or essential and then look at it. Rather than the reverse of having everything cut out, including possibility having to lay people off, and then the Council try to determine how to put that back into place. I like the way we have done it. I don't want to see layoffs in a budget and if that is what departments have to do to make this budget work then I don't want to be in a position of saying which departments have to lay off. I don't want to tie the hands of the staff to that extent.

Alderman Ferrell: There is no intent to tie the hands of staff. This is a resolution of intent. The economy is part of the reason I came up with this. The intent is to tighten things up that when it comes to us expenditures equal revenues.

Mayor Coody: This will be a much tighter budget than last year and last year was very tight.

Paul Becker: We have to remember there are a lot of escalated costs and the request for expenditures is reflecting that.

Alderman Ferrell: When we have escalation in cost sometimes we have to defer spending in other areas where we can defer it.

Paul Becker: We went through some very difficult exercises last year as we did the year before and made some cuts.

A discussion followed on the proposed budget.

Alderman Allen moved to amend the resolution to say *as balanced as possible*. **Alderman Thiel** seconded the motion. Upon roll call the amendment failed 3-5. **Alderman Thiel, Allen and Gray** voting yes. **Alderman Cook, Rhoads, Ferrell, Lucas, and Jordan** voting no.

Amendment failed.

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

Resolution 157-08 as Recorded in the office of the City Clerk

R-PZD 08-2980, Markham Hill Cottage Courts: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2980, Markham Hill Cottage Courts, located north of Maine Street, between Sang and Cross Avenue; containing approximately 2.54 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Jeremy stated the Planning Commission voted 7-0 in favor of the request and staff recommended approval with some conditions.

This ordinance was left on the Second Reading.

R-PZD 08-3006, Porchscapes: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3006, Porchscapes, located at the southern extension of Seven Hills Drive, south of Huntsville Road; containing approximately 8.81 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the project. Jeremy stated the Planning Commission voted 7-0 in favor. Jeremy asked the Council to amend Condition # 4 regarding solid waste.

At the time of printing the packet a solid waste waiver had not been worked out entirely. The Solid Waste Division and the applicant have been able to get together and they were able to work out a resolution with the conditions. A project such as this usually requires a dumpster. Most neighborhoods utilize residential carts and recycling bins and the applicant would like the same to be the case for this project. With some conditions in place the Solid Waste Division is agreeable to that as well. Staff is recommending approval of this project.

Alderman Thiel moved to amend Condition # 4 of the ordinance to incorporate the conditions of approval from the Solid Waste Division as part of this PZD. **Alderman Allen** seconded the motion. Upon roll call the motion passed unanimously.

Katie Brashears, Community Design Center spoke about the goal they had with Habitat on this project and some of the design elements they incorporated to achieve those goals. She stated the main goals was to create an affordable sustainable neighborhood that will allow for these houses to appreciate in value and also to serve as a model for other developments throughout Arkansas. They have incorporated three major design elements to achieve this goal, sustainability, low impact development techniques, and use of a shared street.

Mayor Coody: This is a real exciting project.

Mike Johnson, Habitat board member: This is a great story for the entire community. Up to 43 families will have the ability to attain home ownership on a zero interest loan. This is going to be a great place to live. I think the City and this region will be proud of what is there. I think the environment, the community and these young families are going to win. It is going to give us the ability to go beyond four or five homes a year. I think we have the opportunity to learn and take that next step. This is a great opportunity for all of us. We appreciate your support.

Mayor Coody: It really was a good partnership.

Mike Johnson: We have settled on a formal name, Heritage Meadows.

Chris Suneson, McClelland Consulting Engineers: We are a proud partner in this project. One of the important aspects this project brings forward for the City is the concept of green infrastructure.

Alderman Thiel: I have not heard anyone that is opposed to this. I am really excited about it.

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

City Attorney Kit Williams read the ordinance.

Alderman Gray moved to amend the ordinance to change the project name to Heritage Meadows. Alderman Ferrell seconded the motion. Upon roll call the motion passed unanimously.

Alderman Jordan: I was really impressed with this. It is one of the best looking developments that I have seen come through since I have been on the Council. I particularly like that it creates attainable housing. I think it is a great project and I want to commend you for the work that you have done.

Alderman Ferrell: I think the whole community is enriched with the time and efforts of everyone in our community that have worked so hard to bring this about.

Alderman Allen: It is great.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5160 as Recorded in the office of the City Clerk

R-PZD 08-3022, Stonewood Gardens: An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-3022, Stonewood Gardens, located near the south east corner of Crossover and Albright Road; containing approximately 3.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief history of the PZD. This is a concept PZD. Planning Commission approved this unanimously. Staff recommended in favor.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5161 as Recorded in the office of the City Clerk.

RZN 08-3027, Pathway Baptist Church: An ordinance rezoning that property described in rezoning petition RZN 08-3027, for approximately 14.36 acres, located at the southeast corner of Mount Comfort and Salem Road from RSF-4, Residential Single-family, 4 units per acre and R-A, Residential Agricultural to R-O, Residential Office and P-1, Institutional.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning. Staff recommends approval of this rezoning request. The Planning Commission voted unanimously in favor of this.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5162 as Recorded in the office of the City Clerk.

ANX 08-3029, Holcomb Heights III: An ordinance annexing that property described in annexation petition ANX 08-3029, located at the northwest corner of Weir Road and North Salem Road, containing approximately 3.23 acres.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the annexation. Staff recommends approval of this annexation request. The Planning Commission voted 7-0 in favor of this.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5163 as Recorded in the office of the City Clerk.

RZN 08-3030, Holcomb Heights III: An ordinance rezoning that property described in rezoning petition RZN 08-3030, for approximately 3.23 acres, located at the northwest corner of Weir Road and North Salem Road from R-A, Residential Agricultural, to RSF-4, Residential Single-family, 4 units per acre.

City Attorney Kit Williams read the ordinance.

Jeremy Pate gave a brief description of the rezoning.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5164 as Recorded in the office of the City Clerk.

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

Fayetteville Downtown Partners-Fayetteville Arts Festival: An ordinance waiving the requirements of § 34.23(A) of the Fayetteville Code requiring quotation bids and approving a contract for services with Fayetteville Downtown Partners in the amount of \$2,500 to promote, produce and manage the 2008 Fayetteville Arts Festival and approving a budget adjustment in the amount of \$2,500.00.

Alderman Jordan moved to add the ordinance to the agenda. Alderman Thiel seconded the motion. Upon roll call the motion passed unanimously.

City Attorney Kit Williams read the ordinance.

Mayor Coody: The A&P Commission agreed to pay \$2,500 if we would pay \$2,500. This is what they agreed to so this is what I am bringing to the Council.

Alderman Jordan: I would like to make an amendment to the ordinance. We made a commitment a few years ago for one million dollars for our trails program. We have also helped with the purchase of a couple of tracts of urban forest that ended up at several hundred thousand dollars. We supported the Botanical Gardens with \$750,000 which came from our Economic Development Fund. We have talked a lot about supporting the arts program and I think it is time that we do that. I would like to amend the ordinance to state \$32,500 and do a budget adjustment out of the Economic Development Fund to fund this to bring forward the Arts Festival.

Alderman Jordan moved to amend the ordinance to \$32,500 and do a budget adjustment out of the Economic Development Fund to fund this amount. Alderman Allen seconded the motion.

Alderman Allen: I think we need to put our money where our mouth is. We claim the arts to be an important part of our culture here in Fayetteville.

Alderman Thiel: What was the amount?

Alderman Jordan: We are getting \$2,500 from the A&P Commission so we will add \$32,500 for a total of \$35,000 which is what they recommended. I would also recommend that if we do take it out of our Economic Development Fund that the money not be spent elsewhere. That it be with local businesses here in Fayetteville.

Mayor Coody: When you say keep the money here in Fayetteville does that mean they can not advertise in Bentonville?

Alderman Jordan: One of the complaints that I heard from the A&P Commission was that a lot of the money was being spent in Bentonville and they did not like that. I thought if we would just keep it right here that it would be more in line with our economic development here in Fayetteville.

Mayor Coody: What will you do with the \$35,000? Do you have a budget?

Sarah Lewis, Arts Festival representative: We do have a budget. We are working to move this festival forward this year and that money would go to support future festivals as well as helping to pay for existing activities for this year's festival. The festival will be at the Town Center this year. Our budget would support that amendment to the funding request.

Mayor Coody: We will also need a motion and a second to approve a budget adjustment for \$32,500.

City Attorney Kit Williams: It is part of the ordinance. You would have to amend Section 2 of the ordinance which is the budget adjustment.

Alderman Rhoads: We talked about this before and the amounts you needed. There was going to be a fund raising event. Can you give us a little more specifics and tell us exactly where you are dollar wise.

Daniel Keeley: We had a successful fund raiser. We raised about \$8,600. We had a few private donations. We are still trying to solicit more. We have had entry application fees from the artist which gave us another \$1,000. We had a budget of \$54,000. We are only going to spend what we get for the Arts Festival. It is all in adverting dollars and what we can offer at the festival.

Alderman Rhoads: Where are you as far as raising that \$54,000?

Daniel Keeley: We have somewhere in the neighborhood of \$10,000.

Sarah Lewis, Arts Festival representative: The budget goes back over years of planning this festival. We have grown this festival over the past three years. This festival has required capital funds to get it going. We need those funds to keep it going for seed money for the future of the festival. This kind of an event is a value to Fayetteville. It adds economic revenue that comes in. This is a perfect example of a festival that has been very successful. It has taken a few years to get it to the point where it can generate revenue for itself. That is where we are right now, trying to get it to the point where it can break even and then be profitable. We have been able this year through volunteerism to use our in kind donations to make it move forward in spite of the reorganization of the organization. We are so thankful for the opportunity to get to work with the City and the A&P Commission. Having you show support for this event is going to move it forward, be more powerful and generate more revenue than it has in the past.

Alderman Ferrell: If there is money left this year will it go into planning for next year?

Sarah Lewis, Arts Festival representative: That would be seed money for next time if there is money left over.

Alderman Ferrell: I support the arts but I am sorry that I can not support this amount.

Dede Peters, Fayetteville Arts Council read something that she found on the City of Fayetteville website form the City of Fayetteville briefing book prepared by the City of Fayetteville.

If things like the Arts Festival are being used to advertise our great City, then I would like to see support from the Council.

A discussion followed on where the funds would come from.

Alderman Lucas: I think things like this are so important. Other festivals like this are not funded by the administration they are funded by hotel, motel tax. I see that as what that money should go for, bringing people into the community to support the businesses.

Alderman Rhoads: I have been very supportive of the arts. If I had all the money in the world, I would give you a lot more than \$32,500. Down the road we are going to have to come up with some funds to maintain and enhance the Walton Arts Center. I want to be careful that we will have sufficient funds to be able to do that. I do not want to spend more money than what we can. I thought \$2,500 was too low and \$32,500 is too high. I think I would be more comfortable with a total of \$15,000.

Alderman Allen: I think all these things are so tied together that makes this very important to happen now. Hopefully we will not have to give them this much in the future.

Alderman Thiel: I agree that this is very important. I was disappointed when we chose not to consider continued support for the Downtown Partners. I certainly think \$2,500 was too little. There were too many different responses from the board about what they would do with that money. I probably will not vote for the \$32,500 but I will be supportive of a lesser amount.

Alderman Gray: I feel very torn also. I support the arts. If they want seed money for future years they can put in a request for next year.

Mayor Coody: The thing that concerns me is we just passed a resolution saying we must present a balanced budget for the City staff yet we come up with deficient spending like this. I would prefer that we get more input so we can plan for this. We all support the arts. I go to every one of the arts festivals and I want to see this thing grow. But, what we are telling our city employees is we will give \$32,500 to someone that wants it even though it is more than what they ask for but we can't afford to give you a raise. We are in a position where we are really having tight budget times and to be so cavalier with this kind of money it is hard for us to justify that to our employees and staff that is trying to balance the budget.

Alderman Jordan: We did come up with \$75,000 to bring a consultant in to talk about economic development. These folks can bring in economic development just like they can.

Mayor Coody: I am not so sure about that.

Upon roll call the motion to amend the ordinance to \$32,500 failed 3-5. Alderman Cook, Allen, and Jordan voting yes. Alderman Thiel, Rhoads, Ferrell, Lucas, and Gray voting no.

Alderman Rhoads moved to amend the ordinance to \$12,500 from the City for the Arts Festival. Alderman Gray seconded the motion. Upon roll all the motion passed unanimously.

Alderman Thiel: I really hope the board comes to administration with a proposal for our budget that would start providing something sustainable. That is something I would be very supportive of.

Alderman Lucas: And put in a budget request to the A&P Commission on time. That is important too because that is what that money is for, economic development in Fayetteville.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5165 as Recorded in the office of the City Clerk.

Amend § 161.23, Neighborhood Conservation: An ordinance to amend § 161.23 Neighborhood Conservation to add Use Unit 26, Multi-family dwellings as conditional use.

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I would like to leave this on this reading. I want to make sure the public is aware of what we are discussing.

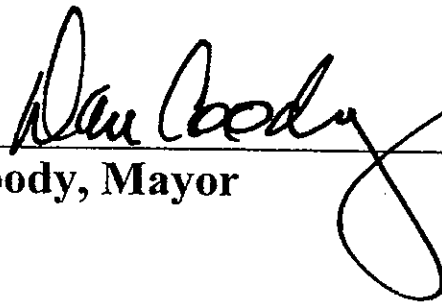
Alderman Ferrell: Jeremy do I understand that it takes both ward aldermen and a third alderman to be able to come before the Council on an appeal.

Jeremy Pate: That is correct. If it is approved or denied it takes three aldermen, two which must reside in that ward to appeal before the City Council.

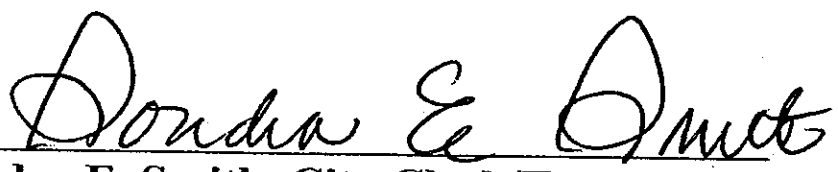
Alderman Allen: I think it should be very difficult for the Planning Commissions conditional use to be overturned.

The ordinance was left on the Second Reading.

Adjournment: Meeting adjourned at 7:55 p.m.



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

8-19-08

14-43-506. Duties of city clerk.

(a) The city clerk in cities of the first class shall have the custody of all the laws and ordinances of the city and shall keep a regular and correct journal of the proceedings of the city council.

(b) (1) The city clerk, city clerk-treasurer, or city treasurer, as the case may be, shall be required to submit quarterly a full report and a detailed statement of the financial condition of the city. This report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city.

(2) The report shall be submitted to the council in open session.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., § 7694; Pope's Dig., § 9837; A.S.A. 1947, § 19-1018; Acts 2007, No. 71, § 1.

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
August 19, 2008**

A meeting of the Fayetteville City Council will be held on August 19, 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:

2007 Comprehensive Annual Financial Report given by Audit Committee Chair Bill Golbuff

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Walton Arts Center's Yearly Report given by Terri Trotter, Interim President/CEO and City of Fayetteville Appointee Curt Rom**
- 2. Quarterly Report of Financial Condition of the City – City Clerk**

Agenda Additions:

A. Consent:

1. Approval of the August 5, 2008 City Council meeting minutes.
2. **Bid # 08-59 Thompson Culvert Company:** A resolution awarding Bid # 08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail; and approving a project contingency in the amount of \$1,986.70.
3. **Southern Disposal, Inc:** A resolution authorizing the Mayor to execute a contract with Southern Disposal, Inc. to haul and dispose of solid waste in the City limits of Fayetteville.
4. **Nelson Engineering:** A resolution to approve a contract with Nelson Engineering in the amount of \$36,100.00 to provide engineering services for the West Fork Water Quality Monitoring Project.

B. Unfinished Business:

1. **Hiring Freeze:** Hiring Freeze Appeals:
2. **Amend Chapter 174 Signs:** An ordinance to amend Unified Development Code Ch. 174.08, Prohibited Signs, to allow "A" frame sandwich/menu board signs under certain conditions. *This ordinance was left on the First Reading at the August 5, 2008 City Council meeting.*

Left on the First Reading

3. **R-PZD 08-2980, Markham Hill Cottage Courts:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2980, Markham Hill Cottage Courts, located north of Maine Street, between Sang and Cross Avenue; containing approximately 2.54 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 August 5, 2008 City Council meeting.*

Left on the Second Reading

4. **Amend § 161.23, Neighborhood Conservation:** An ordinance to amend § 161.23 Neighborhood Conservation to add Use Unit 26, Multi-family dwellings as conditional use. *This ordinance was left on the Second Reading at the August 5, 2008 City Council meeting.*

Left on the Second Reading

C. Public Hearing:

1. **Raze and Removal at 402 E. Center Street:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by Tiffany R. Major located at 402 E. Center Street in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$4,945.00.

D. New Business:

- 1. VAC 08-3042 (U of A Research Center):** An ordinance approving VAC 08-3042 submitted by Allen Jay Young Development Consultants, Inc. for property located north of Research Center Boulevard and west of South School Avenue to vacate a portion of a water and sewer easement and a portion of a drainage easement.
- 2. ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A §14-40-2101.
- 3. ANX 08-2899 (Frank Sharp):** An ordinance annexing that property described in annexation petition ANX 08-2899 (CC2008-38), for property located 0.5 mile south of Highway 62 West and east of Holland Drive, containing approximately 53.53 acres.
- 4. Sharp Property Rezoning Appeal:** An ordinance rezoning that property described in rezoning petition RZN 08-2900, for approximately 53.53 acres, located 0.5 mile south of Highway 62 West and east of Holland Drive from R-A, Residential Agricultural, to RSF-1, Residential Single-Family, 1 unit per acre.
- 5. ANX 08-2897 (Southpass Development):** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres.

Announcements:

- 1. City Council Tour: August 18, 2008**

Adjournment:

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

19-Aug-08

City Council Meeting Date

Carole Jones

Submitted By

Parks and Recreation

Division

Operations

Department

Action Required:

A resolution awarding Bid #08-59 and approval of a contract with Thompson Culvert in the amount of \$26,489.40, with a 7.50% project contingency of \$1,986.70 for a total project cost of \$28,476.10 for the purchase of the pedestrian bridge for Wilson Park Trail.

\$28,476

Cost of this request

2250.9255.5806.00

Account Number

02014.2

Project Number

\$4,252,701

Category/Project Budget

\$ 361,191

Funds Used to Date

\$0

\$3,891,510

Remaining Balance

Neighborhood Park Development

Program Category / Project Name

Parks Development

Program / Project Category Name

Parks Development/PLDO (SW)

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City Clerk's Office

ENTERED

Received in Mayor's Office

ENTERED

Comments:

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: August 1, 2008
RE: Wilson Park Trail Bridge – Equipment Only

RECOMMENDATION

A resolution awarding Bid #08-59 and approval of a contract with Thompson Culvert in the amount of \$26,489.40, with a 7.5% project contingency of \$1,986.70 for a total project cost of \$28,476.10 for the purchase of a 50' long x 6' wide pedestrian bridge for Wilson Park Trail.

BACKGROUND

Wilson Park contains 22.75 acres and is located at 675 North Park Avenue. The park is situated in the southwest quadrant of town west of College Avenue (U.S. Highway 71B) and south of North Street. The park is one of the citizen's oldest and most popular park in the center of our City serving all residents.

On June 5, 2006, the Parks and Recreation Advisory Board approved funding in the amount of \$69,000 from the Southwest Park District to fund an additional portion of trail and a pedestrian bridge on the east side of the park along Park Avenue. The current trail utilizes the sidewalk as the trail on this portion. With the immediate curve and hill, this creates a potential unsafe area for trail users. The trail improvements will begin on the north side of the swimming pool entry on Park Avenue. The trail will require a pedestrian bridge and will continue along the east side of the softball field and connect back to the existing trail near the Castle area. The bridge specifications requested the same type and style of bridges that have recently been installed on the Scull Creek Trail.

The construction of the trail improvements is tentatively scheduled for 2009 pending City Council approval and will be part of the total trail renovation and lighting project. Purchase and installation of the pedestrian bridge is necessary in 2008 in order to spend funds from the Park Land Dedication southwest quadrant as required by the ordinance.

DISCUSSION

The project was advertised on July 11, and bids were opened on August 1, 2008. Five vendors including Thompson Culvert; Wheeler Lumber, LLC; Contech Bridge Solutions; Crane Materials International and Ohio Bridge Corporation submitted bids. Thompson Culvert was the low bidder in the amount of \$26,489.40. If approved, the bridge should be ready for delivery to the City by November 2008.

Agenda Item Number

BUDGET IMPACT

This project is funded with Park Land Dedication Funds from the Southwest Park District. Total project cost including a 7.50 % contingency is \$28,476.10. The annual maintenance cost for the bridge is anticipated to negligible.

Attachments:

PRAB Minutes June 5, 2006
Bid Tabulation Sheet
Contract Signed by Contractor
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #08-59 TO THOMPSON CULVERT COMPANY IN THE AMOUNT OF \$26,489.40 FOR THE PURCHASE OF A PEDESTRIAN BRIDGE FOR THE WILSON PARK TRAIL; AND APPROVING A PROJECT CONTINGENCY IN THE AMOUNT OF \$1,986.70.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a project contingency in the amount of \$1,986.70.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

4. Trail Naming Proposal: Matt Mihalevich, Trail Coordinator

The following names of trails were recommended for approval of PRAB by the Sidewalk and Trails Committee on April, 12, 2006. The trail names were submitted at the May 1st meeting and tabled according to the Naming of Facilities Policy to allow for public input until the June meeting.

St. Paul Trail - Currently constructed between Morningside and Armstrong, south of Pump Station Road. This trail will connect to Combs Park. The trail is constructed on the abandoned St. Paul Railroad.

Town Branch Creek Trail - Under construction between Beechwood and Razorback. The trail will continue to follow Town Branch Creek east to the White River.

Tsa-La-Gi Trail - Soon to be under construction from Hill Ave. west to the railroad line. This trail will run parallel with Sixth Street to the south and closely follow the historic Trail of Tears of the Cherokee Tribe.

Clabber Creek Trail - This future trail will be located north of Mt. Comfort Road. The trail will follow Clabber Creek from the confluence with Hamstring Creek east to Scull Creek Trail.

Scull Creek Trail - This future trail will roughly run parallel with Gregg Street. This trail will follow Scull Creek from the confluence with Mud Creek south to Wilson Park where it will meet Frisco Trail.

Owl Creek Trail - This future trail to be Located south of Hwy 16 West (Wedington). This trail will follow Owl Creek from Double Springs Road east to Ruppel Road, near the Boys and Girls Club.

PRAB Motion: Davidson moved to approve the trail names as listed and Bitler seconded the motion and it carried 4-0-0

5. Wilson Park Bridge\Trail Proposal: Matt Mihalevich & Connie Edmonston

Currently there is \$22,000 in the Capital Improvement budget to improve the trail on the Park Street side of Wilson Park. The current trail utilizes the sidewalk as the trail on this portion. With the immediate curve and hill, this creates a potential unsafe area for trail users. This improvement would begin on the north side of the swimming pool entry off of Park Street. The trail would need a bridge and would continue on the outside of the softball field and would connect back to the Castle area. The University of Arkansas engineering class has used this as a class project to assist with this project. The bridge and bridge abutments and sub-structure are estimated to cost \$37,000. Total cost of this project is estimated at \$90,823. (See attached estimate and pictures.)

June 5, 2006/ 4

Staff Recommendation: Park Staff recommends approving \$69,000 from the Park Land Dedication Fund to assist with the Wilson Park Bridge and Trail Improvement project.

Colwell suggested installing an exercise station along some area of the trail near the pool.

Edmonston wants to see how the Gulley Park exercise station is utilized before installing one in another park.

Colwell asked if the FEMA guidelines will be followed for the bridge and trail construction.

Mihalevich said those guidelines would be followed.

Davidson asked if there are any other funds in the Capital Budget for Wilson Park.

Edmonston said there is not and the \$22,000 designated is a carry-over.

Bitler asked how much money is in the Southwest Quadrant Park Fund.

Edmonston said \$310,000 is unencumbered. Other projects for this year are Wilson Park basketball court resurfacing, Finger Park upgrade, Dale Clark Park signage and there is funding for Legacy Park. This is a lot, but the safety factors in several of the parks are critical and citizens are asking for the improvements.

PRAB Motion: Bitler moved to approve the allocation of an additional \$69,000 from the Southwest Quadrant Park Fund as recommended by Staff for the building of the Wilson Park Trail and Bridge. Burke seconded the motion and it carried 4-0-0

6. Park Land Dedication:

Alison Jumper, Park Planner

Development Name:	East Township Extension
Engineer:	Freeland, Kauffman, and Fredeen
Owner:	Mike Driver, SDSJ Development LLC
Location:	East of Covington Subdivision
Park District:	NE
Units:	7 Single Family
Total Acres:	3.38 acres
Land Dedication Requirement:	0.168 acres
Money in Lieu Requirement:	\$6,720
Existing Parks:	Braden Park

June 5, 2006/ 5

Bid 08-59, Wilson Park Trail Bridge - Equipment Only
Detailed Bid Tab: 08/01/08 - 2:00 PM, Central Standard Time

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE	UNIT PRICE	BID PRICE
1	Wilson Park Trail Bridge, as specified, includes abutment, deck, and railing.	L.S.	1.00	\$32,820.00	\$32,820.00	\$34,000.00	\$34,000.00	\$34,000.00	\$34,000.00	\$50,841.00	\$50,841.00	\$26,489.40	\$26,489.40
TOTAL BID AMOUNT				\$32,820.00		\$34,000.00		\$34,000.00		\$50,841.00		\$26,489.40	
												\$32,875.00	

CERTIFIED: Peggy Vico
 Peggy Vico, Purchasing Manager

WITNESS

08/01/08 DATE

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



City of Fayetteville, Arkansas
Purchasing Division – Room 306
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8289

INVITATION TO BID

INVITATION TO BID: BID 08-59, Wilson Park Trail Bridge

DEADLINE: Friday, August 01, 2008 at 2:00 PM, Central Standard Time

DELIVERY LOCATION: Room 306 – 113 W. Mountain, Fayetteville, AR 72701

PURCHASING AGENT: Andrea Foren, CPPB, aforen@ci.fayetteville.ar.us, 479.575.8220

DATE OF ISSUE AND ADVERTISEMENT: Friday, July 11, 2008

INVITATION TO BID

BID 08-59, Wilson Park Trail Bridge

Equipment Only – No construction or installation

No late bids will be accepted. Bids shall be submitted in sealed envelopes labeled "Bid 08-59, Wilson Park Trail Bridge, with the name and address of the bidder.

All bids shall be submitted in accordance with the attached City of Fayetteville specifications and bid documents attached hereto. Each bidder is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection. Bids must be submitted on this bid form in its entirety AND accompanied by descriptive literature on the products being bid.

The undersigned hereby offers to furnish & deliver the articles or services as specified, at the prices & terms stated herein, and in strict accordance with the specifications and general conditions of bidding, all of which are made a part of this offer. This offer is not subject to withdrawal unless upon mutual written agreement by the Proposer/Bidder and City Purchasing Manager.

Name of Firm: THOMPSON CULVERT COMPANY

Contact Person: ROB RICHARDSON Title: AREA MANAGER

E-Mail: rob@thompsonculvert.com Phone: 888-801-6198

Business Address: 4151 E KEARNEY

City: SPRINGFIELD State: MO Zip: 65803

Signature: Rob Richardson Date: 7/29/08

City of Fayetteville
Bid 08-59, Wilson Park Trail Bridge (equipment only)
Bid Proposal Form (must be submitted with bid)

F.O.B. Wilson Park, 675 N. Park Avenue, Fayetteville, AR

ITEM:	DESCRIPTION:	QUANTITY:	*TOTAL PRICE
-------	--------------	-----------	--------------

1. Wilson Park Trail Bridge
- as specified: includes
abutment design

1

\$ 26,489.40

Please Specify for Unit Bid:

*MANUFACTURER: ANDERSON BRIDGE MODEL: PER SPECIFICATION

TOTAL BID PRICE:

\$ 26,489.40

***Price includes:** Signed and sealed shop drawings by a Professional Engineer registered in the State of Arkansas, freight, shipping, all delivery fees, and all items requested in this invitation to bid.

***GUARANTEED TURN AROUND TIME**

FROM RECEIPT OF PURCHASE ORDER TO DELIVERED SHOP DRAWINGS: 10 CALENDAR DAYS
FROM RECEIPT OF APPROVED SHOP DRAWINGS TO DELIVERY: 84 CALENDAR DAYS

Shall not exceed 94 calendar days total

This bid form continues on the next page...

EXECUTION OF BID -

Bidders are requested to indicate by check mark or "Yes/No" on each line of the Specifications the compliance of the item bid. Actual specification of any deficient item must be noted on the bid sheet or separate attachment. If specifications of item bid differ from provided literature, deviation must be documented and certified by the manufacturer as a regular production option.

Upon signing this Bid, the bidder certifies that:

1. He/she has read and agrees to the requirements set forth in this proposal, including specifications, terms, standard conditions, and any pertinent information regarding the articles being bid on.
2. Unless otherwise noted and explained, the unit bid and listed meets or exceeds all of these requirements as specified by The City of Fayetteville.
3. The Bidder can and will comply with all specifications and requirements for delivery, documentation and support as specified herein.

Unsigned bids will be rejected. Items marked * are mandatory for consideration.

*NAME OF FIRM: THOMPSON CULVERT Co
Purchase Order and Payments shall be issued to this name

*BUSINESS ADDRESS: 4151 E Kearney

*CITY: Springfield *STATE: Mo *ZIP: 65803

*PHONE: 888-801-6198 FAX: 417-831-2619

*E-MAIL: rob@thompsonculvert.com

*BY: (PRINTED NAME) ROB RICHARDSON

*AUTHORIZED SIGNATURE: Rob Richard

*TITLE: Area Manager

Bid 08-59, Addendum 1



Date: Tuesday, July 15, 2008

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 08-59, Wilson Park Trail Bridge

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **Bid 08-59, has the following modifications and clarifications:**

1.) Reference Page 4 of 8, B.) Other Provisions:

Third bullet on the list shall be changed to read as follows:

"Abutment dimensions for the back wall height along with technical support shall also be provided by manufacturer. Bridge supplier shall be available for technical support at time of bridge placement."

2.) All bidders shall submit a 5% bid security in the form of a Bid Bond or Cashier's Check made out to the City of Fayetteville. Failure to submit bid security could lead to bid being disqualified.

Acknowledge Addendum #1:

Printed Name: Rob Richardson

Signature: Rob Richardson

Title: Area Manager Date: 7/28/08

Company: Thompson Culvert

Bid 08-59, Addendum 2



Date: Tuesday, July 22, 2008

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 08-59, Wilson Park Trail Bridge

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- **Bid 08-59, has the following modifications and clarifications:**

- 1.) A toe rail or toe plate shall be included with the bridge as detailed on the attached drawing or approved equal.

Acknowledge Addendum #2:

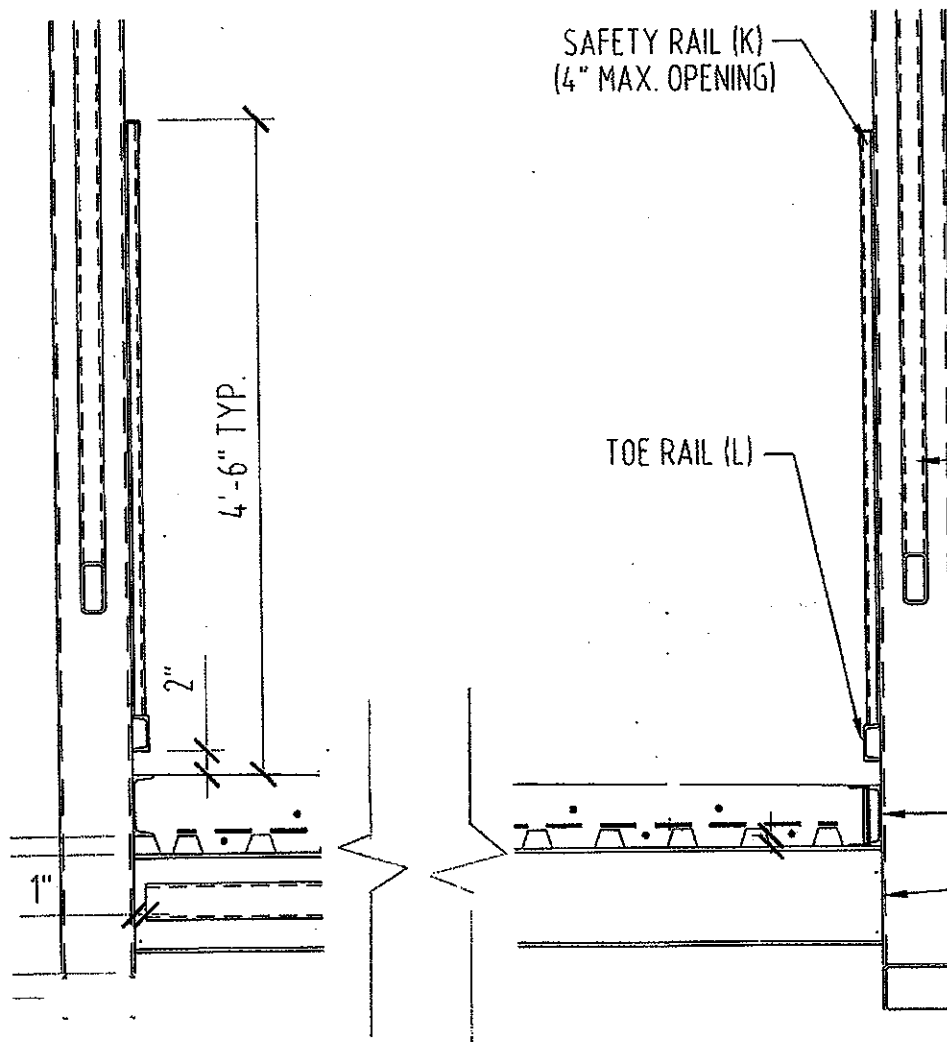
Printed Name: Rob Richardson

Signature: Rob Richardson

Title: Area Manager Date: 7/24/08

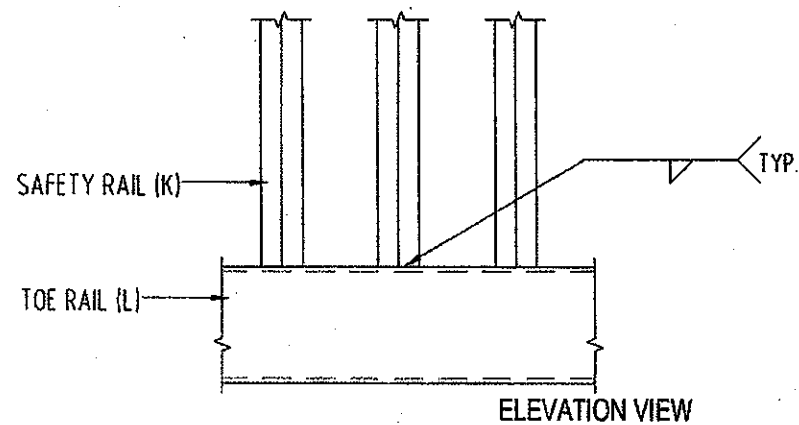
Company: Thompson Culvert

Bid 08-59, Wilson Park Trail Bridge
Toe Rail Details



BRIDGE SECTION - @ CL

SCALE: NONE



Bid 08-59, Addendum 3



Date: Thursday, July 24, 2008

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 08-59, Wilson Park Trail Bridge

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- **Bid 08-59, has the following modifications and clarifications:**

- 1.) The design vehicle load shall be 6,000 pounds, minimum.
- 2.) The floor thickness (bridge deck) shall be 5 inches.

Acknowledge Addendum #3:

Printed Name: Rob Richardson

Signature: Rob Richard

Title: Area Manager Date: 7/24/08

Company: Thompson Culvert Co.

Bid 08-59, Addendum 4



Date: Tuesday, July 29, 2008

To: All Prospective Vendors

From: Andrea Foren, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 08-59, Wilson Park Trail Bridge

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- **Bid 08-59, has the following modifications and clarifications:**

- 1.) The floor thickness (bridge deck) shall meet AASHTO design standards.

Acknowledge Addendum #4:

Printed Name: Rob Richardson

Signature: [Signature]

Title: Area Manager / Date: 7-30-08

Company: Thompson Culvert Co.



Anderson Bridges Limited Warranty

Anderson Bridges shall warrant their steel bridges to be free of design, material and workmanship defects for a period of ten years from the date of delivery.

This warranty shall not cover defects in the bridge caused by abuse, misuse, overloading, accident, improper maintenance, alteration or any other cause not the result of defective materials or workmanship.

Repair or replacements shall be the exclusive remedy for defects under this warranty. Anderson Bridges shall not be liable for any consequential or incidental damages for breach of any express or implied warranty on their structure(s).

City of Fayetteville
Bid 08-59, Wilson Park Trail Bridge (*equipment only*)
Terms and Conditions

All bids shall be submitted in a sealed envelope and must be submitted on forms acquired by the vendor from the City of Fayetteville Purchasing Division via the website (www.accessfayetteville.org) or e-mail. Bids with missing pages or missing any requested attachment may be deemed incomplete.

1. The item bid and the bid number shall be stated on the face of the sealed bid envelope.
2. Bids received after the date and time set for receiving bids will not be considered.
3. The City reserves the right to accept or reject any or all bids, waive formalities in the bidding and make a bid award deemed to be in the best interest of the City.
4. The quantities listed are based on the needs of the City and availability of funds at the time bids are posted. The City shall be able to purchase more or less than the quantity indicated subject to availability of funds or change in needs.
5. The bid price shall remain good and firm until project is completed. Payment to the vendor by the City will be made within 30 days following delivery and acceptance in accordance with these specifications and the City's Purchase Order to the vendor.
6. All products delivered shall comply with applicable standards of quality.
7. Any exceptions to the specification requirements of the City of Fayetteville must be noted on the Bid Form.
8. Prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the furnishing of the items bid. **Sales tax is not to be included in the bid price.** Applicable Arkansas sales tax laws will apply to this bid, but will not be considered in award of the bid.
9. Each bidder shall state on the face of the bid form the anticipated number of days from the date of receipt of an order for delivery of equipment and installation to the City of Fayetteville. Failure to deliver on or before the time specified in the contract may subject the contractor to payment of damages or other appropriate sanctions.
10. Copy of the warranty shall accompany the bid, and any exceptions to the warranty shall be clearly noted on the bid form. Written warranties shall specify the greater of the manufacturer's standard warranty or the minimum warranty specified herein by the City.
11. Bidders must provide the City with their bids signed by an employee having legal authority to submit bids on behalf of the bidder. The entire cost of preparing and providing responses shall be borne by the bidder.
12. The City reserves the right to request any additional information it deems necessary from any or all bidders after the submission deadline.
13. The request for bid is not to be construed as an offer, a contract, or a commitment of any kind; nor does it commit the city to pay for any costs incurred by bidder in preparation of bid.
14. If products and/or components other than those described in this bid document are proposed, the bidder must include complete descriptive literature and technical specifications. All requests for additional information must be received within five working days following the request. Each apparent low bid will be reviewed line by line to ensure compliance with specifications prior to recommendation for award. City staff will be the final approval authority of items bid as "approved equal".
15. Bids must be received by mail or hand delivery in the **Purchasing Division at the Fayetteville**

Administration (City Hall), Room 306, 113 W. Mountain St. Fayetteville, AR 72701, on or before the time of closing listed on the face of the bid.

16. The City will not be responsible for misdirected bids. Vendor should call the Purchasing Office at (479) 575-8220 to insure receipt of their bid documents prior to opening time and date listed on the bid form.
17. Items bid must be delivered FOB Wilson Park, 675 North Park Avenue, Fayetteville, AR 72701. Units must be fully assembled, serviced, and ready for operation as delivered unless otherwise specified. No dealer/distributor logo or other identification will be installed other than standard manufacturer name badges and specification plates. The City of Fayetteville shall take ownership of products after accepted and delivered to the FOB destination.
18. All products bid must meet or exceed the minimum requirements or they will be deemed incomplete and will not be considered for bid award.
19. Please refer to the drawings included in this bid for further details on products being specified.
20. Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this purchase. Brands or manufacturers that are included in a bid that are of at least equal quality, size and specification as to what has been specified, will be acceptable for consideration.
21. The attached documents, drawings, and illustrations are included as bid product specifications and are hereby made part of this bid.
22. All products bid must meet the City of Fayetteville ordinances. Failure to meet such criteria will be grounds for bid rejection.
23. Warranty requirement for all bridges is a minimum of ten (10) years, starting from the date of shipment received.
24. The City of Fayetteville reserves the right to award by all, none, or line item.
25. Prices provided shall include all requested materials, services, overhead, insurance, etc. as requested indirectly or directly in this invitation to bid.
26. Any reference to a particular brand or manufacturer is done in an effort to establish an acceptable level of quality for this purchase. Brands or manufacturers that are included in a bid that are of at least equal quality, size and specification as to what has been specified, will be acceptable for consideration. The City of Fayetteville will have final determination after bid opening and will consider rejecting any bid containing items not equal to these specifications.

City of Fayetteville
Bid 08-59, Wilson Park Trail Bridge (equipment only)
Equipment Details

yes A.) Standard Specifications:

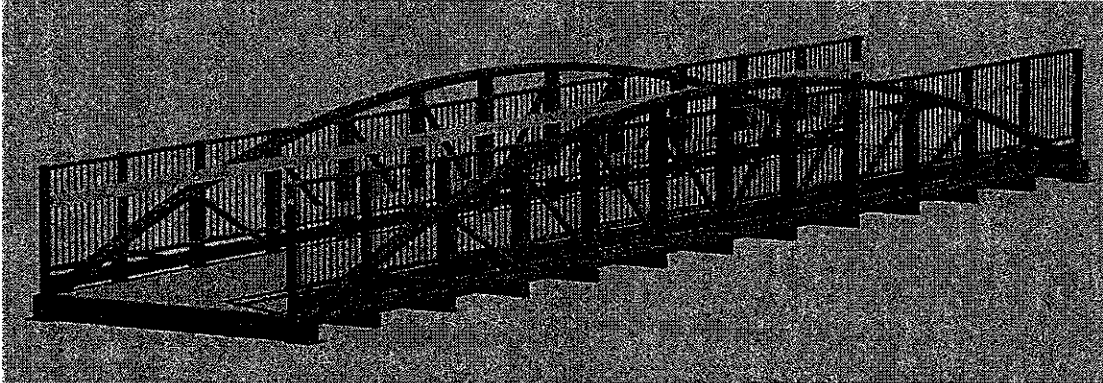
- Type – Bowstring
- Width – 6'-0"
- Length – 50'-0"
- Longitudinal flat deck
- Type of Steel – Weathering Steel (ASTM A588 or equal)
- Deck Type – Concrete (To be placed by bridge contractor)
- 1% cross slope on bridge deck – slope toward downstream side
- Floor thickness (bridge deck) – 6"
- 22 gage galvanized form pan
- Design Vehicle Loads
 - a. 10,000 pounds, minimum;
 - b. A minimum uniform live load of 85 psf shall be applied to the entire deck surface;
 - c. Design shall be based on a maximum of 20,000 cycles of 1 ton or greater vehicles over the life of the bridge;
 - d. All bridges shall be 1,000 LB point load (in addition to the design vehicle). Bridge shall safely accommodate any vehicle with wheel loads less than or equal to the design point load.
- Wind Load
 - a. Bridge shall have a lateral wind load of 35 psf on the full height of the bridge, as if enclosed;
 - b. Bridge shall support an uplift wind load of 20 psf at the windward quarter point of the transverse bridge width.
- Design Stresses and Criteria – AISC & AASHTO
- Vertical picket safety rails – 54" height and 4" maximum picket spacing (Weathering Steel)
- No handrail or rub rail necessary
- 1/4" thick maximum steel plate to cover expansion joint at each end
- Camber – None (level across)
- Include anchor bolts size and type with placement dimensions and instruction and epoxy
- Include Teflon slip pads and setting plates
- This bridge is above the 100-yr flood elevation and will not experience flow against it.

yes B.) Other Provisions:

- Manufacturer shall provide signed and sealed shop drawings by a Professional Engineer registered in the State of Arkansas. Bidders are not required to provide drawings until an award has been issued.
- Bridge abutment and foundation have not been designed; therefore, design for the bridge abutments shall be included in the bridge cost and clearly stated on the bridge quote at time of submittal. Geotechnical information will be provided by the City of Fayetteville.
- Abutment dimensions for the back wall height along with technical support shall also be provided by manufacturer. Bridge supplier shall be available for on-site technical support at time of bridge placement.

- Top chord of each main arch truss of the bow string bridge shall be a continuous smooth curve.
- The low chord beam shall be designed to a minimum thickness from low chord to the bridge deck to minimize the impact of flood conditions. An underhung beam design can be considered, but is not required. (see rendering below).

Example of Underhung Bridge Design (illustration only)



- Bridge shall comply with ADA guidelines.
- Cost shall include delivery to Wilson Park, located at 675 N. Park Avenue, City of Fayetteville, Arkansas.
- Bridge supplier shall provide shop drawings to the City of Fayetteville 10 days upon receipt of the purchase order and bridge shall be delivered 12 weeks from date approved drawings are returned.
- All Bidders/Manufacturers shall have proper certification and must provide a certificate of requirements for the AISC Fabricator Certification Program for Simple Steel Bridges. (Certification for the Major Steel Bridges is not required.)
- Vendor shall provide City with delivery notification and delivery date/time shall be coordinated and set. Once the delivery date and time is set it cannot be changed unless approved by the City AND Vendor. If vendor modifies the delivery date without coordination and approval of the City, the vendor shall be subject to damages related to but not exceeding the cost of project installation reschedules (such as rescheduling a crane, etc.).
- Taxes shall not be included in this bid; however, all applicable federal, state and local taxes will apply to invoicing.
- Awarded vendor shall submit a one hundred percent (100%) performance and payment bond within ten (10) working days after "Notice of Award" is issued.

City of Fayetteville
Bid 08-59, Wilson Park Trail Bridge (equipment only)
Statement of No Bid (if applicable)

N/A

We, the undersigned, have declined to bid for the following reason(s):

1. _____ We do not offer this service/product
2. _____ Our schedule would not permit us to perform
3. _____ Unable to meet specifications
4. _____ Insufficient time to respond to the Bid
5. _____ We are unable to meet bond requirements
6. _____ Other (Explain)

*NAME OF FIRM: _____ N/A

*BUSINESS ADDRESS: _____

*CITY: _____ *STATE: _____ *ZIP: _____

*PHONE: _____ FAX: _____

*E-MAIL ADDRESS: _____

*BY : (PRINTED NAME) _____

*AUTHORIZED SIGNATURE: _____

*TITLE: _____

*PLEASE LIST OTHER COMMENTS BELOW:

*Please note: We appreciate your feedback on this form and are very interested in your reason for not submitting a proposal. Please do not hesitate to contact Andrea Foren at 479-575-8220 if you have questions, comments, or concerns regarding these proposal documents.

City Of Fayetteville

(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.:		Date: 8/1/2008	
										P.O Number:		Expected Delivery Date:	
Vendor #: Thompson Culvert										Mail Yes: No:			
Address: 4151 E. Kearney										Taxable Yes: X No:		Quotes Attached Yes: No: X	
City: Springfield										Zip Code: 65803		Ship to code:	
Requester: Carole Jones										Requester's Employee #: 3003		Division Head Approval:	
										Extension: 472			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #				
1	Purchase of Wilson Park Trail Bridge - Equipment Only	1	lot		\$26,489.40	2250.9255.5806.00	02014.2						
2		1			\$0.00								
3					\$0.00								
4					\$0.00								
5					\$0.00								
6					\$0.00								
7					\$0.00								
8					\$0.00								
9					\$0.00								
10					\$0.00								
Shipping/Handling			Lot		\$0.00								
Special Instructions:										Subtotal: \$26,489.40			
Tax is not included per Bid # 08-59.										Tax: \$0.00			
										Total: \$26,489.40			
Approvals:										Purchasing Manager: _____			
Mayor: _____										IT Manager: _____			
Finance & Internal Services Director: _____										Other: _____			
Dispatch Manager: _____										Utilities Manager: _____			
Department Director: _____										Budget Manager: _____			
										Utilities Manager: _____			

City of Fayetteville Staff Review Form

A. 3
Southern Disposal, Inc.
Page 1 of 8

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

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 Southern Disposal, Inc. 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

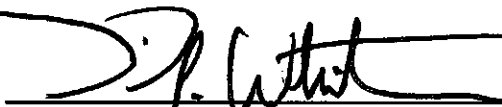
Budgeted Item

Budget Adjustment Attached


Department Director

7-31-08
Date

Previous Ordinance or Resolution #


City Attorney

7-31-08
Date

Original Contract Date:

Original Contract Number:

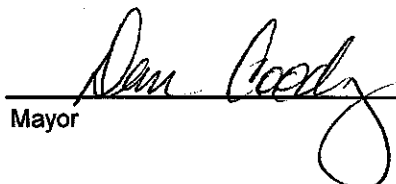
Paul A. Barker
Finance and Internal Service Director

8-4-08
Date

Received in City
Clerk's Office

7-31-08

ENTERED


Mayor

8/6/08
Date

Received in
Mayor's Office

8/1/08

ENTERED

Comments:

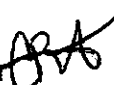


OPERATIONS DEPARTMENT

Interdepartmental Correspondence

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ginny Apperson, Financial Coordinator 

Date: August 19, 2008

Subject: Agreement with Southern Disposal, Inc. to haul and dispose of solid waste in the City of Fayetteville

Recommendation: A resolution approving an agreement between the City of Fayetteville, Arkansas and Southern Disposal, Inc. to haul and dispose of solid waste in the City of Fayetteville.

Background: Southern Disposal, Inc. has requested to renew their contract to haul and dispose of waste within the City of Fayetteville. The contract will permit Southern Disposal, Inc. to haul and dispose of waste in containers twenty (20) cubic yards and greater in size. The agreement requires Southern Disposal, Inc. to pay a monthly fee to the City of Fayetteville of ten (10%) percent of the gross revenue. This is the standard agreement authorized by City Council in implementing the contract fee.

Discussion: Southern Disposal, Inc. entered into this agreement in 2005 with a term of three (3) years. Southern Disposal, Inc. requests to be permitted to continue to operate within the City of Fayetteville.

During the duration of this agreement, no non-compliance issues were noted and fees were remitted accordingly.

Staff proposes approval for Southern Disposal, Inc. to haul and dispose of waste within the City of Fayetteville, per the terms and conditions outlined in the attached agreement, and the hauler's continued remittance of the Required Supporting Information Form with the payment of their monthly franchise fees.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SOUTHERN DISPOSAL, INC. TO HAUL AND DISPOSE OF SOLID WASTE IN 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 Southern Disposal, Inc. to haul and dispose of solid waste in 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 19th day of August, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

This Agreement (the "Agreement"), is entered into on this 24 day of July, 2008, between the City of Fayetteville, Arkansas, a municipal corporation (the "City"), and Southern Disposal (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 Damas or his successor. The Point of Contact for the Hauler shall be Craig Pasquinzo. 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

Southern Disposal Inc.
Attn: *Craig Pasquinzo*
P.O. Box 306
Centerton, Ar. 72719

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: Southern Disposal Inc.
Craig Pasquini
President

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

August 19, 2008
City Council Meeting Date

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

Action Required:

Resolution to award a contract to Nelson Engineering in the amount of \$36,110.00 to perform professional services for a project known as the West Fork Water Quality Monitoring Project.

\$ 36,110.00

Cost of this request

\$ 45,765.00

Category / Project Budget

Water Quality Testing' 08/09

Program Category / Project Name

4470-9470-5817

Account Number

\$ 8,331.35

Funds Used to Date

Bridge and Drainage Improvements

Program / Project Category Name

8059.1

Project Number

\$ 37,433.65

Remaining Balance

Federal Grants Capi Revenue

Fund Name

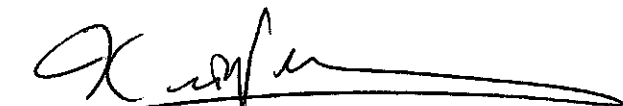
Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director 8-1-08
Date

Previous Ordinance or Resolution #

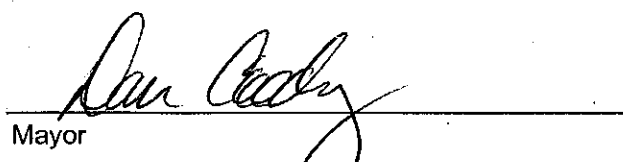
Original Contract Date:


City Attorney 8-1-08
Date

Original Contract Number:


Finance and Internal Service Director 8-1-08
Date

Received in City Clerk's Office
8-21-08 Des


Mayor 8/6/08
Date

Received in Mayor's Office
ENTERED 8/11/08 BRP

Comments:

City Council Meeting of August 19, 2008

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Ron Petrie, City Engineer *RP*

From: Sarah Wrede, Staff Engineer

Date: August 1, 2008

Subject: Resolution to award a contract to Nelson Engineering in the amount of \$36,110.00 to perform professional services for a project known as the West Fork Water Quality Monitoring Project.

RECOMMENDATION

Staff recommends approval of a resolution authorizing the performance of professional services for the West Fork Water Quality Monitoring Project for the City of Fayetteville by Nelson Engineering.

BACKGROUND

On July 1, 2008, the City Council approved a resolution authorizing the engineering division to apply for and accept a grant from the Arkansas Natural Resources Commission water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagnon Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

DISCUSSION:

The City held a selection committee on July 18, 2008 to select a qualified sub-contractor from the annual statement of qualifications. Nelson Engineering was selected for the project.

The project is proposed to take a year.

BUDGET IMPACT

Currently, there is \$37,433.00 remaining in the Water Quality Testing '08/ '09. The cost of this request is \$36,110.00.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A CONTRACT WITH
NELSON ENGINEERING IN THE AMOUNT OF \$36,100.00
TO PROVIDE ENGINEERING SERVICES FOR THE WEST
FORK WATER QUALITY MONITORING PROJECT

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves
the contract with Nelson Engineering in the amount of \$36,100.00 to provide engineering
services for the West Fork Water Quality Monitoring Project.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

Contract for Professional Services

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT is made and entered into on the day of _____, 2008, by and between THE CITY OF FAYETTEVILLE, hereinafter called The CITY, and NELSON ENGINEERING.

The CITY engages NELSON ENGINEERING to perform professional services for a project known as the WEST FORK WATER QUALITY MONITORING PROJECT hereinafter called the "PROJECT".

SECTION I - SERVICES OF NELSON ENGINEERING

NELSON ENGINEERING shall perform the following professional services:

- A. NELSON ENGINEERING shall develop a QAPP for this project
- B. NELSON ENGINEERING shall collect grab water samples twice per month and storm water samples from all significant storm events at this site.
- C. NELSON ENGINEERING shall take continuous in-situ measurements of specific conductance, temperature and turbidity at this site.
- D. NELSON ENGINEERING shall have all water samples analyzed at a State certified water quality lab. Samples will be analyzed for nitrate/ nitrite, total Kjeldahl nitrogen, ammonia, ortho-phosphate, total phosphorus, sulfate, chloride and total suspended solids.
- E. NELSON ENGINEERING shall provide progress and QA/QC reports to the CITY once per quarter.
- F. NELSON ENGINEERING shall calculate annual loads and mean concentrations and provide the results to the CITY in a written final report and an oral presentation.

SECTION II - PERIOD OF SERVICE

NELSON ENGINEERING shall complete all services between July 1, 2008 and June 31, 2009.

SECTION III - CONSULTANT'S COMPENSATION

- A. The method of payment for this CONTRACT is quarterly with a final payment. NELSON ENGINEERING shall submit an invoice for payment once per quarter. The first payment will be \$345. The second, third and fourth payments will be \$10,000. The final payment, due after the final report has been accepted will be \$5,765. The total compensation for the services performed shall be \$36,110.

B. "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."

SECTION IV – The CITY's RESPONSIBILITIES

A. The CITY shall designate a project manager during the term of this CONTRACT. The project manager has the authority to administer this CONTRACT and shall monitor compliance with all terms and conditions stated herein. All requests for information from or a decision by The CITY on any aspect of the work shall be directed to the project manager.

B. The CITY shall review the quarterly invoice submitted by NELSON ENGINEERING and provide payment within no more than 60 days.

C. The CITY shall purchase the equipment required for the project. The total equipment cost shall be \$8,905 or less.

SECTION V – FREEDOM OF INFORMATION ACT

A. City 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, NELSON ENGINEERING 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."

SECTION VI – LEGAL JURISDICTION

A. Legal jurisdiction to resolve any disputes must be Arkansas with Arkansas law applying to the case.

SECTION VI – TERMINATION

The CITY, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by NELSON ENGINEERING, upon fourteen (14) days written notice delivered to NELSON ENGINEERING personally or by certified mail. Immediately after receiving such notice, NELSON ENGINEERING shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT.

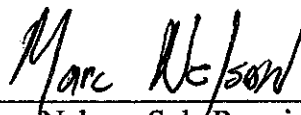
The CITY OF FAYETTEVILLE

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

**NELSON ENGINEERING warrants that the person who is signing this CONTRACT
on behalf of
NELSON ENGINEERING is authorized to do so and to execute all other documents
necessary to
carry out the terms of this CONTRACT.
NELSON ENGINEERING**



Marc Nelson, Sole Proprietor,
Nelson Engineering
Federal I.D. No. /Social Security No.
522 76 0815

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- F. NELSON ENGINEERING shall calculate annual loads and mean concentrations and provide the results to the CITY in a written final report and an oral presentation.

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A. Legal jurisdiction to resolve any disputes must be Arkansas with Arkansas law applying to the case.

SECTION VI – TERMINATION

The CITY, at its sole discretion, may terminate this CONTRACT for convenience or abandon any portion of the Project for which services have not been performed by NELSON ENGINEERING, upon fourteen (14) days written notice delivered to NELSON ENGINEERING personally or by certified mail. Immediately after receiving such notice, NELSON ENGINEERING shall discontinue advancing the services under this CONTRACT and proceed to close said operations under this CONTRACT.

The CITY OF FAYETTEVILLE

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

NELSON ENGINEERING warrants that the person who is signing this CONTRACT
on behalf of
NELSON ENGINEERING is authorized to do so and to execute all other documents
necessary to
carry out the terms of this CONTRACT.
NELSON ENGINEERING

Marc Nelson

Marc Nelson, Sole Proprietor,
Nelson Engineering
Federal I.D. No. /Social Security No.
522 76 0815

RESOLUTION NO. 138-08

A RESOLUTION AUTHORIZING THE ENGINEERING DIVISION TO APPLY FOR AND ACCEPT A GRANT FROM THE ARKANSAS NATURAL RESOURCES COMMISSION FOR WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR TSS, NITROGEN AND PHOSPHORUS AT THE MALLY WAGNON ROAD BRIDGE ON THE WEST FORK OF THE WHITE RIVER; AND APPROVING A BUDGET ADJUSTMENT RECOGNIZING THE GRANT REVENUE.

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

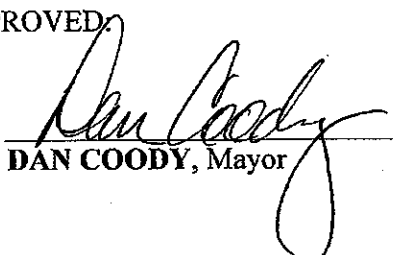
Section 1. That the City Council of the City of Fayetteville, Arkansas hereby authorizes the Engineering Division to apply for and accept a grant from the Arkansas Natural Resources Commission for water quality sampling, analysis and annual load determinations for TSS, nitrogen and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River.

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

PASSED and APPROVED this 1st day of July, 2008.

APPROVED

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA E. SMITH, City Clerk/Treasurer





Arkansas Natural Resources Commission



J. Randy Young, PE
Executive Director

101 East Capitol, Suite 350
Little Rock, Arkansas 72201
<http://www.anrc.arkansas.gov/>

Phone: (501) 682-1611
Fax: (501) 682-3991
E-mail: anrc@arkansas.gov

Mike Beebe
Governor

RECEIVED

JUN 19 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

MEMORANDUM

TO: Mayor Dan Coody
City of Fayetteville

FROM: Earl T. Smith, Jr., P.E.
Chief, Water Resources Management Division

DATE: June 17, 2008

RE: SUB GRANT AGREEMENT (SGA 243)
Water Quality

Please review and sign the above referenced Sub Grant Agreement and return both originals to this office. A fully executed copy will be returned to you for your files.

An envelope is enclosed for your convenience.

ETS:lab

Enclosure

**SUB-GRANT AGREEMENT # SGA 243
BETWEEN
ARKANSAS NATURAL RESOURCES COMMISSION
AND
CITY OF FAYETTEVILLE**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.
GRANT # F0455C999610316-1S
PROJECT 08 -113**

SECTION 1. - PURPOSE

The purpose of this Sub-Grant Agreement is to establish the responsibilities of the Arkansas Natural Resources Commission (Commission) and the City of Fayetteville (City) necessary to complete a cooperative nonpoint source pollution prevention project.

This project is to continue water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County road 195 bridge on the West Fork of the White River.

SECTION 2. - GENERAL

The Commission is the recipient of a grant from the US Environmental Protection Agency (EPA) to be used for implementation of the project. A requirement of the grant is that state and local funds also be secured. The following is a summation of funding requirements:

SUMMARY OF FUNDS

<u>Source</u>	<u>Amount</u>
Funds provided to the City of Fayetteville	
EPA (997) -	\$45,765
ANRC (2RG-04)	\$
TOTAL FUNDS	\$45,765
CC 336485 FSC3808	
Funds provided by the City of Fayetteville (Cash or In-Kind)	\$34,524
TOTAL MATCH	\$34,524
TOTAL PROJECT COST	\$80,289

SECTION 3. - CITY RESPONSIBILITIES

1. Provide personnel, supplies, and other resources necessary for completion of the project as outlined in the attached scope of work.
2. Abide by all conditions of US EPA Assistance Agreement. The Administrative Conditions of the grant are attached and incorporated by reference.
3. Complete all milestones, tasks, and outputs as outlined in the project workplan in a timely manner.
4. Provide Quarterly Reports to the Commission within 15 days of the end of September, December, March, and June; including Progress Reports, Supporting Documentation, MBE/WBE Expenditures, and other matters required by the Commission.
5. Participate in an annual project evaluation and provide a report to the Commission on significant accomplishments and other information as required by the Commission resulting from this project. An Annual Evaluation Report will be submitted to the Commission by October 1st of each year.
6. Maintain financial records acceptable to the Commission. Submit to the Commission an annual audit of funds that have been provided under this agreement.
7. Request payment for services provided in accordance with the attached schedule of payments. Requests will be made no more than quarterly and will be accompanied by the required project progress report.
8. Provide funds to the project as scheduled in the summary of funds and in the project work-plan.

SECTION 4. - COMMISSION RESPONSIBILITIES

1. Administer the grant in accordance with US EPA regulations.
2. Make semi-annual reports to Region 6 of the US EPA on progress of the project.
3. Include activities of the project in its annual report on nonpoint source management to US EPA.
4. Provide payment in a timely and efficient manner for work performed in accordance with the attached schedule of payments.
5. Provide personnel, supplies and resources for completion of the project as outlined in the attached scope of work.
6. Abide by conditions of US EPA Assistance Agreement.
7. Make periodic inspections of the work to determine if it meets the requirements of the EPA Assistance Agreement.

8. The project will be assessed at the end of the first year by the Nonpoint Source (NPS) Staff. The NPS Staff will determine if the project is on schedule and all milestones, tasks, and outputs as outlined in the project workplan have been accomplished in a timely manner. Funding for the following year(s) of this project will be contingent upon satisfactory completion of tasks, by the completion date(s) as outlined in the schedule of tasks and outputs.

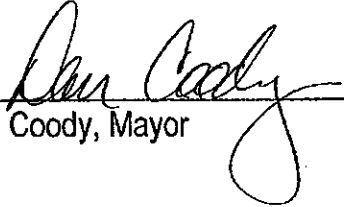
SECTION 5. - IT IS FURTHER AGREED:

1. Employees of all parties will cooperate fully with each other in such a manner as to maintain and enhance the image of all parties and any other agencies assisting the project.
2. Any advertisements or information released regarding the project must reference the contributions of the Commission and EPA.
3. Any and all equipment purchased by US EPA Assistance Agreement or Commission funds will be properly identified reflecting who provided funding for the equipment.
4. Any and all equipment and supplies purchased by US EPA Assistance Agreement or Commission funds will be surrendered to the Commission if the terms of this agreement are not met. Equipment purchased by US EPA Assistance Agreement or Commission funds requires the Commissions' approval prior to disposition.
5. The Sub-grantee will be required to participate in the Commissions' annual project review meeting and any other meetings and/or conferences the Commission deems necessary.
6. The Commission may terminate this agreement with a 30-day written notice at any time if it is determined by the Commission's Executive Director that the work is not within the terms and condition of this agreement including the project workplan and other grant requirements, or if the EPA determines that the work is not within the grant requirements.
7. This Sub-Grant Agreement will expire **September 1, 2009**.
8. The project duration will be 1 year(s), beginning- **July 1, 2008 to June 30, 2009**.
9. Final Report and Invoice are due no later than **July 31, 2009**.

Acceptance of this agreement is evidenced by signature below.

CITY OF FAYETTEVILLE

By:


Dan Coody, Mayor

Date:

7/2/08

ARKANSAS NATURAL RESOURCES COMMISSION

By:

J. Randy Young, Executive Director

Date:

**SCOPE OF WORK
PROJECT 08-113
WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

INTRODUCTION

A water quality sampling station was installed at the Washington County road 195 bridge on the West Fork of the White River just above the confluence of the three main forks of the Upper White River in 2002. This station is coordinated with a USGS gauging station at the same location. This station is instrumented to collect samples at sufficient intervals across the hydrograph to accurately estimate the flux of total suspended solids, nitrogen and phosphorus into the upper end of Beaver Lake from the West Fork of the White River. The West Fork is listed on Arkansas' 1998 303d list as impaired from sediment. The Upper White was designated as the states highest priority watershed in the 1999 Unified Watershed Assessment. Accurate determination of stream nutrients and sediment is critical for future determinations of TMDLs, effectiveness of best management practices and trends in water quality. This proposal is for continuation of sampling and load determination for the period from July 1, 2008 to June 30, 2009.

SCOPE

This proposal is for sampling station installation, water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County Road 195 Bridge on the West Fork of the White River. The parameters measured from collected samples will be nitrate-nitrogen, ammonia-nitrogen, total nitrogen, total phosphorus, dissolved reactive phosphorus, turbidity, conductivity, sulfate chloride and total suspended solids. In addition turbidity, conductivity and pH will be measured in-situ and recorded in thirty-minute intervals. The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. They will be responsible for contractual relationships and payment to the sub-contractor. The City of Fayetteville will also be responsible for providing the entire match for the project. Nelson Engineering will be the sub-contractor. The sub-contractor will be responsible for all remaining tasks of the project including: writing the QAPP, collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

METHODS

There are twelve significant storms during a year on average. Each storm will require an average of three composite samples. The budget is based on composite sampling, collection and analysis for twelve storms and twenty-six grab samples. This is the estimated analytical cost. Actual costs will be born by the sub-contractor regardless of the number of samples collected. (All significant storm events will be sampled) All samples will be analyzed for Nitrate Nitrogen (NO₃-N), Ammonia Nitrogen (NH₄-N), Total Nitrogen (TN), Total Phosphorus (TP), Soluble Reactive Phosphate (SRP) and Total Suspended Solids (TSS), turbidity, conductivity, sulfate and chloride. Nelson Engineering will collect all samples and all samples will be analyzed by the AWRC Water Quality Lab or another ADEQ certified lab using standard field and laboratory QA/QC procedures.

The sampler will be configured to take flow-weighted composite samples. The sampler will begin sampling after the stage has risen above a set trigger level. It will take a discrete sample after a fixed volume of water has passed. The discrete samples will be composited by combining equal volumes of each into a single composite sample for analysis. The discrete samples will be collected for compositing before all twenty-four bottles are filled or within forty-eight hours after the first sample. Storms will be sampled in this manner as long as the stage is above the trigger level. The trigger level will be four feet. Grab samples will be taken every two weeks. The data collected at this site will be used to calculate total pollutant loads and mean concentrations for the year. All data will be reported with field and laboratory QA/ QC data.

A YSI sonde will be used to collect data on turbidity and conductivity. The sonde is SDI-12 compatible and works in conjunction with the USGS DCP located on site. The data is measured and logged every 30 minutes and transferred to the USGS office every 4 hours along with other USGS stage and flow data.

The responsibilities of the sub-contractor include project management and coordination, QAPP plan writing, sample collection, field maintenance, sample analyses, quality control, data compilation, data interpretation and report writing.

Quarterly progress and quality assurance reports and a yearly written report will be prepared for this project. The report will detail the sampling results for the year as well as total calculated loads for the water quality parameters measured. Trends in water quality will be investigated and reported as soon as sufficient data becomes available. The report will be presented annually to the City of Fayetteville and ANRC. Payment of the sub-contract will be a lump sum, 25% of the total each quarter after submission of the quarter reports and a payment invoice from the sub-contractor to the City.

Budget totals: **\$80,289**

Requested federal funds: **\$45,765(57%)**

Required matching funds (or in-kind match): \$34,524(43%)

**Schedule of Payments
Project FY 08-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Item	Description	Budgeted Units	Unit Cost	Total Payment
1	Quarterly and QA Reports	4	\$10,000	\$40,000
2	Final Report	1	\$5,765	\$5,765
Total				\$45,765

**Schedule of MATCH
Project FY 08-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Item	Description	Budgeted Units	Unit Cost	Total Payment
1	Quarterly and QA Reports	4	\$7,500	\$30,000
2	Final Report	1	\$4,524	\$4,524
Total				\$34,524

**Quarterly Project Fund Request
Sub-grant Agreement SGA # 243**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Quarter: _____
(From) Date (To) Date

Date Submitted to
ANRC: _____

				Cost this Quarter		Total Costs to Date	
Item	Description	Budgeted Units	Unit Cost	Units this Quarter	Quarter Cost =(Unit Cost x Units this Quarter)	Total Units to Date	Total Cost =(Unit Cost x Total Units to Date)
1	Quarterly and QA Reports	4	\$10,000		\$		\$
2	Final Report	1	\$5,765		\$		\$
Earned this Quarter					\$		\$
Total Cost to date							\$
Less Previous Payments							\$
Total Amount Due							\$

Budget: \$45,765	Total Cost to date: \$	Balance: \$
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Prepared / submitted by: _____ Date: _____

**Quarterly Match Report
Project FY 07-113**

**WATER QUALITY SAMPLING, ANALYSIS AND ANNUAL LOAD DETERMINATIONS FOR
NUTRIENTS AND SOLIDS AT THE
WASHINGTON COUNTY ROAD 195 BRIDGE ON THE WEST FORK OF THE WHITE
RIVER.**

CITY OF FAYETTEVILLE
113 WEST MOUNTAIN
FAYETTEVILLE, AR 72701

Quarter: _____
(From) Date (To) Date

Date Submitted to ANRC: _____

				Cost this Quarter		Total Costs to Date	
Item	Description	Budgeted Units	Unit Cost	Units this Quarter	Quarter Cost = (Unit Cost x Units this Quarter)	Total Units to Date	Total Cost = (Unit Cost x Total Units to Date)
1	Quarterly Reports	4	\$7,500				
2	Final Report	1	\$4,524				
Total Billed							
					Total Cost		
					Less Previous Payments		
					Total Amount Due		
Budget: \$34,524		Total Cost: \$		Cash Advance: \$0		Balance: \$	

Prepared/submitted by: _____ **Date:** _____

City of Fayetteville, Arkansas
Budget Adjustment Form

Budget Year 2008	Department: Division: Program:	Date Requested 7/1/2008	Adjustment Number
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Project or Item Added/Increased: \$45,765 is requested in the Drainage/Phase 2 Stormwater Mgmt project.	Project or Item Deleted/Reduced: None. To recognize \$45,765 in EPA Grant Revenue.
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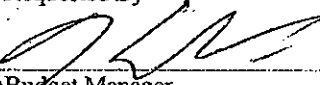
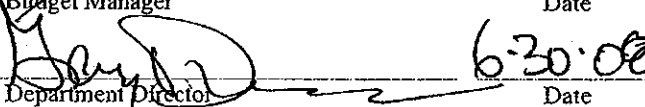
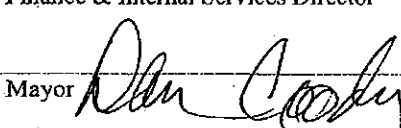
Justification of this Increase: The funding is for the Water Quality Sampling, Analysis and Annual Load Determinations for Nutrients and Solids at the Washington County Road 195 Bridge on the West Fork of the White River Grant.	Justification of this Decrease:
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Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Bridge & drainage improve	4470	9470	5817	00	45,765	08059	1

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Federal grants-Capital	4470	0947	4309	00	45,765	08059	1

Approval Signatures		Budget Office Use Only	
Requested By 	Date 6/30/08	Type: A B C <u>D</u> E	
Budget Manager 	Date 6-30-08	Posted to General Ledger	Initial Date
Department Director 	Date 6-30-08	Posted to Project Accounting	Initial Date
Finance & Internal Services Director Paul A. Boehm	Date 6-30-08	Entered in Category Log	Initial Date
Mayor 	Date 7/1/08		

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

July 1, 2008
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

and accept
A resolution to apply for a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagnon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

\$ -	\$ 708,731.00	Drainage/Phase 2 Stormwater Mgmt
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5817	\$ 268,082.60	Bridge and Drainage Improvements
Account Number	Funds Used to Date	Program / Project Category Name
08059.1	\$ 440,648.40	Capital Improvement Const
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 6-18-08 Previous Ordinance or Resolution # _____
Department Director Date Original Contract Date: _____

[Signature] 6/18/08 Original Contract Number: _____
City Attorney Date

Paul A. Barber 6-18-08 Received in City Clerk's Office
Finance and Internal Service Director Date *6-18-08* 

[Signature] 6/18/08 Received in Mayor's Office
Mayor Date 

Comments:

City Council Meeting of July 1, 2008

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Ron Petrie, City Engineer *RP*

From: Sarah Wrede, Staff Engineer

Date: June 13, 2008

Subject: A resolution to apply for a grant through the Arkansas Natural Resources Commission in a proposed partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River and utilizing in-kind match through staff time and current projects.

RECOMMENDATION

Staff recommends approval of a partnership agreement with a subcontractor for a grant for water quality sampling, analysis and annual load determinations for TSS, nitrogen, and phosphorus at the Mally Wagon Road Bridge on the West Fork of the White River.

BACKGROUND

Marc Nelson, working with the Arkansas Water Resources Center, installed a water quality sampling station at the Mally Wagon Road Bridge on the West Fork of the White River just above the confluence of the three main forks of the Upper White River in 2002. This station is coordinated with a USGS gauging station at the same location, and is instrumented to collect samples at sufficient intervals across the hydrograph to accurately estimate the flux of total suspended solids, nitrogen and phosphorus into the upper end of Beaver Lake from the West Fork of the White River. The West Fork is listed on Arkansas' 1998 303d list as impaired from sediment. The Upper White was designated as the states highest priority watershed in the 1999 Unified Watershed Assessment. Accurate determination of stream nutrients and sediment is critical for future determinations of Total Maximum Daily Loads (TMDLs), effectiveness of best management practices and trends in water quality. The Arkansas Water Resources Center chose to stop funding this project. Mark Nelson, through Nelson Engineering, wrote the proposal in order to continue the record of water quality monitoring. This proposal is for continuation of sampling and load determination for the period from July 1, 2008 to June 30, 2009 and includes the purchase of new sampling equipment.

City Council Meeting of July 1, 2008

DISCUSSION:

This proposal is for water quality sampling, water sample analysis and annual pollutant load calculations at the Washington County Road 195 Bridge (Mally Wagnon Road Bridge) on the West Fork of the White River. The parameters measured from collected samples will be nitrate-nitrogen, ammonia-nitrogen, total nitrogen, total phosphorus, dissolved reactive phosphorus, turbidity, conductivity, sulfate chloride and total suspended solids. In addition turbidity, conductivity and pH will be measured in-situ and recorded in thirty-minute intervals.

The City of Fayetteville will be the contractor with Arkansas Natural Resources Commission (ANRC) for the 319 grant. The City will be responsible for contractual relationships and payment to the sub-contractor, purchasing sampling equipment, which is reimbursable through the grant, and providing the match for the project. The sub-contractor will be responsible for all remaining tasks of the project including: writing the Quality Assurance Project Plan (QAPP), collecting samples and analyzing the data from the water quality sampling station, computing the annual load for all parameters and reporting quarterly and annually to the City of Fayetteville and ANRC.

The proposed project costs are \$45,765 federal and \$34,524 of in kind match from the City of Fayetteville for a total of \$80,289. The grant was originally planned to use the Nutrient Reduction Plan as the total match. However ANRC decided that the only allowable portion of the Nutrient Reduction Plan to use as match would be the stakeholder meetings and staff time spent on Nutrient Reduction Plan related work. The match for the stakeholder meetings and staff time will make up \$9155.00. Project administration will make up \$5000 of the match. The additional match to make up the difference will be provided by the West Fork EPA through their Annual Watershed Outreach and Clean-up of the West Fork of the White River. These forms of in-kind match have been approved by ANRC.

BUDGET IMPACT

Currently, there is \$440,648.40 remaining in the Drainage Study/Phase II Stormwater Management account that has been designated for use to fund projects that improve stormwater quality in the City of Fayetteville. The grant includes the purchase of sample collection and analysis equipment in the amount of \$14,000. This equipment must be purchased at the beginning of the project and is reimbursable once the grant is awarded.

ALDERMAN AGENDA REQUEST FORM

B. 2
Amend Chapter 174 Signs
Page 1 of 4

FOR: COUNCIL MEETING OF August 05, 2008

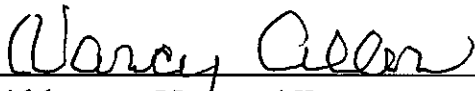
FROM: Nancy Allen

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

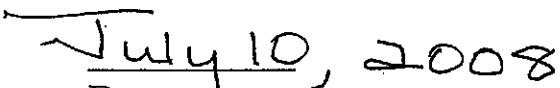
Amendment to Ch. 174.08 Signs of the Unified Development Code

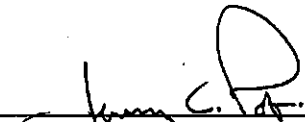
An ordinance to amend Ch. 174.08 of the Unified Development Code, to allow "A" frame sandwich / menu board signs under certain conditions.

APPROVED FOR AGENDA:



Alderman Nancy Allen


Date



Jeremy Pate
Director of Current Planning


Date

Left on the first reading 8/5/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JP*

Date: July 11, 2008

Subject: UDC Amendment – Ch. 174.08 Prohibited Signs – “A” frame sandwich boards

RECOMMENDATION

Staff recommends the City Council approve an ordinance amending Ch. 174.08 of the Unified Development Code sign regulations. This amendment would permit, under the listed conditions, the use of “A” frame sandwich / menu boards for use by business owners to list menu items and specials for pedestrian view.

BACKGROUND

Alderwoman Allen recently inquired of staff about whether sandwich boards were permitted within the City under our sign ordinances, after discussing the issue with a local business. Ch. 174.08 (C) of the UDC specifically prohibits this type of sign, and Planning Staff has required several business owners, specifically in the downtown, to remove these types of signs under the current code. Utilization of this type of sign, which is used in many cities to advertise lunch or dinner specials primarily for pedestrians along a sidewalk, requires an ordinance amendment by the City Council.

DISCUSSION

Staff is recommending the Council amend the sign ordinance in favor of allowing “A” frame sandwich/menu boards for permitted businesses within the City. These signs would only be allowed for commercial properties, and may be located on the property or the sidewalk adjacent to the property, as long as pedestrian movement is not impeded. One sign for one business is permitted on a lot. The code amendment reserves the right for immediate removal of the sign if at any time it is determined that pedestrian flow is being impeded, such as a Farmer’s Market or a narrow sidewalk. These types of signs should generally be placed outside the flow of traffic, and illustrate menu items and specials for the adjacent business only.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND UNIFIED
DEVELOPMENT CODE CH. 174.08, PROHIBITED
SIGNS, TO ALLOW "A" FRAME
SANDWICH/MENU BOARD SIGNS UNDER
CERTAIN CONDITIONS.**

WHEREAS, the Unified Development Code currently prohibits all portable or temporary attraction sign boards, including "A" frame sandwich boards; and

WHEREAS, in certain instances, these types of signs that are typically placed on sidewalks during business hours may better inform pedestrians of menu options available; and

WHEREAS, certain businesses within the City depend upon pedestrian traffic more so than vehicular traffic for advertising;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby repeals and replaces Ch. 174.08 (C) of the Unified Development Code with 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

Exhibit "A"
ADM 08-3055

Chapter 174.08 (C) of the Unified Development Code shall be repealed and the following placed in its stead:

§174.08 Prohibited Signs

(C) *Portable swinger or temporary attraction sign boards.* It shall be unlawful for any person to continue to display or erect any portable swinger, "A" frame, sandwich, or temporary attraction sign board in the city, except under the following conditions:

- (1) One (1) freestanding, "A" frame sandwich / menu board for a single permitted business may be permitted on a commercially zoned lot or on the adjacent public or private sidewalk in front of the respective business for the duration of the business' hours of operation. The temporary sign shall be removed and placed inside after business hours.
- (2) The permitted sign may not interfere with pedestrian traffic, as determined by the Sign Administrator. Should the Sign Administrator determine said sign interferes with pedestrian traffic, it shall be immediately removed.
- (3) The permitted sign shall only advertise for the adjacent business, and is to be utilized for display of menu items or advertised specials.
- (4) The size of the sign shall be limited to 36" tall by 24" wide.
- (5) No sign may be displayed or erected that swings, rotates, flashes, fluctuates, or is illuminated, or in any other manner that would violate the provisions of §174.08.

City of Fayetteville Staff Review Form

B. 3
R-PZD 08-2980,
Markham Hill Cottage Courts
Page 1 of 70

City Council Agenda Items and Contracts, Leases or Agreements

August 5, 2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate 
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 08-2980: Planned Zoning District (Markham Hill Cottage Courts, 520): Submitted by Robert Sharp for property located north of Maine Street, between Sang and Cross Avenue containing approximately 2.54 acres. The request is for zoning, land use, and development approval of a Residential Planned Zoning District with 18 single family and 5 two-family cottages (28 units total).

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

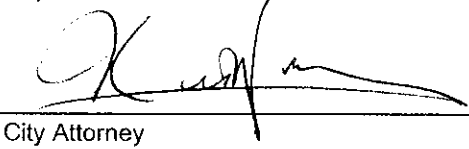
Budgeted Item ☐

Budget Adjustment Attached ☐


Department Director

7-17-08
Date

Previous Ordinance or Resolution #


City Attorney

7-17-08
Date

Original Contract Date:

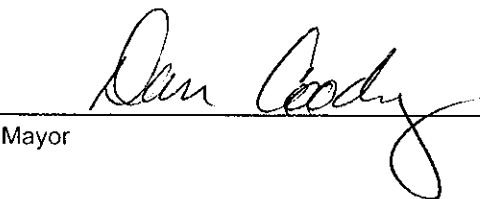
Original Contract Number:

Paul a. Bahr
Finance and Internal Service Director

7-18-08
Date

Received in City
Clerk's Office

7/17/08
ENTERED


Mayor

7/18/08
Date

Received in
Mayor's Office

7/18/08
ENTERED

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 16, 2008

Subject: Residential Planned Zoning District for Markham Hill Cottage Courts
(R-PZD 08-2980)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Markham Hill Cottage Courts, 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 2.54 acres. The proposal consists of 23 detached cottages (18 single family and 5 two-family units) for a total of 28 residential units.

BACKGROUND

The subject property, zoned RMF-24, Residential Multi-Family 24 units/acre, is located north of Maine Street and west of Cross Avenue. The heavily wooded site is on the south slope of Markham Hill and within the Hillside Hilltop Overlay District (HHOD). The Master Development Plan includes 23 detached cottages (28 residential units) and amenities including a bocce court, stone paths, a small park, a tree house, community gardens and a potting shed. The proposed zoning criteria allows for single and two-family dwellings and a density of approximately 11 units/acre, when the existing zoning allows for multi-family dwellings and 24 units/acre. The cottages would generally be clustered around shared motor courts as opposed to individual curb cuts typically seen in a single family subdivision. All of the cottages would have the appearance of a detached single-family residence, however five of the cottages (Units 1, 5, 11, 12, and 13) would have an efficiency apartment in the basement.

DISCUSSION

The Planning Commission voted 7-0-0 in favor of this request on July 14, 2008. Recommended conditions were approved by the Planning Commission and are reflected in the attached staff report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2980, MARKHAM HILL COTTAGE COURTS, LOCATED NORTH OF MAINE STREET, BETWEEN SANG AND CROSS AVENUE; CONTAINING APPROXIMATELY 2.54 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 RMF-24, Residential Multi-Family, 24 units per acre to R-PZD 08-2980 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"

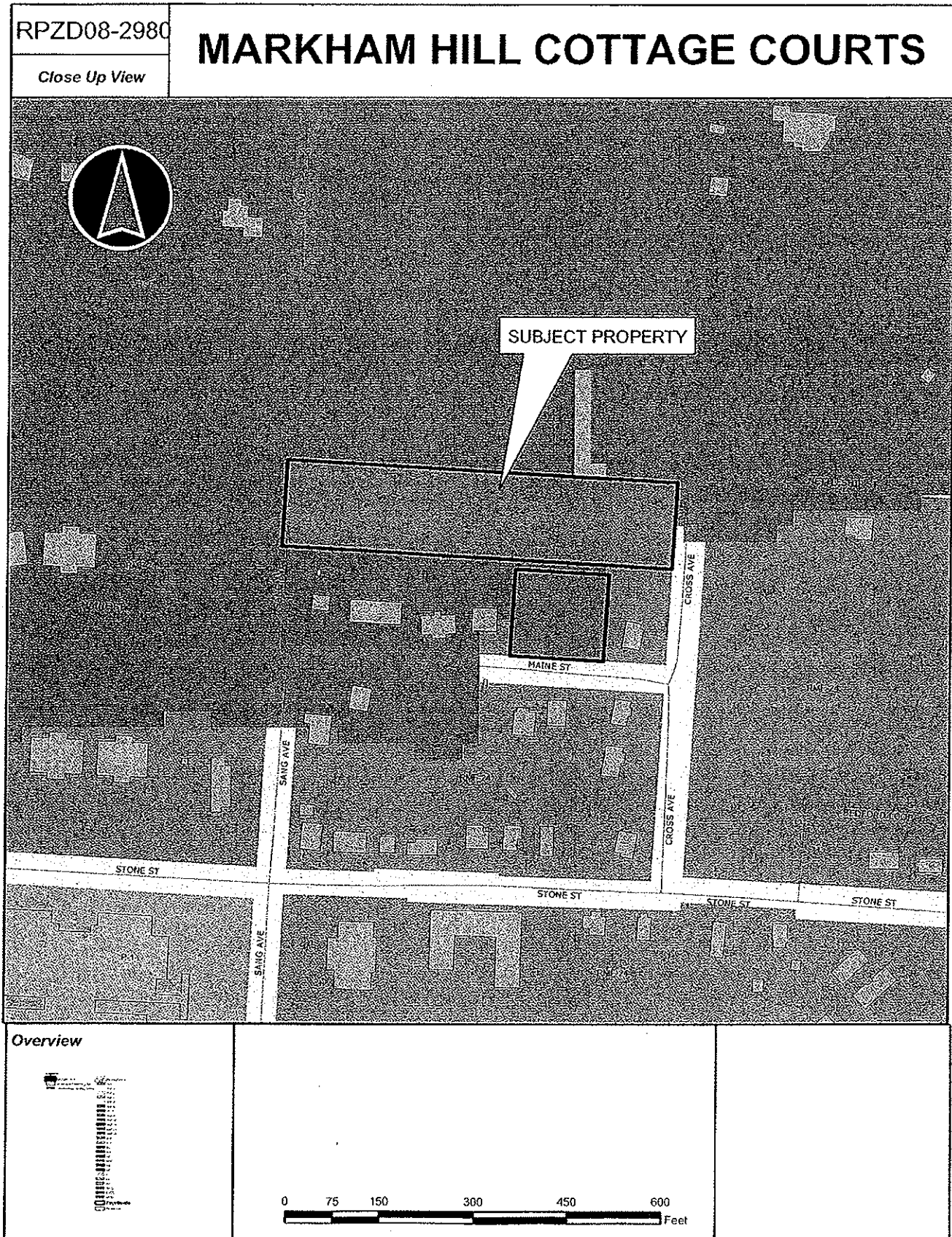


EXHIBIT "B"
R-PZD 08-2980

LOTS 16, 17, 18, 28, THRU 39 OF BLOCK NUMBER 1, OF WEST END ADDITION, PLAT BOOK 4 AT PAGE 61 AND PLAT BOOK 5 AT PAGE 75, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS.

CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 1 of 6

Conditions of Approval for R-PZD 08-2980 (Markham Hill Cottages)

Streets

1. The applicant shall be responsible for the following street improvements.
 - a. A minimum pavement width of 20', curb, gutter, storm drain, and sidewalk on Maine Street and Cross Avenue along the project frontage and along the lot at the intersection of Cross/Maine; (no sidewalk along this off-site frontage) – see drawings for clarification;
 - b. Extension of storm drains off-site as necessary.
 - c. The intersection of the new Nettleship Street and the existing Cross Avenue shall be realigned in a three-way stop as indicated on the plans. Prior to construction permits being issued, adequate offsite right-of-way shall be dedicated to complete these improvements as indicated on the plans.
 - d. Street lights along Maine, Cross and Nettleship as required by code.
2. The applicant shall dedicate right-of-way as follows by easement plat or separate document prior to building permit:
 - a. 21.5' from centerline along Maine Street and Cross Avenue;
 - b. 39' for Nettleship Street and 30.50' for Sutherland Lane as indicated on the approved plans.
 - c. Adequate right-of-way to construct the three-way intersection of the new Nettleship Street and Cross Avenue.
3. Determination of a variance of minimum street design standards:
 - a. The applicant requests a variance to allow different street cross sections than required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking on both sides of the street in the Hillside/Hilltop Overlay District, sidewalks on one side of the street, a narrow two-way alley/lane with sidewalk on one side, and right-of-way width of 39' for Nettleship Street and 30.50' for Sutherland Lane. The Master Street Plan does not have cross-sections in the design as proposed. *Staff recommends in favor of the requested street design standards finding they deal with a unique site allowing for reduced grading and pavement and increased tree preservation in the HHOD, and will result in safe ingress/egress into and out of the development.*
4. No parallel parking spaces are allowed within 30' of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.
5. Solid Waste Service. All comments regarding solid waste service shall be addressed prior to building permit approval. Residential carts/recycle bins are anticipated to be utilized at common collection points.
6. A sign indicating a future street extension shall be installed at the Nettleship Street stub-out on the western property line prior to certificate of occupancy for those units in that vicinity of the site as

CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 2 of 6

determined by Planning staff.

Parking

7. Determination of a request to allow fewer off-street parking spaces than allowed by ordinance. As depicted in *Table 2* provided earlier in this report, the applicant proposes to provide 25 off-street parking spaces when 33 are required and 32 on-street parking spaces to accommodate the additional parking spaces required. *Staff recommends approval of this request, recognizing that the streets throughout this development, as amended from the City's Master Street Plan, would provide parallel parking and can safely satisfy the additional demands for parking not provided off-street as depicted in Table 2. Staff also finds that five of the units will be efficiency basement apartment units and do not need two parking spaces each as required by code. Although not required by ordinance for single or two-family residences, this development provides at least one bicycle rack at each motor court which will encourage alternative transportation and reduce vehicular parking demand. However, staff does have concern with the following access and parking issue:*
 - a. *In order to provide convenience for unloading and loading vehicles associated with Units 5 and 6 that do not have garages or parallel parking spaces in the immediate vicinity, the applicant shall install a temporary 'Loading and Unloading Area' designated with signage or pavement markings in front of Units 3 and 23.*

Water/Sewer/Drainage

8. Off-site water and sewer, and drainage improvements shall be installed as determined necessary by the Engineering Division to provide domestic service and fire protection to the development, and to ensure the project meets all applicable drainage criteria.

Phasing

9. Determination of the proposed phasing plan. Staff recommends approval of the phasing as indicated within the submittal, with the following change. This project is required to obtain all permits in accordance with the Phasing as listed and depicted in the PZD booklet and noted below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions).
 - The applicant shall obtain all construction permits for construction of streets and all other public infrastructure within one year of PZD approval.
 - The applicant shall obtain all building permits for all residential units and accessory structures within five years from City Council approval of the PZD.

Parks and Trails

10. Payment of fees in lieu of parkland dedication in the amount of \$20,680 for 28 single and two-family units shall be paid prior to issuance of a building permit for the first unit in this development.
11. A multi-use trail connection (Hotz Park Trail) is identified on the Fayetteville Trails Master Plan utilizing the Sang Avenue right-of-way adjacent to the western border of this site and connecting through this site to Cross Avenue, and ultimately to Hotz Park. This development shall construct a multi-use trail connection from the proposed Nettleship Street through the existing Sang

CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 3 of 6

Avenue right-of-way, connecting south to Maine Street. The details of the trail construction shall be coordinated with the City Trails Coordinator prior to construction permits. The trail shall be constructed at the time Nettleship is extended.

PZD Booklet

12. Booklet. Pg. 8. Delete the paragraph following the zoning criteria, and replace it with the Landscaping, Parking, Architectural Design Standards, and signage standards as included on Sheet A2 of the PZD plats.

Landscape Plan

13. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
14. All landscaping shown on this landscape plan and referenced in the PZD Master Development Plan, including the evergreen hedgerows along the perimeter property lines, is required to be planted and maintained as a condition of the PZD approval.
15. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
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CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 4 of 6

19. Reinforced concrete retaining walls may be required as opposed to block walls to preserve trees located adjacent to the walls.
20. The applicant shall mitigate for the removal of 3,936 SF of tree canopy with on-site mitigation to consist of a minimum of (14) 2-inch caliper large species trees. Mitigation trees cannot be planted within utility easements or street ROW.
21. 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 \$3,500 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.
22. Construction drawings must be submitted to and approved by the Urban Forester prior to the issuance of a grading permit.

General

23. The small parks, community gardens, greenspace, footpaths, potting shed, tree house, and other amenities as shown on the PZD and LSD plans shall be included as requirements of the project. These amenities shall be constructed prior to issuance of Certificate of Occupancy for the surrounding cottages, to be determined by Planning staff at the time of construction. At a minimum, nonresidential facilities shall be built prior to the ninth building permit in accordance with Section 166.06 (K) of the UDC.
24. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements. Encroachment of structures or any portion of a structure shall comply with all applicable Building Codes unless otherwise and specifically approved by the City Council at the time of development.
25. Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet.
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27. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for residential development.
28. 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.
29. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

Engineering Division Conditions:

30. Determination of a waiver of Fayetteville Unified Development Code Chapter 171.C.1 in order to

CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 5 of 6

allow for a 4-5' retaining wall at the back of the right-of-way/sidewalk when the UDC requires a minimum 2-foot separation. The applicant's request discusses that the waiver is needed in order to preserve a significant oak tree. *Staff recommends in favor of this request finding that it will preserve significant tree canopy and will not create an unsafe condition.*

31. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
32. Prior to building permit, bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
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36. Any retaining wall more than four feet in height shall be designed by a registered professional engineer in the state of Arkansas and shall be field inspected by the design engineer.
37. Safety railings are required on any retaining wall greater than 30" in height. The safety railing shall be built in to the more stringent requirements of the SBCC or AASHTO.
38. Provide capacity analysis of the existing 6 in sanitary sewer system which this development will connect to the first 8" main downstream.

Standard Conditions of Approval

39. Technical 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).
40. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
41. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
42. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking

CONDITIONS OF APPROVAL:

R-PZD 08-2980

Page 6 of 6

- 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.
43. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
 44. 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.
 45. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Easement plat that shall include all right-of-way, easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.



Planning Commission Meeting
July 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 9, 2008 Updated July 16, 2008

R-PZD 08-2980: (MARKHAM HILL COTTAGE COURTS, 520): Submitted by ROBERT SHARP for property located at NORTH OF MAINE ST., BETWEEN SANG AND CROSS. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 2.54 acres located within the Hillside Hilltop Overlay District. The request is for Zoning, Land Use, and Development approval of a Residential Planned Zoning District with 18 single family and 5 two-family cottages (28 units total).
Planner: Andrew Garner

Findings:

Property Description and Setting: The subject property consists of approximately 2.54 acres located north of Maine Street and west of Cross Avenue, less than 0.25 mile west of the University of Arkansas Campus. The site is zoned RMF-24, and has not been previously developed except for a single family home and associated accessory structures and driveways. The site is located on the south slope of Markham Hill and is almost entirely wooded (73.3% tree canopy) and within the Hillside/Hilltop Overlay District.

As depicted in *Table 1*, the property is surrounded by a mix of residential uses ranging from undeveloped wooded hillside to the north, multi-family development to the west and east, single- and two- family residential to the south, and Ramay Junior High School approximately one block to the south.

Table 1
Surrounding Land Use/Zoning

Direction	Land Use	Zoning
North	Undeveloped wooded hillside	RSF-4
South	Single- and two- family residences	RMF-24
East	Bedford Apartments	RMF-24
West	Meadow Brook Apartments	RMF-24

Proposal: The request is for rezoning and large scale development approval for a Master Development Plan of a Residential Planned Zoning District with 23 detached cottages and amenities included a bocce court, stone paths, a small park, a tree house, community gardens and potting shed. This development is proposed under a horizontal property regime similar to a typical condominium

ownership where the owner of the cottage does not own the land, but owns the unit. A property owner's association would own and maintain the property and amenities.

The proposed zoning criteria allows for single and two-family dwellings and a density of approximately 11 units/acre, while the existing zoning allows for multi-family dwellings and 24 units/acre. The small 23 cottages are generally be clustered around shared motor courts as opposed to individual curb cuts typically seen in a single family subdivision. All of the cottages would have the appearance of a detached single-family residence; however five of the cottages (Units 1, 5, 12, 11, 12 and 13) have an efficiency apartment in the basement making those units two-family. This site layout and proposal is not allowed under any standard zoning criteria. One of the purposes for which the Planned Zoning District ordinance was created is to promote and encourage projects that meet the adopted goals and policies of the city, yet do not fit the mold of current development or zoning requirements; and to allow for surrounding property owners to see the project's product with the rezoning request, as opposed to a request for a blanket zoning district with few limitations. The proposed zoning criteria for this project is provided in the project booklet and on the plats. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Access and Connectivity: The main entry into this neighborhood is off of Cross Avenue with a new east-west street (Nettleship Street) through the site. A secondary point of connectivity is from a new two-way alley/lane (Sutherland Lane) that connects the extended Nettleship Street to Maine Street. A majority of the residences are accessed through shared motor courts with garages tucked into the hillside under the cottages. Several of the cottages will be provided with parallel parking on the new street, and the remainder of the cottages will have separate garage entries from the new alley/lane. Staff recommends that Nettleship Street be stubbed-out to the western property line to allow the potential for a future connection west.

The two proposed interior streets are narrow with sidewalks on one side to eliminate unnecessary disturbance of tree canopy and the hillside, and for traffic calming. On-street parking is provided on both sides of Nettleship Street. Variances are requested for these two streets as neither fit into the approved Master Street Plan cross-sections.

Parking: Parking for the residences are proposed in garages, on-street parallel parking, and a few surface parking spaces in the motor courts. Planning Commission determination to allow for on-street parking for single-family residences is required for several of the units without garages, see *Table 2*. Staff recommends that the parking situation for Units 5 and 6 be evaluated as these units do not have a garage and the closest parallel parking space is approximately 80' away down a steep slope. Proposed parking is atypical of standard parking lots or garages for single family residences. Several of the garages will require multiple point turns for ingress and egress and the overall parking and access will be very compact. Although not required by ordinance for single and two-family residences, in order to encourage alternative transportation and alleviate some vehicular parking demand, this development proposes a bicycle rack in each of the motor courts.

Phasing: The applicant anticipates construction of streets and infrastructure within one year of PZD approval. Building permits for all cottages and accessory structures shall be obtained within five years from City Council PZD approval. A one-year extension may be permitted, subject to Planning Commission approval. All infrastructure serving each unit must be installed and inspected prior to

any occupancy for that respective dwelling unit.

Table 2
Off-Street Parking Requirements

Use One /Two-Family Residential	Unit Amount 28	Parking Ratio 2 per unit	Parking Spaces Required 56
Baseline Parking Required by Ratio			56
Minimum Number of Parking Spaces Required (30% Under Ratio)			40
Total Number of Spaces Provided			55
Bicycle Racks Provided			3 provided (0 required)
Number of Off-street spaces required (18 single family units)*			36 minus 3 bike racks = 33
Number of Off-street Spaces Provided (garage and surface parking)			25
Off-street Deficit (Requiring Planning Commission Approval)			8

*Two-family units are permitted to count on-street parking spaces towards required parking.
Three bicycle racks count for three required parking spaces in accordance with ordinance.

Water & Sewer: Water and sewer lines will be extended to serve the development.

Adjacent Master Street Plan Streets: Maine Street, Cross Avenue, and Sang Avenue (residential streets).

Right-of-way Dedication: Right-of-way in the amount of 21.5' from centerline along Main Street and Cross Avenue; 39' for the construction of Nettleship Street and 30.50' for the construction of Sutherland Lane shall be dedicated by easement plat prior to building permit. Nettleship Street shall be constructed all the way to the western property line and a street stub-out sign installed. No additional right-of-way dedication is required for Sang Avenue.

Street Improvements: Maine Street and Cross Avenue shall be improved along the entire property frontage including curb and gutter, storm drains, 5' sidewalks and a minimum pavement width of 20'. The gap of Maine Street and Cross Avenue that is not directly adjacent to the subject property is also to be improved to the same standard, without the sidewalks. The intersection of the new Nettleship Street and Cross Avenue shall be aligned to create a three-way intersection with final design to be approved by the City Engineering Division.

Multi-Use Trail: A multi-use trail connection (Hotz Park Trail) is identified on the Fayetteville Trails Master Plan utilizing the Sang Avenue right-of-way adjacent to the western border of this site and connecting through this site to Cross Avenue, and ultimately to Hotz Park. This development provides a multi-use trail connection from Nettleship Street through the existing Sang Avenue right-of-way, connecting south to Maine Street.

Parks: The Parks and Recreation Advisory Board (PRAB) recommended on March 3, 2008 to accept money in lieu of land. Fees in the amount of \$20,680 for 18 single and 5 two-family units will be assessed and are due prior to building permit.

Solid Waste Service: Solid waste collection for individual residential carts will be provided in

designated collection points. The exact details to be determined prior to issuance of building permit.

<i>Tree Preservation:</i>	Existing Canopy:	73.3%
	Preserved Canopy:	26.44%
	Required Canopy:	30%
	Mitigation:	14 two-inch caliper large species trees

Public Comment: City staff has received some phone calls inquiring about this development, and received one email in support of this project. Some public comment was received at the Subdivision Committee meeting, some in favor, and one person discussing concerns with parking and fire hazards.

Recommendation: Staff recommends that **R-PZD 08-2980** be forwarded to the City Council with a recommendation of approval, with the following conditions:

Conditions of Approval:

Streets

1. Planning Commission determination of street improvements. *Staff recommends the following street improvements, based on the proportionality of the development's impact:*
 - a. A minimum pavement width of 20', curb, gutter, storm drain, and sidewalk on Maine Street and Cross Avenue along the project frontage and along the lot at the intersection of Cross/Maine; (no sidewalk along this off-site frontage) – see drawings for clarification;
 - b. Extension of storm drains off-site as necessary.
 - c. The intersection of the new Nettleship Street and the existing Cross Avenue shall be realigned in a three-way stop as indicated on the plans. Prior to construction permits being issued, adequate offsite right-of-way shall be dedicated to complete these improvements as indicated on the plans.
 - d. Street lights along Maine, Cross and Nettleship as required by code.

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/14/08).

2. The applicant shall dedicate right-of-way as follows by easement plat or separate document prior to building permit:
 - a. 21.5' from centerline along Maine Street and Cross Avenue;
 - b. 39' for Nettleship Street and 30.50' for Sutherland Lane as indicated on the approved plans.
 - c. Adequate right-of-way to construct the three-way intersection of the new Nettleship Street and Cross Avenue.
3. Planning Commission determination of a variance of minimum street design standards:
 - a. The applicant requests a variance to allow different street cross sections than required by the current Master Street Plan standard (UDC §166.06 (K)(10)(a) and

166.08(C)(14)). The applicant proposes on-street parallel parking on both sides of the street in the Hillside/Hilltop Overlay District, sidewalks on one side of the street, a narrow two-way alley/lane with sidewalk on one side, and right-of-way width of 39' for Nettleship Street and 30.50' for Sutherland Lane. The Master Street Plan does not have cross-sections in the design as proposed. *Staff recommends in favor of the requested street design standards finding they deal with a unique site allowing for reduced grading and pavement and increased tree preservation in the HHOD, and will result in safe ingress/egress into and out of the development.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/14/08).

4. No parallel parking spaces are allowed within 30' of a stop sign (Fayetteville Code of Ordinance Section 72.03(G)). The applicant shall coordinate all striping of streets and parallel spaces with the Transportation Division and Fire Department, as the ultimate administrators of these code sections.
5. Solid Waste Service. All comments regarding solid waste service shall be addressed prior to building permit approval. Residential carts/recycle bins are anticipated to be utilized at common collection points.
6. A sign indicating a future street extension shall be installed at the Nettleship Street stub-out on the western property line prior to certificate of occupancy for those units in that vicinity of the site as determined by Planning staff.

Parking

7. Planning Commission determination of a request to allow fewer off-street parking spaces than allowed by ordinance. As depicted in Table 2 provided earlier in this report, the applicant proposes to provide 25 off-street parking spaces when 33 are required, and 32 on-street parking spaces to accommodate the additional parking spaces required. *Staff recommends approval of this request, recognizing that the streets throughout this development, as amended from the City's Master Street Plan, would provide parallel parking and can safely satisfy the additional demands for parking not provided off-street as depicted in Table 2. Staff also finds that five of the units will be efficiency basement apartment units and do not need two parking spaces each as required by code. Although not required by ordinance for single or two-family residences, this development provides at least one bicycle rack at each motor court which will encourage alternative transportation and reduce vehicular parking demand. However, staff does have concern with the following access and parking issue:*
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39. Technical 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).
40. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street.
41. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
42. 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.
43. All overhead utility lines under 12kv shall be relocated underground. All proposed utilities shall be located underground.
44. 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.

45. Prior to the issuance of a building permit the following is required:

- a. Grading and drainage permits
- b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
- b. Easement plat that shall include all right-of-way, easements and the tree preservation area.
- c. Project Disk with all final revisions
- d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

Planning Commission Action:

☐ Tabled ☒ Forwarded to C.C. (recommendation for approval) ☐ Denied

Motion: Myres

Second: Cabe

Vote: 7-0-0

Meeting Date: July 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 R-PZD 08-2980 (Markham Hill Cottage Courts)

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: The Future Land Use Map adopted as part of City Plan 2025 designated this site 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, and encourage walkability as part of the street function. The development proposes a maximum of 23 detached cottages (18 single family and 5 two-family for a total of 28 units) with amenities including a bocce court, stone paths, a small park, a tree house, community gardens and potting shed in a compact and connected community with meaningful open space. The site is located in central Fayetteville within walking distance of the University of Arkansas campus, Ramay Junior High School, and the 6th Street commercial corridor. The development meets the intent of the City Neighborhood Area designation.

The project complies with the overall main goals of City Plan 2025 as follows:

- | | |
|--|---|
| Goal 1: We will make appropriate infill and revitalization our highest priorities. | This project is an infill project in a well-developed area of Fayetteville. The relatively under-developed property is largely surrounded by existing development and infrastructure, with the exception of substandard streets. This infill development provides the City an opportunity to revitalize the existing infrastructure and street system in the immediate vicinity with contributions from the development. |
| Goal 2: We will discourage suburban sprawl. | By being an infill development, the project discourages suburban sprawl, and keeps greenfields green on the perimeter of the City. |
| Goal 3: We will make traditional town form the standard. | Due to its small size (2.54 acres) and location, this project can not provide a complete neighborhood with mixed uses. However, the design and layout of the residential cottages encourages pedestrian activity and an active public realm and contributes to the surrounding complete neighborhood environment. The small cottages will help provide a mix of housing types in the area, and the proximity of this site to non-residential services and employment centers is consistent with traditional town planning principles. |

- Goal 4: We will grow a livable transportation network. This project will provide an opportunity to improve the existing substandard street system on Maine Street and Cross Avenue. This project will also provide a connection for the Hotz Park Trail through the site, encouraging multi-modal transportation. By being an infill project within walking distance to many destinations, this development helps with City grow while minimizing impacts to the overall street system.
- Goal 5: We will assemble an enduring green network. This project has taken care to incorporate many of the existing significant trees into the design, and will provide several pockets of greenspace for public use throughout the development.
- Goal 6: We will create attainable housing. The small size of the cottages proposed by this development help provide variety to the overall housing market in the City and contribute to a mixed-income neighborhood.

- (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.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow for a maximum of 23 small single and two-family detached cottages, maximum of 28 dwelling units. The proposed development pattern and density would be compatible with the surrounding multi- and single-family land uses. This PZD would reduce the residential density from 24 units/acre to 11 units/acre.

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

FINDING: The 2.54-acre property currently has one residence and accessory structures. The two main natural resources on the property include the steep topography and tree canopy. The majority of the site is steep and within the Hillside/Hilltop Overlay District, with 77% of the site covered in tree canopy. The street and site plan layout generally follow the contours and natural landform of the site. This project complies with the requirements of the Hillside/Hilltop Overlay District in terms of its development pattern. This project has incorporated the topography and many of the significant trees on the site as environmental

design features of the project, rather than mass grading the property. The tree preservation numbers fall just below the 30%, and on-site mitigation will create a healthy canopy cover. The natural environment is suitable for the type of development proposed, with the plans that are sensitive to that environment, as proposed.

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

FINDING: The proposed 28 homes will impact the existing traffic conditions. Currently this development proposes two points of ingress and egress, one on Maine Street and one on Cross Avenue. Both of these roads are unimproved and very narrow with open ditch on both sides. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not create traffic congestion or overburden the existing road network. Staff recommends that Main Street and Cross Avenue be improved to provide a minimum pavement width of 20', curb, gutter, storm drain, and sidewalk in this area and that the intersection of the extended Nettleship Street and the existing Cross Avenue be realigned in a three-way stop. Staff finds that with the recommended street improvements this development will not create traffic congestion or burden the existing road network. This development is also providing a multi-use trail connection through the site. Providing pedestrian improvements may encourage many to walk or bicycle through the site to utilize those services in the area, thereby decreasing the use of the vehicular network.

- (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: Markham Hill Cottage Courts proposes a unique form of single family housing that is smaller and more compact than typical single family detached residences in the area. This project adds variety to the housing market and is compatible with the surrounding multi-family and single family residences.

The architectural style of the residences provides for well-articulated structures that present attractive façades to the street and a consistent and overriding theme. The integration of many significant trees into the design will help retain the overall character of the wooded hillside.

The infill location encourages a balance of people living and working in the same area reducing daily vehicle trips that rely on the regional road network. Several public spaces are proposed that will be a benefit to the neighborhood and provide meaningful open space in this compact residential community. Circulation is compact and connected and the inclusion of landscaping/mitigation trees will define the streets and replace removed canopy from the hillside. Also see Staff Findings No. 1 and No. 4.

- (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: An evergreen hedgerow is proposed along perimeter property lines. Parking lot screening is not required as there are not large surface parking areas or other areas requiring screening facing streets. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are 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 vehicular circulation system is comprised of two public streets, as described earlier in this report, accessing Maine Street and Cross Avenue. The dwellings face onto greenspaces or streets, and are generally accessed off of shared driveways or motor courts, providing a hierarchy of circulation that encourages an efficient flow of traffic. Also see Staff Finding No. 6.

- (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 for a majority of the residences is provided in garages; parking for a few of the units is provided on-street. Planning Commission and City Council approval is required in order to allow on-street parking to count for required off-street parking spaces for some of the residences. Staff recommends in favor of the request finding that adequate parking on- and off- street is provided.

- (5) *Perimeter treatment.* Notwithstanding any other provisions of a planned zoning district, all uses of land or structures shall meet the open space, buffer or green strip provisions of this chapter of this code.

FINDING: This requirement has been met.

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

FINDING: Public sidewalks are to be constructed on one side of the new internal public streets and on Maine Street and Cross Avenue adjacent to the project. The development would also construct a multi-use trail connection from the proposed Nettleship Street through the existing Sang Avenue right-of-way, connecting south to Maine Street.

- (7) *Street Lights.* As required by §166.03.

FINDING: Street lights are to be provided adjacent to all public and private streets at a separation of no greater than 300 feet.

- (8) *Water.* As required by §166.03.

FINDING: Public water 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: Variances of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic and encourage pedestrian comfort and activity throughout the site and they respond to unique site conditions that will enable greater tree preservation and less land disturbance. Staff recommends in favor of the waivers for street and alley design, with the revisions submitted for Planning Commission consideration.

- (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: The applicant has worked with the Urban Forester to alter several previous site

plans, bringing forward a plan that accomplishes more of the goals for tree preservation. Mitigation trees will serve to provide an increased overall canopy on the site, providing for an urban canopy.

- (13) *Commercial design standards.* All PZD developments that contain office or commercial structures shall comply with the commercial design standards as set forth in §166.14 Site Development Standards and Construction and Appearance Design Standards for Commercial Structures.

FINDING: This PZD does not contain office or commercial structures.

- (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: This site is located within the Hillside/Hilltop Overlay District (HHOD), and is visible from surrounding hillsides, residences, and distant streets. The development has complied with the building height requirements of the HHOD and has limited the heights for all structures to 45 feet. With compliance of the HHOD height requirements, existing views of this property and from this property will be adequately preserved.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.
 - (c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to

appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

(F) *Covenants, trusts and homeowner associations.*

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:
- (a) The homeowner's association must be legally established before building permits are granted.
 - (b) Membership and fees must be mandatory for each home buyer and successive buyer.
 - (c) The open space restrictions must be permanent, rather than for a period of years.
 - (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
 - (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

(A) Purpose. The intent of the Planned Zoning District is to permit and encourage comprehensively planned developments whose purpose is redevelopment, economic development, cultural enrichment or to provide a single-purpose or mixed-use planned development and to permit the combination of development and zoning review into a simultaneous process. The rezoning of property to the PZD may be deemed appropriate if the development proposed for the district can accomplish one or more of the following goals.

- (1) Flexibility. Providing for flexibility in the distribution of land uses, in the density of development and in other matters typically regulated in zoning districts.
- (2) Compatibility. Providing for compatibility with the surrounding land uses.
- (3) Harmony. Providing for an orderly and creative arrangement of land uses that are harmonious and beneficial to the community.
- (4) Variety. Providing for a variety of housing types, employment opportunities or commercial or industrial services, or any combination thereof, to achieve variety and integration of economic and redevelopment opportunities.
- (5) No negative impact. Does not have a negative effect upon the future development of the area;
- (6) Coordination. Permit coordination and planning of the land surrounding the PZD and cooperation between the city and private developers in the urbanization of new lands and in the renewal of existing deteriorating areas.
- (7) Open space. Provision of more usable and suitably located open space, recreation areas and other common facilities that would not otherwise be required under conventional land development regulations.
- (8) Natural features. Maximum enhancement and minimal disruption of existing natural features and amenities.
- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025 as discussed in Staff Finding No. 1, as well as the above ten criteria, including compatibility and harmony with existing surrounding land uses, provision of a variety of housing types and common open spaces.

(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 residential uses on this property will be at least fifty-one percent of the gross floor area within the development.

(F) *Bulk and area regulations*

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

FINDING: Surrounding development is solely residential and mixed in density and form, from an apartment complex, duplexes, various multi-family residences, to single family residences. The proposed project is a down-zoning, reducing the allowable density from 24 units/acre to 11 units/acre. The impact of the proposed density on the site and adjacent properties would be less intensive than currently allowed by right. Also see Staff Findings Nos. (E)(1), (E)(4), (E)(5), and (B)(1).

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

FINDING: Lot area minimums and setbacks are small on this project with structures oriented to the street or greenspaces and minimal front setbacks. This project provides for a variety of building footprints and unit types. Due to the unique nature of layout and type of structures being proposed, it is not possible to conform to existing standards for lot area minimums and setback requirements.

- (3) *Building height.* There shall be no maximum building height except as may be determined by the Planning Commission during the review of the preliminary development plan based on the uses within the development and the proximity of the development to existing or prospective development on adjacent properties. A lesser height may be established by the Planning Commission when it is deemed necessary to provide adequate light and air to adjacent property and to protect the visual quality of the community.

FINDING: Building heights proposed for this project are typical of single family development in the surrounding area, and consistent with the height requirements of the HHOD.

- (4) *Building area.* The Planning Commission shall review specific proposed lot coverages which generally correspond to the guidelines for lot coverage in the respective residential, office, commercial or industrial district which most depicts said development scheme.

FINDING: The lot coverage or building area is consistent with the existing RMF-24 zoning on the property and in the surrounding vicinity.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 Future Land Use Plan designates this site as a City Neighborhood Area. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for City Neighborhood Areas this proposal meets, and the six major goals of City Plan 2025 as discussed in Staff Finding No. (E)(1). Rezoning the property will accommodate the future land use plan for residential uses and allow for integration of a variety of housing types, sizes and development pattern, thus providing more choices for more citizens.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: The property is zoned RMF-24 which allows for primarily residential use. The proposed reduced density and site layout included with this rezoning is more appropriate than the existing RMF-24 zoning given the steep terrain and wooded nature of the site. The proposed PZD zoning allows flexibility to vary building setbacks, bulk and area requirements, to allow for a more organic design that integrates the topography and tree canopy into the development and still obtain a feasible number of units. Rezoning of this property as proposed is advisable.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: Staff finds this proposal will not create or appreciably increase traffic danger and congestion, with the street improvements recommended

4. A determination as to whether the proposed zoning would alter the population density and thereby undesirably increase the load on public services including schools, water, and sewer facilities.

Finding: The proposed PZD would reduce the population density from that allowed under the current RMF-24 zoning. The current zoning would allow for 61 units and the proposed PZD would allow a maximum of 28 units. The development of this site with 28 units would create demand on public services. Staff finds, however, that the load created on public services is not an undesirable or detrimental impact, with the improvements as recommended by staff for this project.

Engineering: Public water is available to the property. There is a 24" along the west property line of this property. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is a 6" sewer main along Main Street. Sewer will need to be extended through the property at the time of development. The capacity of the existing main will need to be studied at the time of development.

The site has access to Main Street, Cross and Nettleship which are narrow unimproved two lane city streets. 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.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services. The Police Department states that the rezoning may increase traffic danger and congestion.

Fire: The subject property is located 0.6 miles from the Station No. 6 located at 900 Hollywood with an expected 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: Not applicable. Staff recommends approval of the proposed zoning.



PC Meeting of July 14, 2008

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

THE CITY OF FAYETTEVILLE, ARKANSAS

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2980: Residential PZD (Markham Hill Cottage Courts)*Requirements Submitted:*

Y	Initial Review with the Urban Forester
Y	Site Analysis Map Submitted
Y	Site Analysis Written Report Submitted
Y	Complete Tree Preservation and Protection Plan Submitted

Canopy Measurements:

Total Site Area	
acres	2.54
square feet	110,541
Existing Tree Canopy	
acres	1.86
square feet	81,027
percent of site area	73.3%
Existing Tree Canopy Preserved	
acres	0.67
square feet	29,226
percent of total site area	26.44%
Percent Minimum Canopy Required	30.0%

FINDINGS:

The desirability of preserving a tree or group of trees by reason of age, location, size or species.

- This site is has approximately 73% canopy with the majority of species consisting of white oak. An inventory of the site by a certified arborist revealed that there are 18 significant trees as defined by the City of Fayetteville's Landscape Manual. Removal is proposed for six of the

significant trees. The majority of this site is within the Hillside/Hilltop Overlay District.

The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Some environmental degradation is likely to occur on the site due to the removal of trees on steep slopes.**

The impact of the reduction in tree cover on adjacent properties, the surrounding neighborhood and the property on which the tree or group of trees is located.

- **Adjacent properties should not be affected by the removal of tree canopy with the exception of the extended grading and street ROW in the northeast corner of the site which appears to extend onto the adjacent property. Trees are shown as preserved along the northern and southern portions of the site. Additional screening in the form of landscape trees will also be added.**

Whether alternative construction methods have been proposed to reduce the impact of development on existing trees.

- **N/A**

Whether the size or shape of the lot reduces the flexibility of the design.

- **The size and shape of the lot do reduce flexibility. The site has steep slopes that also limit the flexibility of the design.**

The general health and condition of the tree or group of trees, or the presence of any disease, injury or hazard.

- **The general health of these trees was determined to be fair. One of the significant trees that is proposed for removal is in good condition. Two of the significant trees that are proposed for removal are in poor condition.**

The placement of the tree or group of trees in relation to utilities, structures, and use of the property.

- **Staff recommends that the two groups of preserved canopy in the northern portion of the site be placed within Tree Preservation Areas. 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.**

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 Areas should not be affected by utilities.**

Whether roads and utilities are designed in relation to the existing topography, and routed, where possible, to avoid damage to existing canopy.

- **The proposed road and utilities have been designed in relation to the existing topography. The design has also attempted to avoid damage to as much existing canopy as possible.**

Construction requirements for On-Site and Off-Site Alternatives.

- **N/A**

The effects of proposed On-Site Mitigation or Off-Site Alternatives.

- **Mitigation will be required on this site since the canopy falls below 30%. On-site mitigation is proposed.**

The effect other chapters of the UDC, and departmental regulations have on the development design.

- **This is a residential Planned Zoning District project. The majority of this site is within the Hillside/Hilltop Overlay District.**

The extent to which development of the site and the enforcement of this chapter are impacted by state and federal regulations:

- **N/A**

The impact a substantial modification or rejection of the application would have on the Applicant:

This project is proposed as a Planned Zoning District with the majority of the site within the Hillside/Hilltop Overlay District. The existing site is heavily wooded. There are few trees that meet the significant status, and the majority of the significant trees (12 out of 18) are proposed as preserved. The applicant has worked hard to meet all planning, engineering and tree preservation requirements for this project, and the site has been revised several times as a result.

Typically, staff has not supported mitigation of canopy below 30% for PZD projects located within the HHOD. The current zoning of the property is RMF-24. Use of this zoning for the project design would have resulted in a minimum tree preservation of 25% (20% for RMF-24 plus additional 5% for HHOD). The proposed project meets those minimum requirements.

- **Staff is recommending forwarding the submitted Tree Preservation Plan to the City Council for approval with the following conditions:**
 1. **The two groups of preserved canopy in the northern portion of this site must be placed within Tree Preservation Areas. This includes the grouping that contains trees #11, 12 and 13 and the grouping that contains trees #3-6 and 9 and 10. These areas will be dedicated with the easement plat using the Tree Preservation Area signature block for the Urban Forester. Portions of these Tree Preservation**

Areas are located within an alley that must be vacated before final approval can be granted.

2. The extended grading and street ROW in the northeast corner of the site appears to extend onto the adjacent property. No off-site tree removal (outside of right-of-way or easements) is permitted without written consent of the adjacent property owner. Final approval of the project is conditional upon receiving this written consent. Additionally, mitigation will be required for 100% of tree removal on adjacent property. Furthermore, all trees planted for mitigation for tree removal on the adjacent property shall be planted on the adjacent property, preferably near the area where the removal takes place. The trees will also require final inspection by the Urban Forester and bonding for three years after planting in addition to the on-site mitigation requirements for the development. Final approval of the project will be subject to final calculations.
3. Reinforced concrete retaining walls may be required as opposed to block walls to preserve trees located adjacent to the walls.
4. The applicant shall mitigate for the removal of 3,936 SF of tree canopy with on-site mitigation to consist of a minimum of (14) 2-inch caliper large species trees. Mitigation trees cannot be planted within utility easements or street ROW.
5. 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 \$3,500 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.
6. Construction drawings must be submitted to and approved by the Urban Forester prior to the issuance of a grading permit.



PC Meeting of July 14, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: Fayetteville Subdivision Committee

From: Andrew Garner, Senior Planner

Date: July 08, 2008

ITEM #:R-PZD 08-2980: Planned Zoning District (Markham Hill Cottages)

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
Y		Mulch notes indicate organic mulching around trees and within landscape beds
N		Plans stamped by a licensed Landscape Architect
Y		Planting details according to Fayetteville's Landscape Manual
		Site Development & Parking Lot Standards
Y		Wheel stops/ curbs
NA		Interior landscaping Narrow tree lawn (8' min width, 17' min length/ 1 tree per 12 spaces)

		Tree island (8' min. width/1 tree per 12 spaces)
Preliminary Submittal	Final Submittal	
Y		Perimeter landscaping Side and rear property lines (5' landscaped) Shade trees as described in street tree planting standards, Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (time of F.P. or permit)
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 (time of F.P. or permit)
N		1 deciduous or evergreen tree/ 3000 square feet
N		4 large shrubs (3 gal) or small trees / 3000 square feet
N		6 shrubs or grasses (1 gal) / 3000 square feet
N		Ground cover unless seed or sod is specified
N		50% of facility planted with grass or grass like plants

Conditions of Approval:

1. Before construction document approval, the landscape plan must be stamped by a Landscape Architect licensed within the state of Arkansas.
2. All landscaping shown on this landscape plan and referenced in the PZD Master Development Plan, including the evergreen hedgerows along the perimeter property lines, is required to be planted and maintained as a condition of the PZD approval.
3. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
4. Under the Landscape Regulations Chapter 177, street trees must be

bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of certificate of occupancy.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 West Mountain St.

Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

June 30, 2008

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

Re: Plat Review Comments (July 03, 2008 Subdivision Committee)

Development: **R-PZD 08-2980 Markham Hill Cottages**

Engineer: **Northstar Engineering Consultants, Inc.**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for plat approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. Prior to building permit, bonds in the amount of 150% of the construction cost for all public improvements will need to be submitted.
3. In accordance with Section 170.08 of the UDC, either the Developer, Property Owner, or Property Owner Association shall comply with the required maintenance responsibilities for storm water management as set forth under section (B)(5) and (B)(6).
4. Written permission is required to grade within 5 ft of the property line. Specifically the property to the south 765-11940-000 required to install the Bocce Court.
5. Written permission is required to grade/install retaining wall on adjacent property. Specifically the property to the north 765-14582-000.
6. Any retaining wall more than four feet in height shall be designed by a registered professional engineer in the state of Arkansas and shall be field inspected by the design engineer.
7. Safety railings are required on any retaining wall greater than 30" in height. The safety railing shall be built in to the more stringent requirements of the SBCC or AASHTO.
8. Provide capacity analysis of the existing 6 in sanitary sewer system which this development will connect to the first 8" main downstream.

From: Glenn Newman
To: Garner, Andrew
Date: 7/2/08 1:22PM
Subject: Re: Fwd: Markham Hill: Retaining Wall variance

Andrew,

Engineering has discussed this issue with Chuck Rutherford (ADA Administrator) and agree that allowing the retaining wall to be installed adjacent to the sidewalk will not cause an unsafe condition. Since the request to allow this variance is in an effort to preserve existing significant canopy, we will support the requested variance dated June 25, 2008.

Please let me know if you have any additional questions.

Glenn

Glenn E. Newman, Jr., P.E.
City of Fayetteville
Staff Engineer
479-575-8206

>>> Andrew Garner 6/30/2008 4:34 PM >>>
See below.

Andrew M. Garner
Senior Planner
City of Fayetteville
125 West Mountain Street
Fayetteville, Arkansas 72701

Tel. 479.575.8262
Fax. 479.575.8202
agarner@ci.fayetteville.ar.us
www.accessfayetteville.org

>>> "Dan" <Dan@sharparch.net> 06/30/08 10:59 AM >>>
Andrew,

The attached letter is to request a variance for the retaining wall shown within 5 feet of the ROW for Nettleship Street.

I neglected to include it in our submittal for Subdivision Committee.

We will include it in the Planning Commission submittal if it is too late to include now.

We understand that it would be included as a condition for approval by Planning and Engineering.

Thank you,

Dan

From: Brian Pugh
To: Fulcher, Jesse; Garner, Andrew; Sanders, Dara
Date: 7/2/08 10:56AM
Subject: Subdivision Committee 7-3-08

R-PZD 08-2980 (Markham Hill Cottage Cts) The proposed trash pick up points are not all labeled with the sizes identified. Spoke with Daniel Dean with Rob Sharp about getting these labeled to be clearly identified on the plans. Plans must identify these areas before approval from Solid Waste. The 3' x 7' size will be too small to adequately hold and service the carts. The largest residential cart is 30 inches wide and we need approximately two feet between carts in order to service with the automated arms. Please plan on 54 inches for each cart and space for automated arm per cart set out. Counting the houses and the pads, 4 out of the 5 areas will hold 3 carts with one holding 4 carts. Also need to plan for stacking of recycling bins in each area but cannot place bins directly next to carts because of automated arm. Automated recycling could occur in the future so extra space configured for recycling would be wise. Also Solid Waste does not want to run trucks on Sutherland Lane due to small size of road. Please move Recycling shed to access off Maine St. or show another shaded area sized accordingly for the houses on the southern end of development. 28 recycling bins in one area is too much and residents should put recycling bins in the same area as their carts as long as they do not put them directly next to the carts. Overhanging trees will not be permitted in areas set aside for Solid Waste and Recycling collection due to the automated arms, please remove them from plans.

LSD 08-3023 (The Gardens of Persimmon) Please show size of double enclosure on plans. Double enclosure should be 30' x 12' in size. Please provide architectural plans showing gate plans for enclosure.

LSD 08-2946 (Wedington Medical Center) Southeast area designated for 2 dumpsters is not large enough. Please show enclosure area as 30' x 12' for 2 dumpsters. Also, please show gate design on architectural plans and send to solid Waste for approval.

R-PZD 08-2990 (Creekside, 360) All non single family homes require commercial service. Please show appropriate number of enclosure for dumpsters for the number of units on plans. Enclosures should be 15' wide x 12' deep and identified on the plans.

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



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: June 30, 2008
SUBJECT: Parks & Recreation Subdivision Committee Comments

Meeting Date: July 3, 2008
Item: R-PZD 08-2980 (Markham Hill Cottage Courts, 520)
Park District: SW
Zoned: RMF-24
Billing Name & Address: Robert Alberston 1934 Maine Street, Fayetteville, AR 72701

	<u>Land Dedication Requirement</u>	<u>Money in Lieu</u>
Single Family	_____ @ .024 acre per unit = _____ acres	<u>18</u> @ \$960 per unit = \$ <u>17,280</u>
Multi Family	_____ @ .017 acre per unit = _____ acres	<u>5</u> @ \$680 per unit = \$ <u>3,400</u>

COMMENTS:

- PRAB recommended money in lieu of land on March 3, 2008 due to the small size of park land requirement.
- Fees in the amount of \$20,680 for 18 single family units and 5 multi-family units will be assessed and are due prior to building permits.

Date 4/28/08

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 08-2980: (Markham Hill Cottage Courts, 520): Submitted by Robert Sharp for property located North of Main St., Between Sang and Cross, 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 2.65 acres.

It is the opinion of the Fayetteville Police Department that this R-PZD will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This R-PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher

From: David Williams, Battalion Chief

Date:

Re:

PZD 08-2980: Planned Zoning District (MARKHAM HILL COTTAGE COURTS, 520): Submitted by ROBERT SHARP for property located NORTH OF MAINE ST., BETWEEN SANG AND CROSS. The property is zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE and contains approximately 2.65 acres. The request is for Zoning, Land Use, and Development approval of a Master Development Plan for a Residential Planned Zoning District with 23 single family dwelling units and various amenities in the Hillside Hilltop Overlay District.

This development will be protected by Engine 6 located at 900 Hollywood.

It is 0.6 miles from the station with an anticipated response time of 3 minutes to the beginning of the development.

The Fire Department anticipates 4 (3 EMS – 1 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 – 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times.

Measured hydrant flow in this area is 222 gallons per minute.

If you have any questions please me.

David Williams

David Williams
Fire Marshal
Fayetteville Fire Department

From: <hank@broylesdevelopment.com>
To: "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 6/9/08 3:56PM
Subject: Subdivision Committee

Dear Jeremy,

I own two development lots on Maine Street close to the Markham Hill Cottage Courts project.

I am unavailable this Thursday Morning to attend the Subdivision Meeting. Please pass on my written comments below:

"I have reviewed the Markham Hill Cottage Courts proposal and I fully support the project."

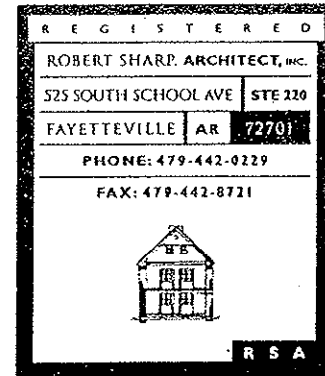
Thank you,
Hank Broyles

CC: "Rob Sharp" <rob@sharparch.net>

June 25, 2008

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

**RE: RETAINING WALL VARIANCE REQUEST
MARKHAM HILL COTTAGE COURTS**



The office of Robert Sharp Architect Inc. respectfully requests a variance from the right-of-way distance requirement and sidewalk clearance for one retaining wall at the Shade Garden at the western portion of the site.

Allowing the retaining wall at the south end of the Shade Garden to extend to the right-of-way line for Nettleship Street will provide an additional 137 square feet of preserved tree canopy, specifically that of significant tree number 12, a 23" DBH White Oak with approximately 40' diameter canopy. Curving this wall such that it will touch the right-of-way will reduce the separation between the wall and edge of sidewalk below the two foot minimum outlined in Chapter 171C1 of the City sidewalk criteria for a distance of approximately 50 feet. This wall will be between 4 and 5 feet tall. The sidewalk is buffered from street traffic by an on-street parking stall and a landscaping bulb-out. Nettleship Street has been designed using the Hillside/Hilltop residential street cross section with on-street parking intermittent on both sides. We believe that extending this wall to the right-of-way line does not present a significant safety hazard. We request a variance for placing this retaining wall within the ROW and reducing the required separation distance between this wall and the sidewalk to zero.

Thank you for your consideration.

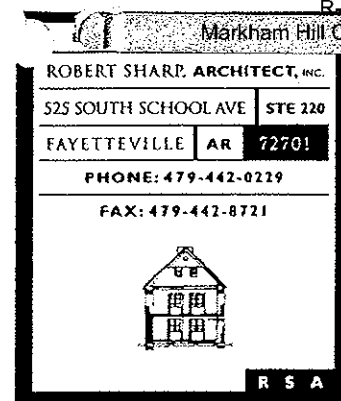
Sincerely,

Daniel Dean, Architect

June 4, 2008

Letter to the City Council
113 West Mountain Street
Fayetteville, Arkansas 72701

**RE: VARIANCE REQUESTS
MARKHAM HILL COTTAGE COURTS**



The office of Robert Sharp Architect Inc. respectfully requests a variance from two requirements of the Hillside/Hilltop Overlay District local street cross-section for Nettleship Street, and a waiver of standard efficient parking dimensions for motor court two in the Markham Hill Cottage Courts project.

The HHOD local street cross-section allows for one seven foot wide lane for on-street parking. In the locations illustrated on the enclosed site plan, we have shown seven foot wide parallel parking on both sides of the street. On-street parking is an important tool for proper hillside development: on-street parking requires about 170 square feet of paving, while an off-street parking stall requires about 350 square feet of paving for the parking stall and access drives. This results in about 50% less paving, thereby reducing storm water runoff and the extent of cut-and-fill grading. We request a waiver from the Hillside/Hilltop local street cross-section to permit parallel parking on both sides of Nettleship street as indicated, to provide the required number of stalls and minimize paving area.

The enclosed site plan also illustrates the sidewalk abutting the curb in some places, as called for in the HHOD local street cross-section, and allows for planting and trees between curb and sidewalk in others. This variation will enliven the streetscape and allow for closer relationships between the public sidewalk, residences, and amenities. We request a waiver from the Hillside local street cross-section, allowing the sidewalk to not abut the curb in the designated locations.

City staff has noted concern about the automobile turning movements for motor court two. We recognize that the multi-point turns required are less than ideal. In order to maintain the tree preservation area on the north property line and create a pedestrian friendly development, curb cuts are minimized and this motor court is tucked away from the street. Because the neighborhood plan is intended to promote sustainable transportation options, we believe that residents will choose to use their automobiles infrequently, own smaller vehicles with tighter than average turning radii, and/or be willing to experience some maneuvering challenges in exchange for the benefits the design provides. We request a waiver from City standard efficiency parking dimensions for motor court two in order to preserve the pedestrian-scaled atmosphere of the neighborhood.

Thank you for your consideration.

Sincerely,

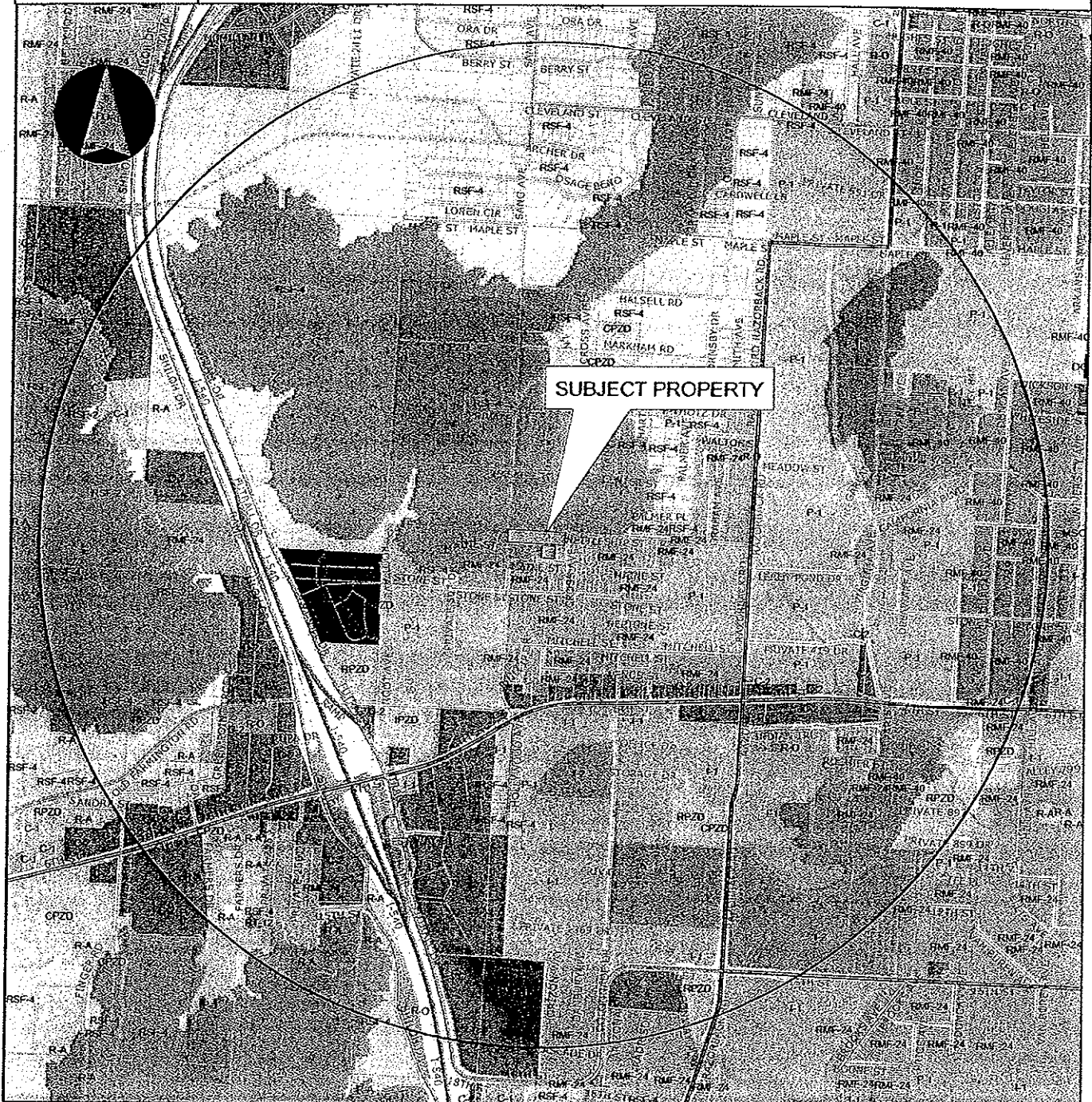
A handwritten signature in black ink, appearing to read "R Sharp". The signature is written in a cursive, flowing style.

Robert Sharp, Architect

RPZD08-2980

One Mile View

MARKHAM HILL COTTAGE COURTS



Overview



Legend

Subject Property

RPZD08-2980

Boundary

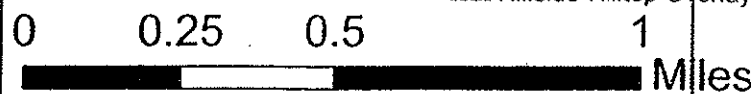
Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



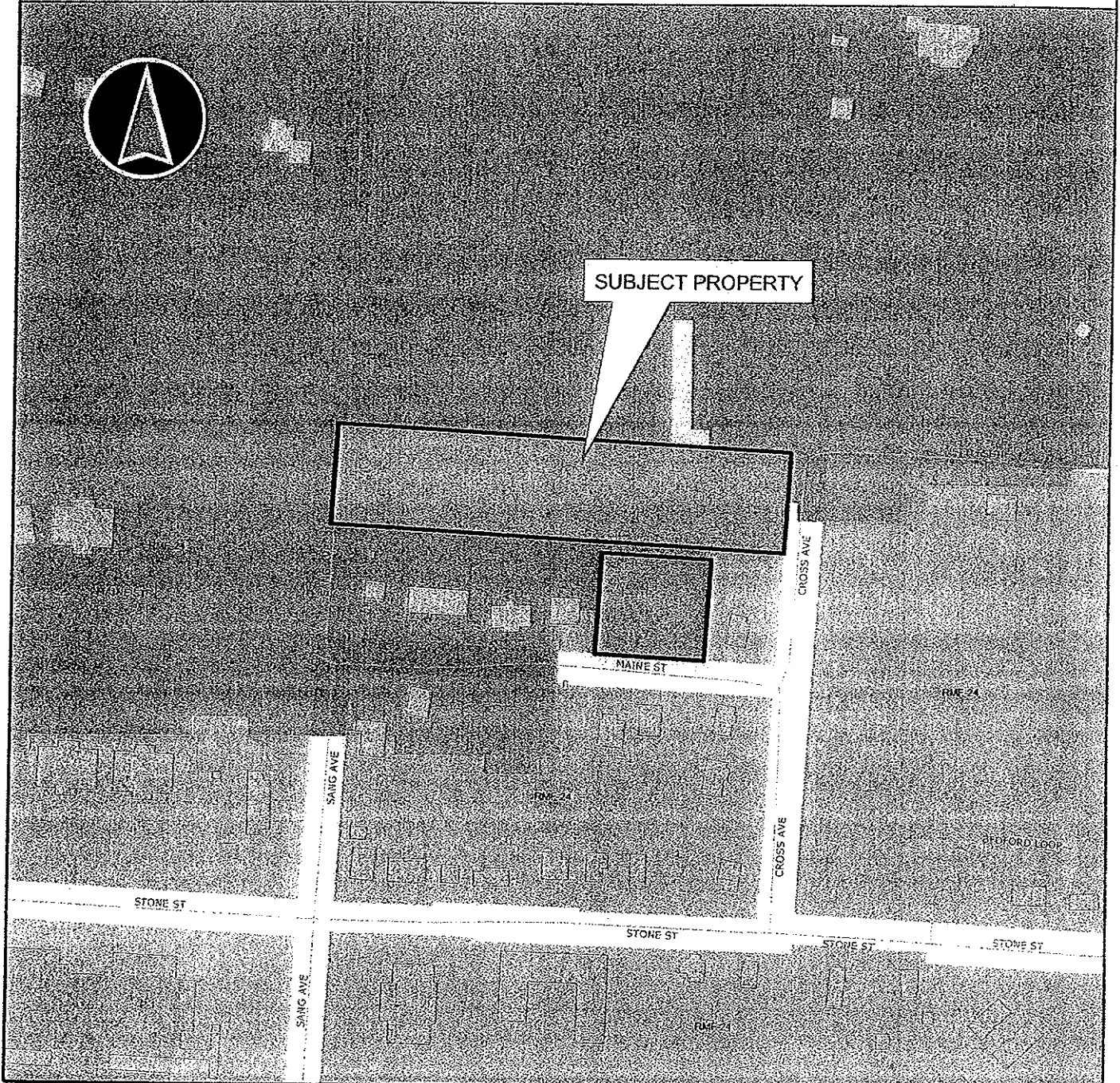
RPZD08-2980

Close Up View

MARKHAM HILL COTTAGE COURTS



SUBJECT PROPERTY



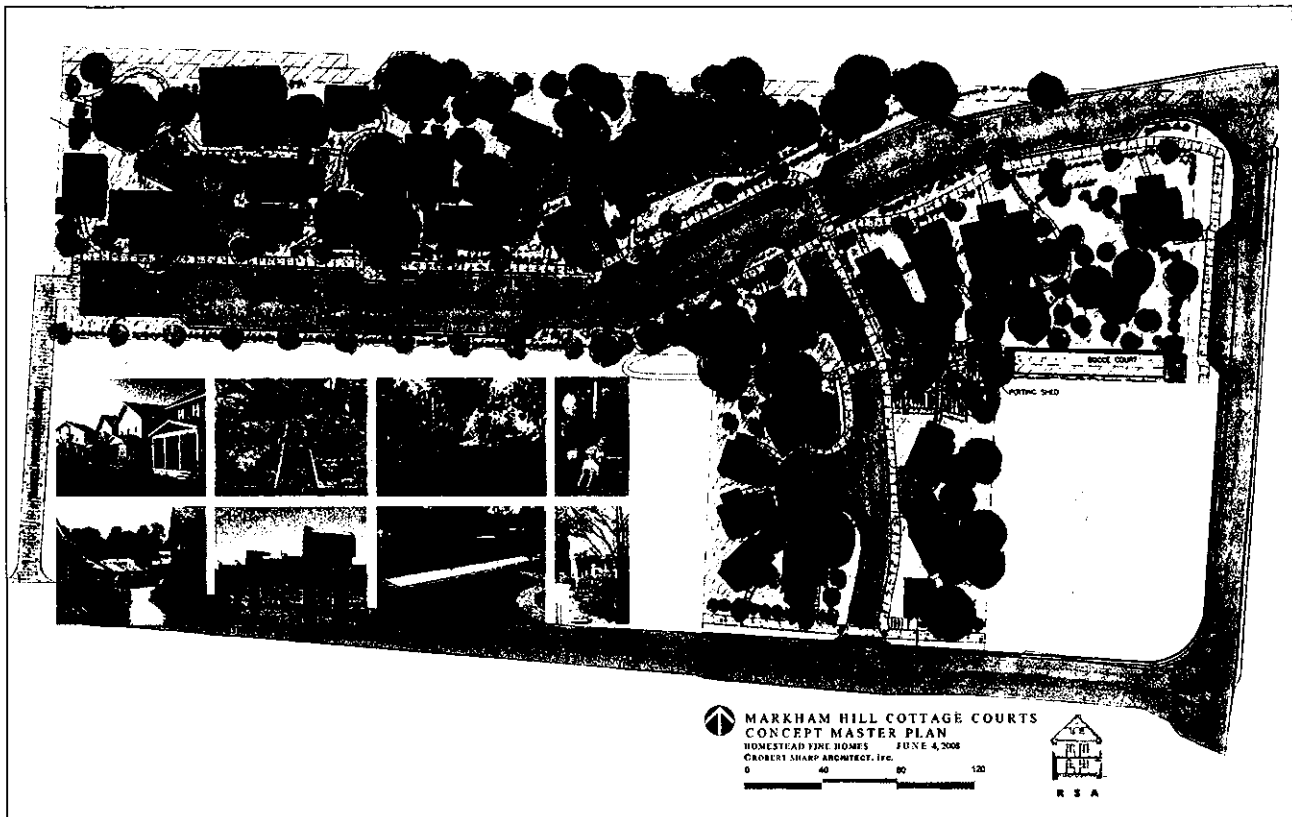
Overview



0 75 150 300 450 600 Feet

MARKHAM HILL COTTAGE COURTS

A Homestead Homes, LLC Development



Master Development Plan Submission July 7, 2008
City Council Review July 16, 2008

Project Representative:

REGISTERED		
ROBERT SHARP, ARCHITECT, INC.		
525 SOUTH SCHOOL AVE	STE 220	
FAYETTEVILLE	AR	72701
PHONE: 479-442-0229		
FAX: 479-442-8721		
		
R S A		

Robert Sharp Architect, Inc.
525 South School Avenue
Fayetteville, AR 72701

Northstar Engineering Consultants, Inc.
207 South Main Street
Bentonville, AR 72712

a. MARKHAM HILL COTTAGE COURTS

Property owner: Robert Albertson

Developer: Homestead Homes, LLC

Project Representative: Robert Sharp Architect, Inc.

- b. Summary Description:** Combining concepts of the Fayetteville City Comprehensive 2025 plan with the particular needs of the City of Fayetteville Hillside/Hilltop Overlay District (HHOD), the design approach for Markham Hill Cottage Courts focuses on the spaces between the homes and the community-building features such as front porches, landscaping, and shared amenities that will work with the natural features of the site to create unique and meaningful shared space. A more typical development within the currently allowed RMF-24 zoning would not suit the site, contribute to the existing neighborhood, or be consistent with the vision of the 2025 plan.



The plan consists of twenty-three detached cottages of varying sizes and types that will fit with the spirit of the area, along with the reconditioning of the existing house. Eighteen of the cottages will be single family and five of the cottages will be two-family with efficiency apartments in the lower level. The homes will exhibit a good deal of variety in terms of color, site relationships, and architectural details to transcend the homogenous monotony of typical large scale residential developments. The homes will appeal to small families and empty

nesters as well as single professionals and young adults. Each individual cottage will be offered for sale and is intended to be owner occupied. The Markham Hill Cottage Courts are not designed as low cost housing for a transient student population. The site is 2.54 acres and the overall proposed density is 11 units/acre. The cottages will be sold under a Horizontal Property Regime and the land will be under common ownership of a Property Owner's Association.

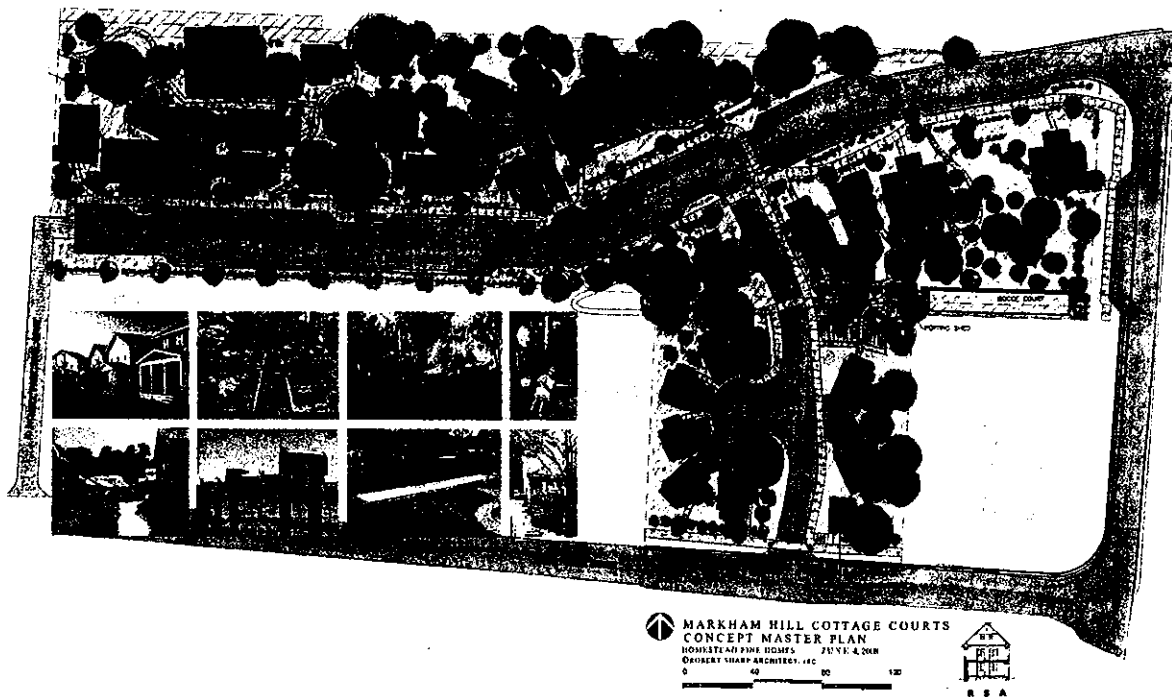
The home and street designs for Markham Hill Cottage Courts respond to the existing contours of the hillside instead of imposing a simpler but less visually and environmentally appealing strategy, thereby minimizing site disturbance from retaining walls. Community vegetable gardens, crushed stone footpaths, tree-shaded sidewalks, a children's play area, and a Bocce ball court will beautifully functionalize the interstitial spaces between homes, encourage interaction between neighbors, and contribute to the village atmosphere of the neighborhood.



The site's proximity to Ramay Junior High School, the commercial services provided by Sixth Street, and the University of Arkansas campus make it an appropriate spot for residential development in terms of the goals of the City of Fayetteville 2025 Comprehensive Plan. Its location just south of the City's planned Hotz Park Trail will afford residents the opportunity to use the components of Fayetteville's rapidly growing Green Network and help foster a livable transportation network for Fayetteville. The land lies on the "downtown" side of I-540, facilitating pedestrian and sustainable transportation options for the residents and illustrating the preferable alternative to disconnected sprawl development. The homes will be attainably priced while still exemplifying high-quality, durable and attractive design and material characteristics.

c. General Project Concept

- (1) **Street and Lot layout:** The main entry into this neighborhood will be off Cross Avenue with a new east-west street (Nettleship Street) through the site. A secondary point of connectivity will be off of a new two-way alley that connects south off of Nettleship Street to Maine Street. A majority of the residences will be accessed off of shared motor courts accessing garages tucked into the hillside under the cottages. Several of the cottages will be accessed off of parallel parking provided in the new street. The remainder of the cottages will be accessed directly off garage entry from the new alley. Narrow streets minimize impervious surfaces, work with existing significant trees, mitigate traffic, and serve to give the neighborhood a more connected, human-scale feeling. Five foot wide sidewalks encourage pedestrian connection between the homes and community areas. The street right-of-way varies from the requirements of the HHOD Local street cross section by seven feet as required to provide on-street parking for residents and guests. On-street parking is an important tool for proper hillside development: on-street parking requires about 170 square feet of paving, while an off-street parking stall requires about 350 square feet of paving for the parking stall and access drives. This results in about 50% less paving which reduces storm water runoff and the extent of cut-and-fill grading. The property will be platted as a single lot with a horizontal property regime and property owner's association, allowing for clusters of cottages with varying footprint sizes and relationships to each other. This strategy provides the variety that many developments lack. A two way alley serves the cottages on the south of the site and connects the proposed Nettleship Street extension with Maine Street.
- (2) **Site Plan Showing Proposed Improvements:** The conceptual site plan illustrates the compact, clustered character of the Markham Hill Cottage Courts design. Rather than a straight line of home fronts with orthogonal relationships, the diverse orientation of the homes provides an exciting experience as one proceeds through the site. The homes and streets are oriented to take advantage of the views of the surrounding area, the existing hillside topography, and to accommodate existing significant trees. The sidewalks and crushed stone footpaths connect the clusters of cottages, shared garden spaces, potting shed, shade garden, and Bocce ball court with the children's play area in the northwest corner of the site.



- (3) **Buffer Areas:** The site's hillside topography will provide some natural buffering with surrounding developments and natural areas. Evergreen hedgerows supply screening and privacy along Nettleship Street. Garages for the homes along Nettleship Street are pulled back from the right-of-way to maintain the pedestrian scale of the street front. The community spaces serve both as gathering points and as buffers between the clusters of homes. The Landscape plan submitted by Northstar Engineering as part of the Large Scale Development shows the proposed landscaping in detail.
- (4) **Tree Preservation Areas:** As many of the existing valuable trees as possible will be kept on site both to comply with the Fayetteville HHOD and to preserve the many benefits of mature canopy to the neighborhood. Two white oak trees in the northwest portion of the site will serve as sheltering canopy for a neighborhood shade garden. Canopy will be preserved adjacent to the community vegetable gardens, children's play area, and along property lines where possible. A tree preservation plan has been submitted as part of the Large Scale Development.
- (5) **Storm Water Detention Areas and Drainage:** Refer to "Storm Water Pollution Prevention Plan", sheet 3 and "Grading Plan", sheet 4 by Northstar Engineering for details of storm water management during and after construction. All storm water will be retained on site during a storm event and released slowly to match pre-development drainage patterns.
- (6) **Undisturbed Natural Areas:** The tree preservation area featuring existing trees on the north property boundary will be left undisturbed. Some work will be required around other canopy areas, including plantings in the Shade Garden area and play equipment in the children's area. Additionally, curbs will be constructed around generous planting areas for trees adjacent to roadways, footpaths, and sidewalks. This work will follow the City of Fayetteville Landscape Manual in terms of mulching and fencing to protect root systems during construction.
- (7) **Existing and Proposed Utility Connections and Extensions:** Refer to "Utility Plan," sheet 11 by Northstar Engineering for details of utility connections and extensions. All utilities are available at the site.
- (8) **Development and Architectural Design Standards:** Though variation in terms of color, scale elements, and architectural detailing is desirable to avoid monotony, the buildings will exhibit a coherent relationship to one another in terms of amenities such as front porches, simple roof lines, and the use of a conscientious palette of quality, durable materials. Please see the design standards listed in the zoning criteria, and the building elevations provided in this booklet.
- (9) **Building Elevations:** The elevation drawings illustrate the typical architectural treatment throughout the project. Features which communicate the human scale relationships with the facades, such as window proportions, porch detailing, trim and sheathing and finish materials will remain consistent with the elevation drawings. Likewise, larger scale elements such as simple roof lines with dormer windows and site relationships to community amenities and natural features will fulfill the vision for the neighborhood put forth in the Summary Description above.



The Car Cottage, Preliminary Front Elevation:
Scale: 1/8" = 1'-0"

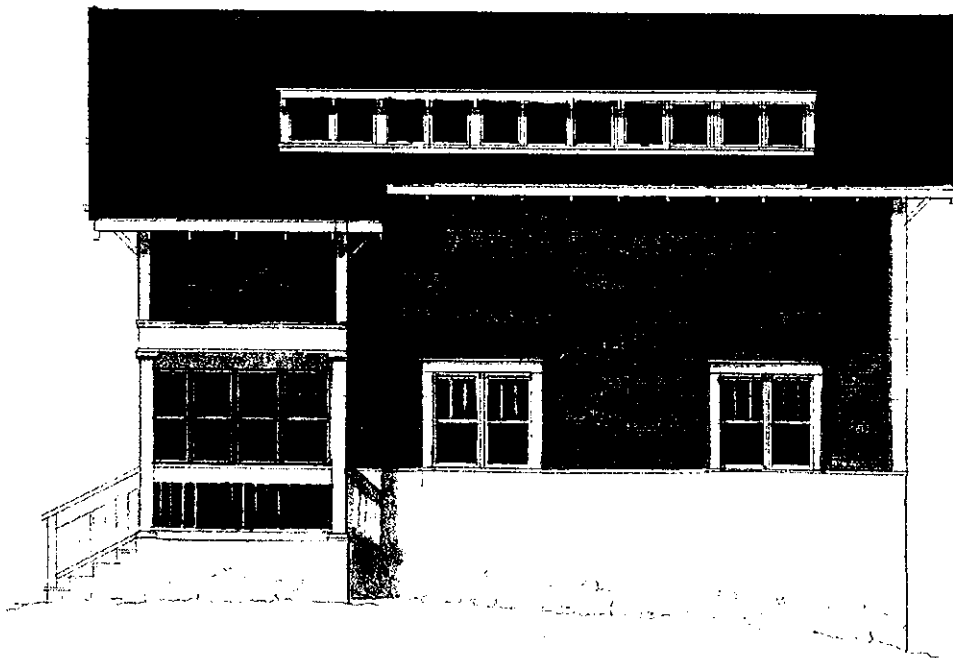


The Car Cottage, Preliminary Side Elevation:
Scale: 1/8" = 1'-0"



The Cook's Cottage, Preliminary Front Elevation:

Scale: 1/8" = 1'-0"

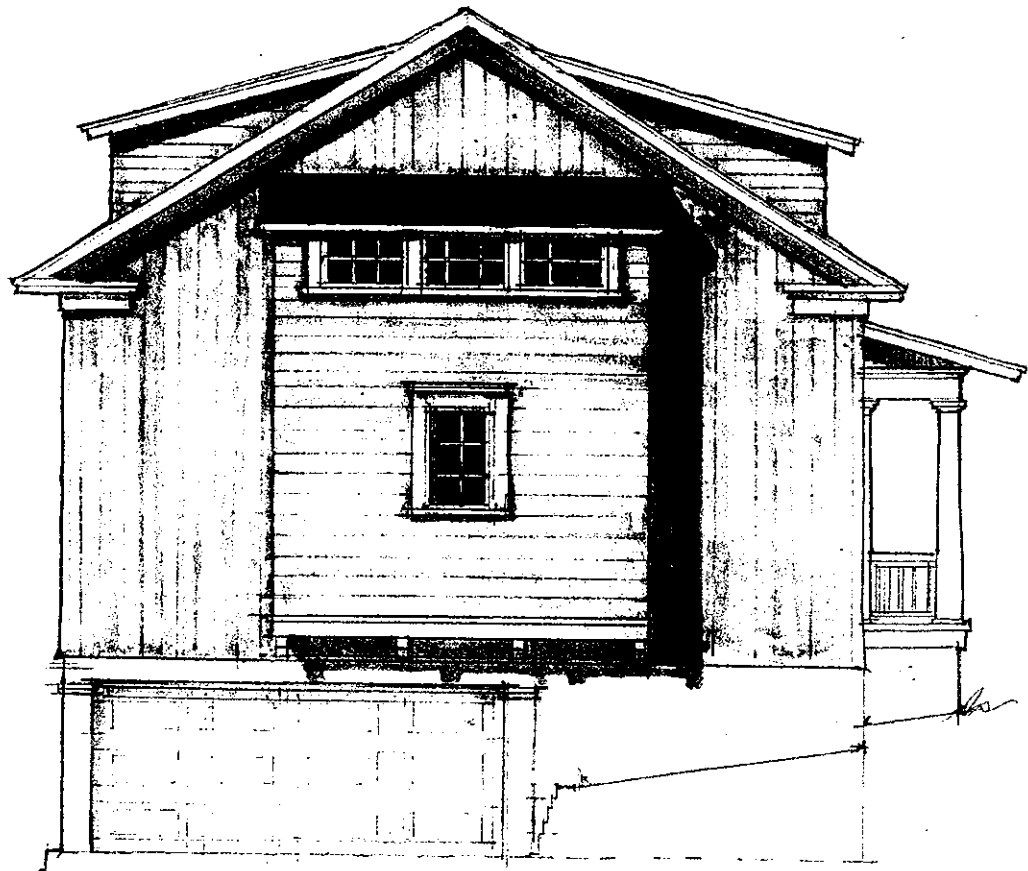


The Cook's Cottage, Preliminary Side Elevation:

Scale: 1/8" = 1'-0"



The Bay Cottage, Preliminary Front Elevation:
Scale: 1/8" = 1'-0"



The Bay Cottage, Preliminary Side Elevation:
Scale: 1/8" = 1'-0"

d. Proposed development phasing and time frame: The project will begin construction of streets and infrastructure within one year of PZD approval. Construction will be completed over a one to five year timeline, depending on sales of the cottages and the financial goals of the developer. Building permits for all cottages in this development will be obtained within five years from PZD approval.

e. Proposed Planning Areas: The entire project will take place in a single phase and will not necessitate separate planning areas.

f. Proposed Zoning and Development Standards:

(A) Permitted uses by Use Unit:

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 8	Single-family dwelling
Unit 9	Two-family dwelling

(B) Conditional uses by Use Unit

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 24	Home occupations

(C) Land Use Density and/or Intensity

Total Acreage: 2.54

Number of Dwelling Units: 28

Density: 11 units/acre

Units per acre	11
----------------	----

(D) Bulk and area regulations

(1) Lot Width Minimum:

21 feet

(2) Lot Area Minimum:

588 sq ft

(3) Land Area per Dwelling Unit:

Cottage Houses:	800 s.f.
-----------------	----------

(E) Setback requirements

Front	5 ft (0 ft @ unit 2 & Mail Kiosk)
Side	minimum building separation in accordance with applicable building and fire codes
Perimeter Side, and Rear Property Lines	5 ft

(F) Height Regulations. --

Structures may not exceed 45 feet, as required by Fayetteville HHOD

(G) Building Area .

None

Landscaping: In accordance with City of Fayetteville Unified Development Code and City of Fayetteville Landscape Manual. Landscaping above and beyond the UDC will be provided as indicated on the Landscape Plan.

Parking: In accordance with City of Fayetteville Unified Development Code. 55 parking stalls including private garages and on-street stalls.

Architectural Design Standards: The buildings will be consistent in appearance with the concepts presented in the preliminary elevation drawings included in the PZD booklet.

Signage: All signage on the property will comply with City of Fayetteville sign ordinance.

g. Chart comparing proposed master development plan to current zoning district requirements:
No environmentally hazardous, sensitive, or natural resource areas exist on the site. No natural or manmade hazards exist on site.

**MARKHAM HILL COTTAGE COURTS
PROPOSED ZONING AND
DEVELOPMENT STANDARDS**

**RMF-24
Residential Multi-Family
24 Units Per Acre**

(A) Permitted uses by Use Unit:

Unit 1	City-wide uses by right	Unit 1	City wide uses by right
Unit 3	Public protection and utility facilities		
Unit 8	Single-family dwelling	Unit 8	Single-family dwelling
Unit 9	Two-family dwelling	Unit 9	Two-family dwelling
		Unit 10	Three-family dwelling
		Unit 26	Multi-family dwelling

(B) Conditional uses by Use Unit

Unit 2	City-wide uses by conditional use permit	Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities	Unit 3	Public protection and utility facilities
Unit 24	Home occupations	Unit 4	Cultural and recreational facilities
		Unit 11	Manufactured home park
		Unit 25	Professional Offices
		Unit 24	Home Occupations
		Unit 36	Wireless communications facilities

(D) Land Use Density and/or Intensity

Total Acreage: 2.54

Number of Dwelling Units: 28

Density: 11 units/acre

Units per acre	11	Units per acre	4 to 24
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(D) Bulk and area regulations

(1) Lot Width Minimum:

21 feet	Manufactured home park	100'
	Lot within a Manufactured home park	50'
	Single-Family	60'
	Two-family	60'
	Three or more	90'
	Professional offices	100'

(2) Lot Area Minimum:

588 sq ft	Manufactured home park	3 acres
	Lot within a Manufactured home park	4,200 sq. ft.
	Townhouses: • Development • Individual lot	10,000 sq. ft. 2,500 sq. ft.
	Single-family	6,000 sq. ft.
	Two-family	7,000 sq. ft.
	Three or more	9,000 sq. ft.

(3) Land Area per Dwelling Unit:

N/A	Manufactured home	3,000 sq. ft.
Cottage Houses:	Apartments:	
	-No bedroom	1,700 sq. ft.
	-One Bedroom	1,700 sq. ft.
	-Two bedroom	2,000 sq. ft.
N/A	Fraternity or Sorority	1,000 sq. ft./ resident

(E) Setback requirements

Front	5 ft (0 ft @ unit 2 and Mail Kiosk)	Front	25 ft
Side	minimum building separation in accordance with applicable building and fire codes	Side	8 ft
Perimeter Side, and Rear Property Lines	5 ft	Rear, from center line of a public alley	25 ft

(F) Height Regulations. --

Structures may not exceed 45 feet, as required by Fayetteville HHOD	Any building which exceeds the height of 20 feet shall be set back from any side boundary line an additional distance of one foot for each foot of height in excess of 20 feet.
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(G) Building Area .

None	None
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- h. Description of Recreational Facilities:** The site design features community outdoor spaces including a garden area with raised beds and terraces, potting shed, shade garden, Bocce ball court, and children's play area all connected by crushed stone gravel footpaths and sidewalks. A trail connection spur for Hotz Park Trail will be constructed along the Sang Avenue right-of-way on the property west boundary. This will connect to an on-street linkage along the proposed Nettleship Street to Hotz Park as well as to Ramay Junior High School outdoor facilities. The Fayetteville Parks Board has approved a fee in lieu of land dedication.
- i. Reason for requesting zoning change:** The lot size and setback requirements of the current RMF-24 zoning do not permit the clustered placement of the cottages. The clustering strategy allows the buildings to work with existing valuable trees and topography, provides variety and encourages community interaction.
- j. Statement of how the development will relate to existing and surrounding properties:** The design of the homes in Markham Hill Cottage Courts will be consistent with the nearby homes of the University Heights Neighborhood in terms of scale of architectural detail and site treatment. The design focuses on creating useful and beautiful interstitial spaces between clusters of homes and preserving the natural character of the land. Though the homes will typically have slightly smaller footprints and more verticality, the intent is that they are based upon and compatible with high-quality traditional home detailing and articulation for the area.
- k. Statement of the project's compliance with the Fayetteville City Plan 2025:** The project lies within a Residential Neighborhood Area as designated by the City Plan 2025 Future Land Use Plan. Its adjacency to the University of Arkansas, Ramay Junior High School, and 6th street, make it an appropriate spot for residential development in terms of the goals of the City of Fayetteville 2025 Comprehensive Plan Goal 1, to make appropriate infill and revitalization top priorities. The land lies on the "downtown" side of I-540, facilitating pedestrian and sustainable transportation options for the residents and illustrating the preferable alternative to disconnected sprawl development, thereby addressing 2025 Goal 2, to discourage suburban sprawl. Its contribution of a spur and on-street connection to the City's Hotz Park Trail will afford residents the opportunity to use the components of Fayetteville's rapidly growing Green Network and help achieve Goals 4 and 5, to grow a livable transportation network and an enduring green network for Fayetteville. The homes will be attainably priced while still exemplifying high-quality, durable and attractive design and material characteristics, addressing 2025 Plan Goal 6, to create attainable housing.

I. Traffic study when required: not required

m. Impacts on City services: The impact of the project will be minimal in terms of creating a significant load on city services. Water, sewer, police and fire protection should be compensated for any additional needs by the impact fees that will be paid by the developer prior to completion of the cottages.

n. "STATEMENT OF COMMITMENTS"

- (1) Dedication:** As per attached drawings by Northstar Engineering showing extension of Nettleship Street, a public alley, and utility easements.
- (2) On or off site Improvements:** As per attached drawings by Northstar Engineering showing extension of Nettleship Street, a public alley, and utility easements. The development will provide offsite street improvements from the southeast property corner along Maine Street to the southeast property corner along Cross Avenue, including 20 feet of asphalt pavement, curb and gutter, and storm drain improvements.
- (3) Natural Resources and Environmentally Sensitive Areas:** The project is located within the City of Fayetteville HHOD. The small footprint homes are nestled among existing trees to minimize disturbance of existing root systems. Shared drives and the narrow cross section of the two-way alley minimize the area of impervious surfaces, thereby allowing infiltration and evaporation to handle some of the rainwater on the site. The development will follow the requirements of the HHOD.
- (4) Project Phasing restrictions:** The project will begin construction of streets and infrastructure within one year of PZD approval. Construction will be completed over a one to five year timeline, depending on sales of the cottages and the financial goals of the developer. Building permits for all cottages in this development will be obtained within five years from PZD approval.
- (5) Fire Protection:** Markham Hill Cottage Courts will be served by the Fayetteville Fire Department. Fire hydrants will be spaced at or below the minimum intervals required by the Fayetteville Unified Development Code.
- (6) Other Commitments imposed by the City:** No commitments other than those outlined in the City of Fayetteville Planned Zoning District process are imposed by the City at this time.
- (7) Parks/Trails/Open Space Commitments:** The property is adjacent to the City's proposed Hotz Park Trail which will connect to Hotz Park as well as to Ramay Junior High School outdoor facilities. The project will provide a multi-use trail to be constructed as indicated on plans through the existing Sang Avenue right-of-way to Maine Street as recommended by the City Trails Coordinator. The Fayetteville Parks board has approved a fee In lieu of land dedication.
- (8) Proposed Preliminary Building Elevations:** Buildings will be constructed consistent with the concepts illustrated by the enclosed elevation drawings in item C9, above.

o. Conceptual Description of Development Standards, Conditions, and Review Guidelines:

- (1) Screening and Landscaping:** The site will be screened by natural features such as existing tree canopy and plantings in tree preservation areas and evergreen hedgerow as indicated on the site plan. Landscaped areas such as the Shade Garden and community vegetable garden, as well as the children's play area will be landscaped and maintained as directed by the Property Owner's Association and as recommended by the Site Development Standards of the City of Fayetteville Landscape Manual. Landscaping above and beyond the requirements of the UDC will be provided as indicated on the Landscape Plan.
- (2) Traffic and Circulation:** Streets in Markham Hill Cottage Courts will provide for traffic flow at slower speeds appropriate to the size and scale of the development. The narrowness of the street and alley will make drivers feel uncomfortable traveling at unsafe speeds.
- (3) Parking Standards:** Parking will be provided in accordance with City ordinance for single-family detached residences in garage spaces and on-street parking.
- (4) Perimeter Treatment:** Evergreen hedges are proposed at the perimeter of the project where development occurs adjacent to privately owned adjacent land holders as indicated on the LSD Landscape Plan. Also any retaining walls adjacent to privately owned adjacent land holders and public rights of way will be planted with climbing vines to lessen the visual impact of the retaining walls.
- (5) Sidewalks:** The sidewalks required throughout the site will meet the HHOD five foot width requirement. The site plan illustrates the sidewalk abutting the curb in some places and allowing for planting and trees between curb and sidewalk in others.
- (6) Streetlights:** All streetlights in the development will comply with the requirements for street lighting set forth in the City of Fayetteville Unified Development Code and Lighting Ordinance, including lights at intersections, and spaced every 300 feet. Street lighting will be kept at an absolute minimum as recommended by the International Dark Sky Association: www.darksky.org
- (7) Water:** All site water will comply with the City of Fayetteville Unified Development Code, as described in Section M, Impacts to City Services, of this document.
- (8) Sewer:** All sewer services will comply with the City of Fayetteville Unified Development Code, as described in Section M, Impacts to City Services, of this document.
- (9) Streets and Drainage:** Streets and drainage will comply with the standards set forth in the proposed large scale development plans and as approved by the City Engineering Division, including waivers for street cross section design as described in the LSD plans. Drainage will primarily be detained on site. It will be retained and released at a rate no greater than the pre-development conditions.
- (10) Construction of Non-residential Facilities:** Construction of the community gardens, potting shed, recycling shed, and footpaths will proceed alongside construction of the cottages. All common amenities will be constructed and in place prior to occupancy of the final cottage.

- (11) **Tree Preservation:** The developed areas of Markham Hill Cottage Courts preserve and take advantage of the many benefits of mature significant trees. The site layout attempts to not only protect but to showcase significant specimens, such as the 25" DBH white oak that will shelter the children's play area and the 23" DBH white oak in the shade garden area. In situations where trees will be removed for the construction, their loss will be mitigated as called for by the City of Fayetteville Tree Protection and Preservation Ordinance.
 - (12) **Architectural Design Standards:** Though variation in terms of color, scale elements, and architectural detailing is desirable to avoid monotony, the buildings will exhibit a coherent relationship to one another in terms of amenities such as front porches, simple roof lines, and the use of a conscientious palette of quality, durable materials. The designs will be consistent with the preliminary elevations included in this booklet.
 - (13) **Proposed Signage (type and size):** None, except for street signs, house number signs as requested by emergency responders, and a street stub-out sign as requested by City Planning staff.
 - (14) **View Protection:** The proposed three story height limit assures protection of the view of the uphill neighbors, as well as the view of the hillside from the valley.
 - (15) **Revocations:** The developer understands that failure to comply with the commitments and standards being proposed by this PZD are cause for revocation of approval.
 - (16) **Covenants, Trusts, and Homeowner Associations:** A Property Owners Association will be established to maintain common elements such as shared gardens, Bocce ball court, and non-residential structures.
- p. **Response as to how the proposal fulfills the intent/purpose of the Planned Zoning District:**
The plan for Markham Hill Cottage Courts illustrates a vision for neighborhood development that coincides with the intent of the Planned Zoning Development District. Careful consideration of the particular challenges and opportunities presented by site topography and existing natural features make the project compatible with the land in which it will be built. The general plan provides variety within the development through building orientation, clustering, and deference to existing trees. The proposed cottages are smaller and more affordable than typical single-family detached homes and will add to the variety of housing types in the City as a whole. The project will exhibit cohesion in terms of architectural detail, amenities, scale and proportion, and site connection through pedestrian facilities that encourage neighborhood interaction. Useful and meaningful shared outdoor spaces and special features such as the children's play area, and vegetable gardens will also contribute to a community atmosphere. This siting strategy would not be possible without the Planned Zoning Development process. It is our hope that this project will serve as an exemplar for future development of the type promoted by the Fayetteville City Plan 2025, rather than that of a typical development in the current RMF-24 zoning.

RECEIVED

AUG 04 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

August 1, 2008

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

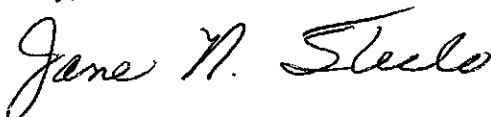
Dear Fayetteville Council Members:

I am writing to you concerning the proposed development called *Markham Hill Cottage Courts*. The southern boundary line of my property adjoins the entire northern boundary of the proposed development.

I believe this use of the land not only would help provide for some sorely needed affordable housing but would also be an asset to the neighborhood due to its creative and attractive design.

It would be a welcome addition to our neighborhood.

Sincerely,



Jane Steele
P.O. Box 11
Fayetteville, AR 72702

AGENDA REQUEST

FOR: COUNCIL MEETING OF AUGUST 5, 2008

FROM:
ALDERMAN BOBBY FERRELL

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §161.23 Neighborhood Conservation To Add Use Unit 26, Multi-Family Dwellings As A Conditional Use

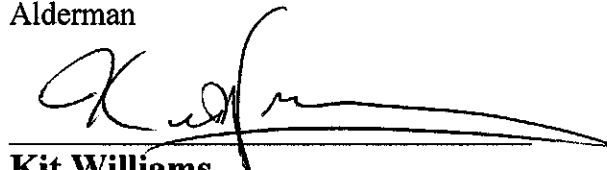
APPROVED FOR AGENDA:



Bobby Ferrell
Alderman

7-17-08
Date





Kit Williams
City Attorney (as to form)

7-9-08
Date

Left on the first reading 8/5/08

ORDINANCE NO. _____

AN ORDINANCE TO AMEND **§161.23 NEIGHBORHOOD
CONSERVATION** TO ADD USE UNIT 26, MULTI-FAMILY
DWELLINGS AS A CONDITIONAL USE

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends **§161.23 Neighborhood Conservation** by adding under subsection (B)(2) *Conditional uses* Use Unit 26, Multi-family dwellings and amends subsection (D)(1) *Lot width minimum* by changing the chart to read:

“ Single Family Detached	40 ft.
Townhouse (per dwelling)	25 ft.
Two Family	50 ft.
Three Family	60 ft.
Multi-family	90 ft. ”

PASSED and APPROVED this 5th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

City of Fayetteville Staff Review Form

C. 1
Raze and Removal at 402 E. Center Street
Page 1 of 16

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request

1010.6420.5315.04

Account Number

\$

Category / Project Budget

Funds Used to Date

\$

Project Number

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City
Clerk's Office

ENTERED

Received in
Mayor's Office

ENTERED

Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

City of Fayetteville Staff Review Form

City Council Agenda Items
and
Contracts, Leases or Agreements

6/17/2008

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the unsafe structure located at 402 E. Center St.
(WC Parcel # 765-12746-000)

Cost of this request	\$ -	Category / Project Budget	Program Category / Project Name
1010.6420.5315.04			Raze and Removal
Account Number		Funds Used to Date	Program / Project Category Name
Project Number	\$ -	Remaining Balance	General Fund
			Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

[Signature]
Department Director

5-28-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney

6/2/08
Date

[Signature]
Finance and Internal Service Director

6-2-08
Date

Received in City
Clerk's Office

ENTERED
5/28/08

[Signature]
Mayor

6/3/08
Date

Received in
Mayor's Office

ENTERED
6/2/08

Comments: Staff recommends the Raze and Removal of the structure and approval of the budget adjustment.

Revised April 16, 2007

Tabled Indefinitely 6/17/08

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: August 1, 2008

Subject: Raze & Removal of structure on 402 E. Center Street.

BACKGROUND

Service Request # 48553, Case #5721: Code Compliance responded to a complaint concerning the structure located at 402 E. Center St. The structure appeared to be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

This item was tabled indefinitely during the June 17, 2008 City Council meeting due to a change in ownership. On June 12, 2008, the property owner filed a Quitclaim Deed with the Washington County Circuit Clerk, File# 2008-00019604. The property was deeded to Tiffany R. Major, the daughter of the previous property owners.

On June 13, 2008, an Unsafe Building Notice of Violation was hand delivered to the current property owner, Tiffany R. Major. By ordinance, the owner was given until **July 14, 2008** to acquire a building permit or to raze and remove the structure.

DISCUSSION

This parcel contains a 1,000 square foot, one story wood frame single family dwelling. The structure is secured, but has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$4,945. An ad was placed in the newspaper on April 20 and April 27 for bids on the raze and removal of the structure. The lowest winning bid was from Burnett Commercial Contracting Inc., for \$4,945. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY TIFFANY R. MAJOR LOCATED AT 402 E. CENTER STREET IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$4,945.00.

WHEREAS, Tiffany R. Major is the record owner of the real property situated at 402 E. Center Street, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-12746-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, Tiffany R. Major, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1. That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, Tiffany R. Major is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if Tiffany R. Major does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$4,945.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 19th day of August, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

C. 1
Raze and Removal at 402 E. Center Street
Page 5 of 16

Budget Year 2007	Department: Operations Division: Community Resources Program: Code Compliance	Date Requested 8/4/2008	Adjustment Number
----------------------------	---	-----------------------------------	-------------------

Project or Item Added/Increased: \$4,945 in the Raze and Removal account	Project or Item Deleted/Reduced: None. \$4,945 from the General Fund Use of Fund Balance Account.
---	--

Justification of this Increase: Funding is needed for the Raze and Removal of a structure located at 402 East Center Street.	Justification of this Decrease: There is sufficient Fund Balance remaining to comply with 2008 obligations.
---	--

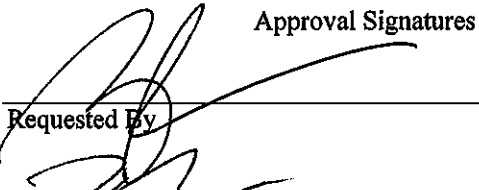
Increase Expense Budget (Decrease Revenue Budget)

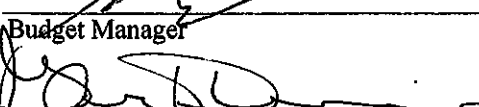
Account Name	Account Number				Amount	Project Number
Raze and Removals	1010	6420	5315	04	4,945	

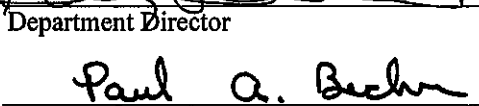
Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number
Use of fund balance	1010	0001	4999	99	4,945	

Approval Signatures

Requested By:  Date: **8/5/08**

Budget Manager:  Date: **8-4-08**

Department Director:  Date: **8-4-08**

Finance & Internal Services Director:  Date: **8/6/08**

Mayor:  Date: **8/6/08**

Budget Office Use Only

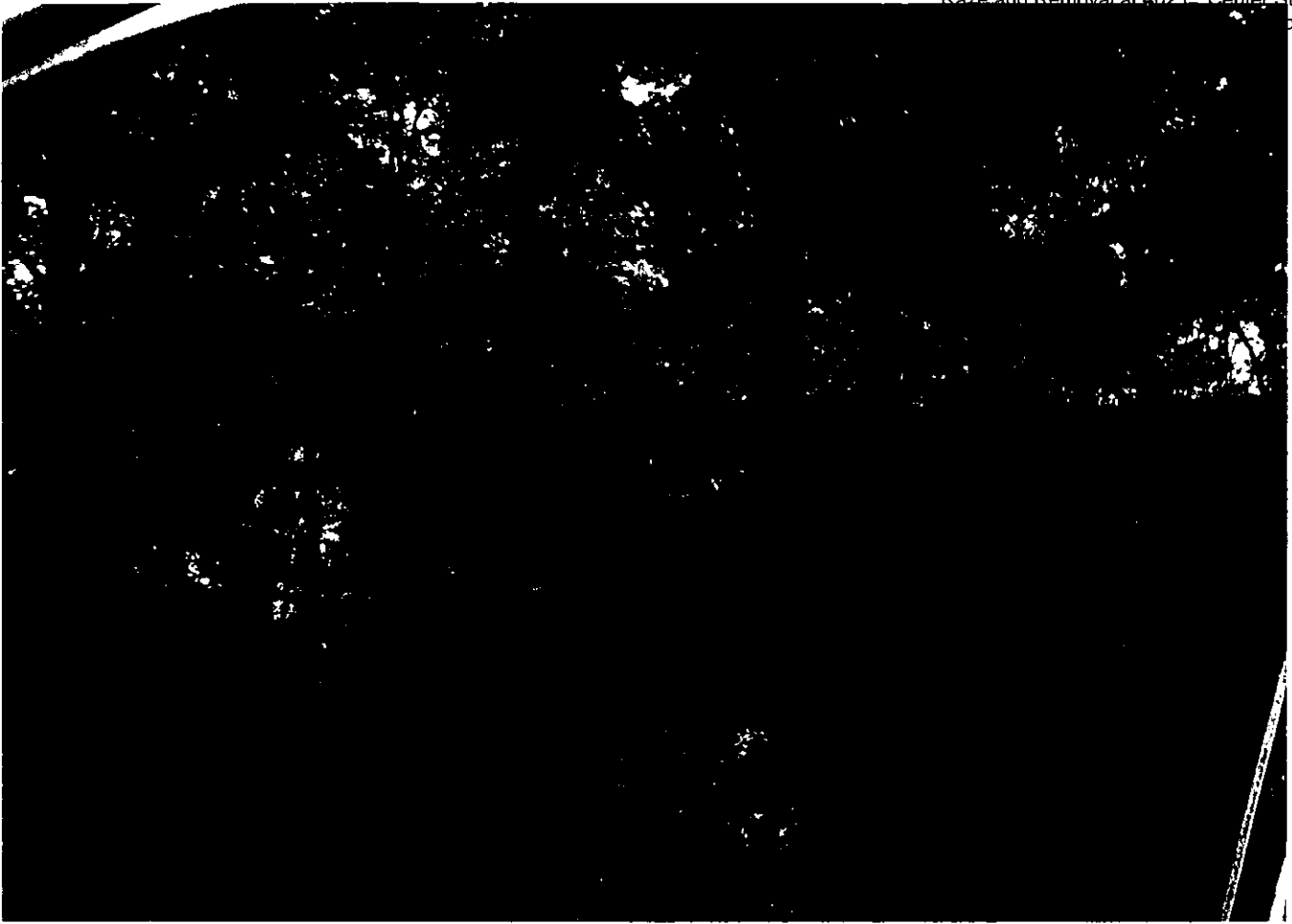
Type: A B C D E

Posted to General Ledger Initial Date

Posted to Project Accounting Initial Date

Entered in Category Log Initial Date







City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

June 13, 2008

Owner TIFFANY R. MAJOR
2710 N. COLETTE

FAYETTEVILLE, AR 72703

RE: Property @ 402 CENTER

WC Parcel # 765-12746-000

Case # 5721

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at .

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

BRENT JOHNSON
Code Compliance Officer

Cc: file

CITY OF FAYETTEVILLE CODE COMPLIANCE PROGRAM

OFFICER DELIVERY FORM

Officer delivery is required for the attached document:

Notice: 173.08 Unsafe Building

Name and Address to Deliver:

Tiffany R. Major

2710 N. COLETTE
FAYETTEVILLE, AR 72703

Owner/Occupant's Signature: _____

Tiffany Major

Return of Service

I, Brent Johnson, of the Code Compliance
Program (Officer name – print)

certify that I provided a true copy of the document described above to:

TIFFANY MAJOR at the following address;
(name of recipient)

Delivery Date 6/13/09 Time 11:00 AM

Officer Signature *Brent Johnson*



July 22, 2008

COPY

Tiffany R. Major
2710 Colette Ave.
Fayetteville, AR 72703

RE: Enforcement of Fayetteville Code 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 402 E. Center St. (Parcel #765-12746-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on August 19, 2008 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (479-575-8323) for information confirming the date of the public hearing.

Sincerely,


Chad Ball
Community Resources Coordinator

Cc: file

Parcel Number: **765-12746-000** Prev. Parcel Number: **145921-000-00** Type: **RI**
 Location: **402 E CENTER ST**
 Owner Name: **MAJOR, TIFFANY RONCHELLE**
 Mailing Address: **2710 N COLETTE FAYETTEVILLE AR 72703**
 Lot: Block: S-T-R: **15-16-30**
 Addition: **15-16-30 COUNTY COURT PLAT**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **PT S 1/2 L; 40-41 NW**
 Current Year A79 Credit Status: **V**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	26,400	4,224
Improvement	55,450	9,036
Total	81,850	13,260

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	11,050	\$582.34	\$0.00	\$0.00	\$0.00			\$582.34	\$0.00	
2005	10,836	\$571.06	\$0.00	\$0.00	\$0.00			\$571.06	\$571.06	PAID
2004	9,933	\$515.13	\$0.00	\$0.00	\$0.00			\$515.13	\$515.13	PAID
2003	9,030	\$478.23	\$0.00	\$0.00	\$0.00			\$478.23	\$478.23	PAID
2002	8,844	\$459.53	\$0.00	\$0.00	\$0.00			\$459.53	\$459.53	PAID
2001	8,107	\$421.24	\$0.00	\$0.00	\$0.00			\$421.24	\$421.24	PAID
2000	7,370	\$386.93	\$0.00	\$0.00	\$0.00			\$386.93	\$386.93	PAID
1999	7,370	\$377.34	\$0.00	\$0.00	\$0.00			\$377.34	\$377.34	PAID
1998	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID
1997	7,370	\$378.08	\$0.00	\$0.00	\$0.00			\$378.08	\$378.08	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	998035	8/23/2007	\$571.06	\$0.00	\$0.00	\$0.00	\$0.00	\$571.06
2004	998035	8/23/2007	\$515.13	\$0.00	\$0.00	\$0.00	\$0.00	\$515.13
2003	998035	8/23/2007	\$478.23	\$0.00	\$0.00	\$0.00	\$0.00	\$478.23
2002	998035	8/23/2007	\$459.53	\$0.00	\$0.00	\$0.00	\$0.00	\$459.53
2001	109398	10/24/2002	\$421.24	\$0.00	\$0.00	\$0.00	\$0.00	\$421.24
2000	14281	10/20/2001	\$386.93	\$0.00	\$0.00	\$0.00	\$0.00	\$386.93
1999	11382	10/2/2000	\$377.34	\$0.00	\$0.00	\$0.00	\$0.00	\$377.34
1998	8697	10/25/1999	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08
1997	18491	10/17/1998	\$378.08	\$0.00	\$0.00	\$0.00	\$0.00	\$378.08

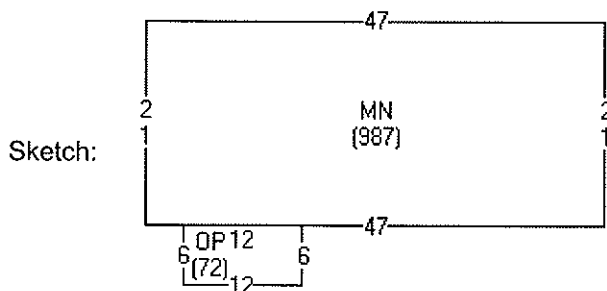
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
6/12/2008	2008	19304	MAJOR, TIFFANY RONCHELLE		QC	0	
			LAJ 2008-19304 QC NO REV				
8/14/2007	2007	32069	TAYLOR, ROY LEE & SANDRA RUTH		RD	0	
			LMV 2007-32069 RD #238945				

Real Estate Parcel Information

1/1/1985 805 176 TAYLOR, ROY LEE &
 SANDRA RUTH WD 0 0.00
 93-26292 RED DEED #89936 (7/1/93) (MC)

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	987	987	1960	
	Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
	4	A	SIDING			47



Out Buildings and Yard Improvements			
Qty	Description	Size	Quality
1	Outbuilding,metal	6x6	

Doc ID: 012322490002 Type: REL
Recorded: 06/12/2008 at 01:53:12 PM
Fee Amt: \$20.00 Page 1 of 2
Washington County, AR
Bette Stamps Circuit Clerk
File **2008-00019604**

Above Space Reserved for Recording

[If required by your jurisdiction, list above the name & address of: 1) where to return this form; 2) preparer; 3) party requesting recording.]

Quitclaim Deed

Date of this Document: June 12 2008

Reference Number of Any Related Documents: 715-12746-000

Grantor:

Name Roy Lee and Sandra Ruth Taylor
Street Address 2710 N Colette
City/State/Zip Fayetteville, Arkansas 72703

Grantee:

Name Tiffany Ronchelle Major
Street Address 2710 N Colette
City/State/Zip Fayetteville, Arkansas 72703

Abbreviated Legal Description (i.e., lot, block, plat or section, township, range, quarter/quarter or unit, building and condo name): Exhibit A

Assessor's Property Tax Parcel/Account Number(s): Exhibit A

THIS QUITCLAIM DEED, executed this 12 day of June, 2008, by first party, Grantor, Roy Lee and Sandra Ruth Taylor, whose mailing address is 2710 N Colette Fayetteville, AR 72703, second party, Grantee, Tiffany Ronchelle Major, whose mailing address is 2710 N Colette Fayetteville, AR 72703.

WITNESSETH that the said first party, for good consideration and for the sum of One Dollars (\$ 100) paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim,

which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of _____, State of _____

Part of the southeast quarter of the Northwest quarter of Section Fifteen in Township Sixteen North, of Range Thirty West, more particularly described as beginning at a point which is five feet North and two hundred forty five feet West of the southeast corner of said forty acre tract, and running thence West seventy nine and seventy five hundredths feet, more or less, to the East line of Willow Avenue at a point five feet North and thirty five feet East of the Southwest corner of the Old McGarrah Tract, thence North along the East line of Willow Avenue one hundred ten and five tenths feet; thence East seventy nine and seventy five hundredths feet; thence South one hundred ten and five tenths feet, more or less, to the place of beginning.

sealed and delivered in the presence of:

Signature of Witness

Print Name of Witness

Keshia Fletcher
Keshia Fletcher

Signature of Witness

Print Name of Witness

Catherine Hagihara
Catherine Hagihara

Signature of Grantor

Print Name of Grantor

State of

County of

Arkansas
Washington

On June 12, 2008, before me, Sasha Mayo, appeared Sandra and Roth Taylor and Tiffany Major, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

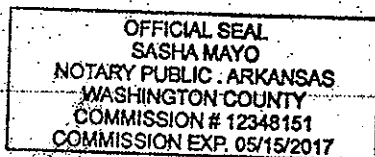
WITNESS my hand and official seal.

Signature of Notary

Affiant Known ☒ Produced ID

Type of ID AROL

(Seal)



**City Council Agenda Items
and
Contracts, Leases or Agreements**

8/19/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 08-3042: (U of A Research Center, 600): Submitted by Allen Jay Young Development Consultants, Inc. for property located north of Research Center Boulevard and west of South School Avenue. The request is to vacate a portion of the water and sewer easement and a portion of the drainage easement on the subject property.

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 ☐

Gay D. 8-1-08
Department Director Date

Previous Ordinance or Resolution # _____

K. J. M. 8-1-08
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

Paul A. B. 8-4-08
Finance and Internal Service Director Date

ENTERED
Fayetteville City
Clerk's Office

8-1-08 *W*

Alan C. 8/6/08
Mayor Date

Received in
Mayor's Office

ENTERED
8/11/08 *BER*

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: July 31, 2008

Subject: Easement Vacation for UA Research Center (VAC 08-23042)

RECOMMENDATION

Staff recommends approval of an ordinance vacating a portion of a water and sewer easement and a portion of a drainage easement on the subject property.

BACKGROUND

The subject property is located on the University of Arkansas South Campus at the Research Center Boulevard and South School Avenue intersection, north of Cato Springs Road. The 20' drainage easement, located at the northwest corner of the 4.54-acre property, contains a storm drain and drainage channel. The 20' water and sewer easement, located along a portion of the western boundary of the property, was intended for a waterline to serve a building located on the adjacent property, also owned by the University of Arkansas; however, the waterline is not located within the existing easement.

DISCUSSION

Notification was provided to the City with no objections to the requested water and sewer easement and drain easement vacation. This item was heard at the regular Planning Commission meeting on July 28, 2008 and forwarded by vote of 5-0-1 on the consent agenda to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 08-3042 SUBMITTED BY ALLEN JAY YOUNG DEVELOPMENT CONSULTANTS, INC. FOR PROPERTY LOCATED NORTH OF RESEARCH CENTER BOULEVARD AND WEST OF SOUTH SCHOOL AVENUE TO VACATE A PORTION OF A WATER AND SEWER EASEMENT AND A PORTION OF A DRAINAGE EASEMENT.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted water/sewer and drainage easements are not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described water/sewer and drainage easements:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. The applicant shall coordinate with the Water and Sewer Division for installation of the new waterline and shall dedicate an associated water and sewer easement prior to the vacation of the existing water and sewer easement.
2. The applicant shall reroute the drainage on the subject property and dedicate an associated drainage easement at the time of development.

Page 2
Ord.

PASSED and **APPROVED** this day of , 2008.

APPROVED:

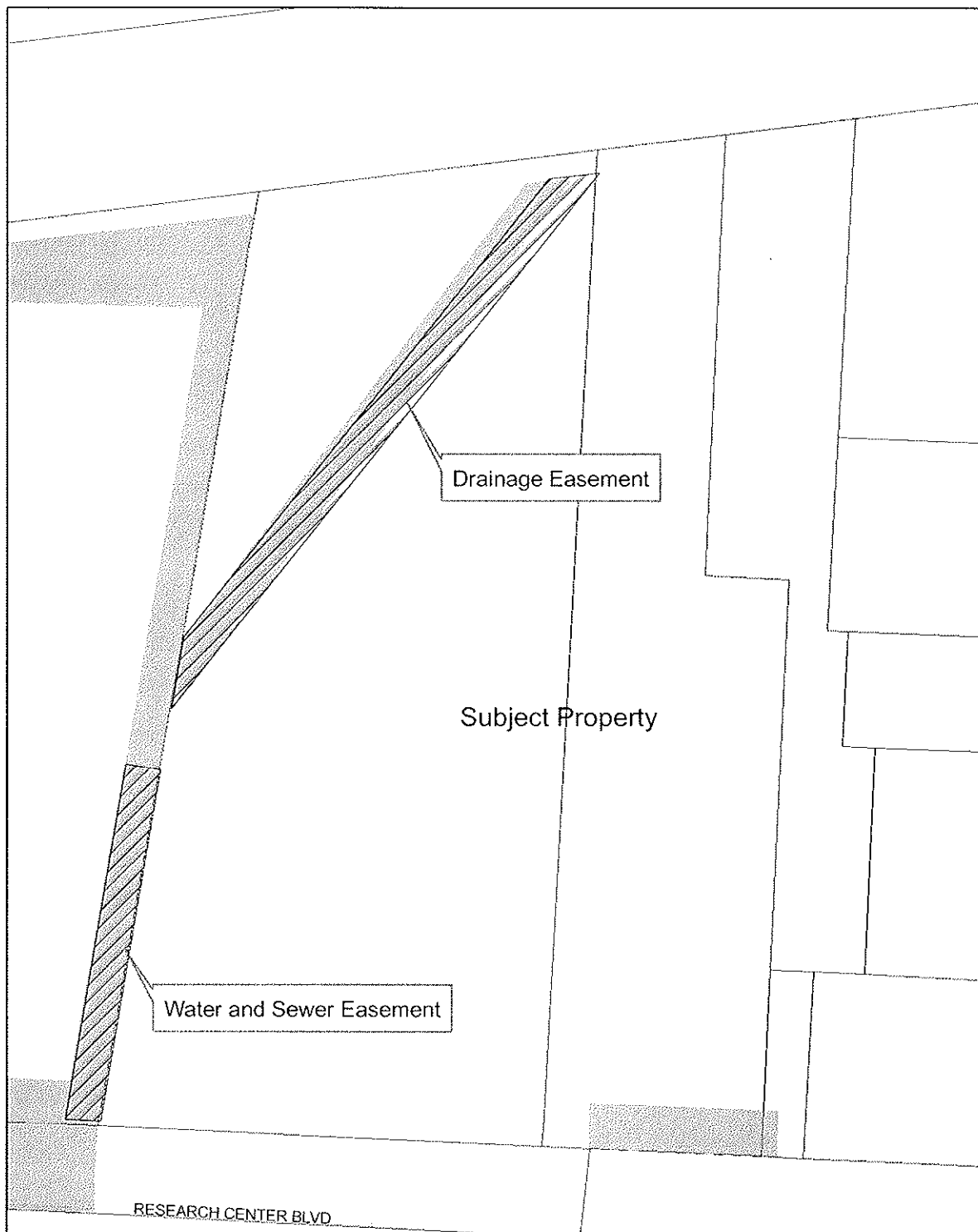
ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Exhibit "A"

UA Research Center Vacation
VAC 08-3042



Legend

-  VAC08-3042
-  EASEMENT

EXHIBIT "B"
VAC 08-3042

EASEMENT VACATION DESCRIPTION: (20' DRAINAGE EASEMENT, INST.# 97065793)

A PART OF THE SE1/4 OF THE SW1/4 AND PART OF THE SW1/4 OF THE SE1/4 OF SEC. 21, T 16 N, R 30 W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SAID SE1/4 OF THE SW1/4 OF SEC. 21; THENCE S 87°20'39" E, A DISTANCE OF 1075.61 FEET; THENCE N 02°39'21" E, A DISTANCE OF 589.19 FEET SOUTHWEST CORNER OF A TRACT DESCRIBED AT W.D.# 2006-1012; THENCE N 09°33'18" W ALONG THE WESTERLY LINE OF SAID TRACT, A DISTANCE OF 236.49 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 09°33'18" W ALONG THE WESTERLY LINE OF SAID TRACT, A DISTANCE OF 41.11 FEET; THENCE N 38°39'44" E, A DISTANCE OF 329.80 FEET TO THE NORTHERLY LINE OF SAID TRACT; THENCE N 83°25'18" E ALONG THE NORTHERLY LINE OF SAID TRACT, A DISTANCE OF 28.40 FEET; THENCE S 38°39'44" W, A DISTANCE OF 385.89 FEET TO THE POINT OF BEGINNING.

EASEMENT VACATION DESCRIPTION: (PART OF 20' WATER/SEWER EASEMENT, BK 726, PG 451)

A PART OF THE SE1/4 OF THE SW1/4 OF SEC. 21, T 16 N, R 30 W, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SAID SE1/4 OF THE SW1/4 OF SEC. 21; THENCE S 87°20'39" E, A DISTANCE OF 1075.61 FEET; THENCE N 02°39'21" E, A DISTANCE OF 589.19 FEET TO THE SOUTHEAST CORNER OF TRACT A, BK 1022, PG736 WHICH IS THE POINT OF BEGINNING; THENCE S 86°59'23" W ALONG THE SOUTHERLY LINE OF SAID TRACT A, A DISTANCE OF 20.13 FEET; THENCE N 09°33'18" W, A DISTANCE OF 203.62 FEET; THENCE S 80°26'42" E, A DISTANCE OF 20.00 FEET TO THE EASTERLY LINE OF SAID TRACT A; THENCE S 09°33'18" W ALONG THE EASTERLY LINE OF SAID TRACT A, A DISTANCE OF 201.33 FEET TO THE POINT OF BEGINNING.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Dara Sanders, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~July 18, 2008~~ Updated July 29, 2008

VAC 08-3042: (U OF A RESEARCH CENTER, 600): Submitted by ALLEN JAY YOUNG DEVELOPMENT CONSULTANTS, INC. for property located at N & W OF RESEARCH CENTER BLVD. AND S. SCHOOL AVENUE. The property is zoned I-1, HEAVY COMMERCIAL/LIGHT INDUST and contains approximately 4.54 acres. The request is to vacate portions of water/sewer and drainage easements.

Planner: Dara Sanders

Findings:

Property Description: The subject property is located on the University of Arkansas South Campus at the Research Center Boulevard and South School Avenue intersection, north of Cato Springs Road. The 20' drainage easement, located at the northwest corner of the 4.54-acre property, contains a storm drain and drainage channel. The 20' water and sewer easement, located along a portion of the western boundary of the property, was intended for a waterline to serve a building located on the adjacent property, also owned by the University of Arkansas; however, the waterline is not located within the existing easement (see attached map).

Request: The applicant is requesting to vacate the existing drainage easement and reroute the drainage to an alternative location. The applicant also requests to vacate the water/sewer easement and to relocate a portion of the waterline. The required notification forms have been submitted to the City with the result summarized below.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objection – Do not vacate until the new water main is in service and the new easement has been dedicated.

Engineering

No Objection

Public Comment: Staff has not received public comment.

Recommendation: Staff recommends forwarding **VAC 08-3042** to the City Council with a recommendation of approval with the following conditions of approval:

1. The applicant shall coordinate with the Water and Sewer Division for relocation of the waterline and shall dedicate an associated water and sewer easement prior to the vacation of the existing water and sewer easement.
2. The applicant shall reroute the drainage on the subject property and dedicate an associated drainage easement at the time of development.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: July 28, 2008

Motion: Graves

Second: Cabe

Vote: 5-0-1

UA Research Center Vacation Request VAC 08-3042



Legend

- Gravity Main
- Pressurized Main (Water)
- EASEMENT
- Wash Co Parcels (Fayetteville)

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: July 23, 2008

UTILITY COMPANY: City of Fayetteville Engineering Division

APPLICANT NAME: University of Arkansas APPLICANT PHONE: 575.8411

REQUESTED VACATION (*applicant must check all that apply*):

- ~ ~~Utility Easement~~ Drainage Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

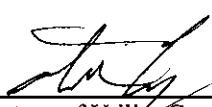
**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- No objections to the vacation(s) described above, provided following described easements are retained.
(State the location, dimensions, and purpose below.)

-
-
- No objections provided the following conditions are met:
-
-



Signature of Utility Company Representative

ASST. CITY ENGINEER

Title

**UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

Date: 6/18/08
Utility Company: City of Fayetteville Water and Sewer
Applicant Name: University of Arkansas Applicant Phone: 575-8411

REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (~~alley~~, easement, ~~right-of-way~~), described as follows:

General location / Address (referring to attached document- must be completed**) Water/Sewer Easement
Shown on Attached Exhibit Map.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☐ No objections to the vacation(s) described above.
☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections provided the following conditions are met:

NOT VACATED UNTIL NEW WATER MAIN IS IN SERVICE WHEN
FINISHED EASEMENT WILL CHANGE


Signature of Utility Company Representative

W/S OPS MGR

Title

**Written request and narrative to accompany petition packet
to vacate a Drainage Easement and a Water/Sewer Easement located on lands owned
by the University of Arkansas, within the City of Fayetteville, Arkansas.**

To: The Fayetteville City Planning Commission and
The Fayetteville City Council

On behalf of the University of Arkansas, I am petitioning the Fayetteville City Planning Commission and the Fayetteville City Council to vacate a Drainage Easement and a Water/Sewer Easement located wholly within the University of Arkansas property lying north of Cato Springs Road and West of South School, within the City of Fayetteville, Arkansas. The easements are located north of Research Center Blvd (old 20th Street).

The only landowner abutting and affected by the vacation of the easements is the University of Arkansas.

The Drainage Easement (Instrument #97065793) is for a storm drain and drainage channel that drains a parking area into the existing stream. The University of Arkansas is preparing to develop the area and will be removing the storm drain and drainage channel. The drainage will be re-routed through a new drainage system at a different location. If necessary, a new drainage easement will be dedicated at that time.

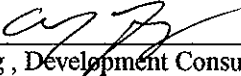
The Water/Sewer Easement (Bk 726, Pg 451) is for a waterline that serves a building on the University of Arkansas property. The waterline currently is not located within this easement. The area that is to be developed will extend over a portion of the existing easement. The new development will require that a portion of the waterline be re-located to a different location. If necessary, a new drainage easement will be dedicated at that time.

By vacating the Drainage Easement and the Water/Sewer Easement, the owner would benefit, and no other landowner would be adversely affected.

The Drainage Easement and the Water/Sewer Easement are not a part of any dedicated public right of way and have not been used by the public. The public interest and welfare would not be adversely affected by vacating the easement.

Included in the Petition Packet is:

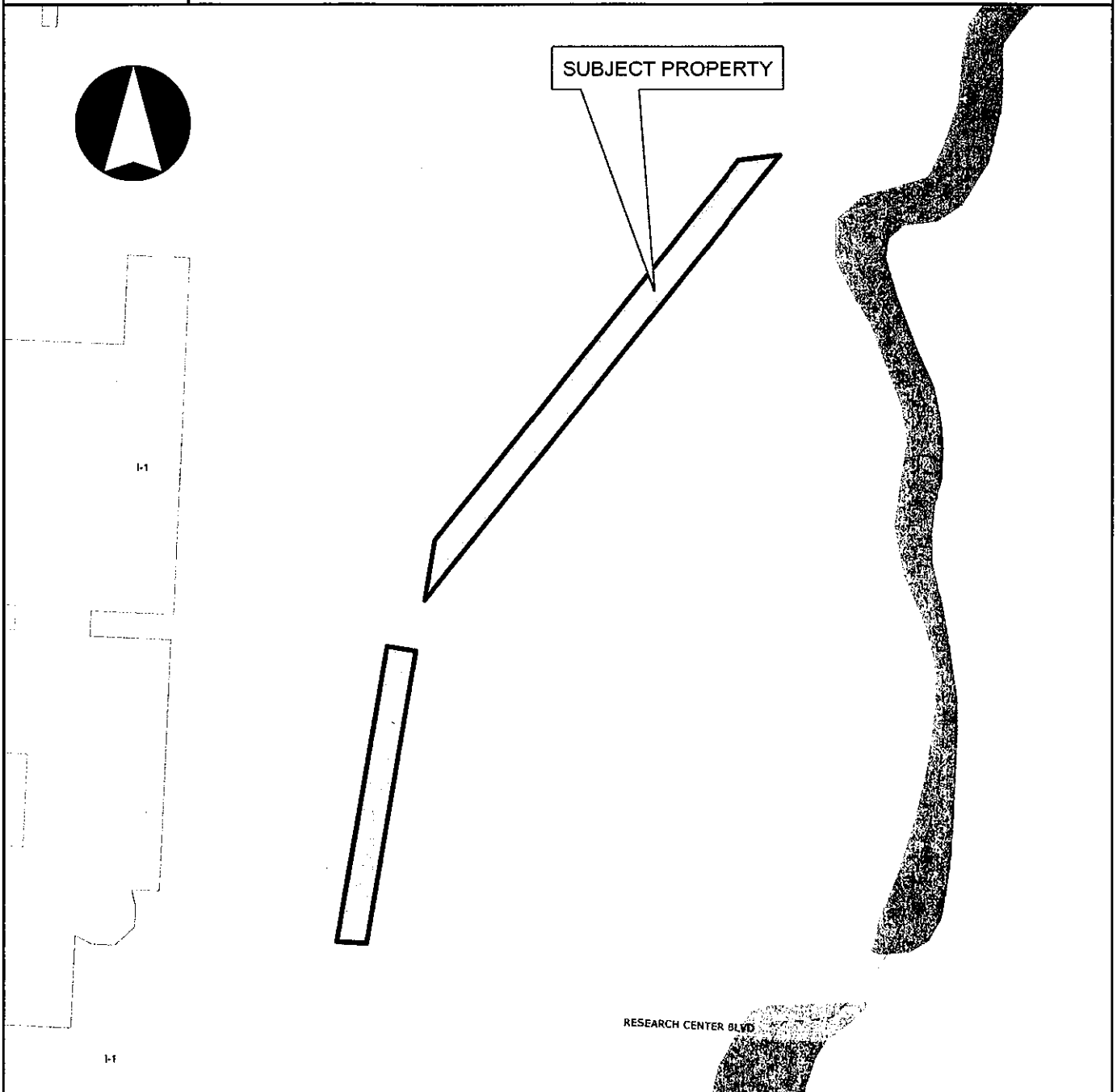
- 1 Application and Payment of applicable fees for processing the application \$200.00.
- 2 Legal description and exhibit map of area to be vacated.
- 3 This written description.
- 4 Names and addresses of adjacent property owners not required as the petitioner is the only affected landowner. Mailing labels not required.
- 5 A copy of the plat on record in the county assessor's office with the owner's name and parcel number of each adjacent property shown on a scaled up version of the.
- 6 Petition to vacate the Drainage Easement and Water/Sewer Easement.
- 7 Written notification of all owners of property adjacent to the easement to be vacated not required.
- 8 Comments from utilities companies were not required for this filing since no utility company has easement rights except City of Fayetteville, as advised by Andrew Garner at a pre-planning meeting on June 18, 2008.
- 9 Comments from Fayetteville City Utilities.


Allen Jay Young, Development Consultants, Inc.

VAC08-3042

Close Up View

U OF A RESEARCH CENTER



Overview



0 37.5 75 150 225 300 Feet

U OF A RESEARCH CENTER

Subject Property
☐ VAC08-3042

Planning Area
Overlay District
Outside City

Hillside-Hilltop Overlay District

 Miles

City of Fayetteville Staff Review Form

D. 2
ANX 08-3036
(Fayetteville Farmington Land Swap)
Page 1 of 22

City Council Agenda Items and Contracts, Leases or Agreements

August 19, 2008

City Council Meeting Date
Agenda Items Only

Karen Minkel
Submitted By

Long Range Planning
Division

Operations
Department

Action Required:

ANX 08-3036 (Fayetteville_Farmington Land Swap): Submitted by Rausch Coleman Homes for property located west of the Walnut Crossing Subdivision. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

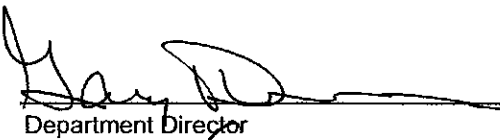
\$

Remaining Balance

Fund Name

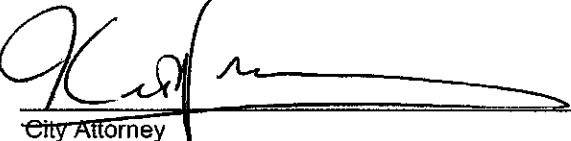
Budgeted Item

Budget Adjustment Attached


Department Director

8-1-08
Date

Previous Ordinance or Resolution #


City Attorney

8-1-08
Date

Original Contract Date:

Original Contract Number:

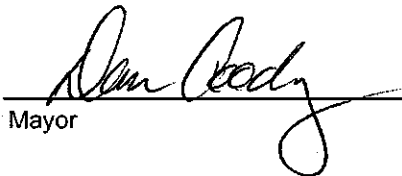
Paul A. Bush
Finance and Internal Service Director

8-4-08
Date

Received in City
Clerk's Office

ENTERED

8-1-08 UH


Mayor

8/6/08
Date

Received in
Mayor's Office

ENTERED

8/1/08 BCP

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Karen Minkel, Interim Director of Long Range Planning

Date: July 31, 2008

Subject: Fayetteville_Farmington Land Swap (ANX 08-3036)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the subject annexation request for approximately 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

BACKGROUND

The subject property contains 11.86 acres and is located within the City of Farmington west of the Walnut Crossing and Coves developments. Pursuant to A.C.A §14-40-2101, two contiguous municipalities may simultaneously detach and annex territory, subject to approval from the governing body of each municipality. Rausch Coleman Homes requested that the City of Fayetteville and the City of Farmington approve the exchange of two substantially equal tracts of property, resulting in new city limit boundaries for each municipality. Specifically, 11.86 acres north of Alberta Street would be detached from Farmington and annexed into Fayetteville, and 8.035 acres south of Alberta Street would be detached from Fayetteville and annexed into Farmington. The portion of Alberta Street that borders the property would fall under Fayetteville's jurisdiction. See attached maps for reference.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 6-0-0 to recommend forwarding this annexation request to the City Council with a recommendation for approval.

If this annexation is approved by the City Council, the City of Farmington City Council is required to hold a public hearing on the detachment and annexation within 60 days of the effective date of this ordinance. The City of Farmington had its first reading of the detachment and annexation of Fayetteville's 8.035 acres on July 14, 2008. The second reading is scheduled for August 11.

BUDGET IMPACT

None.

ORDINANCE NO. _____

**AN ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY
FROM THE CITY OF FARMINGTON AND ANNEXING SAID
TERRITORY INTO THE CITY OF FAYETTEVILLE, PURSUANT
TO A.C.A. §14-40-2101**

WHEREAS, A.C.A. §14-40-2101 provides a procedure for the simultaneous detachment of territory from one municipality and annexation of such territory into an adjoining municipality; and

WHEREAS, Rausch Coleman Land Development Company is desirous of moving parcels of substantially equal size from Fayetteville into Farmington, and from Farmington into Fayetteville to provide a more manageable and clear city limits border within its development between the cities.

**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 calls for the simultaneous detachment from Farmington and annexation into Fayetteville of property described on Exhibit B and shown on Exhibit A (attached) upon request of the owners of this property.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that the City of Farmington schedule and hold a public hearing on the detachment and annexation within 60 days of the effective date of this ordinance and notify the Fayetteville City Clerk of the date for the public hearing in sufficient time for her to publish a legal notice at least 15 days before the hearing.

Section 3: If the City of Farmington concurs by ordinance in the simultaneous detachment from Farmington and annexation into Fayetteville of the land described on

Page 2
Ord.

Exhibit B and shown on Exhibit A, the City Council of the City of Fayetteville, Arkansas, hereby annexes said land into Fayetteville, amends the official map of Fayetteville, and assigns the land to Ward 4.

PASSED and **APPROVED** this 5th day of August, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

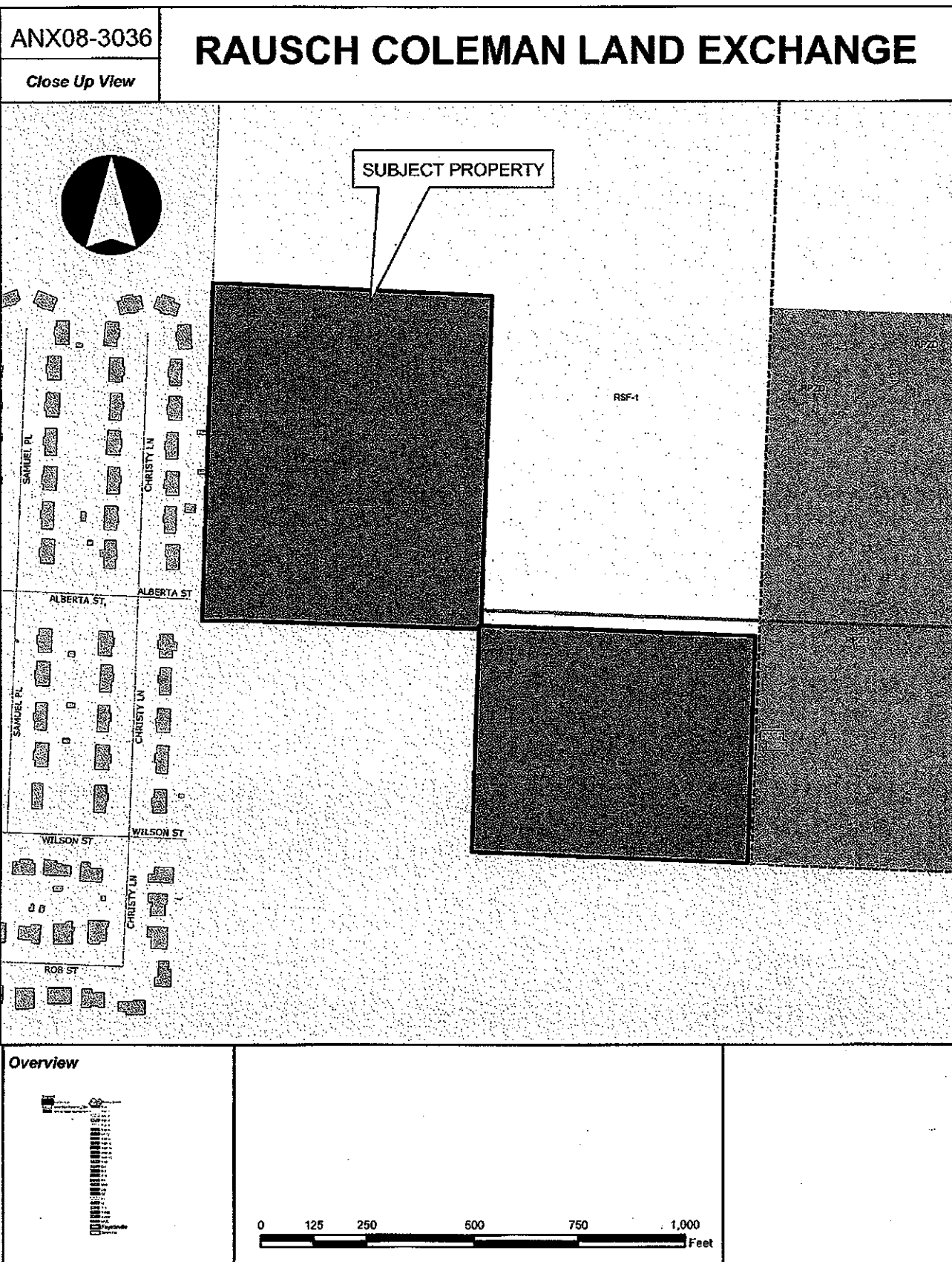


EXHIBIT "B"
ANX 08-3036

DESCRIPTION OF PARCEL TO CONVEY FROM FARMINGTON TO FAYETTEVILLE:

A PART OF THE WEST HALF (W ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST (SEC 24, T-16-N, R-31-W) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A ½" REBAR MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 24, TOWNSHIP 16 NORTH, RANGE 31 WEST (SEC 24, T-16-N, R-31-W), SAID POINT LYING ON THE CURRENT CITY LIMITS LINE OF FARMINGTON AND FAYETTEVILLE, ARKANSAS; THENCE WITH SAID CITY LIMIT LINE S 87°17'55" E 653.78 FEET TO A POINT; THENCE CONTINUING WITH SAID CITY LIMIT LINE S 01°53'47" W 785.80 FEET TO A POINT; THENCE LEAVING SAID CITY LIMIT LINE N 87°59'22" W 558.53 FEET TO A POINT; THENCE IN A WESTERLY DIRECTION WITH A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 455.00 FEET, HAVING A CHORD BEARING OF N 89°10'04" W AND A CHORD DISTANCE OF 18.71, HAVING AN INTERIOR ANGLE OF 02°21'24" AND AN ARC LENGTH OF 18.71 TO A POINT; THENCE S 89°39'14" W 76.80 FEET TO A POINT ON THE EAST LINE OF MEADOWLARK SUBDIVISION; THENCE WITH SAID EAST LINE N 01°54'57" E 797.23 FEET TO THE POINT OF BEGINNING AND CONTAINING 11.86 ACRES MORE OR LESS. BASIS OF BEARINGS IS A SURVEY BY TONY ANDERSON (PLS 1272), JOB NUMBER 06-12-02, DATED 9/12/07.

NOTE:

CALLS THAT FOLLOW THE CURRENT AND FUTURE RIGHTS-OF-WAY OF ALBERTA STREET ARE BASED ON THE FINAL PLAT OF WALNUT CROSSING SUBDIVISION (PREPARED BY ENGINEERING SERVICES, INC, RECORDED AT PLAT FILE 23, PAGE 235) BUT HAVE BEEN ORIENTED TO THE TONY ANDERSON BOUNDARY SURVEY REFERENCED IN EACH SECTION ABOVE AS A BASIS OF BEARING.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~July 18, 2008~~ Updated July 31, 2008

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

Planner: JESSE FULCHER

BACKGROUND:

Property description: The subject property contains 11.86-acres located west of the Walnut Crossing and Coves developments, and is currently within the City of Farmington. Access is provided by way of Alberta Street. Surrounding land uses and zoning is depicted in Table 1.

SURROUNDING LAND USE AND ZONING

Direction	Land Use	Zoning
North	Undeveloped	R-PZD 07-2766 (The Coves)
South	Undeveloped	City of Farmington
East	Single Family Homes	R-PZD 04-1181 (Walnut Crossing)
West	Single Family Homes	City of Farmington

Proposal: Pursuant to A.C.A §14-40-2101, two contiguous municipalities may simultaneously detach and annex territory, subject to approval from the governing body of each municipality. The applicants have requested that the City of Fayetteville and the City of Farmington approve the exchange of two substantially equal tracts of property, resulting in new city limit boundaries for each municipality. Specifically, 11.86-acres north of Alberta Street would be detached from Farmington and annexed into Fayetteville, and 8.035-acres south of Alberta Street would be detached from Fayetteville and annexed into Farmington. See attached maps for reference.

INFRASTRUCTURE:

Streets: The property has frontage on Alberta Street (a collector street), which is an improved city street. Street improvements will be evaluated at the time of development.

- Water:** Public water is available to the site. There is an 8" water main along Alberta Street. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.
- Sewer:** Sanitary sewer is available to the site. There is an 8" sewer main along Alberta Street. Sewer service will need to be extended through the property at the time of development.
- Fire:** The subject property is located approximately 3 miles from the Fire Station #6 with a projected response time of 8 minutes. The Fire Department does not figure calls for service on properties that are only being considered for annexation. There should be no adverse effects on call volume or response time to this annexation. The property will be reevaluated with any future land use changes.
- Police:** It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

RECOMMENDATION:

Staff recommends forwarding the requested annexation with a recommendation for approval based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	
☒ Forwarded		☐ Denied
Date: <u>July 28, 2008</u>	Motion: <u>Graves</u>	
	Second: <u>Kennedy</u>	
	Vote: <u>6-0-0</u>	
CITY COUNCIL ACTION:		
Required	<u>YES</u>	
☐ Approved		☐ Denied
Date: <u>August 19, 2008 (1st reading if recommended)</u>		

LAND USE PLAN: This area is not identified on the Future Land Use Plan, since it is located within the City of Farmington. Generally, the Land Use Plan indicates future uses in the are to consist of residential neighborhoods.

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is adjacent to several residential subdivisions, with an additional subdivision approved for development directly to the north. Immediately to the south is 6th Street (State HWY 16), which provides commercial services and access to I-540.

2. Areas that can be developed at urban densities.

Finding: The subject property can support a traditional urban design given the location of the property along a collector street, proximity to 6th Street and I-540. Additionally, the area already supports more urban development styles as is evident by Walnut Crossing Subdivisions and most recently approved, The Coves at Walnut Crossing.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: There are existing water and sewer lines available to the subject development, which also has direct access to an improved public street. The City of Fayetteville currently services all properties to the north and east and is required to serve the parcel to the southeast, which is part of the land-exchange request. Ultimately, city services will continue to be provided to the immediately surrounding properties.

4. Vacant lands that are subject to development pressure.

Finding: The subject property is surrounded on three sides by either developed subdivisions, or by property which has been approved for development. It is unknown whether this area will continue to experience development pressure.

5. Areas where urban services are already provided.

Finding: Adjacent properties are currently developed or developing and are provided with city services.

6. Areas where urban services are needed.

Finding: Urban services are currently provided to developments in the surrounding areas.

12.3.5 ANNEXATION GUIDING POLICIES BOUNDARIES

- 12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property will not create an island or a peninsula. Rather, annexation of the property will create a more appropriate City boundary than currently exists.

12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the north, east and southeast.

12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The subject property is not currently a part of a platted subdivision; however, the applicant has indicated that the property would become an extension of the recently approved Coves Subdivision. The annexation will allow expansion of this development, which could not be provided under the regulations of the adjacent city.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

Finding: Current conditions result in a response time of 8 minutes for fire protection from Fire Station #6. The land that is currently within the City of Fayetteville, but is proposed to be moved into the City of Farmington is located across the street and therefore should have approximately the same response time.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: There are no known environmentally sensitive areas that could be impacted by development.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer services are available to the site and would be required to be extended through any future development should the property be annexed into the City. The police department reports that current levels of service would not be compromised and that coverage in this area can be provided. Fire service would also be provided to the site at adequate levels.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City

of Fayetteville. This property is adjacent to areas already being served by the city.

12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Water and sewer services and fire and police protection are currently provided to adjacent properties.

12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and development of this property will result in an increased demand on the existing infrastructure systems. Improvements to utilities and streets may be made necessary should development occur on the subject property.

12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: The applicants have requested the Cities of Fayetteville and Farmington to consider ordinances that would exchange similar sized properties. The applicants have stated in their application that the land exchange would allow for the extension of The Coves Subdivision within the City of Fayetteville, which will provide a more cohesive design. The land exchange will also allow development of the properties south of Alberta Street to be processed entirely within the limits of Farmington.

12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

12.3.5.o Develop a land use plan for annexation initiated by the city.

Finding: N/A

12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: The applicants have not requested rezoning of the property if the annexation is approved, and therefore the property will automatically be zoned R-A, Residential Agricultural.

12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed at this time.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: Annexation of the property will create a more desirable city boundary, by allowing development to be processed under Fayetteville's ordinances.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 11.86 acres.

From Fayetteville General Plan 2020 – 2002 Revision

11.6 Annexation Guiding Policies

Boundaries

- 11.6.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.
- 11.6.b Proposed annexation area must be adjacent, or contiguous, to city limits.
- 11.6.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.
- 11.6.d Boundaries for annexed areas should follow natural corridors.
- 11.6.e Timing of services within annexation areas should be considered.

Environmentally Sensitive Areas

- 11.6.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Emergency and Public Services

- 11.6.g Public services must be able to be provided efficiently in newly annexed areas.
- 11.6.h Annexed areas should receive the same level of service of areas already in the city limits.
- 11.6.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Infrastructure and Utilities

- 11.6.j Areas currently served by utilities and other public services should be annexed.
- 11.6.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.
- 11.6.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Intergovernmental Relations

- 11.6.m Promote long-range planning with adjacent jurisdictions.
- 11.6.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Administration of Annexations

- 11.6.o Designate zoning districts for the property during the annexation process.
- 11.6.p An annexation study should be completed on all annexation proposals.
- 11.6.q Development proposals require a separate review from the annexation proposals.
- 11.6.r Residents should be fully informed of annexation activities.
- 11.6.w Encourage larger annexations to create acceptable boundaries.
- 11.6.t Conduct a fiscal impact assessments on large annexations.

Date 7/9/08

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 ANX 08-3036: (Rausch Coleman Land Exchange, 555): Submitted by Rausch Coleman Homes for property located W of Walnut Crossing Subdivision 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 11.86 acres.

It is the opinion of the Fayetteville Police Department that this ANX will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This ANX will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



The City of Fayetteville Fire Department
303 W. Center St. Fayetteville, AR. 72701

Phone (479) 575-8365 Fax (479) 575-0471

D. 2
ANX 08-3036
(Fayetteville Farmington Land Swap)
Page 15 of 22

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher

From: David Williams, Battalion Chief

Date: July 9, 2008

Re:

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner.

This development will be protected by Engine 6 located at 900 Hollywood. It is 3 miles from the station with an anticipated response time of 8 minutes to the beginning of the development.

The Fire Department anticipates 2 EMS - 2 Fire/Other) calls for service each year after the development is completed and maximum build-out has occurred. Typically, this type of development usually takes 12 - 18 months, after the development is started, before maximum build-out occurs.

The Fayetteville Fire Department does not feel this development will affect our calls for service or our response times currently. We will need to re-evaluate if there are any proposed Land Use changes.

Measured hydrant flow in this area is 2 gallons per minute.

If you have any questions please me.

David Williams

David Williams
Fire Marshal
Fayetteville Fire Department

ANX 08-3036: (RAUSCH COLEMAN LAND EXCHANGE, 555): Submitted by RAUSCH COLEMAN HOMES for property located W OF THE WALNUT CROSSING SUBDIVISION. The request is to annex 11.86 acres from Farmington in exchange for 8.035 acres in Fayetteville to allow further development by the property owner. Planner: Jesse Fulcher

Public water is available to the property. There is an 8" main along Alberta. Water will need to be extended through the property at the time of development to provide domestic service and fire protection.

Sanitary sewer is available to the site. There is 8" main along Alberta. Sewer will need to be extended through the property at the time of development.

The site has access to Alberta Street. Alberta Street is a fully improved two lane city street of sufficient width. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.



June 6, 2008

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

Re: Proposed Land Exchange with Farmington

Dear Council Members,

Rausch Coleman Homes LLC wishes to request that the City of Fayetteville consider adjusting their city limits thus allowing an exchange of similar tracts of land with the City of Farmington. There exists a 10.5 acre tract lying in the city limits of Farmington located north of Alberta St. and adjacent to our Coves at Walnut Crossing project. Just south of Alberta Street is an 8.03-acre tract located within the city limits of Fayetteville. We are requesting that both cities consider exchanging their jurisdiction over these two parcels for the following reasons:

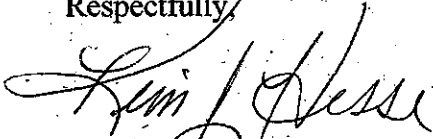
Cohesive Residential Design - As Rausch Coleman continues to develop the remaining land in this location we hope to maintain a consistent design theme within the various quadrants of the overall 168 acre tract. Our first phase of development, Walnut Crossing, has a unique neo-traditional design theme with higher density residential areas clustered around large tracts of open space. Our second phase of development, The Coves, embraces the environmentally sensitive "Coving" concept of design. The Coves is located north of Alberta Street consisting of 50 acres within Fayetteville and a remaining 10 acres in Farmington.

Rausch Coleman further owns approximately 34 acres south of Alberta of which 8 acres is within Fayetteville with the remainder in Farmington. We hope to change the design concept as we move south of Alberta Street to a theme that is conducive to Farmington zoning and subdivision regulations. By changing our remaining 10 acres north of Alberta to be within Fayetteville we could maintain The Coves design and complete that master planned development; current Farmington regulation would not allow such a design. Alternately, if we can change the 8 acres south of Alberta from Fayetteville to Farmington, that future development can be processed exclusively through Farmington with a consistent design theme.

Emergency Responders and Service Providers - Another benefit is the reduced confusion one would expect from City service providers and first responders having to deal with the jog in jurisdictions along Alberta Street and among adjacent lots within the development.

Additionally, we would ask that the right of way for Alberta Street be placed within the jurisdiction of Fayetteville to simplify the development process for our development to the north. We feel this request to exchange similar tracts of land is reasonable and beneficial for the orderly development of land in this adjoining city limit location. Please feel free to call with any questions or comments.

Respectfully,

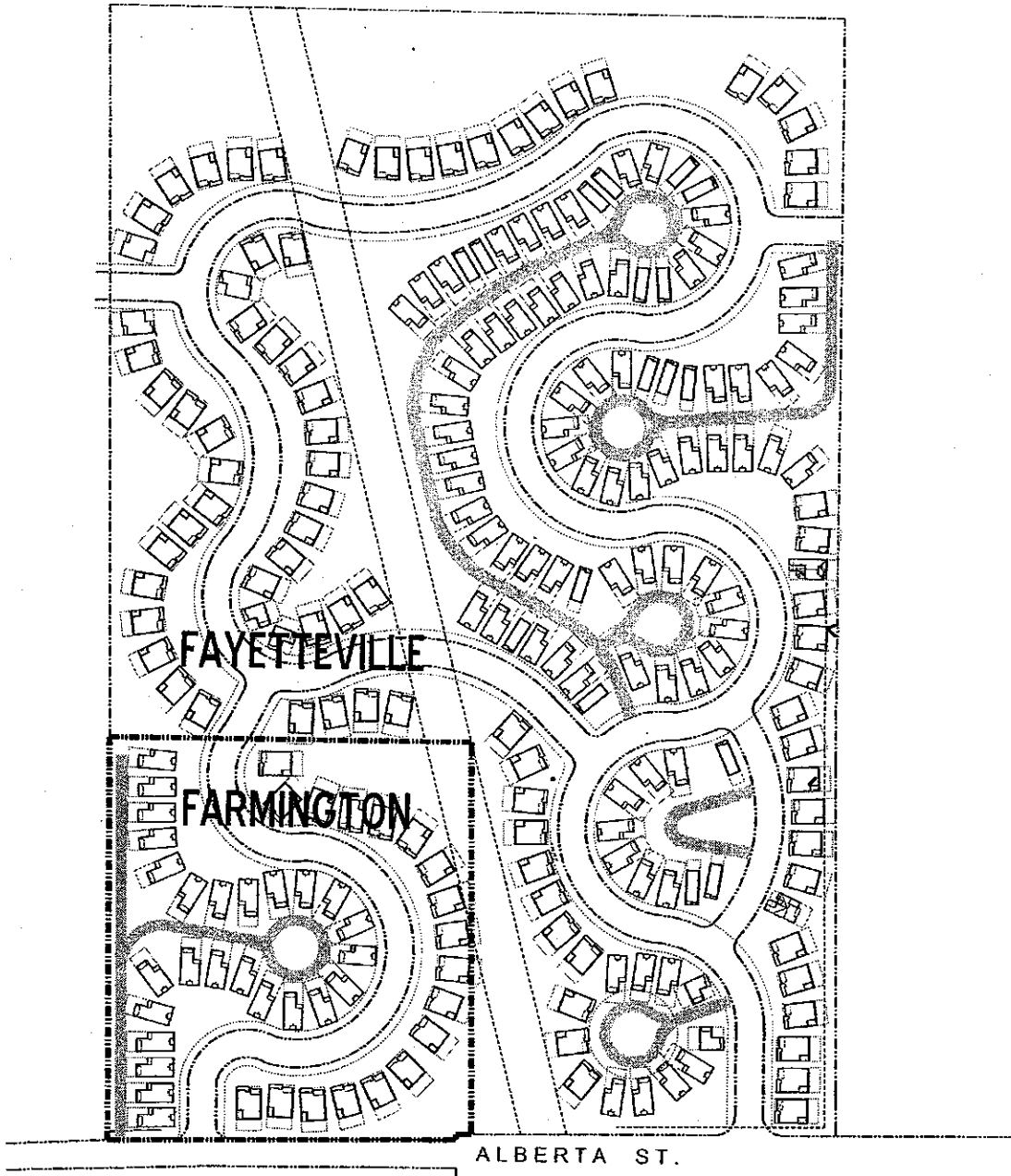


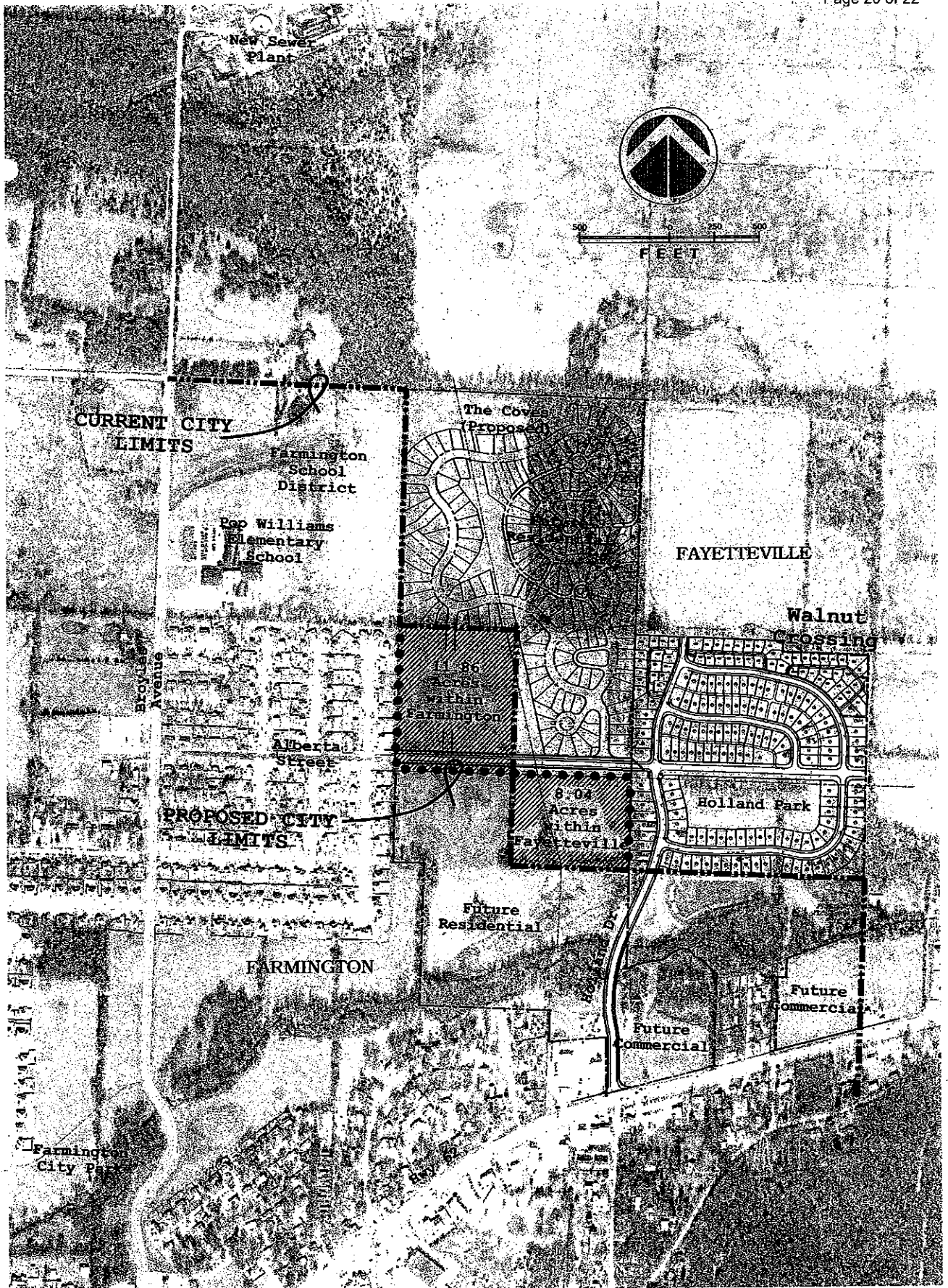
Kim J. Hesse, Director of Land Development
Rausch Coleman Homes
479-267-6008

Rausch Coleman Land Development
308 East Main St. – Farmington, AR 72730
479-267-6008 office – 479-267-5241 fax



NOTE:
 THIS PLAN IS FOR CONCEPTUAL PLANNING
 PURPOSES ONLY AND HAS NOT HAD THE
 BENEFIT OF REVIEW BY ANY GOVERNING
 AUTHORITY.

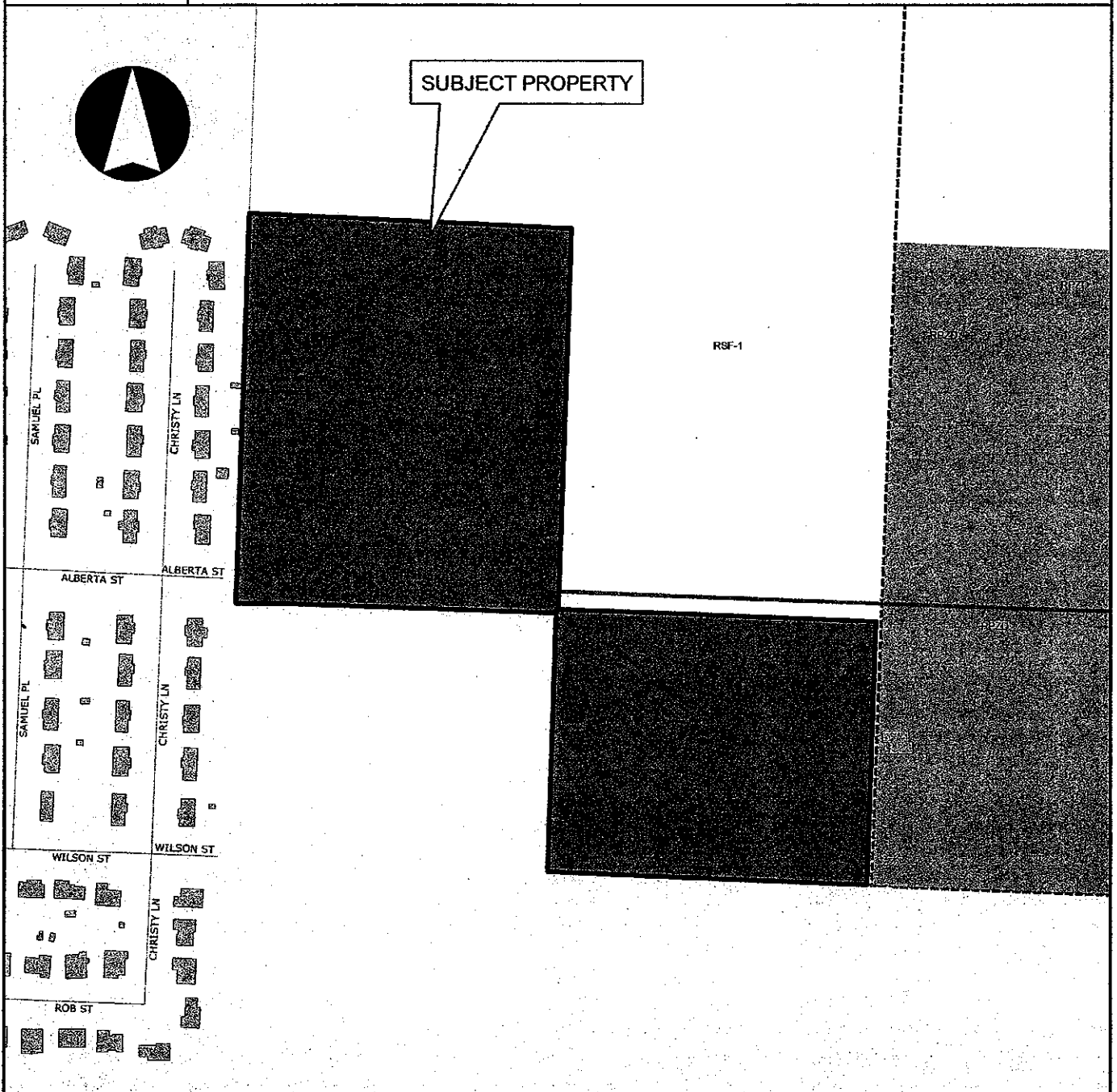




ANX08-3036

Close Up View

RAUSCH COLEMAN LAND EXCHANGE



Overview

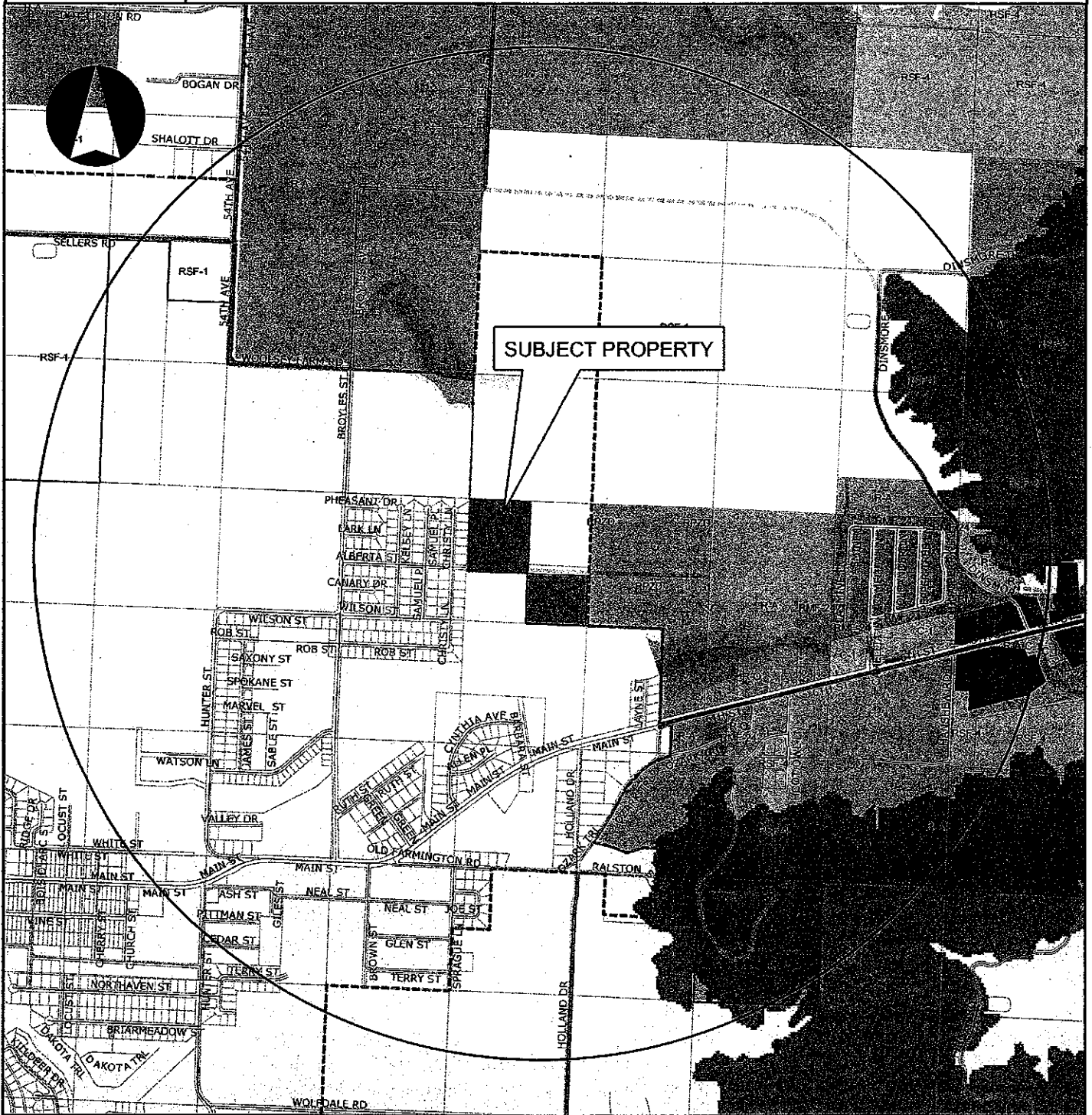


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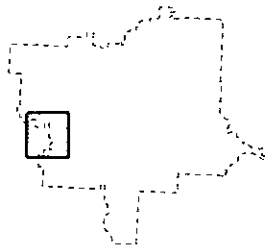
ANX08-3036

RAUSCH COLEMAN LAND EXCHANGE

One Mile View



Overview



Legend

Subject Property

ANX08-3036

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



City of Fayetteville Staff Review Form

D. 3
ANX 08-2899 (Frank Sharp)
Page 1 of 20

**City Council Agenda Items
and
Contracts, Leases or Agreements**

8/19/2008

City Council Meeting Date
Agenda Items Only

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ANX 08-2899 (Frank Sharp, 631): Submitted by Appian Centre for Design for property located 0.5 mile south of Highway 62 West and east of Holland Drive. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject property into 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

☐

[Signature] 8-1-08
Department Director Date

[Signature] 8-1-08
City Attorney Date

Paul A. Buhner 8-4-08
Finance and Internal Service Director Date

[Signature] 8/6/08
Mayor Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Received by
Clerk's Office

8-1-08 UDP

Received in
Mayor's Office

8/1/08 BRP

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning *JCP*

Date: July 31, 2008

Subject: Annexation for Frank Sharp (ANX 08-2899)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the subject annexation request for approximately 53.53 acres of property located south of State Highway 62 West on the east side of Holland Drive.

BACKGROUND

The subject property contains 53.53 acres and is located south of State Highway 62 (6th Street) and east of Holland Drive. The property is undeveloped wooded hillside, accessed from Highway 62. The property is surrounded by undeveloped and rural-residential property. The subject property is adjacent to property in the City to the north, and adjacent to the 910-acre SouthPass property to the southeast.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 6-0-0 to recommend forwarding this annexation request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 08-2899 (CC2008-38), FOR PROPERTY LOCATED 0.5 MILE SOUTH OF HIGHWAY 62 WEST AND EAST OF HOLLAND DRIVE, CONTAINING APPROXIMATELY 53.53 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "B"
ANX 08-2899

SHARP ANNEXATION LEGAL – PART OF SOUTHPASS

A PART OF THE SOUTHEAST QUARTER (SE¼) OF THE NORTHWEST QUARTER (NW¼) AND A PART OF THE SOUTHWEST QUARTER (SW¼) OF THE NORTHEAST QUARTER (NE¼) OF SECTION 25, TOWNSHIP 16 NORTH, RANGE 31 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT NORTH 02°22'54" EAST 997.92 FEET FROM THE SOUTHWEST CORNER OF THE SE¼ OF THE NW¼ OF SAID SECTION 25; THENCE SOUTH 87°49'29" EAST 1328.22 FEET; THENCE NORTH 02°10'31" EAST 313.33 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID 25-16-31; THENCE SOUTH 88°13'52" EAST 1317.99 FEET; THENCE SOUTH 02°36'53" WEST 1332.74 FEET TO THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE NORTH 87°45'45" WEST 1307.74 FEET; THENCE NORTH 01°38'46" EAST 399.05 FEET; THENCE NORTH 04°36'44" EAST 86.77 FEET; THENCE NORTH 88°05'55" WEST 895.11 FEET; THENCE NORTH 19°16'17" WEST 13.40 FEET; THENCE NORTH 36°16'19" WEST 300.00 FEET; THENCE NORTH 26°56'19" WEST 170.00 FEET; THENCE NORTH 15°56'19" WEST 29.30 FEET; THENCE SOUTH 42°00'30" WEST 148.95 FEET; THENCE SOUTH 64°33'07" WEST 36.61 FEET; THENCE NORTH 02°13'17" EAST 179.28 FEET; THENCE NORTH 86°42'23" WEST 22.36; THENCE NORTH 02°22'54" EAST 55.00 FEET TO THE POINT OF BEGINNING, CONTAINING 53.53 ACRES, MORE OR LESS.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~July 22, 2008~~ Updated July 31, 2008

ANX 08-2899: (FRANK SHARP, 631/632): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.
Planner: Andrew Garner

BACKGROUND:

Property description: The subject property contains 53.53-acres and is located south of State Highway 62 (6th Street) and east of Holland Drive. The property is undeveloped wooded hillside, accessed from Highway 62. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped/Rural Residential	Planning Area/R-A
South	Single Family Residential	Planning Area
East	Undeveloped	Planning Area
West	Rural Residential	Planning Area

Proposal: The applicant proposes annexation of 53.53 acres into the City of Fayetteville. The applicant's submittal letter states that no development is being contemplated at this time.

INFRASTRUCTURE:

Streets: The property has frontage on Holland Drive (a collector street) and Wolfdale Road (local street). Both of these roads are currently un-improved two lane roads. Street improvements will be evaluated at the time of development.

Water: Public water is not available to this site. The nearest water is a 6-inch water main at Wolfdale Road which is about 1,000 feet to the south of the property. The capacity of the existing main may need to be studied at the time of development.

Sewer: Sanitary sewer is not available to the site. The nearest sewer is a 6-inch sewer main at Holland Drive and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 3.5 miles from Engine 6 located at 900 South Hollywood with a projected response time of 7 minutes. The Fire Department discussed that along with the SouthPass development that is adjacent to the southeast corner of the subject property, that this annexation will affect response times along with calls for service in this part of the city. The developers of SouthPass have expressed interest reserving a suitable location for a fire department within their development that would address this concern.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

RECOMMENDATION:

Staff recommends forwarding the requested annexation with a recommendation for approval based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	
☒ Forwarded		☐ Denied
Date: <u>July 28, 2008</u>	Motion: <u>Anthes</u>	
	Second: <u>Graves</u>	
	Vote: <u>6-0-0</u>	
CITY COUNCIL ACTION:		
Required	<u>YES</u>	
☐ Approved		☐ Denied
Date: <u>August 19, 2008 (1st reading if recommended)</u>		

LAND USE PLAN: General Plan 2025 identifies this property within the Planning Area as a **Rural Area** and **Natural Area** which includes lands with limited development potential due to an environmental resource and requires conservation and preservation in any development pattern. Infrastructure is only available to serve low-density development patterns.

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is surrounded on all sides by undeveloped forested hillsides and sparsely populated rural residential land uses. This area is not considered urban in character, and has not previously been identified for annexation. The property is within the City's Planning Area.

2. Areas that can be developed at urban densities.

Finding: The subject property cannot be developed at urban densities at this time. The roads accessing the property are narrow two-lane unimproved roads and water and sewer are not in the immediate vicinity. Unless significant improvements occur, the property will likely remain in a relatively undisturbed or low density state for some time.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: There are not existing water and sewer lines available to the subject development. The closest water main is approximately 1,000 feet to the south and the closest sanitary sewer main is approximately 1,600 feet to the north. The city's police and fire departments do not currently service surrounding developments. However, the southeast corner of this project is adjacent to the SouthPass annexation of over 900 acres that extends over Kessler Mountain and all the way west to Cato Springs Road and the I-540 corridor. As part of the SouthPass project a new police and fire station and water and sewer line improvements would be provided. With these improvements impacts to municipal services from this annexation would be negligible. The police department commented that this annexation would not have adverse impacts on provision of police service. Water and sewer service would need to be extended to this property at the time of development.

4. Vacant lands that are subject to development pressure.

Finding: The southeast corner of the property is adjacent to the SouthPass project. The SouthPass project proposes a new urban center for the City of Fayetteville and approximately 4,320 residential units and 344,000 square feet of non-residential space. The SouthPass project may place the subject property under development pressure, though much of the property contains similar environmental constraints to development.

5. Areas where urban services are already provided,

Finding: Surrounding properties are largely undeveloped and are not provided with city

services.

6. Areas where urban services are needed.

Finding: Urban services are unavailable to the subject property and surrounding areas. Urban services will be needed to serve the SouthPass development adjacent to the southeast.

12.3.5 ANNEXATION GUIDING POLICIES

BOUNDARIES

12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the subject property in combination with the SouthPass annexation to the southeast will create an island of unincorporated property to the north, if both are approved. Although the creation of islands are not typically recommended because of efficiency of public services, the SouthPass and Frank Sharp annexations are desired to create a more contiguous southern boundary for the City, and to provide a City boundary that extends from Cato Springs Road all the way to Holland Drive, and north to State Highway 62 (6th Street). Further, the island created is sparsely populated and not easily accessed at this time; calls for service are likely very low. Additionally, the SouthPass annexation has been anticipated for a number of years and is identified in the City's Future Land Use Plan as an anticipated growth area.

12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the north.

12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The subject property is not a part of a platted subdivision.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

Finding: Public services will be required to be provided concurrent with development in accordance with Fayetteville Unified Development Code requirements. Currently public services are not available.

ENVIRONMENTALLY SENSITIVE AREAS

- 12.3.5.f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: This area has been identified on the Future Land Use Plan as both Rural and Natural Areas. This site is also within the Hillside Hilltop Overlay District (HHOD). This area is an environmentally sensitive area with a number of natural resources including natural landforms, densely forested areas, a number of informal hiking and mountain biking trails and wildlife. There are several properties in the area south of State Highway 62 in these local mountains that have been placed within conservation easements, including a 20-acre property to the north owned by the applicant, Frank Sharp. The subject property may be able to provide a link between the many of trails to the south accessed from State Highway 62 and the SouthPass project. The proposed zoning for the subject property is low-density residential (RSF-1) which would allow for preservation of the sensitive areas on this property, consistent with this policy. Development regulations within the City are more suited to protect the environmentally sensitive areas than those in the County.

EMERGENCY AND PUBLIC SERVICES

- 12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water and sewer service is not readily available in the area as water is approximately 1,000 feet away and sewer service is approximately 1,600 feet away. The Fire Department commented that with a new Fire Station in the SouthPass development adequate service would be provided. The current response time is 7 minutes to the property. The Police Department commented that this annexation will not result in adverse impacts to provision of police service.

- 12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire and police service will be required to be provided to this area with the same level of response and service as other properties in this area, if annexed in the City of Fayetteville. This property is adjacent to areas already being served by the city adjacent to the north off of Smokehouse Trail.

- 12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

- 12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Water and sewer services are not currently provided to adjacent properties. Land to the north is located within the City limits and once developed, will require city

services. The SouthPass development is adjacent to the southeast corner of this property and will require provision of services at the time of development.

- 12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer and street systems would be made necessary by the annexation should development occur on the subject property.

- 12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

- 12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

- 12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

- 12.3.5.o Develop a land use plan for annexation initiated by the city.

Finding: N/A

- 12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: The applicants have requested that the property be rezoned to RSF-1 if the annexation request is approved.

- 12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.

- 12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has not been proposed.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: While the annexation request is for a small tract of land, it is adjacent to the proposed SouthPass annexation of over 900 acres the annexation of the property. The subject property combined with the SouthPass annexation create a more desirable city boundary than if either property were annexed separately. The subject property creates a link between SouthPass and Holland Drive to the west and State Highway 62 to the south.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: No fiscal impact assessment was conducted for this annexation of 53.23 acres or the annexation of SouthPass at over 900 acres.



Fayetteville Fire Department

ANX 08-2899:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.

RZN 08-2900:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 3.5 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 9 (6 EMS-3 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department feels that along with the South Pass Development that joins this property that this will affect our response times along with our calls for service in this part of the city. The developers of Southpass have expressed interest in helping us locate a suitable location for a fire department within their development.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 2.2 miles from the station with an anticipated response time of 5 minutes to the start of this development and approximately 7 minutes to the northern most property line once the roads are put in place and build out has occurred.

Based on the 3666 total units within this development, the Fire Department anticipates 608 (387 EMS-221 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department feels that this development will affect our response times along with our calls for service in this part of the city. The number of residents in this development alone with put us in one of our trigger points for expansion. The developers have expressed interest in helping us locate a suitable location for a fire department within their development.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department

Date 1/30/08

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 **ANX 08-2899: Frank Sharp, 631/632?): Submitted by Appian Center for Design: for property located S. of HWY 62** 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 53.53 acres.**

It is the opinion of the Fayetteville Police Department that this ANX will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This ANX will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APPIAN CENTRE FOR DESIGN

January 16, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701

Re: Zone Change Application
Frank Sharp/Sharpridge Trust Property
Fayetteville, Arkansas

To Whom It May Concern:

Please consider the attached request for zone change of the approximately 53.3 acres of property owned by Frank Sharp/Sharpridge Trust from rural residential/agricultural in Washington County to RSF-1. The property is currently pending annexation into the corporate limits of the City of Fayetteville. This application is for 5 individually recorded parcels, all of which are under the ownership of Frank and Sara Sharp, the Frank Sharp Trust, and Frank Sharp as the trustee of the Sharpridge Trust. There are currently no proposed or pending sales of the property in question. This zone change is being requested concurrently with a request for annexation into the City of Fayetteville, and is necessary to establish zoning on the property within the City of Fayetteville. If approved RSF-1, the property will be similar to the adjoining properties in that it will continue to be used as low-density, rural property. The adjoining land uses include rural residential/agricultural in Washington County and properties zoned R-A within the City of Fayetteville. As a low-density rural property, the impact on surrounding properties with respect to traffic, land use, appearance, and signage will be negligible, and the subject property will remain harmonious with the surrounding land uses. Water and sewer is not currently available to the property, except that such service is provided to an adjacent property within the City of Fayetteville corporate limits also owned by Mr. Sharp. No development is being contemplated at this time that would require service from the City of Fayetteville or other utility providers. This request is consistent with land use planning objectives, principles, and policies and with land use and zoning plans due to the fact that the proposed zoning will be consistent with the surrounding land use and will not result in a use that will adversely affect or exist inharmoniously with surrounding properties. For these reasons, this request is also justified at this time. As stated earlier, this proposal will negligibly affect traffic danger and congestion associated with adjacent and nearby infrastructure. Since this request is for a very low density zoning on the property, population density and undesirable impacts on public services including schools and utility infrastructure will also be negligible. Finally, the property in question is only suited to residential use; the terrain, soil types, and timber cover render the property unsuitable for agriculture. The property lacks the required infrastructure needed for any type of commercial or industrial enterprise, and should, therefore, be considered under a residential zoning classification.

Respectfully Submitted,

Austin E. Rowser, P.E.
Design Team Leader
Appian Center for Design
479.442-1440

Engineering Division comments – Matt Casey

ANX 08-2899: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

RZN 08-2900: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

Public water is not available to this site. The nearest water is a 6" water main at Wolfdale Rd. which is about 1,000 feet to the south of this property. The capacity of the existing main may need to be studied at the time of development

Sanitary sewer is not available to the site. The nearest sewer is a 6" sewer main at Holland Dr. and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Holland Drive and Wolfdale Road. Both are currently un-improved two lane roads. 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.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District. Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30" transmission main. The capacity of the existing system will need to be studied at the time of development

Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing 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.

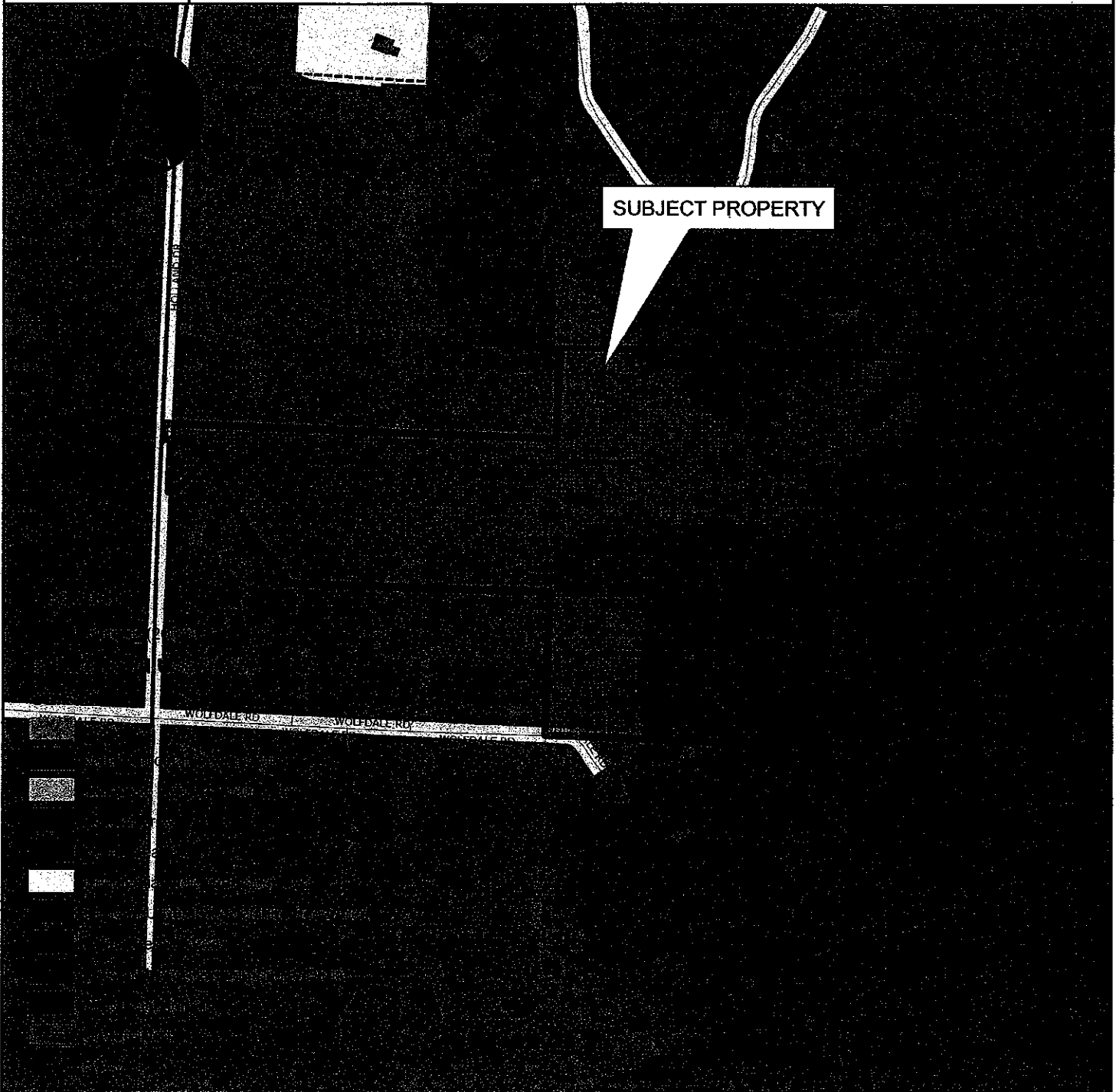
The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

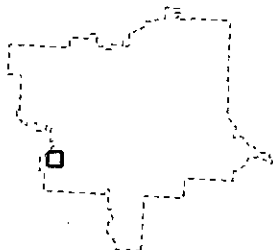
ANX08-2899

Future Land Use

FRANK SHARP



Overview



Legend

Subject Property

ANX08-2899

Streets

Existing

Planned

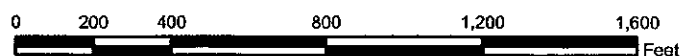
Boundary

Planning Area

Overlay District

Outside City

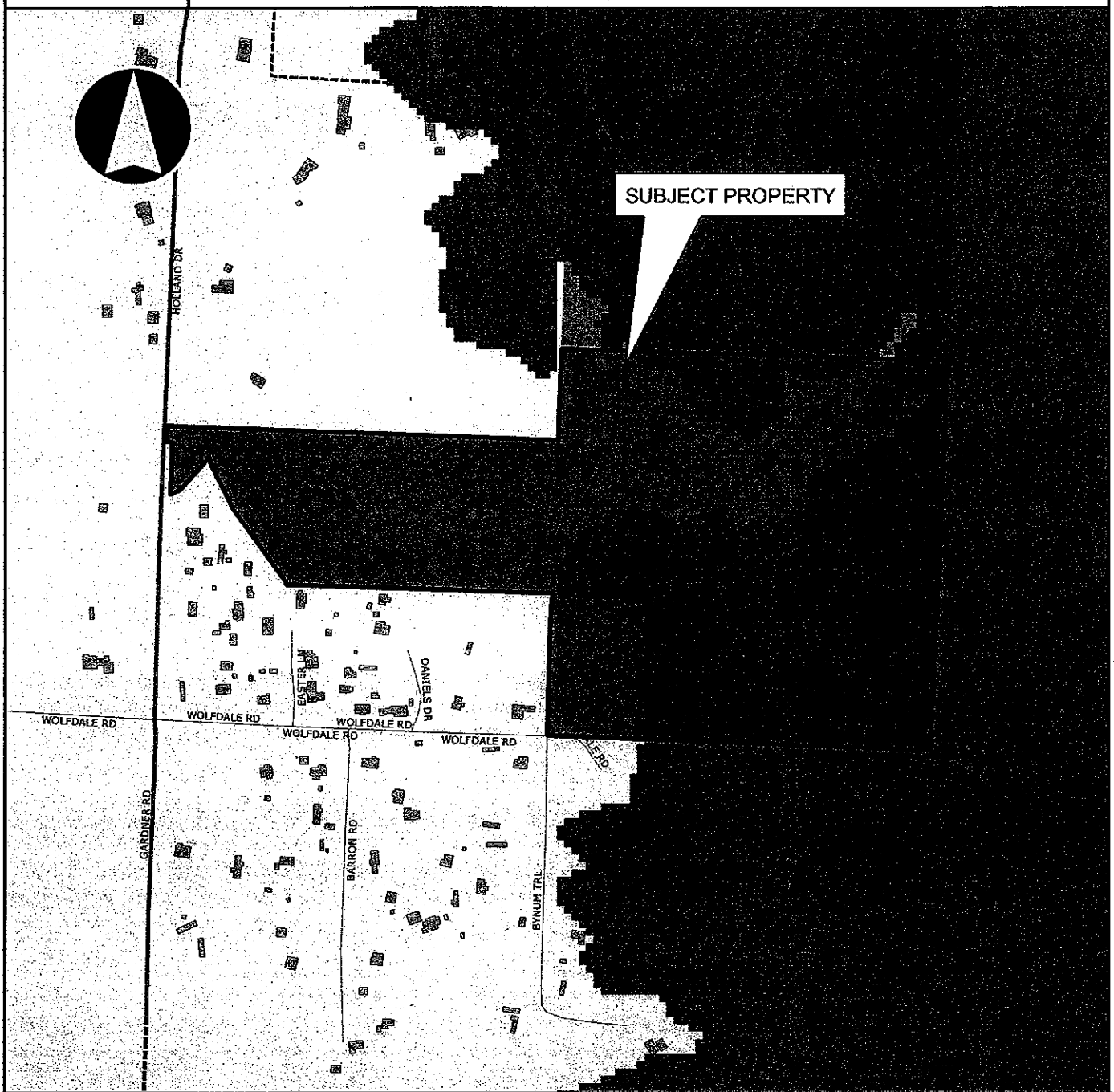
Legend



ANX08-2899

FRANK SHARP

Close Up View



Overview



0 225 450 900 1,350 1,800 Feet

FRANK SHARP/SOUTHPASS DEVELOPMENT

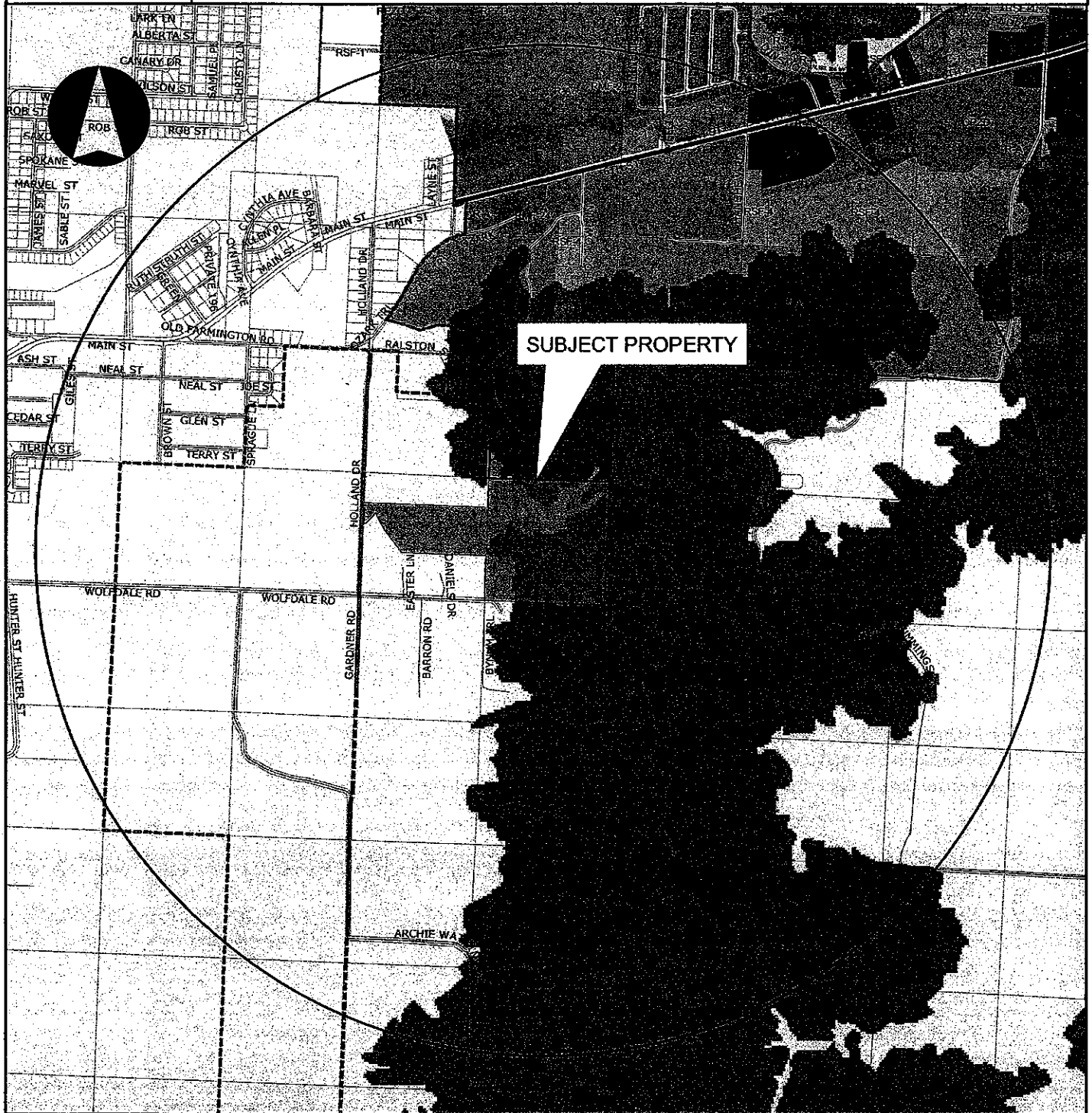


Overview



0 750 1,500 3,000 4,500 6,000
Feet

One Mile View



Subject Property
 ANX08-2899

 Planning Area
 Overlay District
 Outside City

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RECEIVED

JUL 31 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE



August 1, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701

Re: Sharp Property – Rezoning - Appeal of Planning Commission denial

Mr. Pate:

On behalf of Mr. Sharp we wish to appeal the City of Fayetteville Planning Commissions decision to deny the RSF-1 rezoning request to the Fayetteville City Council.

Respectfully Submitted,

Todd Jacobs
Director of Design
Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, Arkansas 72701
Office: 479-442-1444

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: July 31, 2008

Subject: Rezoning for Frank Sharp (RZN 08-2900)

RECOMMENDATION

Planning staff recommend approval of the subject rezoning request for approximately 53.53 acres of property located south of State Highway 62 West on the east side of Holland Drive. The Planning Commission voted 4-2 with Commissioners Anthes and Cabe voting 'No' to the requested rezoning. The rezoning was therefore denied by the Planning Commission and has been appealed by the applicant.

BACKGROUND

The subject property contains 53.53 acres and is located south of State Highway 62 (6th Street) and east of Holland Drive. The property is undeveloped wooded hillside, accessed from Highway 62. The property is surrounded by undeveloped and rural-residential property. The subject property is adjacent to property in the City to the north, and adjacent to the 910-acre SouthPass property to the southeast.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 4-2-0 (Commissioners Anthes and Cabe voting 'No') to recommend forwarding this rezoning request to the City Council. As rezonings require a minimum of five positive votes to be forwarded to City Council, the request was denied by the Planning Commission and has been appealed by the applicant. The Planning Commissioners that voted no discussed that a lower density of RSF-0.5 would be more appropriate on this property given the low density of surrounding area and given the environmental resources on the site.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 08-2900, FOR APPROXIMATELY 53.53 ACRES, LOCATED 0.5 MILE SOUTH OF HIGHWAY 62 WEST AND EAST OF HOLLAND DRIVE FROM R-A, RESIDENTIAL AGRICULTURAL, TO RSF-1, RESIDENTIAL SINGLE-FAMILY, 1 UNIT PER ACRE

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

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

From R-A, Residential Agricultural to RSF-1, Residential Single-Family, 1 units per acre, as shown on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

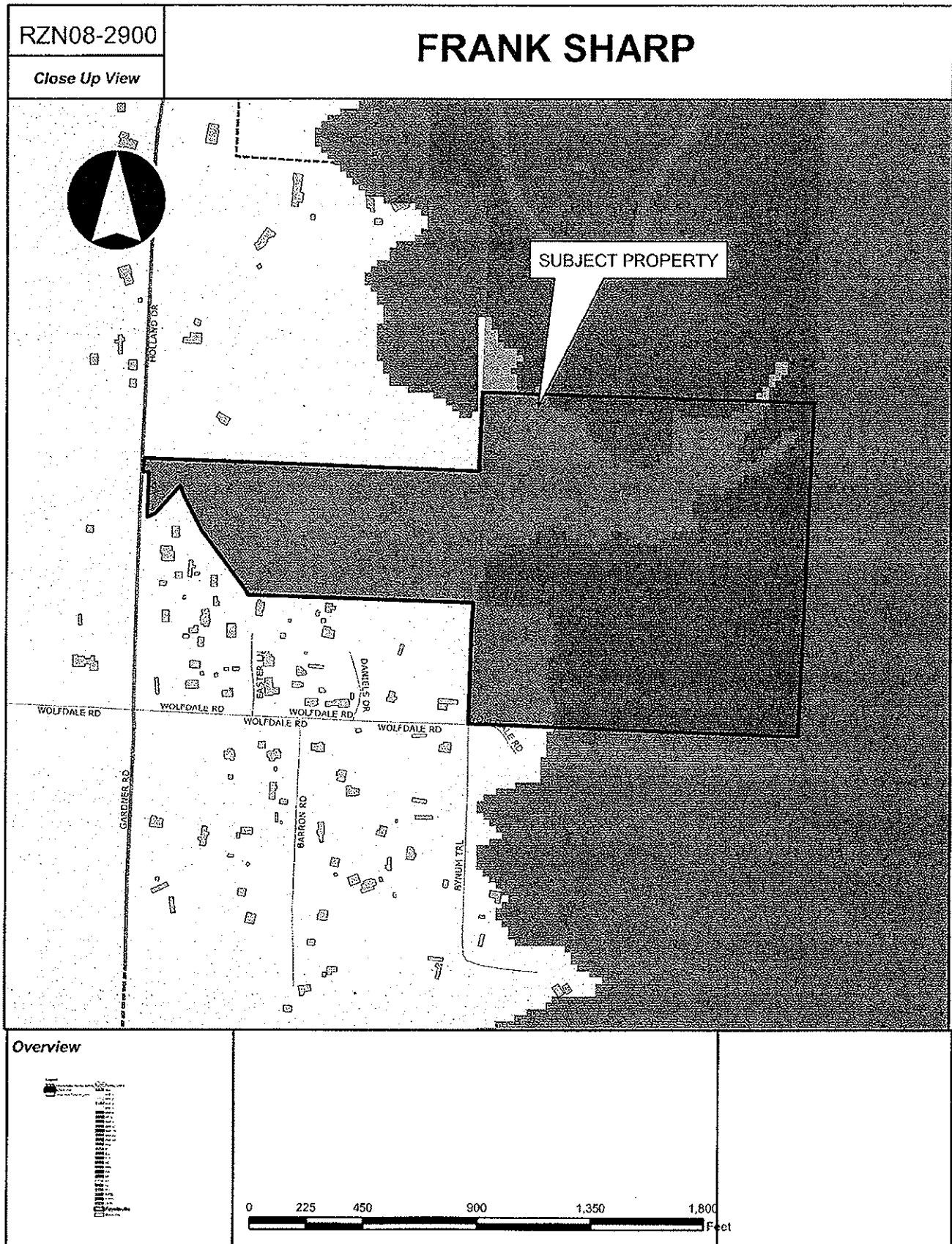


EXHIBIT "B"
RZN 08-2900

SHARP ANNEXATION LEGAL – PART OF SOUTHPASS

A PART OF THE SOUTHEAST QUARTER (SE¼) OF THE NORTHWEST QUARTER (NW¼) AND A PART OF THE SOUTHWEST QUARTER (SW¼) OF THE NORTHEAST QUARTER (NE¼) OF SECTION 25, TOWNSHIP 16 NORTH, RANGE 31 WEST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT A POINT NORTH 02°22'54" EAST 997.92 FEET FROM THE SOUTHWEST CORNER OF THE SE¼ OF THE NW¼ OF SAID SECTION 25; THENCE SOUTH 87°49'29" EAST 1328.22 FEET; THENCE NORTH 02°10'31" EAST 313.33 FEET TO THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID 25-16-31; THENCE SOUTH 88°13'52" EAST 1317.99 FEET; THENCE SOUTH 02°36'53" WEST 1332.74 FEET TO THE SOUTH LINE OF SAID 40 ACRE TRACT; THENCE NORTH 87°45'45" WEST 1307.74 FEET; THENCE NORTH 01°38'46" EAST 399.05 FEET; THENCE NORTH 04°36'44" EAST 86.77 FEET; THENCE NORTH 88°05'55" WEST 895.11 FEET; THENCE NORTH 19°16'17" WEST 13.40 FEET; THENCE NORTH 36°16'19" WEST 300.00 FEET; THENCE NORTH 26°56'19" WEST 170.00 FEET; THENCE NORTH 15°56'19" WEST 29.30 FEET; THENCE SOUTH 42°00'30" WEST 148.95 FEET; THENCE SOUTH 64°33'07" WEST 36.61 FEET; THENCE NORTH 02°13'17" EAST 179.28 FEET; THENCE NORTH 86°42'23" WEST 22.36; THENCE NORTH 02°22'54" EAST 55.00 FEET TO THE POINT OF BEGINNING, CONTAINING 53.53 ACRES, MORE OR LESS.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~July 22, 2008~~ Updated July 31, 2008

RZN 08-2900: (FRANK SHARP, 631/632): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

BACKGROUND:

Property description: The subject property contains 53.53-acres and is located south of State Highway 62 (6th Street) and east of Holland Drive. The property is undeveloped wooded hillside. Surrounding land uses and zoning is depicted in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Undeveloped/Rural Residential	Planning Area/R-A
South	Single Family Residential	Planning Area
East	Undeveloped	Planning Area
West	Rural Residential	Planning Area

Proposal: The property is proposed to be annexed into the City. Should it be annexed it would automatically be assigned the R-A, Residential Agricultural zoning classification. If annexed, the applicant proposes to rezone the property from R-A, Residential Agricultural to RSF-1, Residential Single-family, 1 Units per Acre.

RECOMMENDATION:

Staff recommends forwarding the rezoning request to the City Council with a recommendation of approval based on findings stated herein. The proposed zoning would be compatible with adjacent zoning and land uses, as well as the future land use plan for a low-density residential development pattern within this area, while removing some of the potentially objectionable agricultural uses.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>	
Date:	<u>July 28, 2008</u>	☐ Approved	☐ Forwarded	☒ Denied
Motion: <u>Graves (motion to forward)</u>				
Second: <u>Cabe</u>				
Vote: <u>4-2-0 (Commissioners Anthes and Cabe voting 'No')</u>				
CITY COUNCIL ACTION:		Required	<u>YES</u>	
		☐ Approved	☐ Denied	
Date: <u>August 19, 2008 (1st reading if recommended)</u>				

INFRASTRUCTURE:

- Streets:** The property has frontage on Holland Drive (a collector street) and Wolfdale Road (local street). Both of these roads are currently un-improved two lane roads. Street improvements will be evaluated at the time of development.
- Water:** Public water is not available to this site. The nearest water is a 6-inch water main at Wolfdale Road which is about 1,000 feet to the south of the property. The capacity of the existing main may need to be studied at the time of development.
- Sewer:** Sanitary sewer is not available to the site. The nearest sewer is a 6-inch sewer main at Holland Drive and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.
- Fire:** The subject property is located approximately 3.5 miles from Engine 6 located at 900 South Hollywood with a projected response time of 7 minutes. The Fire Department discussed that along with the SouthPass development that is adjacent to the southeast corner of the subject property, that this annexation/rezoning will affect response times along with calls for service in this part of the city. The developers of SouthPass have expressed interest reserving a suitable location for a fire department within their development that would address this concern.
- Police:** It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

CITY PLAN 2025 FUTURE LAND USE PLAN: *City Plan 2025 Future Land Use Plan designates this site as a Rural Area and Natural Area, which includes lands with limited development potential due to an environmental resource and requires conservation and preservation in any development pattern. Infrastructure is only available to serve low-density development patterns.*

FINDINGS OF THE STAFF

1. A determination of the degree to which the proposed zoning is consistent with land use planning objectives, principles, and policies and with land use and zoning plans.

Finding: The property is designated as an Natural Area and Rural Area in the City Plan 2025 Future Land Use Plan. These designations include lands with limited development potential due to topography, hydrology, vegetation or its value as an environmental resource. This area requires conservation and preservation in any development pattern. These areas only have infrastructure and public services to support low-density zoning. The proposed RSF-1 zoning would allow for a maximum of 53 new single family homes on this wooded hillside. This area south of Fayetteville was designated as a Natural Area and Rural Area for preservation and conservation of the mountains and densely forested areas. The proposed RSF-1 zoning is generally consistent with the Future Land Use Plan designation of the property to allow for low density residential uses. Under Washington County zoning requirements that currently apply, this property could develop at one unit per acre, the same density as the proposed RSF-1 zoning.

2. A determination of whether the proposed zoning is justified and/or needed at the time the rezoning is proposed.

Finding: Staff finds that the rezoning is justified at this time. If the property is annexed into the City it would automatically be assigned a classification of R-A. The R-A classification allows for one unit every two acres and would be a down-zone from the current Washington County zoning. The proposed RSF-1 zoning would allow for one unit per acre which would be the same density as currently allowed, while removing potentially objectionable agricultural uses.

3. A determination as to whether the proposed zoning would create or appreciably increase traffic danger and congestion.

Finding: A rezoning to RSF-1 would create an increase in traffic compared with that allowed under the R-A zoning district applied to lands annexed into the City. However the proposed zoning would not be an increase in traffic compared with the current allowed density of one unit per acre in Washington County. Street improvements would be evaluated if the property is ever proposed for development.

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: A zoning classification of RSF-1 will allow slightly more housing units to be permitted than under the R-A zoning district automatically assigned upon annexation. However, the density is not an increase over that currently allowed under Washington County zoning. Increased loads on public services were taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;

Finding: N/A

- 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

CHAPTER 161: ZONING REGULATIONS

161.01 Application of District Regulations

Minimum regulations/exceptions. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly for each class or kind of structure or land, except as hereinafter provided:

- (A) *General.* No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it was located.
- (B) *Limitations.* No building or other structure shall hereafter be erected or altered:
 - (1) *Height/bulk.* To exceed the height or bulk;
 - (2) *Number of units.* To accommodate or house a greater number of units;
 - (3) *Lot area.* To occupy a greater percentage of lot area;
 - (4) *Setback/open spaces.* To have narrower or smaller rear setbacks, front setbacks, side setbacks, or other open spaces than herein required; or
 - (5) *Other.* In any other manner contrary to the provisions of this chapter.
- (C) *Independent compliance.* No part of a setback, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a setback, open space, or off-street parking or loading space similarly required for any other building.
- (D) *Effective date.* No setback or lot existing on June 29, 1970, shall be reduced in dimension or area below the minimum requirements set forth herein. Setbacks or lots created after June 29, 1970, shall meet at least the minimum requirements established by this chapter.
- (E) *Annexation.* All territory which may hereafter be annexed to the city shall be considered to be in District A-1 until the territory is rezoned as provided herein.
- (F) *Measuring setbacks.*

(1) *Front.* Measured from the street right-of-way, or street right-of-way setback as required by the Master Street Plan.

(2) *Side.* Measured from the side property line.

(3) *Rear.* Measured from the rear property line.

(4) *Corner.* A corner lot has two fronts and two sides.

(G) *Conditional Uses.* These uses are permissible if approved by the Planning Commission. See Chapter 163, Use Conditions.

(Code 1965, App. A., Art. 3; Ord. No. 1747, 6-29-70; Code 1991, §160.016; Ord. No. 4100, §2 (Ex. A), 6-16-98)

161.02 Certificate Of Zoning Compliance

(A) *Required.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Zoning and Development Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

(B) *Nonconforming use/structure.* No non-conforming structure or use shall be renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the Zoning and Development Administrator. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter. The Zoning and Development Administrator shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

(C) *Authorized construction/use.* Certificates of zoning compliance issued on the basis of plans and applications approved by the Zoning and Development Administrator authorize only the use, arrangements, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction.

(Code 1965, App. A., Art. 9(3), (5); Ord. No. 1747, 6-29-70; Code 1991, §§160.192, 160.194; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Enforcement, Ch. 153.

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
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(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District, provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.04 District RSF-.5, Residential Single-Family – One Half Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of two acres and a maximum gross density of approximately one-half unit per acre.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half (approximately)
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(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot area minimum	71,438 Sq. Ft.
Land area per dwelling unit	71,438 Sq. Ft.

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(G) *Building area.* None.

TITLE XV UNIFIED DEVELOPMENT CODE

(Code 1991, §160.043; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.05 District RSF-1, Residential Single-Family – One Unit Per Acre

(A) *Purpose.* A district having single-family detached residences on lots with a minimum size of one unit per acre. The district is designed to permit and encourage the development of very low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	1
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(F) *Bulk and area regulations.*

Lot width minimum	150 ft.
Lot area minimum	35,720 Sq. Ft.
Land area per dwelling unit	35,720 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(H) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

(I) *Building area.* None.

(Code 1965, §160.44; Ord. No. 3792, §4, 5-17-94; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. 4858, 4-18-06; Ord. 5028, 6-19-07; Ord. 5128, 4-15-08)

161.06 District RSF-2, Residential Single-Family – Two Units Per Acre

(A) *Purpose.* To provide a single-family dwelling transition zone between single-family neighborhoods that have developed with larger lot sizes (one acre and over) and areas that have developed with smaller lot sizes (8,000 sq. ft.), and to permit and encourage the development of low density detached dwellings in suitable environments, as well as to protect existing development of these types.

(B) *Uses.*

(C) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 8	Single-family dwellings
Unit 41	Accessory dwellings

(D) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(E) *Density.*

Units per acre	2
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(F) *Bulk and area regulations.*

Lot width minimum	100 ft.
Lot area minimum	17,860 Sq. Ft.
Land area per dwelling unit	17,860 Sq. Ft.

(G) *Setback requirements.*

Front	Side	Rear
30 ft.	15 ft.	30 ft.

(H) *Height.* Structures in this District are limited to a building height of 45 feet. The height of a proposed structure may only be increased above 45 feet by obtaining a variance after hearing by the Planning Commission. Existing structures that exceed 45 feet in height shall be grandfathered in, and not considered nonconforming uses.

Date 1/30/08

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **RZN 08-2900: (Frank Sharp 631/632?)** Submitted by **Appian Center for Design** for **property located S. of HWY 62W** 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 53.53 acres.**

It is the opinion of the Fayetteville Police Department that this RZN **will not** substantially alter the population density, and **will not** create an appreciable or undesirable increase in the load on police services. This RZN **will not** create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

Engineering Division comments – Matt Casey

ANX 08-2899: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

RZN 08-2900: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

Public water is not available to this site. The nearest water is a 6" water main at Wolfdale Rd. which is about 1,000 feet to the south of this property. The capacity of the existing main may need to be studied at the time of development

Sanitary sewer is not available to the site. The nearest sewer is a 6" sewer main at Holland Dr. and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Holland Drive and Wolfdale Road. Both are currently un-improved two lane roads. 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.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District. Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30" transmission main. The capacity of the existing system will need to be studied at the time of development

Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing 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 Cato Springs Road. Cato Springs 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.



Fayetteville Fire Department

ANX 08-2899:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.

RZN 08-2900:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 3.5 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 9 (6 EMS-3 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department feels that along with the South Pass Development that joins this property that this will affect our response times along with our calls for service in this part of the city. The developers of Southpass have expressed interest in helping us locate a suitable location for a fire department within their development.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 2.2 miles from the station with an anticipated response time of 5 minutes to the start of this development and approximately 7 minutes to the northern most property line once the roads are put in place and build out has occurred.

Based on the 3666 total units within this development, the Fire Department anticipates 608 (387 EMS-221 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department feels that this development will affect our response times along with our calls for service in this part of the city. The number of residents in this development alone with put us in one of our trigger points for expansion. The developers have expressed interest in helping us locate a suitable location for a fire department within their development.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APPIAN CENTRE FOR DESIGN

January 16, 2008

City of Fayetteville
Planning Division
125 W. Mountain St.
Fayetteville, AR 72701

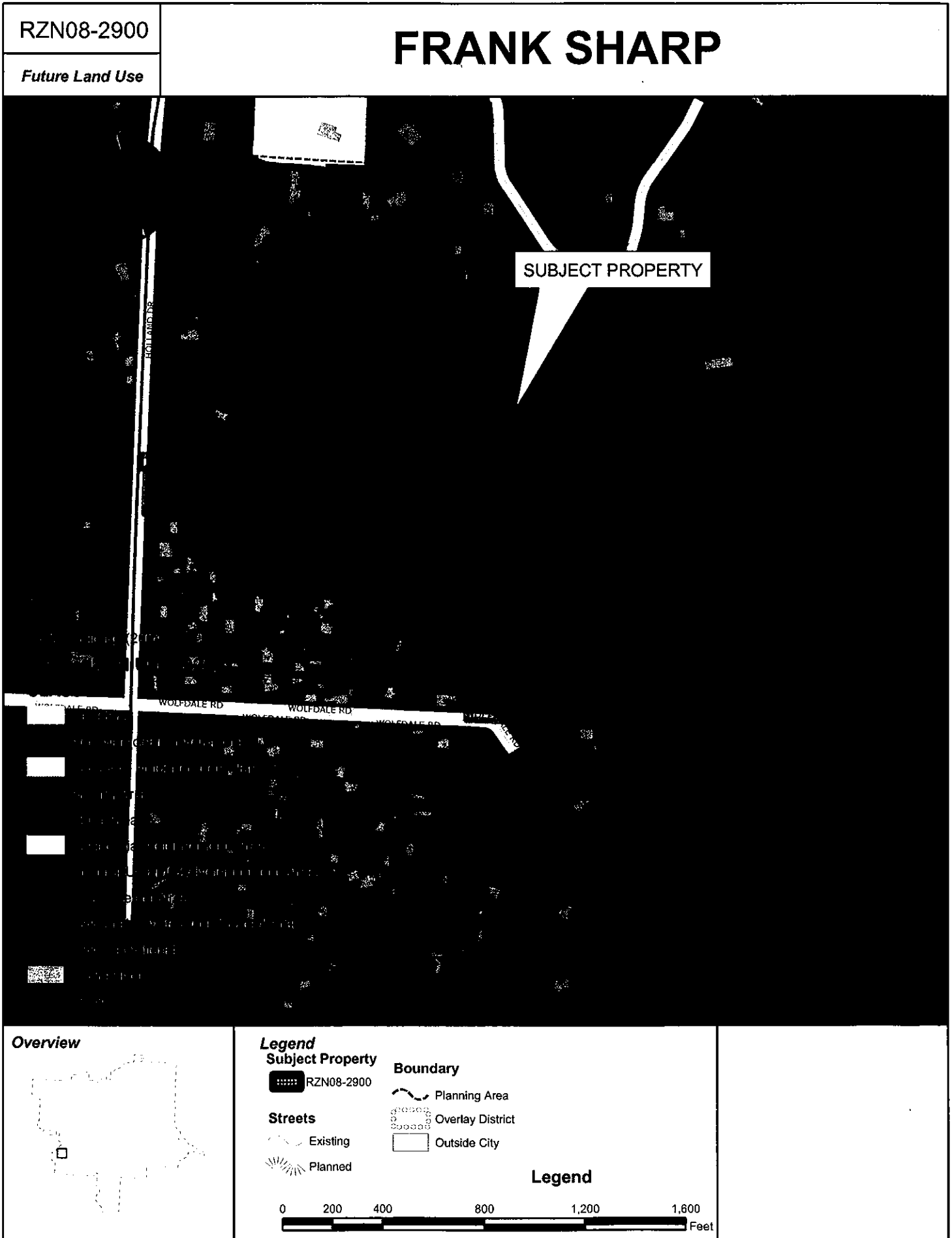
Re: Zone Change Application
Frank Sharp/Sharpridge Trust Property
Fayetteville, Arkansas

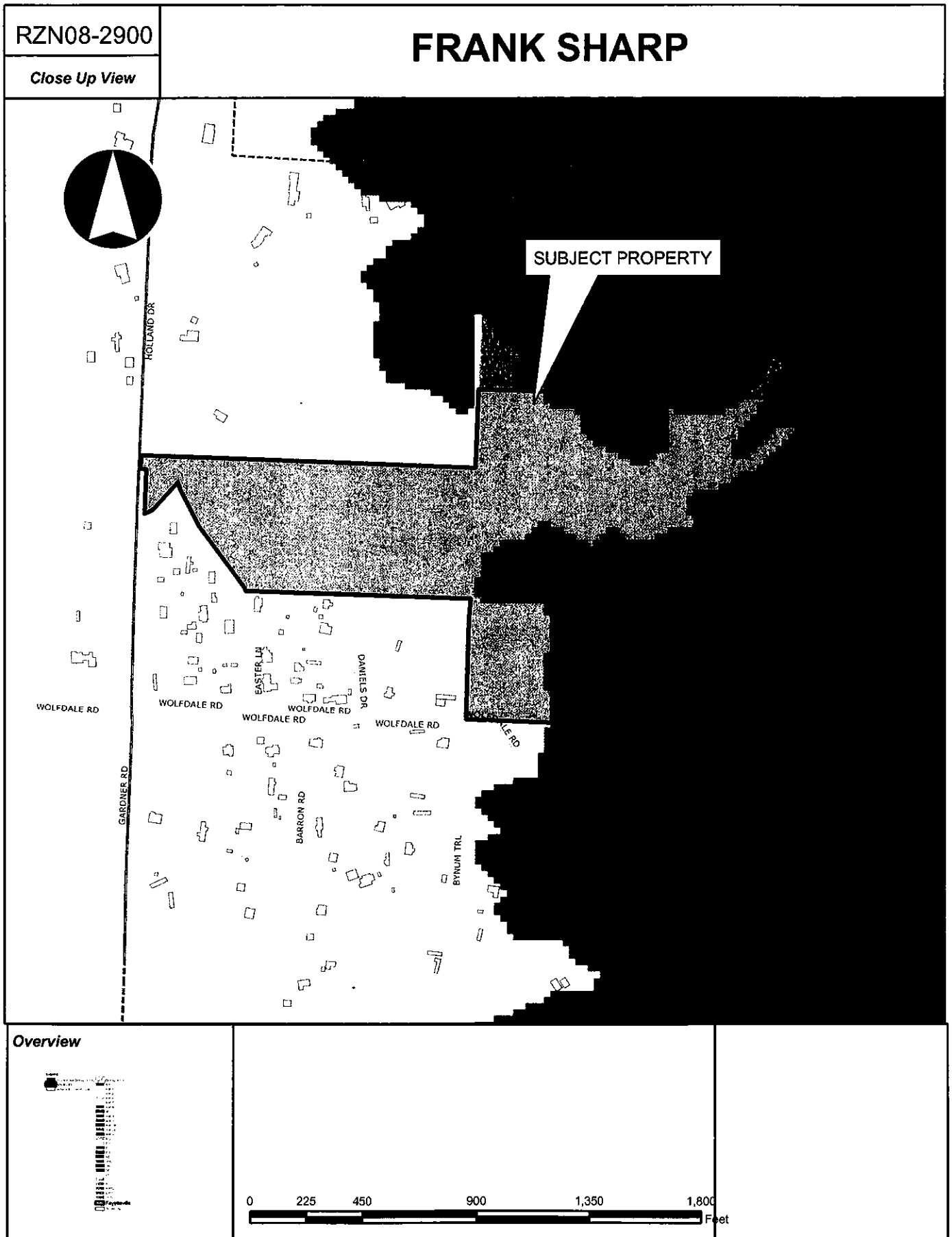
To Whom It May Concern:

Please consider the attached request for zone change of the approximately 53.3 acres of property owned by Frank Sharp/Sharpridge Trust from rural residential/agricultural in Washington County to RSF-1. The property is currently pending annexation into the corporate limits of the City of Fayetteville. This application is for 5 individually recorded parcels, all of which are under the ownership of Frank and Sara Sharp, the Frank Sharp Trust, and Frank Sharp as the trustee of the Sharpridge Trust. There are currently no proposed or pending sales of the property in question. This zone change is being requested concurrently with a request for annexation into the City of Fayetteville, and is necessary to establish zoning on the property within the City of Fayetteville. If approved RSF-1, the property will be similar to the adjoining properties in that it will continue to be used as low-density, rural property. The adjoining land uses include rural residential/agricultural in Washington County and properties zoned R-A within the City of Fayetteville. As a low-density rural property, the impact on surrounding properties with respect to traffic, land use, appearance, and signage will be negligible, and the subject property will remain harmonious with the surrounding land uses. Water and sewer is not currently available to the property, except that such service is provided to an adjacent property within the City of Fayetteville corporate limits also owned by Mr. Sharp. No development is being contemplated at this time that would require service from the City of Fayetteville or other utility providers. This request is consistent with land use planning objectives, principles, and policies and with land use and zoning plans due to the fact that the proposed zoning will be consistent with the surrounding land use and will not result in a use that will adversely affect or exist inharmoniously with surrounding properties. For these reasons, this request is also justified at this time. As stated earlier, this proposal will negligibly affect traffic danger and congestion associated with adjacent and nearby infrastructure. Since this request is for a very low density zoning on the property, population density and undesirable impacts on public services including schools and utility infrastructure will also be negligible. Finally, the property in question is only suited to residential use; the terrain, soil types, and timber cover render the property unsuitable for agriculture. The property lacks the required infrastructure needed for any type of commercial or industrial enterprise, and should, therefore, be considered under a residential zoning classification.

Respectfully Submitted,

Austin E. Rowser, P.E.
Design Team Leader
Appian Center for Design
479.442-1440

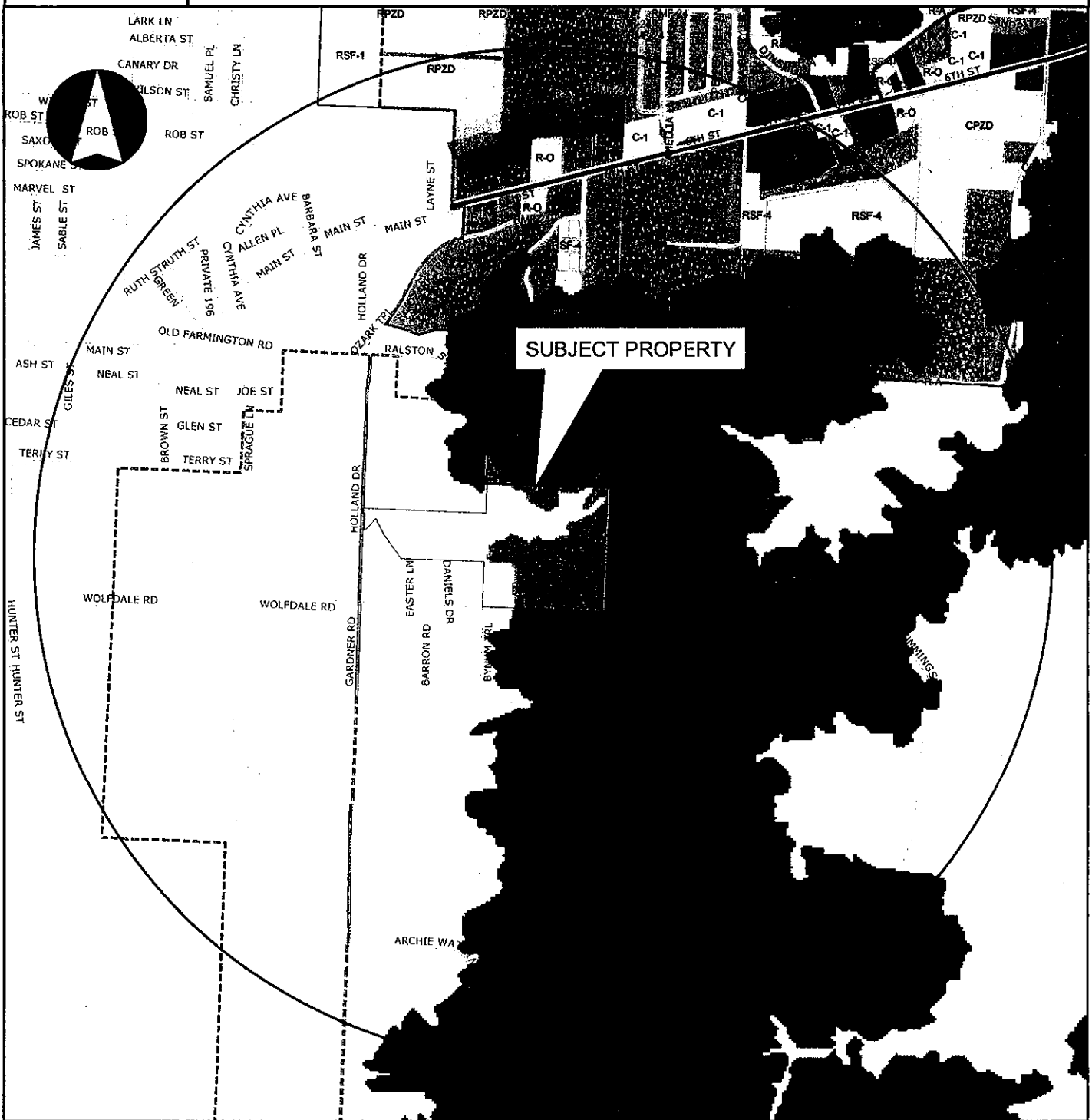




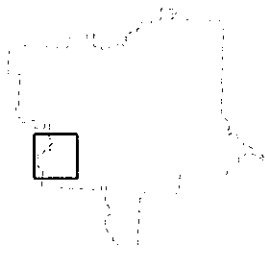
RZN08-2900

One Mile View

FRANK SHARP



Overview



Legend

Subject Property

RZN08-2900

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items OnlyJeremy Pate 
Submitted ByPlanning
DivisionOperations
Department

Action Required:

ANX 08-2897 (Southpass Development, 673-676): Submitted by Appian Centre for Design for property located west of I-540 and Cato Springs Road. The property is in the Planning Area and contains approximately 855.97 acres. The request is to annex the subject property into 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

\$

-

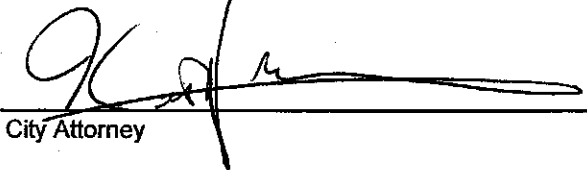
Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

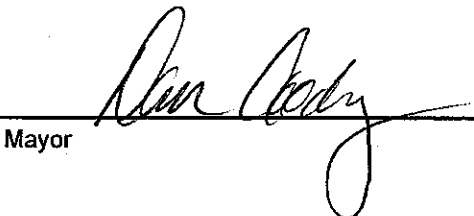
Department Director
8-1-08
Date

Previous Ordinance or Resolution #


City Attorney
8-1-08
Date

Original Contract Date:

Original Contract Number:


Paul A. Berlin
Finance and Internal Service Director
8-4-08
DateReceived in City
Clerk's Office8-1-08  ENTERED

Mayor
8/6/08
DateReceived in
Mayor's Office ENTERED 8/11/08 

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: July 31, 2008

Subject: Annexation for SouthPass (ANX 08-2897)

RECOMMENDATION

Planning staff and the Planning Commission recommend approval of the subject annexation request for approximately 855.97 acres of property located west of I-540 and Cato Springs Road.

BACKGROUND

The overall SouthPass property consists of approximately 910 acres located south of the City of Fayetteville on the west side of Interstate 540 and west of Cato Springs Road (State Highway 265). A majority of the property is in unincorporated Washington County (855.97 acres), and a portion is within the City limits (54 acres) and zoned R-A, Residential Agricultural. Access to the site from I-540 is off of Exit 60, the southernmost access into Fayetteville. The property is less than one mile from the University of Arkansas campus and two miles from downtown Fayetteville. The site has been used for agricultural and rural residential uses over the years and consists of rolling hills and pasture along the lower portions of the site adjacent to Cato Springs Road. The SouthPass property has been previously identified for a number of years as the site for a new 200+ acre regional park and as a growth area on the City Plan 2025 Future Land Use Plan.

DISCUSSION

This item was heard at the regular Planning Commission meeting on July 28, 2008. The Planning Commission voted 6-0-0 to recommend forwarding this annexation request to the City Council with a recommendation for approval.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ANNEXING THAT PROPERTY DESCRIBED IN ANNEXATION PETITION ANX 08-2897 (CC2008-38), FOR PROPERTY LOCATED WEST OF I-540 AND CATO SPRINGS ROAD, CONTAINING APPROXIMATELY 855.97 ACRES.

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

Section 1: That the City Council hereby confirms the annexation to the City of Fayetteville, Arkansas, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the official map of the City of Fayetteville, Arkansas, is hereby amended to reflect the change provided in Section 1 above.

Section 3: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to assign the zoning designation of R-A, Residential Agricultural to the subject property.

Section 4: That the above-described property is hereby assigned to Ward No. Four.

PASSED and APPROVED this of , 2008.

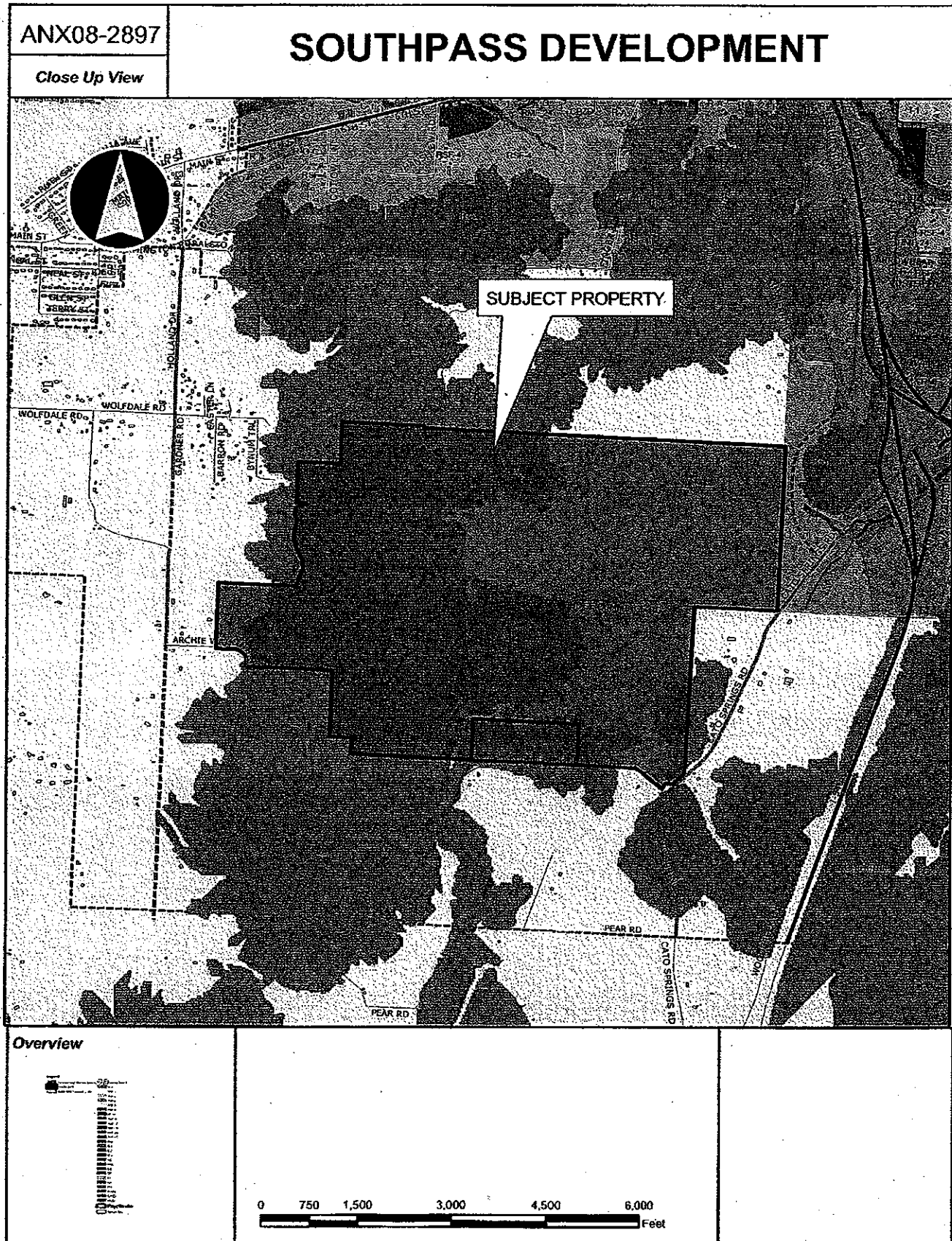
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"



Page 2
Ord.

EXHIBIT "B"
ANX 08-2897

LEGAL DESCRIPTION OF ANNEXATION AREA

A TRACT OF LAND TO BE ANNEXED INTO THE CITY OF FAYETTEVILLE, ARKANSAS AND GENERALLY FALLING WITHIN SECTIONS 30 AND 31 OF TOWNSHIP 16 NORTH, RANGE 30 WEST, AND SECTIONS 25 AND 36 OF TOWNSHIP 16 NORTH, RANGE 31 WEST OF THE FIFTH PRINCIPAL MERIDIAN, WASHINGTON COUNTY, ARKANSAS. THE ABOVEMENTIONED TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF THE FRACTIONAL NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;

THENCE COINCIDENT WITH THE NORTHERN LINE OF SAID NORTHWEST QUARTER (NW1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1834.34 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;

THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF THE AFORESAID SECTION 30;

THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NW1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;

THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 87°15'10" EAST FOR A DISTANCE OF 1315.53 FEET TO THE NORTHEAST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;

THENCE LEAVING SAID NORTHERN LINE, COINCIDENT WITH THE EASTERN LINE OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 02°33'03" WEST FOR A DISTANCE OF 1320.46 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;

THENCE COINCIDENT WITH THE EASTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, SOUTH 02°33'03" WEST FOR A DISTANCE OF 1320.46 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;

Page 3
Ord.

EXHIBIT "B"
ANX 08-2897

THENCE LEAVING SAID EASTERN LINE, COINCIDENT WITH THE SOUTHERN LINE OF SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION 30, NORTH 87°14'32" WEST FOR A DISTANCE OF 1322.98 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF THE AFORESAID SECTION 30;
THENCE LEAVING SAID SOUTHERN LINE, COINCIDENT WITH THE EASTERN LINE OF NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, SOUTH 03°10'31" WEST FOR A DISTANCE OF 1314.09 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE EASTERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, SOUTH 03°10'31" WEST FOR A DISTANCE OF 1314.09 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE SOUTH 02°56'56" WEST FOR A DISTANCE OF 39.83 FEET TO A POINT ON THE NORTHERN RIGHT-OF-WAY LINE FOR SOUTH CATO SPRINGS ROAD AS EXISTING;
THENCE COINCIDENT WITH SAID RIGHT-OF-WAY LINE, SOUTH 47°24'43" WEST FOR A DISTANCE OF 246.67 FEET TO A POINT;
THENCE LEAVING SAID RIGHT-OF-WAY LINE, NORTH 87°30'29" WEST FOR A DISTANCE OF 120.91 FEET TO A POINT;
THENCE SOUTH 33°00'07" WEST FOR A DISTANCE OF 99.00 FEET TO A POINT;
THENCE NORTH 51°59'53" WEST FOR A DISTANCE OF 528.00 FEET TO A POINT ON THE SOUTHERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH SAID SOUTHERN LINE OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 31, NORTH 86°59'53" WEST FOR A DISTANCE OF 542.91 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SAID SECTION 31, NORTH 87°09'20" WEST FOR A DISTANCE OF 423.69 FEET TO A POINT;
THENCE LEAVING SAID SOUTHERN LINE, NORTH 02°36'50" EAST FOR A DISTANCE OF 650.79 FEET TO A POINT.;
THENCE NORTH 87°10'03" WEST FOR A DISTANCE OF 1671.80 FEET TO A POINT;
THENCE SOUTH 02°37'31" WEST FOR A DISTANCE OF 650.44 FEET TO A POINT ON THE SOUTHERN LINE OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF THE AFORESAID SECTION 31;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 31, NORTH 87°09'20" WEST FOR A DISTANCE OF 963.77 FEET TO THE

Page 4
Ord.

EXHIBIT "B"
ANX 08-2897

SOUTHWEST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF THE AFORESAID SECTION 31. SAID CORNER BEING ALSO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36 AND DESIGNATING THE DIVIDING LINE BETWEEN RANGES 30 AND 31 WEST;
THENCE COINCIDENT WITH THE SOUTHERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, NORTH 87°03'18" WEST FOR A DISTANCE OF 962.79 FEET TO A POINT;
THENCE NORTH 03°06'30" EAST FOR A DISTANCE OF 249.93 FEET TO A POINT;
THENCE NORTH 86°53'02" WEST FOR A DISTANCE OF 350.00 FEET TO A POINT ON THE WESTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SAID SECTION 36;
THENCE COINCIDENT WITH THE WESTERN LINE OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION 36, NORTH 01°47'26" EAST FOR A DISTANCE OF 1060.68 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER (NW1/4) OF THE NORTHEAST QUARTER (NE1/4) OF THE AFORESAID SECTION 36; THENCE NORTH 87°16'27" WEST FOR A DISTANCE OF 1343.38 FEET TO A POINT; THENCE NORTH 04°02'35" EAST FOR A DISTANCE OF 72.47 FEET TO A POINT; THENCE NORTH 11°19'49" EAST FOR A DISTANCE OF 40.24 FEET TO A POINT; THENCE ALONG THE ARC OF A CURVE TO THE LEFT FOR A DISTANCE OF 90.32 FEET TO A POINT. SAID CURVE HAVING A RADIUS OF 101.22 FEET WITH A CHORD WHICH BEARS NORTH 24°09'50" WEST FOR A DISTANCE OF 87.35 FEET TO SAID POINT; THENCE NORTH 48°44'10" WEST FOR A DISTANCE OF 34.21 FEET TO A POINT; THENCE ALONG THE ARC OF A CURVE TO THE LEFT FOR A DISTANCE OF 160.88 FEET TO A POINT. SAID CURVE HAVING A RADIUS OF 215.87 FEET WITH A CHORD WHICH BEARS NORTH 67°02'42" WEST FOR A DISTANCE OF 157.18 FEET TO SAID POINT;
THENCE NORTH 89°17'23" WEST FOR A DISTANCE OF 123.09 FEET TO A POINT;
THENCE NORTH 87°11'38" WEST FOR A DISTANCE OF 161.28 FEET TO A POINT;
THENCE NORTH 01°57'34" EAST FOR A DISTANCE OF 1055.60 FEET TO A POINT;
THENCE SOUTH 87°31'37" EAST FOR A DISTANCE OF 1230.87 FEET TO A POINT;
THENCE NORTH 17°08'05" EAST FOR A DISTANCE OF 157.76 FEET TO A POINT;
THENCE NORTH 23°29'30" EAST FOR A DISTANCE OF 127.51 FEET TO A POINT;
THENCE NORTH 02°25'44" EAST FOR A DISTANCE OF 131.20 FEET TO A POINT;
THENCE NORTH 30°29'11" WEST FOR A DISTANCE OF 198.42 FEET TO A POINT;
THENCE NORTH 16°15'45" WEST FOR A DISTANCE OF 180.52 FEET TO A POINT;
THENCE NORTH 03°00'58" EAST FOR A DISTANCE OF 113.62 FEET TO A POINT;
THENCE NORTH 14°13'54" EAST FOR A DISTANCE OF 202.18 FEET TO A POINT;
THENCE NORTH 24°51'02" WEST FOR A DISTANCE OF 100.73 FEET TO A POINT;
THENCE NORTH 08°41'17" EAST FOR A DISTANCE OF 110.59 FEET TO A POINT;
THENCE NORTH 67°53'42" EAST FOR A DISTANCE OF 173.71 FEET TO A POINT;

Page 5
Ord.

EXHIBIT "B"
ANX 08-2897

THENCE NORTH 87°18'22" WEST FOR A DISTANCE OF 147.50 FEET TO A POINT;
THENCE NORTH 01°28'04" EAST FOR A DISTANCE OF 659.86 FEET TO A POINT;
THENCE SOUTH 87°13'07" EAST FOR A DISTANCE OF 660.25 FEET TO A POINT;
THENCE NORTH 01°27'39" EAST FOR A DISTANCE OF 675.06 FEET TO THE
NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST
QUARTER (SE1/4) OF SECTION 25;
THENCE COINCIDENT WITH THE NORTHERN LINE OF THE NORTHEAST QUARTER
(NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF SAID SECTION 25, SOUTH
87°09'38" EAST FOR A DISTANCE OF 1314.52 FEET TO THE NORTHEAST CORNER OF
THE NORTHEAST QUARTER (NE1/4) OF THE SOUTHEAST QUARTER (SE1/4) OF
SECTION 25; THENCE SOUTH 02°25'51" WEST FOR A DISTANCE OF 36.60 FEET TO
THE **POINT OF BEGINNING** AND CONTAINING 831.00 ACRES MORE OR LESS.

THE ABOVE DESCRIBED TRACT BEING SUBJECT TO ANY AND ALL EXISTING
EASEMENTS, RESTRICTIONS, COVENANTS OR RIGHTS-OF-WAY, WHETHER OF
RECORD OR PRESCRIPTION.

AND

A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST
QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST
QUARTER OF SECTION 31, TOWNSHIP 16 NORTH, RANGE 30 WEST, WASHINGTON
COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS,
TO-WIT: BEGINNING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER
OF THE NORTHWEST QUARTER OF SAID SECTION 31 AND RUNNING THENCE
N87°09'20"W 785.52' TO A FOUND IRON PIN, THENCE N02°37'31"E 650.44' TO A
FOUND IRON PIN, THENCE S87°10'03"E 787.44' TO A SET IRON PIN, THENCE
S87°10'03"E 884.36' TO A FOUND IRON PIN, THENCE S02°36'50"W 650.79' TO A FOUND
PIPE, THENCE N87°09'20"W 886.41' TO THE POINT OF BEGINNING. CONTAINING IN
ALL 24.97 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-
WAY OF RECORD, IF ANY.



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: July 24, 2008 Updated July 31, 2008

ANX 08-2897: (SOUTHPASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 855.97 acres. The request is to annex the subject properties into the City of Fayetteville.
Planner: Andrew Garner

BACKGROUND:

SouthPass Development Background:

Fayetteville Parks and Recreation Master Plan

In April 2000, the City conducted a series of public meetings and a public survey as part of the 10 Year Master Plan for Fayetteville Parks and Recreation. The results of the public survey and meetings were incorporated into the 10 Year Master Plan, which went through Parks and Recreation Advisory Board, Planning Commission, and was adopted by City Council on February 19, 2002. The findings in the 10 Year Master Plan included a desire to create a city wide network of trails, provide more neighborhood parks, preserve open space, and build a multi-sport complex (regional park). In addition to sports facilities, the regional park was identified to have other amenities such as pavilions, picnic areas, playgrounds, aquatic features, trails, volleyball, tennis, nature areas, children's areas, horseshoes, an amphitheatre and much more.

Regional Park Site Selection

As a result of the adopted 10 Year Master Plan, in December 2002, Fayetteville Parks and Recreation staff identified 18 sites to evaluate for Fayetteville's new regional park. The sites were evaluated and analyzed based on a number of different variables, and on August 3, 2003 the Parks and Recreation Advisory Board determined that the most suitable location for the regional park was located in south Fayetteville, on the west side of I-540 and Cato Springs Road, referred to as the Cummings property, now referred to as the SouthPass property.

Regional Parks Land Acquisition

Based on the results of the site selection, the Parks Recreation Advisory Board appointed three members to work with staff to determine several possible funding methods for purchase and development of this land. Through this process it was determined that the funding should take place through a public/private partnership. A request for proposals (RFP 04-13) was advertised by the City in May 2004 requesting interested developers to submit a proposal to purchase the Cummings property land for the regional park and deed a minimum of 200 acres for the future development of a regional park. The SouthPass Development proposal was reviewed and selected on September 7, 2004. Resolution 138-04 was approved by City Council and authorized the Mayor to execute an agreement with SouthPass Development Company to accept 200 acres of park land, a 10-acre water tank site, one million dollars for park land development, and other consideration for the City's acceptance of ownership of a 22-acre landfill. The remaining acreage surrounding the future park would be used for a mixed neighborhood development, within the City of Fayetteville.

Current SouthPass Status

Since June 10, 2004 City staff has been working with SouthPass Development Company to create a master plan for the park. A conceptual plan was approved by the Parks and Recreation Advisory Board in May 2007. Parks and Recreation staff anticipates receiving the deed for the park land within the next few months, subsequent to the annexation and PZD process. The applicant now proposes to annex the site into the City and have the property rezoned for a Residential Planned Zoning District (R-PZD) to allow for a new urban center and population center for Fayetteville with 4,320 attached and detached planned dwellings as well as 344,000 square feet of non-residential/commercial space, in addition to the 200+ acres of regional parkland and approximately 247 acres of permanently preserved open space. On February 19, 2008 the City Council passed a resolution to allow the SouthPass PZD to be submitted prior to annexation into the City.

Property Description:

The overall SouthPass property consists of approximately 910 acres located south of the City of Fayetteville on the west side of Interstate 540 and west of Cato Springs Road (State Highway 265). A majority of the property is in unincorporated Washington County (855.97 acres), and a portion is within the City limits (54 acres) and zoned R-A, Residential Agricultural. Access to the site from I-540 is off of Exit 60, the southernmost access into Fayetteville. The property is less than one mile from the University of Arkansas campus and two miles from downtown Fayetteville. The site has been used for agricultural and rural residential uses over the years and consists of rolling hills and pasture along the lower portions of the site adjacent to Cato Springs Road.

The property is surrounded by rural residential, agricultural, and undeveloped land in unincorporated Washington County to the north, west, and south. There is some adjacent property to the east and north in the City of Fayetteville that is zoned R-A, Residential Agricultural. The City of Farmington is located approximately 1-2 miles to the west of the site.

Proposal: The applicant proposes annexation of 855.97 acres into the City of Fayetteville.

INFRASTRUCTURE:

Streets: The site has access to Cato Springs Road. Cato Springs Road is currently an improved two lane paved state highway. Street improvements will be evaluated with the proposed development.

Water: Public water is adjacent to the site. There is an 8-inch water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30-inch transmission main. The capacity of the existing system will need to be studied at the time of development.

Sewer: Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development.

Fire: The subject property is located approximately 2.2 miles from Engine 6 located at 900 South Hollywood with a projected response time of 5 minutes. The Fire Department discussed that the SouthPass annexation will affect response times along with calls for service in this part of the city. The number of residents proposed in this development alone would put the Fire Department in one of the threshold points for expansion. The developers have expressed interest in helping the fire department reserve a suitable location for a fire station within their development and have identified a tentative location on their plans.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area. The police department has discussed with the developers the need for a new police substation and a tentative location has been identified on the plans.

RECOMMENDATION:

Staff recommends forwarding the requested annexation with a recommendation for approval based on the findings included as part of this report.

PLANNING COMMISSION ACTION:		
Required	<u>YES</u>	
☒ Forwarded		☐ Denied
Date: <u>July 28, 2008</u>	Motion: <u>Anthes</u>	
	Second: <u>Graves</u>	
	Vote: <u>6-0-0</u>	
CITY COUNCIL ACTION:		
Required	<u>YES</u>	
☐ Approved		☐ Denied
Date: <u>August 19, 2008 (1st reading if recommended)</u>		

LAND USE PLAN: *General Plan 2025 identifies this property within the Planning Area as a City Neighborhood Area, Civic and Private Open Space/Parks, and Residential Neighborhood Area. These designations indicate a dense primarily residential urban fabric with mixed uses and a wide range of residential building types and encourage compact, complete, and connected neighborhoods. The City and Private Open Space/Areas indicates permanently dedicated open space or parkland, which was anticipated as part of the planned Regional Park for the site.*

FINDINGS:

12.3.4 POTENTIAL ANNEXATION AREAS

The potential annexation areas should be identified by the City using the following criteria:

1. Areas that are already urban in character.

Finding: The subject property is surrounded on all sides by undeveloped agricultural and forested hillsides and sparsely populated rural residential land uses. This area is not considered urban in character but has been previously identified as the preferred site for a regional park and mixed use center by the City Council and has been included as a major growth area on the Future Land Use Plan adopted by the Planning Commission and City Council.

2. Areas that can be developed at urban densities.

Finding: Portions of the subject property can be developed at urban densities and has been identified as a growth area on the Future Land Use Plan. The SouthPass project has been anticipated and planned for a number of years by City staff and administration. Substantial street and infrastructure improvements will be required at the time of development, in order for the project to function properly. The site is adjacent to on/off ramps of I-540, which provides convenient and efficient transportation for future residents, business and park visitors.

3. Immediate areas are those that are peninsulas or islands, where municipal services have already been extended.

Finding: There is an existing water tank located on the subject property and available to the subject development, and the adjacent street is an improved two-lane highway. The developer is planning on providing sewer from sewer transmission lines being installed in association with the Wastewater Treatment Plant Project. This annexation would establish a new southern boundary for the City of Fayetteville and would support a new urban center and population growth area, as anticipated for a number of years in the adopted Future Land Use Plan. As stated in Finding No. 2, street and infrastructure and public service improvements (including new police and fire stations) will be required as SouthPass builds out, however adequate infrastructure largely exists to begin the first phases of development.

4. Vacant lands that are subject to development pressure.

Finding: As described in the background of this report and stated in Finding No. 2 the SouthPass project has been anticipated for a number of years by the City and has been included in the Future Land Use Plan as an area intended for City growth. The site is located adjacent to the major regional transportation corridor, I-540, which affords a higher intensity and density of land use patterns. The SouthPass project proposes a new urban center for the City of Fayetteville and approximately 4,320 residential units and 344,000 square feet of non-residential space, in addition to the community park.

5. Areas where urban services are already provided.

Finding: Surrounding properties are largely undeveloped in a rural-residential and agricultural pattern. However, City services including water, police and fire are provided to adjacent property to the north.

6. Areas where urban services are needed.

Finding: This area is largely undeveloped and is not in immediate need of urban services. Improvements to urban services will be needed to develop the subject property.

12.3.5 ANNEXATION GUIDING POLICIES

BOUNDARIES

- 12.3.5.a Annex existing islands and peninsulas and do not annex areas that would create an island or peninsula.

Finding: Annexation of the property in combination with the Frank Sharp annexation to the northeast will create an island of unincorporated property to the north, if both are approved. Although the creation of islands are not typically recommended because of efficiency of public services, the SouthPass and Frank Sharp annexations are desired to create a more contiguous southern boundary for the City, and to provide a City boundary that extends from Cato Springs Road all the way to Holland Drive, and north to State Highway 62 (6th Street). Further, the island created is sparsely populated and not easily accessed at this time; calls for service are likely very low. Additionally, the SouthPass annexation has been anticipated for a number of years and is identified in the City's Future Land Use Plan as an anticipated growth area.

- 12.3.5.b Proposed annexation area must be adjacent, or contiguous, to city limits.

Finding: The proposed annexation area is adjacent to the City Limits to the east.

- 12.3.5.c Areas should either include or exclude entire subdivisions or neighborhoods, not divide.

Finding: The subject property is not a part of a platted subdivision.

12.3.5.d Boundaries for annexed areas should follow natural corridors.

Finding: Proposed boundaries follow property lines of the existing parcels and right-of-way.

12.3.5.e The provisions of services should be concurrent with development.

Finding: Public services will be required to be provided concurrent with development in accordance with Fayetteville Unified Development Code requirements.

ENVIRONMENTALLY SENSITIVE AREAS

12.3.5. f Annex environmentally sensitive areas that could be impacted by development and utilize appropriate development regulations to protect those areas.

Finding: This area has been identified on the Future Land Use Plan as a City Neighborhood Area, Civic and Private Open Space/Parks, and Residential Neighborhood Area. A majority of this site is also within the Hillside Hilltop Overlay District (HHOD). This area contains an environmentally sensitive area with a number of natural resources including natural landforms, densely forested areas, streams, a number of informal hiking and mountain biking trails and wildlife. There are several properties in the area south of State Highway 62 in these local mountains that have been placed within conservation easements. The associated SouthPass development incorporates a number of these environmental features into the design of the project and leaves a majority of the site in permanently preserved greenspace. The proposed R-PZD Master Development Plan allows for preservation and rehabilitation of many sensitive areas on this property, consistent with this policy. Development regulations within the City are better suited to protect the environmentally sensitive areas than those in the County.

EMERGENCY AND PUBLIC SERVICES

12.3.5.g Public services must be able to be provided efficiently in newly annexed areas.

Finding: Water service is available to this property and will need to be evaluated for improvements at the time of development. Sewer will have to be extended as the SouthPass development builds out, new Police and Fire stations will need to be provided and the Master Development Plan has identified a tentative location for these stations. Impacts to public services will be adequately addressed with improvements required with development.

12.3.5.h Annexed areas should receive the same level of service of areas already in the city limits.

Finding: Fire service response time is anticipated at five minutes from Engine 6 located at 900 South Hollywood off of 6th Street. As discussed in previous findings, improvements to all public services will be required with the development of SouthPass to ensure that appropriate levels of service are provided.

12.3.5.i The ability to provide public services should be evaluated in terms of equipment, training of personnel, number of units and response time.

Finding: These factors were taken into consideration in the responses and recommendations included in this report.

INFRASTRUCTURE AND UTILITIES

12.3.5.j Areas currently served by utilities and other public services should be annexed.

Finding: Sewer service is not currently available to this property, though there is an existing water tank on the site. Land to the east is located within the City limits and is currently covered by City Police and Fire service. Improvements to provision of services will be required at the time of development.

12.3.5.k Proposed annexation areas should not require the upgrading of utilities to meet the demands of development unless there is a threat to public safety.

Finding: Annexation and development of this property will result in an increased demand on the existing infrastructure systems. Improvements to sewer, street, Police and Fire service would be needed by the annexation with development on the subject property.

12.3.5.l Phased annexation should be initiated by the City within active annexation areas based on planned service extensions or availability of services.

Finding: The proposed annexation is not part of a phased annexation initiated by the City.

INTERGOVERNMENTAL RELATIONS

12.3.5.m Promote long-range planning with adjacent jurisdictions.

Finding: N/A

12.3.5.n Establish agreements to address regional concerns, such as water, stormwater and sewer.

Finding: N/A

ADMINISTRATION OF ANNEXATIONS

12.3.5.o Develop a land use plan for annexation initiated by the city.

Finding: N/A

12.3.5.p Designate zoning districts for the property during the annexation process.

Finding: The applicants have requested that the property be rezoned to R-PZD if the

annexation request is approved.

12.3.5.q An annexation study should be completed on all annexation proposals.

Finding: Planning staff has asked the Engineering Division, Fire Department and Police Department to study this annexation request to determine if facilities and services are available to serve this property. Comments from each department have been provided herein.

12.3.5.r Development proposals require a separate review from the annexation proposals.

Finding: Development of this property has been proposed and is being reviewed under a separate R-PZD application.

12.3.5.s Residents should be fully informed of annexation activities.

Finding: Adjoining neighbors have been notified of the annexation request and a public notice sign has been placed on the property. A legal ad and display have both been submitted with a local newspaper prior to the Planning Commission meeting for which this item is scheduled.

12.3.5.t Encourage larger annexations to create acceptable boundaries.

Finding: The proposed SouthPass annexation combined with the Frank Sharp annexation adjacent to the northeast would annex over 880 acres into the City. The SouthPass property combined with the Frank Sharp annexation would create a more desirable city boundary than if either property were annexed separately. The subject properties create a link between Cato Springs Road and Holland Drive to the west and State Highway 62 to the north.

12.3.5.u Conduct a fiscal impact assessments on large annexations.

Finding: Though the proposal constitutes a rather large annexation, staff has not conducted a fiscal impact assessment for this annexation of 855.97 acres for SouthPass or the 53.23 acres for Frank Sharp. It is anticipated that the City will provide a level of support for infrastructure improvements, due to the extent of the City's Community Park proposed on the site and the contract agreement that states the City will cost share (50/50) all costs of extending sewer to the Community Park Site. A supplemental cost share agreement will be submitted for consideration by the City Council to better understand the fiscal impact of the proposed annexation and development.

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 **ANX 08-2897: (South Pass Development, 632): Submitted by Appian Center for Design for property located** 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 825.0 acres.**

It is the opinion of the Fayetteville Police Department that this **ANX 08-2897** will not substantially alter the population density, and will not create an appreciable or undesirable increase in the load on police services. This **ANX** will not create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

Engineering Division comments – Matt Casey

ANX 08-2899: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

RZN 08-2900: (FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE. Planner: Andrew Garner

Public water is not available to this site. The nearest water is a 6" water main at Wolfdale Rd. which is about 1,000 feet to the south of this property. The capacity of the existing main may need to be studied at the time of development

Sanitary sewer is not available to the site. The nearest sewer is a 6" sewer main at Holland Dr. and Holsten which is about 1,600 feet to the north of this property. Improvements to the sewer system may be required dependent upon the demand placed by the development. The capacity of the existing main may need to be studied at the time of development

The site has access to Holland Drive and Wolfdale Road. Both are currently un-improved two lane roads. 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.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville. Planner: Andrew Garner

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District. Planner: Andrew Garner

Public water is located adjacent to the site. There is an 8" water main along Cato Springs Road. There are also water storage tanks located on this site that are fed by a 30" transmission main. The capacity of the existing system will need to be studied at the time of development

Sanitary sewer is not available to the site. Off-site improvements will be required to bring sewer to this site. Improvements to the existing 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 Cato Springs Road. Cato Springs 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.



Fayetteville Fire Department

ANX 08-2899:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to annex the subject properties into the City of Fayetteville.

RZN 08-2900:

(FRANK SHARP, 631/632?): Submitted by APPIAN CENTER FOR DESIGN for property located S OF HWY. 62W. The property is in the Planning Area and contains approximately 53.53 acres. The request is to rezone the subject property to RSF-1, RESIDENTIAL SINGLE FAMILY, 1 UNIT PER ACRE.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 3.5 miles from the station with an anticipated response time of 7 minutes.

The Fire Department anticipates 9 (6 EMS-3 Fire/other) calls for service once the development is completed and maximum build out has occurred. The Fayetteville Fire Department feels that along with the South Pass Development that joins this property that this will affect our response times along with our calls for service in this part of the city. The developers of Southpass have expressed interest in helping us locate a suitable location for a fire department within their development.

ANX 08-2897: (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W. The property is in the Planning Area and contains approximately 825.00 acres. The request is to annex the subject properties into the City of Fayetteville.

R-PZD 08-2898: Planned Zoning District (SOUTH PASS DEVELOPMENT, 632): Submitted by APPIAN CENTER FOR DESIGN for property located WEST OF I-540 AND SOUTH OF HWY 62W AND NW OF CATO SPRINGS ROAD. The property is zoned R-A, RESIDENTIAL AGRICULTURAL and contains approximately 910.36 acres. The request is for review of a Zoning and Land Use approval only request for a Residential Planned Zoning District.

This property will be covered by Engine 6 located at 900 S Hollywood.

It is approximately 2.2 miles from the station with an anticipated response time of 5 minutes to the start of this development and approximately 7 minutes to the northern most property line once the roads are put in place and build out has occurred.

Based on the 3666 total units within this development, the Fire Department anticipates 608 (387 EMS-221 Fire/other) calls for service once the development is completed and maximum build out has occurred.

The Fayetteville Fire Department feels that this development will affect our response times along with our calls for service in this part of the city. The number of residents in this development alone with put us in one of our trigger points for expansion. The developers have expressed interest in helping us locate a suitable location for a fire department within their development.

If you have any questions concerning these comments please don't hesitate to call me

Dale Riggins Captain, Fayetteville Fire Department

RESOLUTION NO. 138-04

MICROFILMED

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SOUTHPASS DEVELOPMENT COMPANY TO ACCEPT 200 ACRES OF PARK LAND, A 10 ACRE WATER TANK SITE, ONE MILLION DOLLARS FOR PARK LAND DEVELOPMENT AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL.

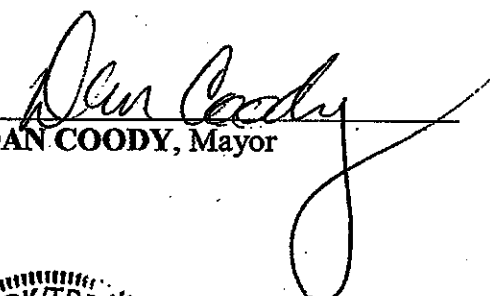
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby accepts and approves the Contract with SouthPass Development Company (attached as Exhibit "A") to accept 200 acres of park land, a 10 acre water tank site, one million dollars for park land development and other consideration for the City's acceptance of a 33 acre landfill and its agreement to spend the money currently identified in its Parks Capital Improvement Plan for the community park development.

PASSED and APPROVED this 7th day of September, 2004.

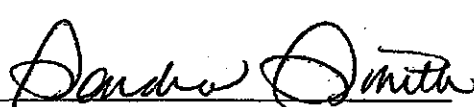
APPROVED:

By:


DAN COODY, Mayor

ATTEST:

By:


SONDRA SMITH, City Clerk



AGREEMENT TO ACQUIRE AND DEVELOP THE COMMUNITY PARK FOR FAYETTEVILLE

This contract and agreement is entered into by the City of Fayetteville and SouthPass Development Company, LLC (hereinafter "SouthPass");

Whereas, the City of Fayetteville desires to obtain a 200 acre Community Park for its citizens and tourists; and

Whereas, the Parks and Recreation Advisory Board has carefully studied available sites and determined that the Cummings' property is the most desirable site for the Community Park; and

Whereas, The City of Fayetteville does not have the current resources to both purchase the necessary acreage and develop such acreage into a functioning, attractive Community Park and so publicly requested proposals from developers for a public/private partnership to facilitate the acquisition and development of the Community Park; and

Whereas, SouthPass Development Company, LLC submitted a workable, attractive proposal which was selected by the City's selection committee as the recommended proposal.

NOW, THEREFORE, pursuant to the terms and conditions of the City's Request for Proposals and SouthPass Development Company, LLC's recommended Proposal, the City and SouthPass agree as follows:

1. Upon approval of this contract by the Fayetteville City Council and SouthPass Development Company, LLC and the accomplishment of all contingencies listed below, SouthPass shall tender to the trustee/owners of the Eight Hundred Acre (more or less) Cummings property an unconditional offer to purchase all said property for the sum of Six Million Nine Hundred Thousand Dollars (\$6,900,000.00). The obligation of SouthPass Development Company, LLC shall not become binding or enforceable until all the below contingencies have been fully accomplished:

(A) A Master Plan for the development of the approximately 800 acre site has been prepared and approved by SouthPass Development Company LLC and the City of Fayetteville;

(B) The City Council has annexed or committed itself to annex the entire 800 acre site;

(C) The zoning of the portion of the 800 acre site to be owned by SouthPass has been accomplished or the City Council has committed itself to rezone that portion in conformance with the approved Master Plan;

(D) The Greenland School District and Fayetteville School District have agreed that this entire site shall be within the Fayetteville School District;

(E) The Arkansas Department of Environmental Quality has agreed with the present owners of the Cummings landfill and assured the City of Fayetteville that the costs of the necessary corrective actions for the landfill shall not be borne by, recovered from, assessed to, or collected from the City of Fayetteville or SouthPass Development Company, LLC.

2. If this Offer is accepted by the Trustee and the Court, and all others necessary to accept the offer and legally deed the entire tract of 800 acres, more or less, SouthPass Development company, LLC shall pay the agreed price to the trustee/owners and the land shall be conveyed by warranty deed free from all encumbrances to the following parties:

(A) SouthPass Development Company, LLC shall be deeded the entire Eight Hundred (800) acre tract, more or less, except the 33 acre landfill;

(B) The City of Fayetteville shall be deeded (free and clear of any obligation to pay, repay, or otherwise fund the necessary corrective actions for the landfill: partial or full recapping of the landfill and restoration of the stream corridor) the Thirty-Three (33) acre abandoned and closed landfill located within the 800 acre property;

(C) South Pass Development Company LLC shall convey by warranty deed to the City of Fayetteville a Two Hundred (200) acre parcel for the Community Park which location shall be determined by the City;

(D) SouthPass Development Company LLC shall convey by warranty deed the Ten (10) acre City of Fayetteville water tank site to the City of Fayetteville.

3. To facilitate the preparation of the Master Plan, the City shall immediately pay for the perimeter survey of the property and the 200 acre Community Park site.

4. SouthPass shall fund up to \$10,000.00 and retain a mutually acceptable community master planning consultant for recommendations for a Master Plan for this entire 800 acre area (including the 200 acre Community Park area).

5. The City of Fayetteville shall assist in facilitating the planning, zoning and other development approval processes which are in accordance with the mutually acceptable master plan.

6. The City of Fayetteville shall recommend to the Fayetteville School Board and Greenland School Board that this property should be within the Fayetteville School District.

7. The City of Fayetteville and SouthPass shall cost share (50/50) all costs of extending sewer to the Community Park site and neither shall charge for the acquisition of necessary water or sewer easements across their property to serve their land within this 800 acre area.

8. If all the contingencies listed in paragraph 1 have been accomplished and all the actions listed in paragraph 2 have been achieved, SouthPass Development Company LLC shall contribute One Million Dollars (\$1,000,000.00) when the City is ready to award the first construction contract utilizing the 2004 and 2005 budgeted CIP allocation as shown in Exhibits A and B*.

Signed this 31 day of August, 2004.

Signed this 7th day of September, 2004.

**SOUTHPASS DEVELOPMENT
COMPANY LLC**

By: *John Nock*

JOHN NOCK
Managing Member

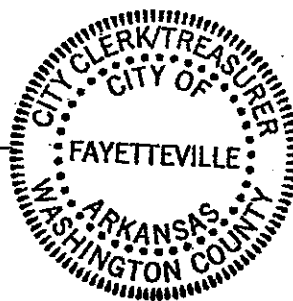
**CITY OF
FAYETTEVILLE, ARKANSAS**

By: *Dan Coody*

DAN COODY
Mayor

Attest: *Sondra Smith*

Sondra Smith, City Clerk

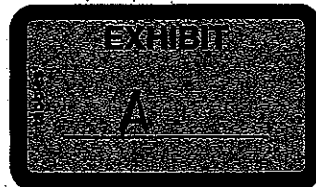


*Attached as Exhibit A are copies of the current Capital Improvement Program adopted last December by the City Council showing 2004-2008 Parks Development Fund allocations for Community Park Development (total about \$2.4 million) and Sales Tax CIP funds allocated to Community Park Development (total about \$1.2 million).

Attached as Exhibit B is the amount of funds that have been allocated by the City Council that will be available on January 1, 2005 for development of the Community Park (about \$1.6 million).

City of Fayetteville, Arkansas
2004 - 2008 Capital Improvements Program
Recommended Ranking by Project Category by Year

Year	Division	Project	Amount	Priority
<u>Parks Development Fund: Parks & Recreation Improvements</u>				
2004	Parks & Recreation	Community Park Development	466,000	1
			466,000	
2005 *	Parks & Recreation	Community Park Development	473,000	1
			473,000	
2006 *	Parks & Recreation	Community Park Development	457,000	1
			457,000	
2007 *	Parks & Recreation	Community Park Development	489,000	1
			489,000	
2008 *	Parks & Recreation	Community Park Development	506,000	1
			506,000	



* Denotes Continuing Project From Previous Year

CITY OF FAYETTEVILLE, ARKANSAS

2004 - 2008 CAPITAL IMPROVEMENTS PROGRAM

PROJECT DETAIL

PROJECT TITLE: Community Park Development

REQUESTING DIVISION: Parks & Recreation

FUNDING SOURCE: Sales Tax Capital Improvements Fund

PROJECT CATEGORY: Parks & Recreation Improvements

INITIAL YEAR PRIORITY: 2

PROJECT TYPE: REPLACEMENT ☐ EXPANSION ☒ Y

PROJECT COST

2004	\$	165,000
2005		338,000
2006		319,000
2007		186,000
2008		188,000

TOTAL PROJECT COST \$ 1,196,000

PROJECT DESCRIPTION & JUSTIFICATION:

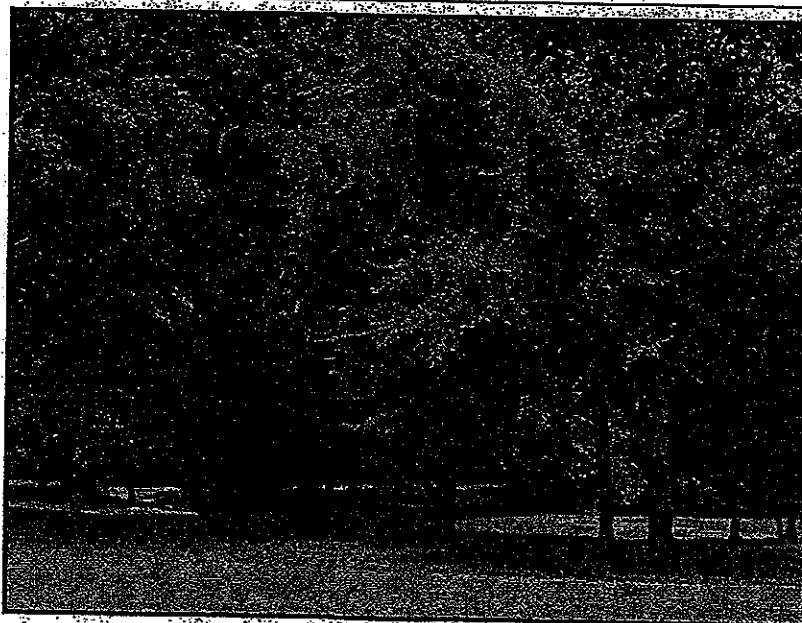
The Parks and Recreation Master Plan recommends development of a Community Park. Facilities would include baseball, soccer, and softball complexes, as well as trails, tennis courts, sand volleyball courts, a pavilion, picnic tables/grills/benches, disc golf, and multi-purpose fields, to name a few possibilities. Facilities would be developed on a priority basis depending upon public desires. With the Lewis Soccer Complex to be returned to the U of A, there is an urgent need to relocate this facility as well as the Walker Park Baseball Complex due to its poor condition and a need for future growth. This project is included in both Parks Development and Sales Tax Capital Improvements Funds. In addition, there is \$20,000,000 in Sales Tax funding in the unfunded projects list.

PROJECT STATUS (IF IN PROGRESS):

\$206,173 is included in 2003 CIP funds. Staff evaluated 18 sites and six (6) of these have been appraised. A recommendation for a Community Park site will be presented to City Council after the sites have been fully evaluated, including wetlands/flood plains and land special analysis.

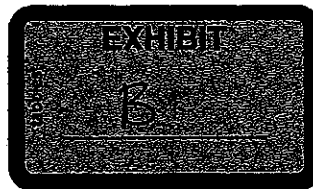
EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

Depending on the site and conceptual plan, personnel, vehicles, utilities, and maintenance costs may increase accordingly. There would be income generated from sponsorships, entry fees, rentals, etc. No projections on the impact to the operating budget have been made. These figures will be estimated as soon as a site is selected.



City of Fayetteville, Arkansas
Community Park Development Capital Project
- Funding 2004/2005

	<u>Budgeted 2004</u>	<u>Expenses 2004</u>	<u>Remaining 2004</u>	<u>Budgeted 2005</u>	<u>Total Available</u>
<u>Parks Development Fund:</u>					
2250.9255.5200.00	\$ 256	\$ 255	\$ 1	\$	1
2250.9255.5301.00	45	45	-		
2250.9255.5314.00	51,300	51,300	(0)		(0)
2250.9255.5806.00	531,049	2,000	529,049	473,000	1,002,049
	<u>582,650</u>	<u>53,600</u>	<u>529,050</u>	<u>473,000</u>	<u>1,002,050</u>
<u>Sales Tax Capital Improvements</u>					
4470.9470.5314.00	8,150	-	8,150		8,150
4470.9470.5806.00	275,000	-	275,000	338,000	613,000
	<u>283,150</u>	<u>-</u>	<u>283,150</u>	<u>338,000</u>	<u>621,150</u>
	<u>\$ 865,800</u>	<u>\$ 53,600</u>	<u>\$ 812,200</u>	<u>\$ 811,000</u>	<u>\$ 1,623,200</u>



ANX08-2897

Future Land Use

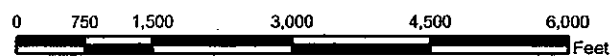
SOUTHPASS DEVELOPMENT



FRANK SHARP/SOUTHPASS DEVELOPMENT



Overview



ANX08-2897

Close Up View

SOUTHPASS DEVELOPMENT



Overview

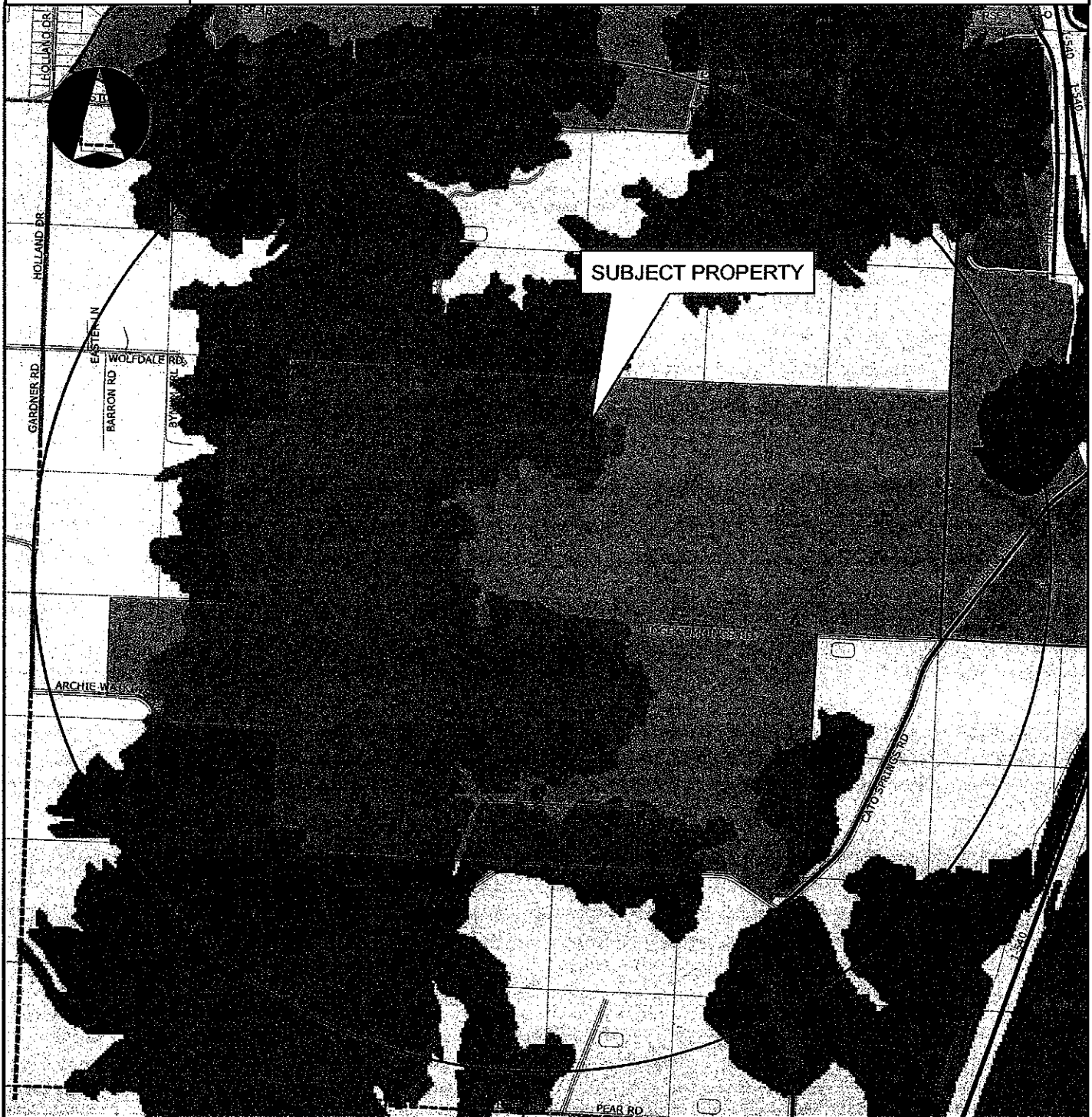


0 750 1,500 3,000 4,500 6,000
Feet

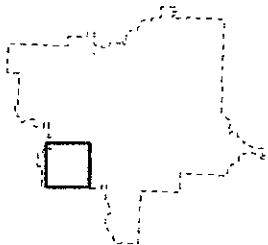
ANX08-2897

SOUTHPASS DEVELOPMENT

One Mile View



Overview



Legend

Subject Property

ANX08-2897

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

Agenda Session 8/12/08

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
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 19, 2008**

A meeting of the Fayetteville City Council will be held on August 19, 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:

2007 Comprehensive Annual Financial Report given by Audit Committee Chair Bill Golbuff

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- ✓ **Walton Arts Center's Yearly Report given by Terri Trotter, Interim President/CEO and City of Fayetteville Appointee Curt Rom**
- ✓ **Quarterly Report of Financial Condition of the City – City Clerk**

Agenda Additions:

A. Consent:

1. Approval of the August 5, 2008 City Council meeting minutes.
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3. **Southern Disposal, Inc:** A resolution authorizing the Mayor to execute a contract with Southern Disposal, Inc. to haul and dispose of solid waste in the City limits of Fayetteville.
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2. **Amend Chapter 174 Signs:** An ordinance to amend Unified Development Code Ch. 174.08, Prohibited Signs, to allow "A" frame sandwich/menu board signs under certain conditions. *This ordinance was left on the First Reading at the August 5, 2008 City Council meeting.*

Left on the First Reading

3. **R-PZD 08-2980, Markham Hill Cottage Courts:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2980, Markham Hill Cottage Courts, located north of Maine Street, between Sang and Cross Avenue; containing approximately 2.54 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 August 5, 2008 City Council meeting.*

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4. **Amend § 161.23, Neighborhood Conservation:** An ordinance to amend § 161.23 Neighborhood Conservation to add Use Unit 26, Multi-family dwellings as conditional use. *This ordinance was left on the Second Reading at the August 5, 2008 City Council meeting.*

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D. New Business:

1. **VAC 08-3042 (U of A Research Center):** An ordinance approving VAC 08-3042 submitted by Allen Jay Young Development Consultants, Inc. for property located north of Research Center Boulevard and west of South School Avenue to vacate a portion of a water and sewer easement and a portion of a drainage easement.
2. **ANX 08-3036 (Fayetteville Farmington Land Swap):** An ordinance simultaneously detaching territory from the City of Farmington and annexing said territory into the City of Fayetteville, pursuant to A.C.A. §14-40-2101.
3. **ANX 08-2899 (Frank Sharp):** An ordinance annexing that property described in annexation petition ANX 08-2899 (CC2008-38), for property located 0.5 mile south of Highway 62 West and east of Holland Drive, containing approximately 53.53 acres.
4. **Sharp Property Rezoning Appeal:** An ordinance rezoning that property described in rezoning petition RZN 08-2900, for approximately 53.53 acres, located 0.5 mile south of Highway 62 West and east of Holland Drive from R-A, Residential Agricultural, to RSF-1, Residential Single-Family, 1 unit per acre.
5. **ANX 08-2897 (Southpass Development):** An ordinance annexing that property described in annexation petition ANX 08-2897 (CC2008-38), for property located west of I-540 and Cato Springs Road, containing approximately 855.97 acres.

Announcements:

1. **City Council Tour: August 18, 2008**

Adjournment:

Add: ^(NB1) Economic Development Strategic Plan

^(NB2) FMPOI - #31 Edgewater Park

^(Consent) Don Taylor representation

Pre Agenda Session 8-6-08

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
Ward 3 Position 2 – Robert Ferrell
Ward 4 Position 1 – Shirley Lucas
Ward 4 Position 2 – Lioneld Jordan

**Tentative Agenda
City of Fayetteville Arkansas
City Council Meeting
August 19, 2008**

A meeting of the Fayetteville City Council will be held on August 19, 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:

2007 Comprehensive Annual Financial Report given by Audit Committee Chair Bill Golbuff

Mayor's Announcements, Proclamations and Recognitions:

Presentations, Reports and Discussion Items:

- 1. Walton Arts Center's Yearly Report given by Terri Trotter, Interim President/CEO and City of Fayetteville Appointee Curt Rom**
- 2. Quarterly Report of Financial Condition of the City – City Clerk**

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Left on the First Reading

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Announcements:

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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", written over a horizontal line.

DATE: **August 20, 2008**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of August 19, 2008**

1. **Bid #08-59 Thompson Culvert Company:** A resolution awarding Bid #08-59 to Thompson Culvert Company in the amount of \$26,489.40 for the purchase of a pedestrian bridge for the Wilson Park Trail; and approving a project contingency in the amount of \$1,986.70;
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5. **Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 31 – Edgewater Park Subdivision Infrastructure Project;
6. **Economic Development Strategic Plan:** A resolution authorizing the Mayor to execute a Letter of Agreement with the University of Arkansas Technology Development Foundation to cost-share the preparation of an Economic Development Strategic Plan in an amount not to exceed \$75,000.00.

From: Vicki Deaton
To: Wood, Amber
Date: 7/22/2008 11:56 AM
Subject: agenda session

I would like to schedule an item for the 8/12/08 agenda session. This is an informational item. Bill Golbuff, chairman of the audit committee, will present the 2007 CAFR. Please let me know if you need any more information.

Vicki D. Deaton
City of Fayetteville
Internal Auditor
113 W. Mountain
Fayetteville, AR 72701
479-575-8261

Sent: Tuesday, July 29, 2008 1:27 PM

To: Claire Roberds

Subject: RE: August 26 City Council meeting - agenda inquiry Walton Arts Center annual report

Hey Claire,

The last City Council Meeting in August is scheduled for August 19th. Just let me know if this works for you and I will place it at the beginning of the agenda.

Thanks,

Amber Wood, CMC
Deputy City Clerk

City of Fayetteville
City Clerk Division
Phone: (479) 575-8323
Fax: (479) 718-7695
awood@ci.fayetteville.ar.us

Amber Wood - RE: August 26 City Council meeting - agenda inquiry Walton Arts Center annual report

From: Claire Roberds <croberds@waltonartscenter.org>
To: Amber Wood <awood@ci.fayetteville.ar.us>
Date: 8/1/2008 10:34 AM
Subject: RE: August 26 City Council meeting - agenda inquiry Walton Arts Center annual report
CC: Sondra Smith <:ssmith@ci.fayetteville.ar.us>

Hi Lisa,

Terri will bring her own laptop for the presentation. Sorry – I should have mentioned that! Thanks,
Claire

From: Amber Wood [mailto:awood@ci.fayetteville.ar.us]
Sent: Friday, August 01, 2008 9:51 AM
To: Claire Roberds
Cc: Sondra Smith
Subject: RE: August 26 City Council meeting - agenda inquiry Walton Arts Center annual report

Hi Claire,

Amber is out today so I am checking her emails. The City Council meeting will begin at 6:00 PM on August 19th. Will Terri Trotter or Curt Rom be bringing a their own laptop for the Power Point or should I check to see if one will be in the Council Chambers?

If you have any questions please feel free to contact me at 575-8323 or lbranson@ci.fayetteville.ar.us

Have a great day!

Lisa Branson

>>> Claire Roberds <croberds@waltonartscenter.org> 8/1/2008 9:40 AM >>>
Hi Amber,

Thanks again for getting this information to me regarding the City Council meeting. Terri Trotter, Interim President/CEO and City of Fayetteville appointee Curt Rom, will present Walton Arts Center's yearly report, and will need Power Point capabilities.

Could you please confirm the time of the meeting on August 19th? And let me know if you need anything else.

Claire

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

From: Amber Wood [mailto:awood@ci.fayetteville.ar.us]

RECEIVED

AUG 20 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607
FAYETTEVILLE, AR 72702
PHONE: 479-571-6421

AFFIDAVIT OF PUBLICATION

I, Cathy Wiles, do solemnly swear that I am Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of: City of Fayetteville Final Agenda

August 18, 2008

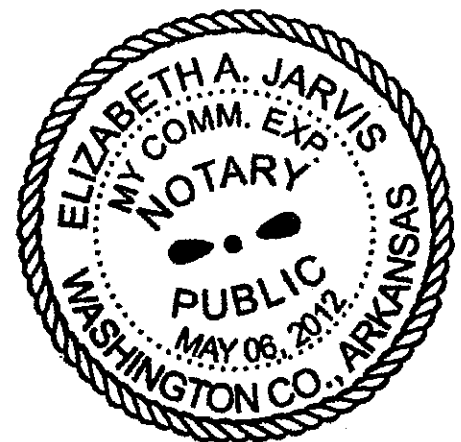
Publication Charge : \$179.35

Subscribed and sworn to before me
This 18 day of August, 2008.

Notary Public Elizabeth A. Jarvis

My Commission Expires: May 6, 2012

Do not pay from Affidavit, an invoice will be sent



RECEIVED

AUG 20 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
AUGUST 19, 2008**

Fayetteville
ARKANSAS

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