

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
October 7, 2008**

A meeting of the Fayetteville City Council will be held on October 7, 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:

1. Methamphetamine Awareness Month

Presentations, Reports and Discussion Items:

- 1. Fayetteville Town Center Annual Report:** Sandra Bennett, Facilities Manager of Fayetteville Town Center.
REPORT HANDED OUT.
- 2. Off Street Parking Improvement District No. 1 Board Vacancy:**
Approve the appointment of Rick Woods
(Appointed by the District and Approved by the City Council)
APPROVED.

1. Agenda Additions:

Added to Unfinished Business: B.1 Hiring Freeze Appeal: One Full-time Dispatcher-Police Department.

Added to New Business: D.13 Reconsideration of the appointment of Marvin Hilton to the Telecommunications Board.

Added to New Business: D. 14 Reconsideration of the Millage Ordinance No. 5178 approved September 16, 2008.

A. Consent:

1. Approval of the September 16, 2008 City Council meeting minutes. **APPROVED.**

2. **Bid # 08-58 Golden Circle Ford:** A resolution awarding Bid # 08-58 and approving the purchase of one (1) sign body truck with crane from Golden Circle Ford in the amount of \$72,660.00 for use by the Transportation/Traffic Division, such approval being contingent upon the sign body meeting the required specifications.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 180-08.

3. **AOT Public Safety Corporation:** A resolution approving a contract with AOT Public Safety Corporation, pursuant to RFP # 08-03, to provide false alarm reduction administrative services to the City of Fayetteville.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 181-08.

4. **McClelland Consulting Engineers Inc. Task Order # 15:** A resolution approving Task Order # 15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field; authorizing the Airport Staff to apply for and accept a grant from the FAA with a matching grant from the Arkansas Department of Aeronautics; and approving a budget adjustment.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 182-08.

5. **Hazard Mitigation Plan:** A resolution adopting the Hazard Mitigation Plan for Washington County.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 183-08.

6. **Code Compliance Contract Services:** A resolution approving a budget adjustment in the amount of \$6,000.00 to transfer funds from fund balance to Code Compliance Contract Services Account for code violation abatement.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 184-08.

B. Unfinished Business:

2. **Hiring Freeze:** Hiring Freeze Appeals:

One Full-time Dispatcher – Police Department: A resolution to approve the hiring of one full-time Police Dispatcher.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 185-08.

One Full-time Animal Services Officer – Animal Services: A resolution to approve the hiring of one full-time **Animal Services Officer** and one part-time Caregiver for the Animal Services Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 186-08.

One Part-time Caregiver – Animal Services: A resolution to approve the hiring of one full-time Animal Services Officer and one part-time **Caregiver** for the Animal Services Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 186-08.

One Full-time Recreation Superintendent – Parks and Recreation: A resolution to approve the hiring of one full-time Recreation Superintendent for the Parks and Recreation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 187-08.

3. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly. *This resolution was tabled at the September 2, 2008 City Council meeting to the October 7, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 188-08.

4. **ADM 08-3093 (Hill Place Culvert Removal):** A resolution to approve a request to modify and replant a portion of the tree preservation area associated with Hill Place PZD, in order to remove a culvert within College Branch Creek and to install a vehicular bridge, as described herein. *This resolution was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.*

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 189-08.

5. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.*

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

C. Public Hearing:

1. **Fayetteville Farmington Land Swap Public Hearing:** The Farmington City Council passed Ordinance 2008-15 on September 8, 2008, detaching approximately 8.035 acres from Fayetteville and annexing the property into Farmington.

MAYOR COODY OPENED THE PUBLIC HEARING. THERE WAS NO PUBLIC COMMENT TO BE HEARD. MAYOR COODY CLOSED THE PUBLIC HEARING.

D. New Business:

- 1. Fayetteville Municipal Property Owners' Improvement District No. 32 – Park West Commercial Development Infrastructure Project:** An ordinance to establish and lay off Fayetteville Municipal Property Owners' Improvement District No. 32 – Park West Commercial Development Infrastructure Project.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5180.

- 2. Illinois River Watershed Partnership:** An ordinance waiving the requirements of §34.23, (purchases and contracts not in excess of \$20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership (IRWP) in the amount of \$10,000.00 for watershed education and planning services.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5181.

- 3. Amend Chapter 71, Traffic Rules:** An ordinance to enact Article XI Operation of Vehicles and use of city trails in Chapter 71 Traffic Rules of the Fayetteville City Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5182.

- 4. Amend Chapter 157, ADM 08-3021 (UDC Chapter 157 Notification):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 157: Notification, to consolidate and clarify required notification for items being considered at certain public meetings.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5183.

- 5. Amend Chapter 158, Bonds and Guarantees:** An ordinance amending Chapter 158: Bonds and Guarantees, of the Unified Development Code, to accept a guarantee to satisfy the maintenance requirements for public improvements.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5184.

- 6. Amend Chapter 178, ADM 08-3054 (Sidewalk Café and Vendor Ordinance):** An ordinance amending the Unified Development Code by repealing Chapter 178: Sidewalk Cafes and replacing it with Chapter 178: Outdoor Vendors.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5185.

- 7. Smith Two Way Radio Appeal:** An appeal of the conditions of approval for the conditional use for Smith Communications/Township CUP 08-3050.

THE APPEAL FOR THIS ITEM WAS DENIED.

- 8. 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 LEFT ON THE FIRST READING OF THE ORDINANCE.

- 9. R-PZD 08-2898 Southpass Development:** An ordinance establishing a Residential Planned Zoning district titled R-PZD 08-2898, Southpass, located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265); containing approximately 910.36 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

- 10. ADM 08-3117 (Southpass MSP Amendments):** A resolution for ADM 08-3117 amending the Master Street Plan, realigning Shiloh Drive, a collector, through the Southpass PZD site south to Cato Springs Road, and changing the designation of Cato Springs Road from a collector to a principal arterial in the Southpass vicinity, as described and depicted in the attached maps.

THIS ITEM WAS TABLED TO THE OCTOBER 21, 2008 CITY COUNCIL MEETING.

- 11. Southpass Development Infrastructure Cost Share:** A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future community park.

THIS ITEM WAS TABLED TO THE OCTOBER 21, 2008 CITY COUNCIL MEETING.

- 12. Fayetteville Government Channel Policy:** A resolution adopting the recommendations of the Telecommunications Board and approving changes to the City of Fayetteville Government Channel Policy.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 190-08.

- 13. Reconsideration of the appointment of Marvin Hilton to the Telecommunications Board.**

THE APPOINTMENT OF MARVIN HILTON WAS AFFIRMED.

- 14. Reconsideration of the Millage Ordinance No. 5178 approved September 16, 2008.**

THIS ITEM WAS TABLED TO THE OCTOBER 21, 2008 CITY COUNCIL MEETING.

Announcements:

- 1. City Council Tour: October 6, 2008**

Adjournment: Meeting adjourned at 11:55 p.m.

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member, or others for response. Please keep your comments brief, to the point, and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

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

A. 4
McClelland Consulting Engineers Inc.
Task Order # 15
Page 1 of 12

10/7/2008

City Council Meeting Date

Changed Task Order
Number from #6 to #15

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve Task Order #15 from McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of \$177,600 for final plans & specs, bidding associated with the Runway 16 Safety Area Improvements project. Authorize Airport staff to apply for and accept a grant from the FAA with a matching grant from the Arkansas Department of Aeronautics. Approve a Budget Adjustment.

\$ 5,600.00

Cost of this request

\$ -

Budget

Correct RW16 RSA

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ -

Funds Used to Date

Avi/ED Imp

Program / Project Category Name

NEW PROJECT

Project Number

\$ -

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED

9-30-08

Mayor

Date

Received in Mayor's Office

ENTERED

9/30/08

Comments: The project will be funded with DOT/FAA Airport Improvement Program and Arkansas Department of Aeronautics grant funding.

City Council Meeting of: October 7, 2008
Agenda Item Number:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and Members of the City Council
THRU: Staff/Contract Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: September 19, 2008
SUBJECT: Approval of Task Order #15 with McClelland Consulting Engineers for final plans and specifications associated with the Runway 16 Runway Safety Area (RSA) Improvement Project and application and receipt of grant funding from the FAA and State of Arkansas (95/5).

RECOMMENDATION: Approve Task Order #15 with McClelland Consulting Engineers for \$177,600.00 for final plans and specifications, and bidding services associated with the Runway 16 RSA Improvement Project at Fayetteville Executive Airport, Drake Field. And, approve the application and receipt of FAA and State Aeronautics Grant Funding for the project.

BACKGROUND: The Runway RSA Improvement Project is well underway. We have completed a new Obstruction Survey of all conical surfaces and will present that information to revise the City Ordinance protecting the approaches to the airport. The Highway 71 Realignment Survey is complete and the Environmental Study is under FAA and AHTD review and should be complete in the very near future. The next phase to be funded by the FAA will include \$2.17 Million for earth work and property acquisition, final plans and specifications, bidding services, and project management. In order to ready to accept the grant in full, we must complete the final plans and specifications and have acceptable bids for the work prior to May 1, 2009. FAA has agreed to fund the initial plans and specifications and bidding services in order for the airport to meet the FAA schedule. We may have a slight delay in receiving the invitation to apply for funding as Congress has not yet passed a Bill nor have they passed a Continuing Resolution. The purpose of this action is to insure that we are ready to proceed when the grant funds become available. The Continuing Resolution is expected soon. We will not do any work until we receive the FAA Grant.

BUDGET IMPACT: The Runway 16 RSA Improvement Project is fully funded 95% FAA and 5% Arkansas Aeronautics.

Attachments: Staff Review Form
Contract

Aviation and Economic Development Department
Fayetteville Municipal Airport, Drake Field
4500 South School Avenue, Suite F
Fayetteville, Arkansas 72701
Ray M. Boudreaux, Director

RESOLUTION NO. _____

A RESOLUTION APPROVING TASK ORDER #15 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$177,600.00 FOR FINAL PLANS & SPECS AND BIDDING ASSOCIATED WITH THE RUNWAY 16 SAFETY AREA IMPROVEMENTS AT DRAKE FIELD; AUTHORIZING THE AIRPORT STAFF TO APPLY FOR AND ACCEPT A GRANT FROM THE FAA WITH A MATCHING GRANT FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Task Order #15 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs, and bidding associated with the Runway 16 Safety Area Improvements at Drake Field, said approval being expressly contingent upon the receipt of grant funding.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Airport Staff to apply for and accept a grant from the Federal Aviation Administration with a matching grant from the Arkansas Department of Aeronautics to cover the cost of said improvements.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$177,600.00 to recognize the grant revenue.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

September 18, 2008

RECEIVED
SEP 18 2008
AIRPORT

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

Re: Task Order No. ~~16~~ 5
Runway 16 Safety Area Improvements
Fayetteville Municipal Airport

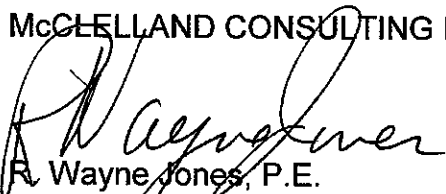
Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No. ~~16~~ 5 for the Design services for the Runway 16 Safety Area Improvements

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

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 5 (3 copies)

**TASK ORDER NO. 15
DESIGN ENGINEERING SERVICES
RUNWAY 16 SAFETY AREA & IMPROVEMENTS**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on June 6, 2006, as amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the Runway 16 Safety Area Improvements, Drake Field.

SECTION I - PROJECT DESCRIPTION

The project is to consist of the Runway 16 Safety Area Improvements, including relocation of US Hwy 71 from within the safety area, relocation of the northern portion of Ernest Lancaster Drive from within the safety area, the removal of the existing roadways and regrading of the Runway 16 Safety Area. The services to be performed include: Preparation of Right of Way Plans; Geotechnical Investigation; Wetland Permits & Relocation Plans as required; FEMA Permits and Flood Plain Revisions as required; Preliminary Design; Preliminary Cost Estimates; Detailed Design; Bidding Services; and review with State or Federal Agencies.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland Consulting Engineers, Inc. will endeavor to execute the project within the following time periods:

<u>Task</u>	<u>Completion After NTP</u>
A. Geotechnical Investigation:	70 calendar days
B. Wetland Permits & Plans:	100 calendar days
C. FEMA Permits & Flood Plain Plans:	110 calendar days
D. Preliminary Design & Cost Estimates:	110 calendar days
E. Right-of-Way Plans	150 calendar days
F. Final Design & Cost Estimates:	190 calendar days
G. Advertise for Bids:	220 calendar days

SECTION III - SCOPE OF SERVICES

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

- A. Right of Way Plans.
- B. Geotechnical Investigation.
- C. Prepare Wetland relocation plans, as required, and Permits.
- D. Prepare revised flood plain, floodway and channel relocation plans and submit plans and permits to FEMA and Corps of Engineers.
- E. Performing preliminary engineering design services for the Runway 16 Safety Area Improvements, formulating preliminary construction cost estimates, and meeting with the City to discuss the project.
- F. Performing the detailed design of the Runway 16 Safety Area Improvements, formulating final preliminary construction cost estimates, and meeting with the

City to discuss the project.

G. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Geotechnical Investigation:	Estimated to be	\$ <u>7,500.</u>
B. Wetland Permit and Relocation Plans:	Estimated to be	\$ <u>11,800.</u>
C. FEMA Permits & Flood Plain Plans	Estimated to be	\$ <u>18,500.</u>
D. Preliminary Engineering Design & Cost Estimates:	a lump sum of	\$ <u>68,500.</u>
E. Right of Way Plans:	Estimated to be	\$ <u>6,850.</u>
F. Detailed Plans & Specs:	a lump sum of	\$ <u>56,500.</u>
G. Bidding Service:	Estimated to be	\$ <u>5,800.</u>
H. Reimbursement Expenses:	Estimated to be	\$ <u>2,150.</u>
Total Not to Exceed		\$ <u>177,600.</u>

Appendix A presents the basis of payments to the ENGINEER. Appendix B presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

SECTION V - BASIC AGREEMENT IN EFFECT:

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

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

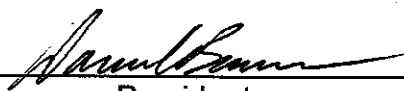
FOR THE CITY OF FAYETTEVILLE:

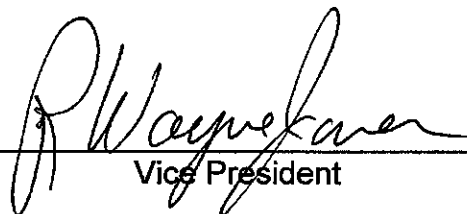
By: _____
Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: _____
President

Attest: _____
Vice President

Date: 9-18-08

APPENDIX B

Hourly Rates for Personnel Drake Field, Fayetteville Municipal Airport

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE RANGE</u>
Principal Engineer	\$ 155.00
Sr. Project Manager	\$ 143.00
Project Manager	\$ 132.00
Project Engineer II	\$ 105.00
Project Engineer I Design Engineer	\$ 84.00
Landscape Architect	\$ 109.00
Engineering Technician III	\$ 84.00
Engineering Technician II	\$ 65.00
Engineering Technician I	\$ 53.00
Construction Observer III	\$ 80.00
Construction Observer II	\$ 61.00
Construction Observer I	\$ 44.00
Chief Draftsman	\$ 70.00
Draftsman II	\$ 55.00
Draftsman I	\$ 50.00
Computer Technician	\$ 75.00
Survey Technician	\$ 77.00
Registered Land Surveyor	\$ 94.00
2-Man or Robotic Survey	\$ 143.00
Party Chief	\$ 66.00
Soils Lab Supervisor	\$ 60.00
Soils Lab Technician II	\$ 45.00
Soils Lab Technician I	\$ 40.00
Clerk/Typist	\$ 48.00
Mileage	\$ 0.50

* Subject to Annual Adjustment Mid-Year.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 5
RUNWAY 16 SAFETY AREA IMPROVEMENTS
FAYETTEVILLE MUNICIPAL AIRPORT

LINE	TASK DESCRIPTION	CLASSIFICATION HOURLY RATE	PROJECT DIRECTOR	PROJECT MGR/JENGR.	PROJECT ENGINEER	ENGINEERING TECHNICIAN	CADD OPER. 1	CADD OPER. 2	CADD OPER. 3	LICENSED SURVEYOR	SURVEY CREW	CLERK TYPIST	INSPECTOR	MILEAGE	DIRECT EXPENSE	EXTENDED TOTAL
A	GEOTECHNICAL INVESTIGATION		1		2										\$7,115.00	\$7,600.00
B	WETLAND PERMITS AND RELOCATION PLANS															
	WETLAND & RELOCATION AREA SURVEYS			4	4	4	4	18		2	8	2		40	\$2,100.00	\$4,844.00
	DEVELOP RELOCATION PLANS AND DETAILS		1	4	12									26	\$3,500.00	\$6,956.00
			1	8	16	4	4	16	0	2	8	2	0	66	\$5,600.00	\$11,600.00
C	FEINA PLANS & PERMITS															
	OBTAIN FEINA HYDROLOGIC DATA		1	2	2											\$671.00
	PERFORM HYDROLOGICAL CALCULATIONS		1	4	8										\$12,000.00	\$13,492.00
	PREPARE REVISED MAPPING		2	8	16	16	4	16	0	0	8	2	0	0	\$12,200.00	\$4,337.00
															\$12,200.00	\$16,600.00
D	PRELIMINARY DESIGN ENGINEERING															
	DRAWING ORGANIZATION		1		2											\$373.00
	QUANTITY SHEETS		1		4											\$2,463.00
	TYPICAL DETAIL SHEET		1		2	20	8	20								\$2,673.00
	PLAN & PROFILE PLAN SHEETS		1		2	60	6									\$5,781.00
	DETAILS SHEETS		1		2	10	6	20								\$3,861.00
	EROSION CONTROL PLAN SHEETS		1		1	8	10	8								\$2,678.00
	EROSION CONTROL DETAIL SHEET		1		1	8	10	8								\$2,693.00
	CONSTRUCTION PHASING PLAN SHEETS		1		4	2	4	10	20							\$6,387.00
	CROSS SECTION SHEETS		1		4	18	20	40								\$4,586.00
	DRAINAGE CALCULATIONS		1		2	8	32	2	10							\$5,477.00
	WATER AND SEWER PLAN & PROFILE SHEETS		1		4	10	40									\$6,121.00
	WATER AND SEWER DETAIL SHEETS		1		4	20	20	10	30							\$1,843.00
	QUANTITIES		1		4	4	4	16								\$6,427.00
	SPECIFICATIONS		1		4	20	60									\$6,581.00
	UPDATE COST ESTIMATE		1		2	20										\$1,735.00
	IN-HOUSE QA REVIEWS		1		2	10										\$2,336.00
	OWNER & AHTD REVIEWS		1		2	8	2	4	10						\$7.00	\$2,428.00
	MEETINGS WITH OWNER		1		4	4										\$1,187.00
	SUBTOTAL, PRELIMINARY DESIGN		15	48	144	284	72	166	0	0	8	83	0	0	\$7.00	\$68,600.00
E	RIGHT-OF-WAY PLANS SHEETS		1	1	2	10				42	10				\$44.00	\$6,850.00
F	FINAL DESIGN ENGINEERING															
	COVER SHEET				1											\$355.00
	QUANTITY SHEETS		1		2	18		4								\$1,813.00
	TYPICAL DETAIL SHEET		1		2	8	2									\$1,233.00
	PLAN & PROFILE PLAN SHEETS		1		2	30										\$3,661.00
	DETAILS SHEETS		1		2	8	4	20								\$3,101.00
	EROSION CONTROL PLAN SHEETS		1		2	4	4									\$1,768.00
	EROSION CONTROL DETAIL SHEET		1		1	4	2	10								\$1,058.00
	CONSTRUCTION PHASING PLAN SHEETS		1		2	12	2	8								\$3,211.00
	CROSS SECTION SHEETS		1		2	24	2	10								\$3,678.00
	DRAINAGE CALCULATIONS		1		2	6	24	2								\$2,403.00
	WATER AND SEWER PLAN & PROFILE SHEETS		1		2	4	6	16								\$2,821.00
	WATER AND SEWER DETAIL SHEETS		1		2	4	6	2								\$1,223.00
	QUANTITIES		1		4	4	20	8								\$7,507.00
	SPECIFICATIONS		1		4	60										\$4,661.00
	UPDATE COST ESTIMATE		1		2	20										\$3,296.00
	IN-HOUSE QA REVIEWS		4	12	20	10									\$45.00	\$1,008.00
	OWNER & AHTD REVIEWS		1		4	8		6								\$1,568.00
	MEETINGS WITH OWNER		1		4	4										\$3,917.00
	FINAL REVIEW CHANGES		1		2	16	4	20								\$3,540.00
	FINAL AHTD REVIEW AND CHANGES		1		4	20	4	12								\$1,847.00
	FINAL IN-HOUSE QA REVIEWS		1		4	8										\$1,847.00
	SUBTOTAL, DETAILED DESIGN		14	48	120	236	34	126	0	0	0	50	0	0	\$86.00	\$56,600.00
G	BIDDING SERVICES		0	8	30	8	0	0	0	0	0	10	0	12	\$0.00	\$5,600.00
H	REIMBURSEMENT EXPENSES															
	Ark Dept of Health Review Fee														\$500.00	\$500.00
	Reproduction Costs														\$500.00	\$500.00
	Corps of Engineers Wetlands Fee														\$350.00	\$350.00
	ADCO SWPPP Plan Fee														\$2,160.00	\$2,160.00
	SUBTOTAL, REIMBURSEMENT EXPENSES															
	GRAND TOTAL, ENGINEERING SERVICES		30	105	296	613	106	292	0	42	10	143	0	12	\$2,287.00	\$177,600.00

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

A. 4
McClelland Consulting Engineers Inc.
Task Order # 15
Page 11 of 12

Budget Year 2008	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 10/7/2008	Adjustment Number
----------------------------	--	------------------------------------	-------------------

Project or Item Added/Increased:
\$177,600 in the Professional Services account

Project or Item Deleted/Reduced:
Increase Use of Fund Balance revenue account \$177,600

Justification of this Increase:
Will provide for final plans & specifications, bidding services, and grant coordination with the FAA for a project to correct the Runway 16 Safety Area deficiency.

Justification of this Decrease:
Use of the airport's fund balance will be offset by future grant revenues from the DOT/FAA and Arkansas Department of Aeronautics. The project is 100% reimbursable under current grant programs.

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5550	3960	5314	00	177,600	07039	2

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
<i>Air Grant 37</i> Use of fund balance	5550	0955	6800 4000	37 00	177,600	07039	2

Approval Signatures

Requested By

9/19/08
Date

Budget Manager

9/23/08
Date

Department Director

9/15/08
Date

Finance & Internal Services Director

9-23-08
Date

Mayor

9-23-08
Date

Budget Office Use Only

Type: A B C D E

Posted to General Ledger

Initial Date

Posted to Project Accounting

Initial Date

Entered in Category Log

Initial Date

City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items OnlyAdded at
Agenda Session
9/30/08~~Shirley Lucas~~

Submitted By

Yolanda Fields

Division

Department

Action Required:

A Resolution approving a budget adjustment in the amount of \$6,000 to be funded from Fund Balance for an increase in the contract services account for the Code Compliance Program. The amount expensed will be billed to the property owners.

Cost of this request

\$ 25,000.00

Category / Project Budget

Program Category / Project Name

1010.6420.5315.00

\$ 24,466.66

Code Compliance

Account Number

Funds Used to Date

Program / Project Category Name

Project Number

\$ 533.34

Remaining Balance

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

Received in City
Clerk's OfficeReceived in
Mayor's Office

Mayor

Date

Comments: Staff recommends approval of the budget adjustment.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Yolanda Fields, Community Resources Director

Date: September 25, 2008

Subject: Budget Adjustment – Code Compliance Program (Contract Services Acct.)

BACKGROUND

The Code Compliance Program (CCP) sends out notifications to property owners with violations of City codes 95.01 and 173.08. If a property owner does not comply within the compliance correction period, CCP conducts abatement of the violation and bills the property owner. Methods of abatement include: mowing overgrown yards and lots, picking up junk and debris, boarding up unsecured structures. Many factors have contributed to the accelerated use of funds, including: increase in city limit boundaries due to recent annexations, longer growing season due to heavy rainfall, high rate of abandoned homes due to increased home foreclosures. As of September 18th, contract services account is at a zero balance, therefore abatement procedures have stopped.

DISCUSSION

Currently we have 56 properties that are pending abatement procedures. The CCP abatement process recognized revenue in the amount \$17,166.00 from property abatement billing. A budget adjustment is needed to increase the contract services account. Funding for this adjustment is not possible from within the program or the current city budget, it must come from fund balance.

RECOMMENDATION

Staff recommends approval of a budget adjustment in the amount of \$6,000.00.

BUDGET IMPACT

Approval of the budget adjustment would move \$6,000.00 from the Fund Balance (1010.0001.4999.99) to the Code Compliance Program contract services account (1010.6420.5315.00).

RESOLUTION NO. _____

A RESOLUTION APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$6,000.00 TO TRANSFER FUNDS FROM FUND BALANCE TO CODE COMPLIANCE CONTRACT SERVICES ACCOUNT FOR CODE VIOLATION ABATEMENT.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$6,000.00 to transfer funds from Fund Balance to the Code Compliance Contract Services Account for code violation abatement.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

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

A. 6
Code Compliance Contract Services
Page 4 of 4

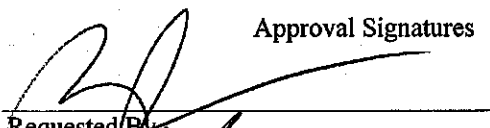
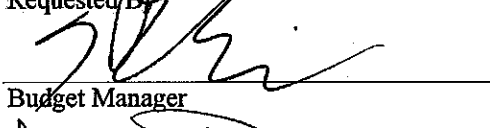
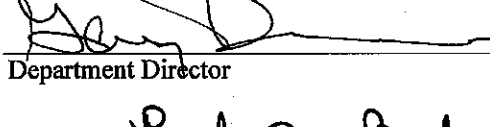
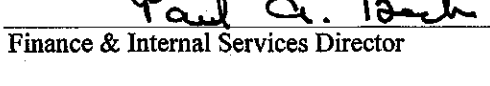
Budget Year	Department: Operations	Date Requested	Adjustment Number
2008	Division: Community Resources	9/24/2008	
	Program: Code Compliance		

Project or Item Added/Increased: \$6,000 Contract Services in the Code Compliance Program	Project or Item Deleted/Reduced: \$6,000 from the General Fund Use of Fund Balance
---	--

Justification of this Increase: The Code Compliance Program has used all of its allocated funds in contract services to clean up properties in the city which have not been maintained.	Justification of this Decrease: There is sufficient Fund Balance that can be used for this account.
---	---

Increase Expense Budget (Decrease Revenue Budget)						
Account Name		Account Number			Amount	Project Number
Contract services		1010	6420	5315 00	6,000	

Decrease Expense Budget (Increase Revenue Budget)						
Account Name		Account Number			Amount	Project Number
Use of fund balance		1010	0001	4999 99	6,000	

Approval Signatures  Requested By _____ 9/24/08 Date  Budget Manager _____ 9-25-08 Date  Department Director _____ 9-25-08 Date  Finance & Internal Services Director _____ Date _____ Mayor Date	Budget Office Use Only Type: _____ A B C <u>D</u> E Posted to General Ledger _____ Initial Date Posted to Project Accounting _____ Initial Date Entered in Category Log _____ Initial Date
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Added at
Agenda Session
9/30/08

MEMORANDUM

Date: September 29, 2008

To: Mayor Dan Coody and City Council

Thru: Gary Dumas, Director of Operations *(Signature)*

From: Connie Edmonston, Parks & Recreation Director *(Signature)*

Subject: Replacement of Recreation Superintendent

Recommendation: City Council approves the hiring of the Recreation Superintendent for the Parks and Recreation Division.

Background: On September 29, 2008, Recreation Superintendent David Wright submitted his resignation effective October 10, 2008.

Discussion: The Recreation Superintendent administers, supervises, promotes and evaluates all the recreation programs and special events in the City of Fayetteville. This includes, but is not limited to the Yvonne Richardson Community Center, Youth Recreational Soccer, Youth and Adult Recreational Softball, Youth Summer Camps and Adult Flag Football. This person is responsible for overseeing the revenue for each of these programs. The Recreation Superintendent handles all the marketing and website management for the Parks and Recreation Division. Finally, this person serves as the liason with special interested recreation organizations such as Fayetteville Youth Baseball, Fayetteville Boys and Girls Club, Northwest Arkansas Economic Development District (Senior Center and Hillcrest Towers), Ultimate Frisbee and Adult Rugby.

Budget Impact: This position salary is funded by the 20% in the General Fund, Recreation / Administration Program and 80% in the Parks Development Fund. In 2008, there is a total of \$76,388 budgeted for this position. \$15,277 is from the General Fund / Recreation Administration Program. \$61,111 is from the Parks Development Fund. This figure includes salary, taxes and benefits.

Handed out at
Agenda Session
9/30/08



THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

To: City Council, Mayor Dan Coody
From: Jeremy Pate, Director of Current Planning
Date: 29 September 2008
Subject: ADM 08-3093 Hill Place Culvert Removal and Bridge Installation

The applicant for this item has withdrawn the request to remove and mitigate for tree canopy within the Hill Place tree preservation area associated with the proposed removal of the existing 10-foot diameter steel pipe culvert within College Branch Creek. The culvert will remain in place, unless the City chooses to remove it at a later date, at which time Place Properties will fully cooperate. A letter is attached.

The request to remove and mitigate for tree canopy for installation of the vehicular bridge, replacing the pedestrian bridge across the creek, is still applicable and relevant to the conditions of approval placed upon the project by the City Council. As discussed when the PZD was approved, the applicants are required to install a new bridge across the creek linking the project. Associated with this removal is a minimum amount of tree canopy disturbance (2100 square feet) within the tree preservation area, necessary for the construction and installation of the bridge. All canopy within this area will be mitigated, and is subject to approval by the Urban Forester.

Staff recommends the Council amend the Resolution to reflect the attached language.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A REQUEST TO MODIFY AND REPLANT A PORTION OF THE TREE PRESERVATION AREA ASSOCIATED WITH HILL PLACE PZD, IN ORDER TO INSTALL A VEHICULAR BRIDGE ACROSS COLLEGE BRANCH CREEK.

WHEREAS, as required with the approved Hill Place Planned Zoning District, a vehicular bridge is to be constructed across the creek and established tree preservation area; and

WHEREAS, to accomplish the bridge installation, a portion of the tree preservation area will be impacted and subsequently the riparian corridor replanted;

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, pursuant to UDC Chapter 167 (L)(2), hereby approves a resolution to permit the described construction within the tree preservation area associated with the bridge installation, with the following conditions:

- 1) All construction activities, including installation of erosion control and tree protection fencing, shall be permitted and inspected by both the City Engineering office and the Urban Forester prior to commencement.
- 2) On-site mitigation will be required to replace the 2,100 square feet of canopy lost. Mitigation will require ten (10) 2-inch caliper large species trees to be located in the reclamation area.
- 3) All mitigation trees shall be native and represent species currently established and appropriate within the creek riparian area. The exact species will be determined at the time of planting and approved by the Urban Forester.
- 4) Planting shall occur with the completion bridge installation, to assist in erosion control and re-establishing the creek bank.
- 5) All mitigation trees shall be guaranteed by bond, letter of credit or cash deposit with the City for three years. The bond shall cover plant material, installation and three years of maintenance.

PASSED and APPROVED this ____ day of _____, 2008.

APPROVED:



September 19, 2008

City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
Attention: Jeremy Pate

RE: Hill Place Culvert Removal

Dear Mr. Pate:

Following the tabling of our request to remove the 10' steel pipe culvert from College Branch Creek on the Hill Place project at the City Council meeting on September 16, 2008, we have decided to withdraw our request to remove the culvert. This is obviously a very controversial and politically driven issue, and, while we believe it is the most appropriate action for the protection and restoration of College Branch Creek, Place Properties has decided it best for the City of Fayetteville to properly administer the tree preservation easement as they see fit. From an engineering perspective, we do believe there is a need to remove the culvert. We believe that we have sufficiently notified the City of Fayetteville of the hazard that exists with the culvert remaining in the creek, and if the City of Fayetteville deems it necessary to remove the culvert from the dedicated tree preservation easement in the future utilizing City of Fayetteville resources, the City of Fayetteville will receive full cooperation from Place Properties. We do, however, request that the City of Fayetteville continue to consider our request to place the new vehicular bridge within the tree preservation easement at the next scheduled City Council meeting. If you require revised tree preservation calculations, please do not hesitate to contact me. Thank you for your consideration of this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'A. Rowser', followed by a horizontal line.

Austin E. Rowser, P.E.
Design Team Leader
Appian Centre for Design

cc: Ron Petrie, P.E., City Engineer
Greg Cislo, Place Properties
Greg Howe, Urban Forester

City Council Meeting of September 16, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: August 26, 2008

Subject: Hill Place Culvert Removal from College Branch Creek (ADM 08-3093)

RECOMMENDATION

In accordance with the recommendations by the Engineering Staff and the City's Urban Forester (see attached memos), staff recommends approval of a resolution to permit the removal an existing, unpermitted 10-foot diameter culvert from College Branch Creek within the limits of the Hill Place project. This action will also permit the property owner to remove unhealthy and invasive species of shrubs and trees within the identified construction area, restore the health of several trees in decline, replant this area with new trees, and add erosion control measures to prevent future and continued erosion in conjunction with the culvert removal and vehicular bridge installation.

BACKGROUND

A 10-foot diameter culvert was placed within College Branch Creek in the late 1980s, near the railroad. In discussions with Engineering staff and the Urban Forester, the applicant has proposed to remove this culvert, at the developer's cost, in order to reduce the current flood levels along the creek. The culvert removal is not required by the City, yet will aid in reducing erosion potential and flood levels along the creek. The culvert currently creates "headwater flooding" due to a lack of capacity in size for storm events larger than a five-year flood. According to the Engineering Division, the culvert is a restriction to the existing creek and could not be permitted in accordance with today's Corps of Engineers regulations. A HEC-RAS hydraulic model was provided to staff, which indicates that removal of the 10 ft culvert and embankment will reduce the depth of flooding upstream, and will have no detrimental impact downstream. Rather, as the attached photos indicate, the existing culvert is beginning to structurally fail, as it was not designed for its intended use. In the event the culvert fails, or is overtopped, the embankment will be eroded and washed downstream which could cause detrimental environmental impact to property owners. Removal with the development of Hill Place PZD, by the developer, will eliminate this potential altogether. In addition, as required with the Hill Place PZD, a vehicular bridge will cross the creek in place of the existing pedestrian bridge, to provide a second means of access. As anticipated when the PZD was submitted and approved, this bridge will span the creek's floodplain, but will also likely result in the removal of some small trees in this area that are required to be mitigated.

City Council Meeting of September 16, 2008
Agenda Item Number

Because the culvert and bridge crossing are within the established Tree Preservation Area, and a small amount of clearing will need to occur to access and remove the culvert and install the bridge, City Council approval is required. The Tree Preservation and Protection Code, Chapter 167(L)(2) of the UDC states: *The geographic extent and location of tree preservation areas, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the landscape administrator [urban forester], who shall ask the city clerk to place it on the agenda of the next regularly scheduled City Council meeting.*

While the request will not modify or abolish the extent and location of the tree preservation area, some tree removal will be required to accomplish the two objectives stated herein. A property owner is permitted to remove dead or diseased trees within a Tree Preservation Area without Council approval, but not live or healthy trees.

The Urban Forester has reviewed the request and a proposed mitigation plan. Approximately 13,634 ft² of canopy within the Tree Preservation Area will be affected by the culvert removal and re-grading of the bank, and 2,100 ft² with the installation of the vehicular bridge. The trees in this area are mostly volunteers which germinated at some point after the culvert was installed. No significant trees and only one larger tree will be removed, with an additional large invasive tree that will be removed. This area also has less desirable species, vines and underbrush. Staff recommends City Council approval of this modification of an existing Tree Preservation Area to accommodate the bridge enlargement and the culvert removal as no net loss of Tree Preservation Area will occur once mitigation trees are planted. This is due to the higher replacement rate used to calculate tree mitigation. Based on this calculation, the applicant will be required to replant 55 2-inch caliper trees within the riparian corridor. In addition, staff has recommended conditions, based on the applicant's request, to plant back native species in this area and to re-establish a healthy riparian corridor.

DISCUSSION

This request would result in the removal and mitigation for 15,734 sq. ft. of canopy removed. All mitigation trees are required to be bonded for a three-year period.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A REQUEST TO MODIFY AND REPLANT A PORTION OF THE TREE PRESERVATION AREA ASSOCIATED WITH HILL PLACE PZD, IN ORDER TO REMOVE A CULVERT WITHIN COLLEGE BRANCH CREEK AND TO INSTALL A VEHICULAR BRIDGE, AS DESCRIBED HEREIN.

WHEREAS, the applicant has studied an existing, un-permitted 10-foot diameter culvert located within College Branch Creek, which contributes to erosion and increased flooding; and

WHEREAS, removal of the structurally failing culvert would reduce flooding potential upstream and reduce the likelihood of detrimental erosion impacts downstream; and

WHEREAS, as required with the approved Hill Place Planned Zoning District, a vehicular bridge is to be constructed across the creek and established Tree Preservation Area; and

WHEREAS, to accomplish the described culvert removal and bridge installation, a portion of the Tree Preservation Area will be impacted and subsequently the riparian corridor replanted;

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, pursuant to UDC Chapter 167 (L)(2), hereby approves a resolution to permit the described construction within the Tree Preservation Area associated with the bridge installation and culvert removal, with the following conditions:

- 1) All construction activities, including installation of erosion control and tree protection fencing, shall be permitted and inspected by both the City Engineering office and the Urban Forester prior to commencement.
- 2) Where feasible, native species that are to be removed shall be tree spaded, healed in and watered, and transplanted back to the site after construction.
- 3) On-site mitigation will be required to replace the 15,734 square feet of canopy lost. Mitigation will require 55 (2) inch caliper large species trees to be located in the reclamation area.
- 4) All mitigation trees shall be native and represent species currently established and appropriate within the creek riparian area. The exact species will be determined at the time of planting and approved by the Urban Forester.

- 5) Planting shall occur with completion of the culvert removal and bridge installation, and bank grading to assist in erosion control and re-establishing the creek bank.
- 6) All mitigation trees shall be guaranteed by bond, letter of credit or cash deposit with the City for three years. The bond shall cover plant material, installation and three years of maintenance.

PASSED and APPROVED this ____ day of _____, 2008.

APPROVED:

Farmington / Fayetteville Annexation / De-Annexation Public Notice

Arkansas Democrat-Gazette

100 ● FRIDAY, SEPTEMBER 26, 2008 ▲

PUBLIC HEARING NOTICE
Notice is hereby given that Ordinance No. 0172 has been adopted by the Fayetteville City Council on September 2, 2008 calling for the simultaneous detachment of 11.66 acres more or less, as described below, from the City of Farmington and annexation of said territory into the City of Fayetteville in accordance with Arkansas Code Annotated 14-40-2101. The property is described as:

DESCRIPTION OF PARCEL TO

CONVEY FROM FARMINGTON TO FAYETTEVILLE:

A part of the West Half (W 1/2) of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) 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 1/2" rebar marking the Northwest Corner of the Southwest Quarter (SW 1/4) of the Northwest Quarter (NW 1/4) 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 a chord 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 11.66 acres more or less. Basis of bearings is a survey by Tony Anderson (PLS 1272), Job Number 06-12302, 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.

A public hearing will be held regarding this matter at 6:00 p.m. on October 13, 2008 in the City Council Chambers at Farmington City Hall, 354 West Main in Farmington, Arkansas. The public and property owners within the area proposed to be annexed are advised of their right to appear at the public hearing to present their views on the proposed annexation.

Dan Coody, Mayor
#53127342 Sept. 26, 2008

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

D. 1
Fayetteville Municipal Property
Owners' Improvement District No. 32-
Park West Commercial Development
Infrastructure Project
Page 1 of 14

Added at
Agenda Session
9/30/08

October 7, 2008
City Council Meeting Date

Sondra E. Smith

Submitted By

City Clerk

Division

City Clerk

Department

Action Required:

An ordinance to establish Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project. This petition is being filed under the Arkansas Municipal Property Owners' Improvement District law. Arkansas Code Ann. Sec. 14-94-101 et seq. The petition is being filed by James N. McCord, on behalf of the Improvement District.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

N/A

Budget Adjustment Attached

N/A

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City Clerk's Office

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

ENTERED

Comments:



RECEIVED

SEP 25 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

D. 1
Fayetteville Municipal Property
Owners' Improvement District No. 32-
Park West Commercial Development
Infrastructure Project
113 West Mountain
Fayetteville, AR 72701
Telephone: (479) 575-8323
Fax: (479) 718-7695
city_clerk@ci.fayetteville.ar.us

City Clerk/Treasurer Division

September 25, 2008

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

RE: Petition to form Fayetteville Municipal Property Owners'
Improvement District No. 32-
Park West Commercial Development 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. 32 – Park West Commercial Development Infrastructure Project has been filed in the office of the Fayetteville City Clerk. Pursuant to Ark. Code Ann. Sec. 14-94-106 (a)(1), I hereby present you with the Petition.

Sincerely,

Sondra E. Smith
City Clerk/Treasurer

cc: Kit Williams, City Attorney
James N. McCord

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

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

September 25, 2008

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

VIA HAND DELIVERY

Re: Petition to Form Fayetteville Municipal Property Owners' Improvement
District No. 32 - Park West Commercial Development 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. 32 - Park West Commercial Development Infrastructure Project. Please file mark each Petition, retain one for the City's permanent file and for presentation to the Mayor, and return the other counterparts to me. The Petition is being filed under the Arkansas Municipal Property Owners' Improvement District law, Ark. Code Ann. Sec. 14-94-101 et seq.

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

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

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

* * *

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

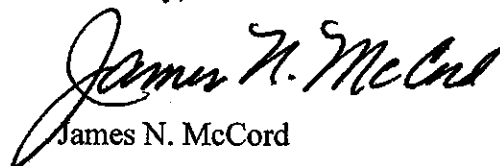
Also enclosed for filing in the office of the City Clerk is an executed Abstracter's Certificate of Property Ownership certifying that the improvement district petition is signed by the owner of the record title to all the real property described in the Petition. I have drafted and enclose an ordinance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

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

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

Should there be any questions, please contact me.

Sincerely,


James N. McCord

pc: Kit Williams, City Attorney
Tracy Hoskins

ORDINANCE NO. _____

**AN ORDINANCE TO ESTABLISH AND LAY OFF
FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 32 - PARK WEST
COMMERCIAL DEVELOPMENT INFRASTRUCTURE
PROJECT**

WHEREAS, a Petition to form Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project has been filed with the Fayetteville City Clerk; and

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

WHEREAS, the Mayor has set October 7, 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 an abstracter's certificate of property ownership that those signing the petition constitute all the owners of the real property to be located in the district; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF 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. 32 - Park West Commercial Development Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks, recreation, drainage, gas pipelines, underground trenches and excavations necessary for the installation by public utilities or municipal utilities of electric and telephone distribution systems, sanitary sewers, streets and highways including curbs and gutters, and sidewalks, together with facilities related to any of the foregoing, or for more than one of those purposes.

Section 2: The following three individuals are hereby appointed as commissioners of said improvement district: Tracy K. Hoskins, L. Celeste Hoskins and James Patton.

Section 3: The name of said improvement district shall be Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development 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 purpose of preserving, maintaining, and operating the improvements, replacing equipment, paying salaries to employees, and performing any other functions or services authorized in Ark. Code Ann., Title 14, Chapter 94.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT "A"

A PART OF THE EAST HALF (E ½) OF THE SOUTHWEST QUARTER (SW ¼) AND A PART OF THE WEST HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼), ALL IN SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER (NE ¼) OF THE SOUTHWEST QUARTER (SW ¼) OF SAID SECTION 28, AND CONTINUING SOUTH 87°14'29" E ALONG THE NORTH BOUNDARY OF SAID FORTY (40) ACRE TRACT 634.01 FEET; THENCE LEAVING SAID EAST LINE SOUTH 00°11'32" W 628.47 FEET; THENCE SOUTH 03°03'56" W 178.40 FEET; THENCE SOUTH 87°12'12" E 1320.36 FEET, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 87°12'12" E 607.17 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT-OF-WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT-OF-WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTER LINE; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 02°43'05" W 1453.41 FEET; THENCE SOUTH 02° 02'13" W 63.14 FEET; THENCE SOUTH 00°11'37" W 29.77 FEET; THENCE SOUTH 00°11'37" W 22.20 FEET; THENCE SOUTH 03°04'20" E 40.08 FEET; THENCE SOUTH 07°04'17" E 55.68 FEET; THENCE SOUTH 11°50'57" E 58.74 FEET; THENCE SOUTH 15°35'06" E 30.17 FEET; THENCE NORTH 87°09'05" W 592.81 FEET; THENCE NORTH 02° 32'56" E 291.07 FEET; THENCE NORTH 87° 27'04" W 50.00 FEET; THENCE NORTH 02°32'56" E 1457.27 FEET TO THE POINT OF BEGINNING, CONTAINING 24.01 ACRES, MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS; SUBJECT TO EASEMENT OR RECORD DESCRIBED AS INSTRUMENT # 9344456 AND 2002 084864, AND OTHER DOCUMENTS OF RECORD NOT SHOWN HEREON.

NOTICE

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

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS' IMPROVEMENT DISTRICT NO. 32 - PARK WEST COMMERCIAL DEVELOPMENT INFRASTRUCTURE PROJECT

For its petition to form Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project, the undersigned petitioner states:

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

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

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

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

4. Petitioner names the following three individuals, pursuant to Ark. Code Ann. 14-94-105(a)(2)(B), as designated representatives of Petitioner to be appointed as commissioners of the district: Tracy K. Hoskins, L. Celeste Hoskins and James Patton.

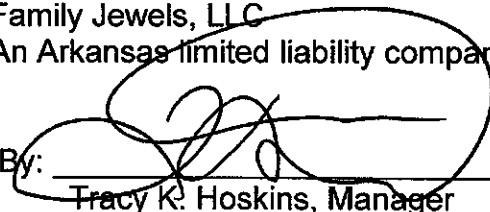
5. Petitioner proposes that the name of the district be Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project.

WHEREFORE, the undersigned Petitioner hereby petitions the City Council of Fayetteville, Arkansas to adopt an ordinance establishing and laying off the real property described in Exhibit "A" attached hereto and made a part hereof into Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project for the purpose of constructing, purchasing, accepting as a gift or maintaining facilities for waterworks recreation, drainage, gas pipelines, underground trenches and

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

DATED this 19th day of September, 2008.

Family Jewels, LLC
An Arkansas limited liability company

By: 

Tracy K. Hoskins, Manager

"A"

LOT-1 BOUNDARY DESCRIPTION:

A PART OF THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) AND A PART OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4), ALL IN SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS :
COMMENCING AT THE NORTHWEST CORNER (NWC) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 28, AND CONTINUING S87°14'29"E ALONG THE NORTH BOUNDARY OF SAID FORTY (40) ACRE TRACT 634.01 FEET;
THENCE LEAVING SAID EAST LINE S00°11'32"W 628.47 FEET;
THENCE S03°03'56"W 178.40;
THENCE S87°12'12"E 1320.36 FEET ; SAID POINTING BEING THE POINT OF BEGINNING,
THENCE S87°12'12"E 607.17 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT OF WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT OF WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTER LINE;
THENCE ALONG SAID RIGHT OF WAY S02°43'05"W 1453.41 FEET;
THENCE S02°02'13"W 63.14 FEET;
THENCE S00°11'37"W 29.77 FEET;
THENCE S00°11'37"W 22.20 FEET;
THENCE S03°04'20"E 40.08 FEET;
THENCE S07°04'17"E 55.68 FEET;
THENCE S11°50'57"E 58.74 FEET;
THENCE S15°35'06"E 30.17 FEET;
THENCE N87°09'05"W 592.81 FEET;
THENCE N02°32'56"E 291.07 FEET;
THENCE N87°27'04"W 50.00 FEET;
THENCE N02°32'56"E 1457.27 TO THE POINT OF BEGINNING CONTAINING 24.01 ACRES.
MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY ARKANSAS.
SUBJECT TO EASEMENT OF RECORD DESCRIBED AS INSTRUMENT # 9344456 AND 2002 084864, AND OTHER DOCUMENTS OF RECORD NOT SHOWN HEREON.

BEFORE THE CITY COUNCIL OF FAYETTEVILLE, ARKANSAS

**PETITION TO FORM FAYETTEVILLE MUNICIPAL PROPERTY OWNERS'
IMPROVEMENT DISTRICT NO. 32 - PARK WEST COMMERCIAL
DEVELOPMENT INFRASTRUCTURE PROJECT**

ABSTRACTER'S CERTIFICATE OF PROPERTY OWNERSHIP

Bronson Abstract Company, Inc. hereby certifies that the deed records in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas, reflect that the following is the owner of the record title to all of the real property described in Exhibit "A" to the Petition to Form Fayetteville Municipal Property Owners' Improvement District No. 32 - Park West Commercial Development Infrastructure Project, a copy of which Exhibit "A" is attached hereto and made a part hereof:

Family Jewels, LLC;

DATED this 23 day of September, 2008.

Bronson Abstract Company, Inc.

By: Scott Bronson

AUTHORIZED REPRESENTATIVE

Title: president

"A"

LOT-1 BOUNDARY DESCRIPTION:

A PART OF THE EAST HALF (E 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) AND A PART OF THE WEST HALF (W 1/2) OF THE SOUTHEAST QUARTER (SE 1/4), ALL IN SECTION 28, TOWNSHIP 17 NORTH, RANGE 30 WEST, BEING MORE PARTICULARLY DESCRIBED AS ; COMMENCING AT THE NORTHWEST CORNER (NWC) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION 28, AND CONTINUING S87°14'29"E ALONG THE NORTH BOUNDARY OF SAID FORTY (40) ACRE TRACT 634.01 FEET; THENCE LEAVING SAID EAST LINE S00°11'32"W 628.47 FEET; THENCE S03°03'56"W 178.40; THENCE S87°12'12"E 1320.36 FEET ; SAID POINTING BEING THE POINT OF BEGINNING, THENCE S87°12'12"E 607.17 FEET TO AN EXISTING IRON PIN ON THE WESTERLY RIGHT OF WAY OF ARKANSAS HIGHWAY 112, SAID RIGHT OF WAY BEING 55 FEET WEST OF SAID HIGHWAY CENTER LINE; THENCE ALONG SAID RIGHT OF WAY S02°43'05"W 1453.41 FEET; THENCE S02°02'13"W 63.14 FEET; THENCE S00°11'37"W 29.77 FEET; THENCE S00°11'37"W 22.20 FEET; THENCE S03°04'20"E 40.08 FEET; THENCE S07°04'17"E 55.68 FEET; THENCE S11°50'57"E 58.74 FEET; THENCE S15°35'06"E 30.17 FEET; THENCE N87°09'05"W 592.81 FEET; THENCE N02°32'56"E 291.07 FEET; THENCE N87°27'04"W 50.00 FEET; THENCE N02°32'56"E 1457.27 TO THE POINT OF BEGINNING CONTAINING 24.01 ACRES. MORE OR LESS, FAYETTEVILLE, WASHINGTON COUNTY ARKANSAS. SUBJECT TO EASEMENT OF RECORD DESCRIBED AS INSTRUMENT # 9344456 AND 2002 084864, AND OTHER DOCUMENTS OF RECORD NOT SHOWN HEREON.

City Council Agenda Items
and
Contracts, Leases or Agreements

8/19/2008

City Council Meeting Date
Agenda Items OnlyJeremy Pate *JP*
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

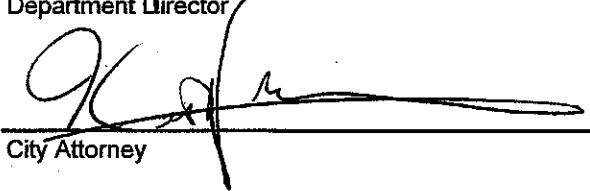
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

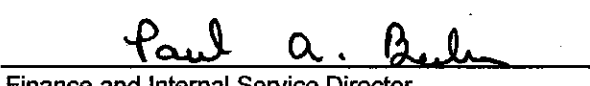
Department Director
8-1-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

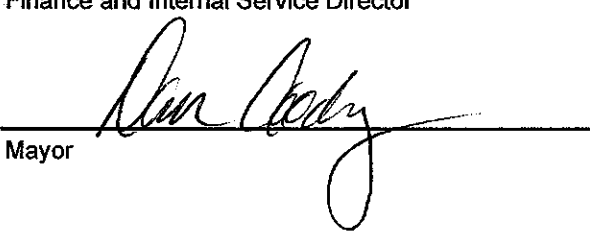

City Attorney
8-1-08
Date

Original Contract Number:


Finance and Internal Service Director
8-4-08
DateReceived in City
Clerk's Office

8-1-08

ENTERED


Mayor
8/6/08
DateReceived in
Mayor's OfficeENTERED
8/11/08

BEP

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.

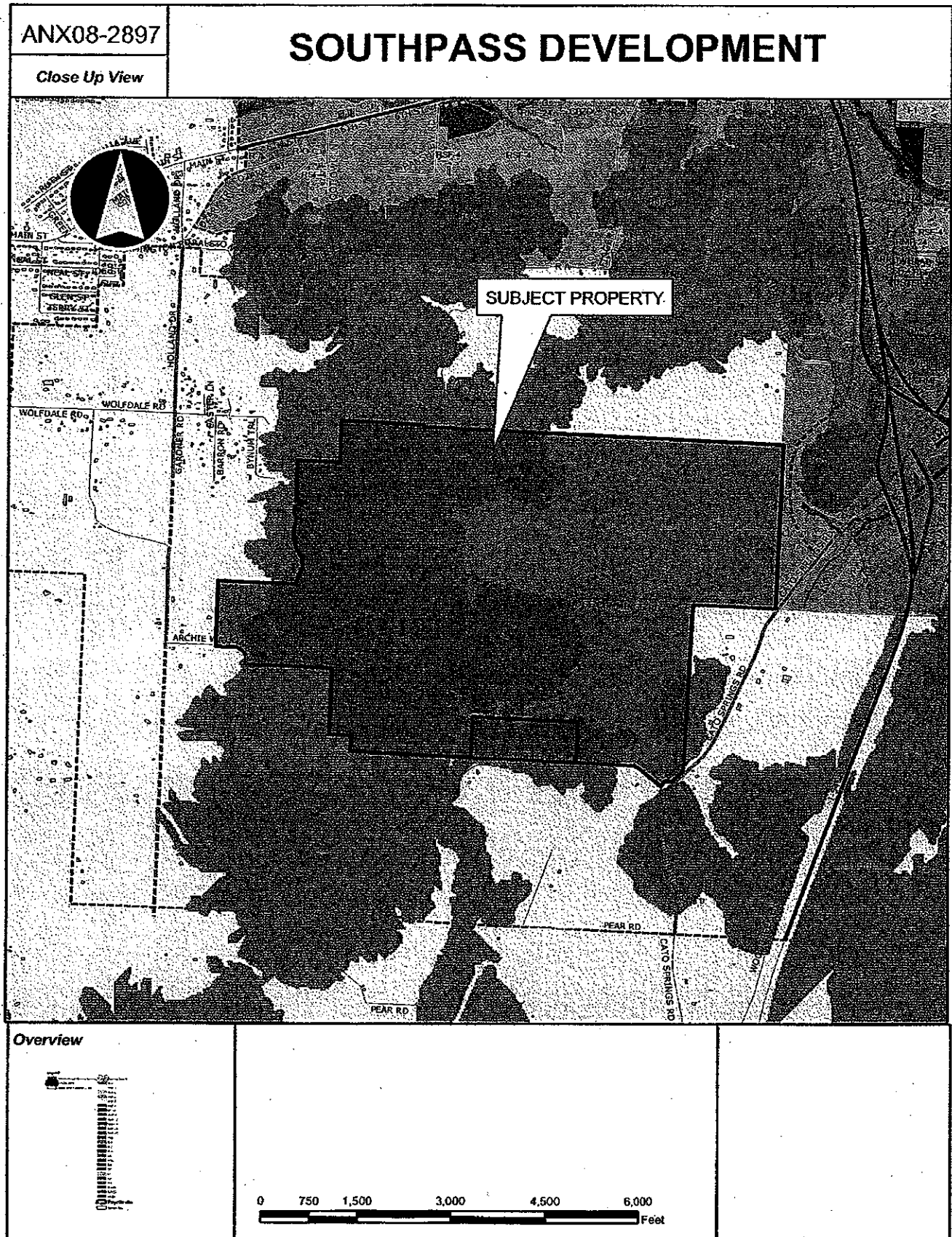
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk

EXHIBIT "A"



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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;

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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

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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;

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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

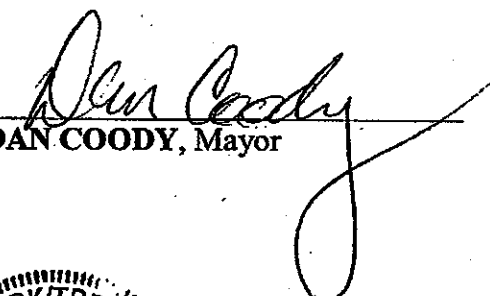
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH SOUTHPASS DEVELOPMENT COMPANY TO ACCEPT 200 ACRES OF PARK LAND, A 10 ACRE WATER TANK SITE, ONE MILLION DOLLARS FOR PARK LAND DEVELOPMENT AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL.

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.

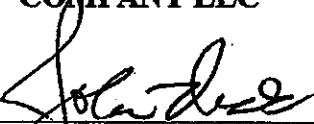
8. If all the contingencies listed in paragraph 1 have been accomplished and all the actions listed in paragraph 2 have been achieved, SouthPass Development Company LLC shall contribute One Million Dollars (\$1,000,000.00) when the City is ready to award the first construction contract utilizing the 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.

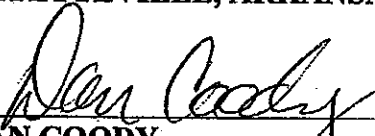
**SOUTHPASS DEVELOPMENT
COMPANY LLC**

By:

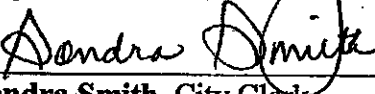

JOHN NOCK
Managing Member

**CITY OF
FAYETTEVILLE, ARKANSAS**

By:


DAN COODY
Mayor

Attest:


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:

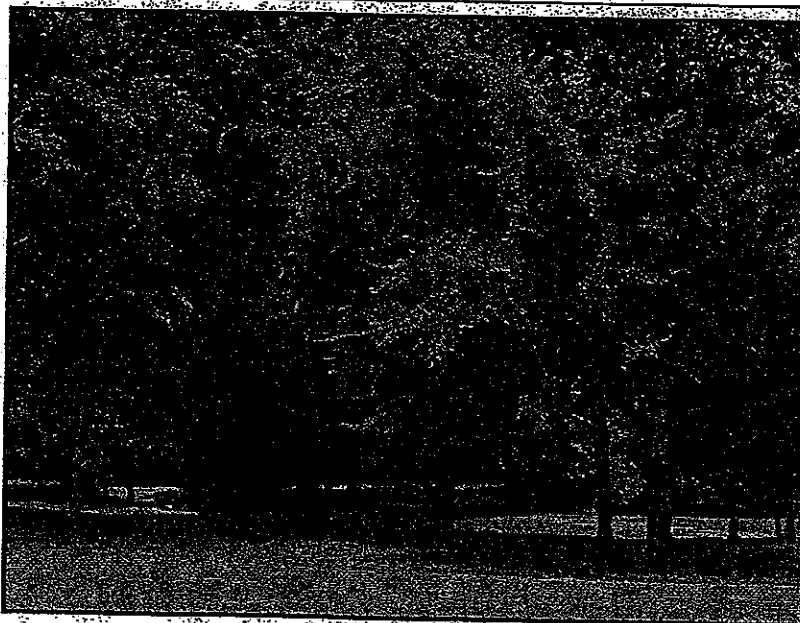
The Parks and Recreation Master Plan recommends development of a Community Park. Facilities would include baseball, soccer, and softball complexes, as well as trails, tennis courts, sand volleyball courts, a pavilion, picnic tables/grills/benches, disc golf, and multi-purpose fields, to name a few possibilities. 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.

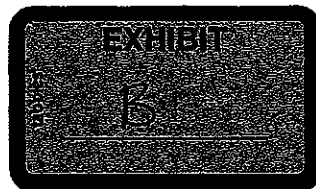
EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

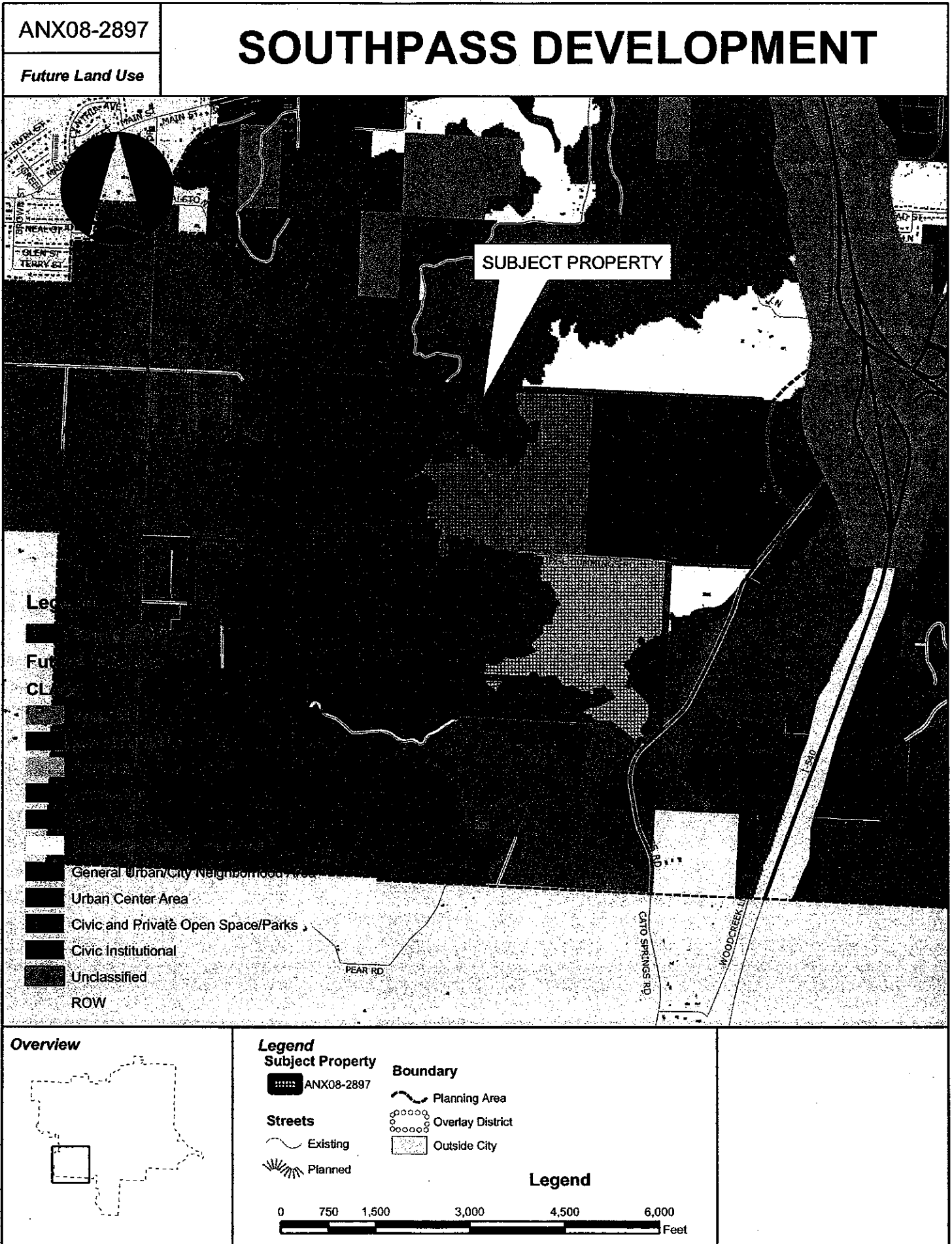
Depending on the site and conceptual plan, personnel, vehicles, utilities, and maintenance costs may increase accordingly. There would be income generated from sponsorships, entry fees, rentals, etc. No projections on the impact to the operating budget have been made. These figures will be estimated 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>





FRANK SHARP/SOUTHPASS DEVELOPMENT



Overview



ANX08-2897

Close Up View

SOUTHPASS DEVELOPMENT



Overview

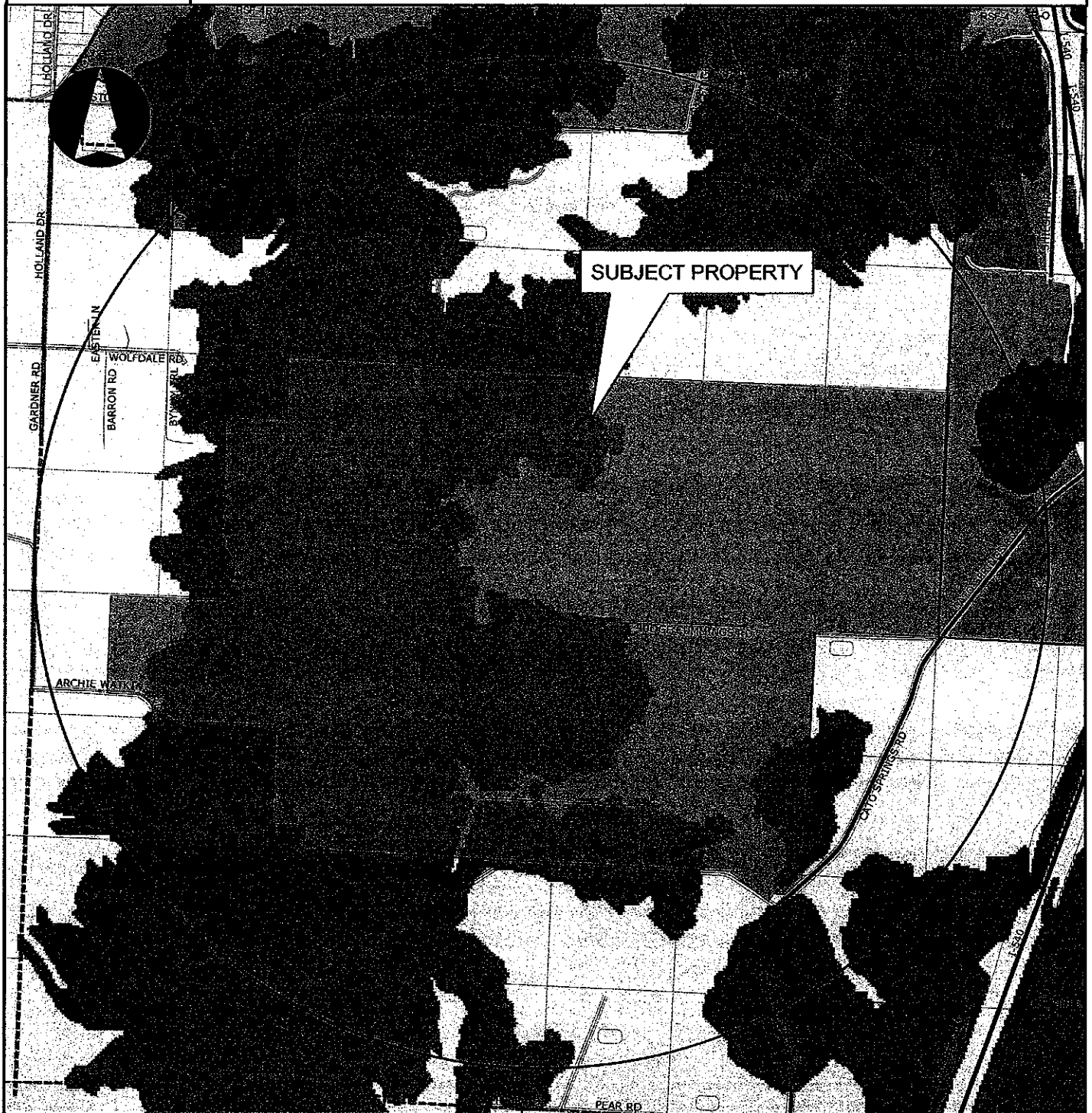


0 750 1,500 3,000 4,500 6,000
Feet

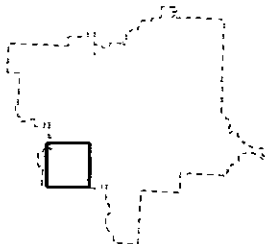
ANX08-2897

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

City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items OnlyJeremy Pate 
Submitted ByPlanning
DivisionOperations
Department

Action Required:

R-PZD 08-2898: Planned Zoning District (Southpass Development, 675 & 714): Submitted by Appian Centre for Design for property located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265) containing approximately 910.36 acres. The request is for zoning and land use approval of a Residential Planned Zoning District with 751 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

Program / Project Category Name

Project Number

\$

Remaining Balance

Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

Previous Ordinance or Resolution #

City Attorney

Date

Original Contract Date:

Original Contract Number:

Finance and Internal Service Director

Date

Received in City
Clerk's Office

9-19-08

ENTERED
10/7/08

Mayor

Date

Received in
Mayor's OfficeENTERED
9/19/08
AK

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: September 18, 2008

Subject: Residential Planned Zoning District for Southpass (R-PZD 08-2898)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Southpass, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a mixed-use project on approximately 910 acres. The proposal consists of 751 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

BACKGROUND

A majority of the site is located in unincorporated Washington County and a small portion is in the City and zoned R-A, Residential Agricultural. The property is located south of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265). This project is designed to create a new urban center in a traditional mixed use town form in the flatter areas of the site adjacent to Cato Springs Road in the north, and clusters a variety of housing types over other areas of the site to avoid impacts to prominent hillsides, hilltops, and other environmental features. Central to the development is a new Community/Regional Park of over 200 acres of both passive and active recreation space, in addition to over 240 acres of preserved open space, together comprising 54% of the site area. The primary entrances into the site are off of the extension of Shiloh Drive into the northeastern portion of the site and from Cato Springs Road along the eastern boundary of the property. Several streets are proposed directly off of Cato Springs Road (State Highway 265), and access into the southern portion of the site is provided off of Kessler Mountain Road (County Road 201). The internal street pattern in the Town Center and Crescent Park planning areas are based on a modified grid pattern. As the development moves west over the site, streets follow the topography and wind along the ridgelines and valleys connecting the various clusters of development.

DISCUSSION

The Planning Commission voted 7-1-0 (Myres voting 'No') in favor of this request on September 8, 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 08-2898, SOUTHPASS, LOCATED SOUTH OF THE CITY OF FAYETTEVILLE AT THE INTERSECTION OF INTERSTATE 540 AND CATO SPRINGS ROAD (STATE HIGHWAY 265); CONTAINING APPROXIMATELY 910.36 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From R-A, Residential Agricultural to R-PZD 08-2898, Southpass, 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 E. SMITH, City Clerk/Treasurer

EXHIBIT "A"

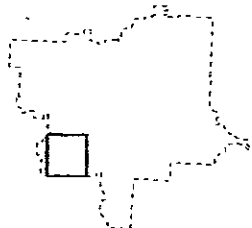
SOUTHPASS DEVELOPMENT

RPZD08-2898

One Mile View



Overview



Legend

Subject Property
RPZD08-2898

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

EXHIBIT "B"
R-PZD 08-2898

SOUTHPASS DEVELOPMENT (OVERALL DESCRIPTION)

THE FRACTIONAL SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 30, RANGE 30 WEST AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND A PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 29, RANGE 30 WEST AND THE FRACTIONAL NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND A PART OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, RANGE 30 WEST AND THE WEST HALF OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 31, RANGE 30 WEST, AND THE EAST HALF OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 25, RANGE 31 WEST AND THE EAST HALF OF THE NORTHEAST QUARTER AND A PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, RANGE 31 WEST, ALL IN TOWNSHIP 16 NORTH, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A FOUND ALUMINUM MONUMENT, LOCATED AT THE NORTHWEST CORNER OF THE FRACTIONAL NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30 AND RUNNING THENCE S87°15'10"E 1834.34' TO A SET IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30, THENCE S87°15'10"E 1315.53' TO A SET IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 30, THENCE S87°15'10"E 1315.53' TO A SET IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 30, THENCE S87°15'10"E 1315.53' TO A SET IRON PIN, LOCATED AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 30, THENCE S87°03'16"E 1148.15' TO A SET IRON PIN, LOCATED ON THE WESTERNLY RIGHT-OF-WAY OF U.S. INTERSTATE #540 NORTH, THENCE ALONG SAID ROAD RIGHT-OF-WAY S09°21'05"W 48.62' TO A ROAD RIGHT-OF-WAY MONUMENT, THENCE S24°41'50"E 810.46' TO THE CENTERLINE OF ARKANSAS HIGHWAY #265, THENCE ALONG SAID ROAD CENTERLINE S49°01'25"W 147.54', S51°50'43"W 278.39', S47°17'17"W 104.60', S41°27'16"W 126.25', S38°03'59"W 1730.47', THENCE LEAVING SAID ROAD CENTERLINE N87°23'35"W 37.23' TO A FOUND IRON PIN, LOCATED AT THE SOUTHEAST CORNER OF SAID SECTION 30, THENCE N87°14'32"W 1322.98' TO A SET IRON PIN, LOCATED AT THE SOUTHWEST CORNER OF

THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 30, THENCE S03°10'31"W 1314.09' TO A SET IRON PIN, LOCATED AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31, THENCE S03°10'31"W 1314.09' TO A SET IRON PIN, LOCATED AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31, THENCE S02°56'56"W 214.50' TO A SET IRON PIN, THENCE N87°30'29"W 293.70' TO A SET IRON PIN, THENCE S33°00'07"W 99.00' TO A SET IRON PIN, THENCE N51°59'53"W 528.00' TO A SET IRON PIN, THENCE N86°59'53"W 542.91' TO A FOUND IRON PIN, LOCATED AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 31, THENCE N87°09'20"W 423.69' TO A FOUND PIPE, THENCE N87°09'20"W 886.41' TO THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31, THENCE N87°09'20"W 785.52' TO A FOUND IRON PIN, THENCE N87°09'20"W 963.77' TO A FOUND STONE, LOCATED AT THE SOUTHWEST CORNER OF THE FRACTIONAL SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 31, THENCE N87°03'18"W 962.79' TO A FOUND IRON PIN, THENCE N03°06'30"E 249.93' TO A FOUND IRON PIN, THENCE N86°53'02"W 350.00' TO A FOUND IRON PIN, THENCE N01°47'26"E 1060.68' TO A FOUND IRON PIN, LOCATED AT THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 36, THENCE N87°16'27"W 1343.38' TO A FOUND IRON PIN, LOCATED IN THE CENTERLINE OF A GRAVEL DRIVEWAY, THENCE ALONG SAID GRAVEL DRIVEWAY CENTERLINE N04°02'35"E 72.47', N11°19'49"E 40.24', THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 101.22' AND A CHORD BEARING AND DISTANCE OF N24°09'50"W 87.35', N48°44'10"W 34.21', THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 215.87' AND A CHORD BEARING AND DISTANCE OF N67°02'42"W 157.18', N89°17'23"W 123.09', N87°11'38"W 161.28', THENCE LEAVING SAID GRAVEL DRIVEWAY CENTERLINE N01°57'34"E 1055.60' TO A FOUND IRON PIN, THENCE S87°31'37"E 1230.87' TO A FOUND IRON PIN, LOCATED ON A BLUFF LINE, THENCE ALONG SAID BLUFF LINE N17°08'05"E 157.76', N23°29'30"E 127.51', N02°25'44"E 131.20', N30°29'11"W 198.42', N16°15'45"W 180.52', N03°00'58"E 113.62', N14°13'54"E 202.18', N24°51'02"W 100.73', N08°41'17"E 110.59', N67°53'42"E 173.71' TO A FOUND IRON PIN, THENCE LEAVING SAID BLUFF LINE N87°18'22"W 147.50' TO A FOUND IRON PIN, THENCE N01°28'04"E 659.86' TO A FOUND IRON PIN, THENCE S87°13'07"E 660.25' TO A FOUND IRON PIN, THENCE N01°27'39"E 675.06' TO A FOUND IRON PIN, LOCATED AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 25, THENCE S87°09'38"E 1314.52' TO A FOUND STATE MONUMENT, LOCATED AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 25, THENCE S02°25'51"W 36.60' TO THE POINT OF BEGINNING. CONTAINING IN ALL 910.36 ACRES, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY OF RECORD, IF ANY.

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 1 of 7

Staff and the Planning Commission recommend the following conditions of approval associated with R-PZD 08-2898 (Southpass).

Conditions of Approval:

1. **Compliance with adopted land use policies and goals including City Plan 2025 and the PZD ordinance:** As discussed in the findings in this report and with conditions herein, staff finds that SouthPass is in compliance with the adopted land use policies and City Plan 2025. While the project is not considered an infill development (Goal #1), this site has been anticipated for a number of years in the City Plan 2025 as an area for greenfield development in the City Neighborhood pattern, and in staff's opinion does not contribute to sprawl, if developed as being proposed. The proposed development is preferred over a typical suburban sprawl development that segregates various residential types and isolates commercial development in an area only accessible by vehicle, while dividing up sensitive natural environments (hillsides, floodplain, tree canopy) into individual lots. This project maximizes environmental protection, integrates a mix of residential housing types, and plans for the commercial development in a traditional downtown pattern. In addition, the opportunity for a mixture of building types and uses within all of the planning areas has been provided. The property's location is well-suited for growth in the manner encouraged by City Plan 2025, with direct access to I-540 and State Highway 265, which leads into the University of Arkansas. It is also in close proximity to the University of Arkansas Research and Technology Park and numerous other amenities. The proposed land use pattern is in a traditional town form, offering a variety of housing choices for residents and support services within walking distance, while preserving and enhancing the City's enduring green network with the addition of about 500 acres of greenspace into the City.
2. **Architectural design standards, and overall compatibility and transition in the proposed development:** Staff finds in favor of this determination. The building elevations of structures in this development are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings/flats, commercial structures, townhouses, and single-family detached houses. The zoning criteria and elevations for the residential and non-residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development. There is a wide variety of uses and structures prevent a visual monotony while maintaining a compatible architectural design throughout the site. Commercial and residential design standards will be reviewed in detail at the time of development.
3. **Connectivity:** The primary entrances into the site are off of the extension of Shiloh Drive into the northeastern portion of the site and from Cato Springs Road along the eastern boundary of the property. Several streets are proposed directly off of Cato Springs Road (State Highway 265), and access into the southern portion of the site is provided off of Kessler Mountain Road (County Road 201). The internal street pattern in the Town Center and Crescent Park planning areas are based on a modified grid pattern. As the development spreads over the site, streets follow the topography and wind along

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 2 of 7

the ridgelines and valleys connecting the various clusters of development. Street connectivity outside of the Town Center is on the whole low, however, due to existing constraints of topography and the cluster development pattern which preserves approximately 487 acres of parks and open space, over 53% of the entire site. However, pedestrian connectivity is excellent with a number of pedestrian and mountain biking trails that will traverse the entire 910-acre site connecting the clusters of development to the 200-acre regional park in the central portion of the site and the urban center in the northeast portion of the site. Staff generally recommends in favor of the access and connectivity as proposed with the understanding that additional street connections and stub-out points will be evaluated at the time of development for each planning area to ensure the SouthPass neighborhoods are well connected to other surrounding areas, as appropriate.

4. **Street improvements:** Detailed review for each phase of development will occur, as the development is considered by the Planning Commission. As with all conceptual PZDs, specific infrastructure improvements will be determined at that time. Typical improvements required by the Unified Development Code include sidewalks, street lights, turn lanes, curb, gutter and storm drainage, pavement widening and overlay where needed, and turn signals where needed. Unless specifically approved by the City Council as a cost-share agreement, the developer shall be responsible for all street improvements noted herein. After review of the traffic study submitted for SouthPass (July 16, 2008), the Addendum (August 22, 2008) and the existing street conditions, the following street improvements will be necessary, at minimum, to facilitate development of the project:

A. Cato Springs Road:

1. Fully actuated traffic signals, coordinated as part of a closed-loop traffic signal system, are warranted to be installed at the following intersections before completion of full build-out:
 - a. Cato Springs Road and I-540 northbound on-ramp/Hwy 71 northbound ramps
 - b. Cato Springs Road and I-540 northbound off-ramp
 - c. Cato Springs Road and I-540 southbound ramps
 - d. Cato Springs Road and Public Street #4 (Shiloh extension)
 - e. Cato Springs Road and Cummings Landfill Road
2. Timing of construction of the recommended signalization will depend upon phasing of the development; a warrant analysis may be required with development review, to determine the specific improvements necessary.
3. Cato Springs Road will be required to be widened to three and five lanes in some places, to accommodate the additional traffic volume. Improvements shall extend to east of the I-540 interchange, and will include widening underneath the existing overpass.

- B. Shiloh Drive:** Shiloh Drive shall be extended to and through the site to connect Cato Springs Road to 6th Street (Hwy 62). Timing of the construction of this street will depend upon phasing of the development and a determination of its necessity by the Planning Commission to ensure safe and efficient traffic circulation on

CONDITIONS OF APPROVAL:

R-PZD 08-2898

Page 3 of 7

surrounding streets and highways is maintained. The Addendum to the Traffic Study (August 22, 2008), prepared by Peters & Associates, indicates that the Shiloh Road connection will be required no later than Phase 14, assuming all other recommended street improvements from the original traffic study (July 16, 2008) are complete and the phasing has proceeded in sequence to that which is proposed. The developer shall provide a traffic study, when the street connection is required, to address potential improvements to the Shiloh/Hwy 62 intersection, including traffic signals, widening, etc., in coordination with the plans of AHTD to improve this overall interchange.

- C. **Kessler Mountain Road:** Kessler Mountain Road shall be improved to a Local Street standard, at minimum, to serve the development planned. Detailed improvements will be reviewed at the time of development.
 - D. **Judge Cummings Road:** This street shall be improved to a minimum Local Street Standard, and may warrant additional improvements, to include turn lanes, depending upon the traffic projected to utilize the street.
 - E. **Assessments:** No specific transportation improvement assessment districts occupy this area at this time. It is likely, however, that as development phases are reviewed, assessments for larger improvements will be required on a pro-rata basis, to ensure funding is available once the improvement is necessary and that the cumulative impact of each phase is accounted for.
 - F. **Street stub-outs:** As each phase and planning area is reviewed in detail, recommendations for street stub-outs to provide local street connectivity will be made, depending upon terrain, environmental features, and viability for future connections.
 - G. **Internal street design:** Street layout, intersection alignment, lane width, curb radii, etc. will be evaluated once designed and submitted for development review. Several areas of concern have already been identified, such as the 'angled' street intersection with Cato Springs Road. Future development shall be reviewed for compliance with the access management ordinances. (PC added 09/08/08)
 - H. **Updated traffic studies** will be required as development phases are reviewed. Development of the property, in its various phases, may only be approved when appropriate infrastructure improvements have been planned or installed to accommodate the traffic volume at acceptable levels of service. Please refer to the overall PZD traffic study executive summary provided in the staff report for more information at this time.
5. **Master Street Plan Amendment – Shiloh Drive:** Shiloh Drive is identified on the Master Street Plan as a Collector Street providing a connection from Shiloh Drive to Cato Springs Road through the site. SouthPass proposes to extend Shiloh Drive into the site where it would transition into the urban street grid. Connections to Cato Springs Road from Shiloh Drive would be provided through the downtown street grid of the Town Center Planning Area, in multiple locations. Staff recommends in favor of the realignment given that Shiloh Drive is proposed to be extended to the site and that street connectivity to Cato Springs Road is provided in several locations.

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6. **Master Street Plan Amendment – Cato Springs Road:** Due to the amount of traffic projected for the proposed development and regional park, staff recommends Cato Springs Road be reclassified to continue the Principal Arterial designation from the I-540 interchange south to the southern boundary of the Planning Area. Recommended street improvements include widening to a five-lane section in portions of the development, and this designation is more appropriate given the anticipated traffic volumes.
7. **Right-of-way dedication:** The applicant shall dedicate right-of-way in compliance with the adopted Master Street Plan for Cato Springs Road, Shiloh Road, Kessler Mountain Road, and Judge Cummings Road to be determined at the time of development. Right-of-way dedication for internal streets and alleys shall be required in compliance with the Master Street Plan to be determined at the time of development.
8. **Variances:** Variances from the requirements of the Unified Development Code relative to development regulations and Master Street Plan cross-section standards, such as curb return radii, street cross-sections, greenspace width, etc. can only be reviewed and recommendations made when the each area is fully designed for review. By this PZD approval, the City Council grants the Planning Commission the right to consider and approve variances from street design standards, Master Street Plan cross-sections interior to the project, and other variances that are provided for within the Unified Development Code under the purview of the Planning Commission. All decisions concerning these matters may be appealed by a member of the City Council.
9. **Phasing:** The project is subject to the 18 project phases over 20-25 years as described in detail in the project booklet. All permits required for development within these phases are required to be obtained within the specified timeframe. Extensions may be granted subject to approval in accordance with City ordinances. Changes in phasing shall require City Council approval.
10. **Parks:** SouthPass shall deed a minimum amount of 200 acres to the City for an onsite regional park prior to the Mayor signing the ordinance of approval for the annexation and PZD, and shall contribute \$1,000,000.00 when the City is ready to award the first construction contract for the park, in accordance with the previously executed contract. Changes to or deviation from this contractual agreement shall be at the discretion of the City Council. In addition, all residential development on the site shall be required to meet the parkland dedication ordinance requirements through land dedication, money-in-lieu, or a combination thereof.
11. **Parking:** Parking is proposed in four forms: garage structures, underground parking decks, on-street, and surface parking lots.
 - A. Parking garage structures and underground parking decks are proposed for the more intense commercial core areas and under many of the multi-family structures. All parking garage structures shall meet the requirements of Ch. 166.22 as if the project were located in the referenced zoning districts.
 - B. On-street parking: Much of the parking for mixed use and residential areas is proposed to be on-street. For all multi-family, non-residential and mixed-use

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- structures, each on-street parking space provided along the project frontage of each respective building may count toward the total required parking for the development.
- C. **Surface Parking:** A majority of surface parking lots will be to the interior of the mixed-use and multi-family residential lots as shown on the submitted plans. All parking lots shall be located outside of any build-to line or zone, and where situated adjacent to a public right-of-way, shall be heavily screened with landscape walls or landscaping.
- D. **Single Family lots:** Most of the residences will be provided with private parking, either in alley-facing garages or driveways.
12. **Water Tanks:** As referenced in the contract between the City of Fayetteville and South Pass before final approval of these requests, deeds for the water tank site shall be received prior to the Mayor signing ordinances of approval, should the requests for annexation and Master Development Plan PZD be approved.
13. **Tree Preservation and Landscaping:** Tree preservation and landscape plans will be reviewed in detail at the time of development. A minimum of 25% tree canopy will be required in accordance with city ordinances; for areas within the HHOD, a minimum of 30% will be required. A vast portion of PA-6B: Open Space, will be dedicated as off-site tree preservation, to preserve these sensitive areas as indicated on the PZD plats. Landscape plans will be required to be submitted at the time of development in compliance with ordinance included such requirements as street trees and parking lot landscaping.
14. **Buffer:** In order to reduce land use compatibility impacts, development on the perimeter of the SouthPass property lines directly adjacent to undeveloped property shall be subject to the following condition (this condition shall particularly apply to Planning Areas 3A-Kessler Mountain Bluff Single Family, 3C Kessler Mountain Bluff Single Family Cluster, and the northern portion of Planning Area 2A Crescent Park Single Family): a 50-foot building setback shall be provided off of all perimeter property lines, and placed in a tree preservation area or conservation easement; where such areas are not adequately vegetated, additional plantings of dense evergreen trees and shrubs shall be provided for a visual and aesthetic buffer at the time of development. This 50-foot buffer area shall be reviewed by the Planning Division and Urban Forester prior to development approval. Street connections and stub-outs are anticipated to cross these areas, at the time of development, to provide connectivity to adjoining properties.
15. **Solid Waste:** All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division at the time of development. Where street cross-sections or curb return radii do not meet city standards, auto-turn or similar analyses shall be provided to determine if Solid Waste vehicles will be able to safely and efficiently access streets within the project boundary.
16. **Public Service Improvements:** New police and fire substations may be required on-site in order to maintain adequate levels of service as the project develops. Impact fees for

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- development on the property shall be contributed in accordance with City ordinances.
17. **Development Review:** All phases of the proposal shall be reviewed through the appropriate development review process (Large Scale Development, Preliminary/Final Plat, etc.), as determined by the Zoning & Development Administrator, prior to commencement of construction.
 18. **Architectural Standards:** Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards and all multi-family buildings shall adhere to Urban Residential Design Standards.
 19. **View protection:** Staff recommends that structures that will be located at higher elevations, such as along Kessler Mountain Bluff, that will be taking advantage of views from the site, be designed with materials, colors and rooflines that are muted and will dissolve into the natural background as much as possible. The intent is to prevent egregious structures from reducing the natural beauty of the surrounding hillside. Where possible, the design of structures should take into account the height of the ridgeline and surrounding tree canopy, to reduce and mitigate the visual impact.
 20. **Impact Fees:** All impact fees shall be paid in accordance with city ordinances.
 21. **Signage:** Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for specific planning areas as designated in the zoning criteria. No pylon or pole signs shall be permitted on the property.
 22. The definition of "family" in accordance with Ch. 151 of the UDC shall apply to the proposed PZD; Single family Planning Areas shall be treated as single-family residential districts, and all other planning areas shall be treated as all other zoning districts where residential uses are permitted.
 23. All statements and commitments imposed on the City as discussed in the PZD booklet shall be not applicable. Neither the Planning Commission nor the applicant may bind this City Council or a future City Council to cost-share agreements with the PZD approval. A separate agreement or contract with the City Council is necessary in order to facilitate any cost-sharing measures.
 24. 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.
 25. Due to the very complex nature of this project, a detailed review of all aspects of the site

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and landscape plans in each phase of construction shall take place prior to issuance of building permits. Future development shall be consistent with the conceptual site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria at the time of development submittal, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

26. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
27. Existing rights-of-way and utility easements that conflict with the proposed plans will have to be vacated at the time of development, and prior to issuance of building permits in those areas affected.
28. 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).
29. 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.
30. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
31. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
32. 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.



Planning Commission Meeting
September 08, 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: ~~03 September, 2008~~ Updated September 18, 2008

R-PZD 08-2898: (SOUTHPASS 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 Zoning and Land Use approval for a Residential Planned Zoning District with 751 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.
Planner: Andrew Garner

Property Description and Setting:

Size: 910 acres

Zoning: Washington County/ R-A if annexed

Location: South of the City of Fayetteville at the intersection of Interstate 540 and Cato Springs Road (State Highway 265).

Proximity:

- 1 mile northeast to the University of Arkansas campus
- 2 miles northeast to downtown Fayetteville
- 1.25 mile north to 6th Street/I-540
- 1.5 mile to University of Arkansas Research and Technology Park
- 1 mile south to Hwy 71B
- 1-2 miles west to City of Farmington
- 2 miles south to Exit 58 (Greenland)

Adjacent Master Street Plan Streets:

Shiloh Drive (a collector street); State Highway 265/Cato Springs Road (a collector street); Judge Cummings Road and Kessler Mountain Roads (local streets)

Proposal: Master Development Plan of a Residential Planned Zoning District (R-PZD)

TABLE 1
SOUTH PASS LAND USE TABLE

PLANNING AREAS	ACREAGE	RESIDENTIAL UNITS	DENSITY (UNITS/ACRE)	NON-RESIDENTIAL SF	INTENSITY (SF/ACRE)	% of ACRES
PA-1: TOWN CENTER						
PA1A: Commercial Core	10.90	175	16.06	112,000	10,275	
PA1B: Mixed Use	28.90	823	28.48	112,000	3,875	
PA1C: Lofts	18.00	630	35.00	20,000	1,111	
TOTALS	57.80	1,628	28.17	244,000	4,221	6.35%
PA-2: CRESCENT PARK						
PA2A: Single Family	67	400	5.97	0	0	
PA2B: Apartments	44.8	1,200	26.79	30,000	662	
TOTALS	111.80	1,600	14.31	30,000	268	12.28%
PA-3: KESSLER MOUNTAIN BLUFF						
PA3A: Single Family	104.16	103	1.00	0	0	
PA3B: Multi-Family	41.68	500	12.00	0	0	
PA3C: Single Family Cluster	50.22	171	3.41	0	0	
TOTALS	196	774	3.95	0	0	21.54%
PA-4: PARK KNOLL						
PA4A: Single Family	18.30	77	4.21	0	0	
PA4B: Multi-Family	17.60	183	10.40	10,000	568	
TOTALS	36	260	7.22	10,000	279	3.94%
PA-5: CIVIC AREA						
PA-5: CIVIC AREA	21.30	0	0.00	30,000	1,408	
TOTALS	21.30	0	0.00	30,000	1,408	2.34%
PA-6: PARKS AND OPEN SPACE						
PA6A: Regional Park	240.60	0	0.00	30,000	125	
PA6B: Open Space	246.90	0	0.00	0	0	
TOTALS	487.50	0	0.00	30,000	62	53.55%
SITE TOTALS						
		751 SF LOTS				
		2,881 MF UNITS				
		630 CONDO UNITS				
TOTAL SITE	910.36	4,262	4.7	344,000	378	100.00%

Project Description: This project is designed to create a new urban center in a traditional mixed

use town form in the flatter areas of the site adjacent to Cato Springs Road in the north, and clusters a variety of housing types over other areas of the site to avoid impacts to prominent hillsides, hilltops, and other environmental features. Central to the development is a new Community/Regional Park of over 200 acres of both passive and active recreation space, in addition to over 240 acres of preserved open space, together comprising 54% of the site area.

This site layout and proposal would not be allowed under any standard zoning criteria, one of the purposes for which the Planned Zoning District ordinance was created: 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 each Planning Area are provided in duplicate 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 primary entrances into the site are off of the extension of Shiloh Drive into the northeastern portion of the site and from Cato Springs Road along the eastern boundary of the property. Several streets are proposed directly off of Cato Springs Road (State Highway 265), and access into the southern portion of the site is provided off of Kessler Mountain Road (County Road 201). The internal street pattern in the Town Center and Crescent Park planning areas are based on a modified grid pattern. As the development moves west over the site, streets follow the topography and wind along the ridgelines and valleys connecting the various clusters of development. Street connectivity outside of the Town Center is on the whole low, however, due to existing constraints of topography and the cluster development pattern which preserves approximately 487 acres of parks and open space, approximately 54% of the entire site. However, pedestrian connectivity is excellent with a number of pedestrian and mountain biking trails that will traverse the entire 910-acre site connecting the clusters of development to the 200-acre regional park in the central portion of the site and the urban center in the northeast portion of the site. Additional street connections and stub-out points will be evaluated at the time of development for each planning area to ensure the SouthPass neighborhoods are well connected to other surrounding areas.

Water & Sewer: Public water is adjacent to the site and a municipal water tank currently exists on the property. Sanitary sewer is not available to the site. Offsite 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.

Table 2
SouthPass Project Description

Planning Area	Description
PA1: Town Center	The most compact, dense, and intense planning area is the Town Center, located in the northeast corner of the site along the arterial street of Cato Springs Road and just southwest of the I-540 intersection. The Town Center is based around a traditionally mixed use downtown form and features the center of commercial activity in the site. The design incorporates traditional town form design features including narrow streets, buildings close to the street, and wide urban sidewalks. There are several terminating vistas that will be focal points from the main thoroughfares. The Town Center provides non-residential amenities, restaurants, and shopping for residents in the immediate vicinity, and users of the adjacent 200+ acre regional park. The most urban and commercial area in the south transitions into a more mixed use area with non-residential uses at the street level and residences above. The topography in this area of the site rolls gently.
PA2: Crescent Park	The new extension of Shiloh Road defines the edge between Town Center and the Crescent Park neighborhood. Crescent Park starts ascending Kessler Mountain to the west of Town Center. This neighborhood fronts Shiloh Road with a number of multi-family buildings and row homes. Continuing west the neighborhood transitions to single family residential, then the density increases again with a number of multi-family buildings that front onto either public streets or shared green areas or courtyard. The center of Crescent Park contains a common destination for the pedestrian-shed in this neighborhood on a hilltop with wide vistas of Fayetteville and the surrounding countryside. A community meeting place and large central green are located in the interior.
PA3: Kessler Mountain Bluff	This neighborhood is located along the ridgelines, knolls, and hilltops of Kessler Mountain in the western portion of the site. This area is isolated from the Town Center by topography and the new regional park. This neighborhood provides a variety of residential housing options from large rural lots on the hillside, to dense clusters of multi-family and single family lots. The layout of the development pattern incorporates the natural contours of the landform and the roads wind along the ridges and in and out of densely forested areas. This area of the site has a variety of topography changes and landforms and currently has a number of informal hiking and mountain biking trails that have been incorporated into the design. This trail system will provide opportunities for all residents to connect from this neighborhood to the regional park down below the mountain.
PA4: Park Knoll	This neighborhood is located in the southeast portion of the site on a knoll adjacent to Cato Springs Road that is approximately 80 feet above the planned regional park adjacent to the north. This neighborhood provides a variety of detached and attached homes on small lots designed for adults 55 and older. Shared indoor and outdoor amenities will be provided in courtyards and in the larger multi-family buildings.
PA5: Civic Areas	This planning area is comprised of three distinct areas including a church located on a knoll in the northern portion of the site, an elementary school in the central portion of the site, and the existing water tank site. Both the school and church are set apart from the Town Center, taking in views.
PA6: Regional Park and Open Space	A primary feature of this planning area is the active sports park with soccer, baseball, softball, and multi-purpose fields for various "pick-up" games. An area for tennis courts will be situated near parking lots and playgrounds. The organized fields will have bleachers, concession stands, and restroom facilities. An amphitheatre is located along the park road for concerts and other events. New police and fire substations will also be within this planning area. The existing 33-acre landfill is located in this planning area and will be remediated and may be used for active recreation and forested area. Over 246 acres of this planning area is designated for open space and will serve as preservation areas for natural drainage systems, tree preservation areas, and natural buffers between SouthPass and surrounding rural-residential uses. An extensive trail system in this planning area provides non-vehicular linkages through the development.

Traffic Study Summary:

Existing 2-way traffic at the site: 2,174 vpd

Full build-out projected at the site: 39,339 vpd

City-operations generated traffic (fire and police station, parks office, regional park): 2,410 vpd

The provided traffic study from Peters & Associates, dated July 16, 2008, recommends major improvements to Cato Springs Road to accommodate the additional traffic volumes anticipated by this development proposal at full-build out in 20-25 years. The proximity to I-540, however, alleviates much of the immediate concern, as it is assumed a great deal of traffic will utilize the interstate corridor traveling north and south of Fayetteville. In addition, options exist to travel into Fayetteville via Razorback Road, the northern extension of Cato Springs Road. Razorback Road leads directly to the University of Arkansas, and is a 5-lane section with a median in places. Shiloh Drive will also be required to be extended into this property to accommodate the traffic demand and provide another street connection into the more developed portion of the City. Staff anticipates Shiloh Drive will facilitate local trips to businesses such as Wal-Mart and Lowe's, among others, on 6th Street. As indicated with the I-540 Study by AHTD in 2004, interim improvements to the intersection of I-540 and 6th Street are currently planned for 2010-2013. These improvements anticipate a heavy volume of traffic to continue utilizing this intersection, and include widening of 6th Street and re-location of the north-bound on-ramp. Long term improvements (2024) include the redesign of the interchanges, additional lanes for stacking and new signalization.

As noted above, additional access to I-540 is available approximately 2 miles to the south, at the Greenland interchange, and Hwy 71 B can be accessed via Hammerschmidt Expressway or Cato Springs Road east of Razorback Road.

Sept 08, 2008 UPDATE:

The Addendum to the Traffic Study (August 22, 2008) has been provided with the updated staff report, along with a break-out of all development phases and traffic generated, by year and by phase. This traffic break-out indicates that approximately one-half of the anticipated traffic at full-build out will occur by 2024, which is the anticipated time-frame for the long-term I-540/6th Street interchange improvements. The Addendum study indicates that assuming all of the improvements recommended to Cato Springs Road have been completed with development, the connection of SouthPass to Shiloh will not be necessary until after Phase 14 (2027). Theoretically, the improvements to the I-540/6th Street interchange would be complete and offer much more efficient traffic circulation at that time. However, staff has altered the conditions of approval to reflect the statements of this study, and to ensure that at the time of the connection to Shiloh, the developer is required to provide a traffic study that evaluates the impact of the connection and improvements that may be necessary at that time.

Public Comment: Staff has received several phone calls and letters from area residents inquiring about the nature of the project. Several comments have expressed concern with traffic impacts and development of the clustered lots west of the water tank site.

Recommendation: Staff recommends forwarding **R-PZD 08-2989** to the City Council with a recommendation of approval, based on the findings included in this staff report, which support the proposed Planned Zoning District within the City Neighborhood Area on the adopted Future Land Use Plan, finding the project master plan complies with the City's adopted land use policies and PZD ordinance, with the following conditions of approval:

Conditions of Approval:

1. **Planning Commission determination of compliance with adopted land use policies and goals including City Plan 2025 and the PZD ordinance.** *As discussed in the findings in this report and with conditions herein, staff finds that SouthPass is in compliance with the adopted land use policies and City Plan 2025. While the project is not considered an infill development (Goal #1), this site has been anticipated for a number of years in the City Plan 2025 as an area for greenfield development in the City Neighborhood pattern, and in staff's opinion does not contribute to sprawl, if developed as being proposed. The proposed development is preferred over a typical suburban sprawl development that segregates various residential types and isolates commercial development in an area only accessible by vehicle, while dividing up sensitive natural environments (hillsides, floodplain, tree canopy) into individual lots. This project maximizes environmental protection, integrates a mix of residential housing types, and plans for the commercial development in a traditional downtown pattern. In addition, the opportunity for a mixture of building types and uses within all of the planning areas has been provided. The property's location is well-suited for growth in the manner encouraged by City Plan 2025, with direct access to I-540 and State Highway 265, which leads into the University of Arkansas. It is also in close proximity to the University of Arkansas Research and Technology Park and numerous other amenities. The proposed land use pattern is in a traditional town form, offering a variety of housing choices for residents and support services within walking distance, while preserving and enhancing the City's enduring green network with the addition of about 500 acres of greenspace into the City.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION 09/08/08.

2. **Planning Commission determination of architectural design standards, and overall compatibility and transition in the proposed development.** *Staff finds in favor of this determination. The building elevations of structures in this development are well-articulated and provide for a consistent and overriding theme throughout the development, which transitions well between the mixed use buildings/flats, commercial structures, townhouses, and single-family detached houses. The zoning criteria and elevations for the residential and non-residential structures requires buildings to front the street, and small building setbacks help create a streetscape and facilitate an overall compact and complete development. There is a wide variety of uses and structures prevent a visual monotony while maintaining a compatible architectural design throughout the site. Commercial and residential design standards will be reviewed in detail at the time of development.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION WITH THE SLIGHT MODIFICATION AS NOTED 09/08/08.

3. **Planning Commission determination of adequate connectivity.** The primary entrances into the site are off of the extension of Shiloh Drive into the northeastern portion of the site and from Cato Springs Road along the eastern boundary of the property. Several streets are proposed directly off of Cato Springs Road (State Highway 265), and access into the southern portion of the site is provided off of Kessler Mountain Road (County Road 201). The internal street pattern in the Town Center and Crescent Park planning areas are based on a modified grid pattern. As the development spreads over the site, streets follow the topography and wind along the ridgelines and valleys connecting the various clusters of development. Street connectivity outside of the Town Center is on the whole low, however, due to existing constraints of topography and the cluster development pattern which preserves approximately 487 acres of parks and open space, over 53% of the entire site. However, pedestrian connectivity is excellent with a number of pedestrian and mountain biking trails that will traverse the entire 910-acre site connecting the clusters of development to the 200-acre regional park in the central portion of the site and the urban center in the northeast portion of the site. *Staff generally recommends in favor of the access and connectivity as proposed with the understanding that additional street connections and stub-out points will be evaluated at the time of development for each planning area to ensure the SouthPass neighborhoods are well connected to other surrounding areas, as appropriate.*

PLANNING COMMISSION DETERMINED IN FAVOR OF THIS CONDITION 09/08/08.

4. **Street improvements.** Detailed review for each phase of development will occur, as the development is considered by the Planning Commission. As with all conceptual PZDs, specific infrastructure improvements will be determined at that time. Typical improvements required by the Unified Development Code include sidewalks, street lights, turn lanes, curb, gutter and storm drainage, pavement widening and overlay where needed, and turn signals where needed. Unless specifically approved by the City Council as a cost-share agreement, the developer shall be responsible for all street improvements noted herein. After review of the traffic study submitted for SouthPass (July 16, 2008), the Addendum (August 22, 2008) and the existing street conditions, the following street improvements will be necessary, at minimum, to facilitate development of the project:

A. Cato Springs Road:

1. Fully actuated traffic signals, coordinated as part of a closed-loop traffic signal system, are warranted to be installed at the following intersections before completion of full build-out:
 - a. Cato Springs Road and I-540 northbound on-ramp/Hwy 71 northbound ramps
 - b. Cato Springs Road and I-540 northbound off-ramp
 - c. Cato Springs Road and I-540 southbound ramps
 - d. Cato Springs Road and Public Street #4 (Shiloh extension)

e. Cato Springs Road and Cummings Landfill Road

2. Timing of construction of the recommended signalization will depend upon phasing of the development; a warrant analysis may be required with development review, to determine the specific improvements necessary.
3. Cato Springs Road will be required to be widened to three and five lanes in some places, to accommodate the additional traffic volume. Improvements shall extend to east of the I-540 interchange, and will include widening underneath the existing overpass.

- B. **Shiloh Drive:** Shiloh Drive shall be extended to and through the site to connect Cato Springs Road to 6th Street (Hwy 62). Timing of the construction of this street will depend upon phasing of the development and a determination of its necessity by the Planning Commission to ensure safe and efficient traffic circulation on surrounding streets and highways is maintained. The Addendum to the Traffic Study (August 22, 2008), prepared by Peters & Associates, indicates that the Shiloh Road connection will be required no later than Phase 14, assuming all other recommended street improvements from the original traffic study (July 16, 2008) are complete and the phasing has proceeded in sequence to that which is proposed. The developer shall provide a traffic study, when the street connection is required, to address potential improvements to the Shiloh/Hwy 62 intersection, including traffic signals, widening, etc., in coordination with the plans of AHTD to improve this overall interchange.
- C. **Kessler Mountain Road:** Kessler Mountain Road shall be improved to a Local Street standard, at minimum, to serve the development planned. Detailed improvements will be reviewed at the time of development.
- D. **Judge Cummings Road:** This street shall be improved to a minimum Local Street Standard, and may warrant additional improvements, to include turn lanes, depending upon the traffic projected to utilize the street.
- E. **Assessments:** No specific transportation improvement assessment districts occupy this area at this time. It is likely, however, that as development phases are reviewed, assessments for larger improvements will be required on a pro-rata basis, to ensure funding is available once the improvement is necessary and that the cumulative impact of each phase is accounted for.
- F. **Street stub-outs:** As each phase and planning area is reviewed in detail, recommendations for street stub-outs to provide local street connectivity will be made, depending upon terrain, environmental features, and viability for future connections.
- G. **Internal street design:** Street layout, intersection alignment, lane width, curb radii, etc. will be evaluated once designed and submitted for development review. Several areas of concern have already been identified, such as the 'angled' street intersection with Cato Springs Road. Future development shall be reviewed for compliance with the access management ordinances. (PC added 09/08/08)
- H. Updated traffic studies will be required as development phases are reviewed.

Development of the property, in its various phases, may only be approved when appropriate infrastructure improvements have been planned or installed to accommodate the traffic volume at acceptable levels of service. Please refer to the overall PZD traffic study executive summary provided in the staff report for more information at this time.

5. **Master Street Plan Amendment – Shiloh Drive:** Shiloh Drive is identified on the Master Street Plan as a Collector Street providing a connection from Shiloh Drive to Cato Springs Road through the site. SouthPass proposes to extend Shiloh Drive into the site where it would transition into the urban street grid. Connections to Cato Springs Road from Shiloh Drive would be provided through the downtown street grid of the Town Center Planning Area, in multiple locations. Staff recommends in favor of the realignment given that Shiloh Drive is proposed to be extended to the site and that street connectivity to Cato Springs Road is provided in several locations.
6. **Master Street Plan Amendment – Cato Springs Road:** Due to the amount of traffic projected for the proposed development and regional park, staff recommends Cato Springs Road be reclassified to continue the Principal Arterial designation from the I-540 interchange south to the southern boundary of the Planning Area. Recommended street improvements include widening to a five-lane section in portions of the development, and this designation is more appropriate given the anticipated traffic volumes.
7. **Right-of-way dedication:** The applicant shall dedicate right-of-way in compliance with the adopted Master Street Plan for Cato Springs Road, Shiloh Road, Kessler Mountain Road, and Judge Cummings Road to be determined at the time of development. Right-of-way dedication for internal streets and alleys shall be required in compliance with the Master Street Plan to be determined at the time of development.
8. **Variances:** Variances from the requirements of the Unified Development Code relative to development regulations and Master Street Plan cross-section standards, such as curb return radii, street cross-sections, greenspace width, etc. can only be reviewed and recommendations made when the each area is fully designed for review. By this PZD approval, the City Council grants the Planning Commission the right to consider and approve variances from street design standards, Master Street Plan cross-sections interior to the project, and other variances that are provided for within the Unified Development Code under the purview of the Planning Commission. All decisions concerning these matters may be appealed by a member of the City Council.
9. **Phasing:** The project is subject to the 18 project phases over 20-25 years as described in detail in the project booklet. All permits required for development within these phases are required to be obtained within the specified timeframe. Extensions may be granted subject to approval in accordance with City ordinances. Changes in phasing shall require City Council approval.

10. **Parks:** SouthPass shall deed a minimum amount of 200 acres to the City for an onsite regional park prior to the Mayor signing the ordinance of approval for the annexation and PZD, and shall contribute \$1,000,000.00 when the City is ready to award the first construction contract for the park, in accordance with the previously executed contract. Changes to or deviation from this contractual agreement shall be at the discretion of the City Council. In addition, all residential development on the site shall be required to meet the parkland dedication ordinance requirements through land dedication, money-in-lieu, or a combination thereof.
11. **Parking:** Parking is proposed in four forms: garage structures, underground parking decks, on-street, and surface parking lots.
 - A. **Parking garage structures and underground parking decks** are proposed for the more intense commercial core areas and under many of the multi-family structures. *All parking garage structures shall meet the requirements of Ch. 166.22 as if the project were located in the referenced zoning districts.*
 - B. **On-street parking:** Much of the parking for mixed use and residential areas is proposed to be on-street. *For all multi-family, non-residential and mixed-use structures, each on-street parking space provided along the project frontage of each respective building may count toward the total required parking for the development.*
 - C. **Surface Parking:** A majority of surface parking lots will be to the interior of the mixed-use and multi-family residential lots as shown on the submitted plans. *All parking lots shall be located outside of any build-to line or zone, and where situated adjacent to a public right-of-way, shall be heavily screened with landscape walls or landscaping.*
 - D. **Single Family lots:** Most of the residences will be provided with private parking, either in alley-facing garages or driveways.
12. **Water Tanks:** As referenced in the contract between the City of Fayetteville and South Pass before final approval of these requests, deeds for the water tank site shall be received prior to the Mayor signing ordinances of approval, should the requests for annexation and Master Development Plan PZD be approved.
13. **Tree Preservation and Landscaping:** Tree preservation and landscape plans will be reviewed in detail at the time of development. A minimum of 25% tree canopy will be required in accordance with city ordinances; for areas within the HHOD, a minimum of 30% will be required. A vast portion of PA-6B: Open Space, will be dedicated as off-site tree preservation, to preserve these sensitive areas as indicated on the PZD plats. Landscape plans will be required to be submitted at the time of development in compliance with ordinance included such requirements as street trees and parking lot landscaping.
14. **Buffer:** In order to reduce land use compatibility impacts, development on the perimeter of the SouthPass property lines directly adjacent to undeveloped property shall be subject to the following condition (this condition shall particularly apply to

Planning Areas 3A-Kessler Mountain Bluff Single Family, 3C Kessler Mountain Bluff Single Family Cluster, and the northern portion of Planning Area 2A Crescent Park Single Family): a 50-foot building setback shall be provided off of all perimeter property lines, and placed in a tree preservation area or conservation easement; where such areas are not adequately vegetated, additional plantings of dense evergreen trees and shrubs shall be provided for a visual and aesthetic buffer at the time of development. This 50-foot buffer area shall be reviewed by the Planning Division and Urban Forester prior to development approval. Street connections and stub-outs are anticipated to cross these areas, at the time of development, to provide connectivity to adjoining properties.

15. **Solid Waste:** All trash enclosure locations and dimensions shall be fully reviewed and approved by the Solid Waste Division at the time of development. Where street cross-sections or curb return radii do not meet city standards, auto-turn or similar analyses shall be provided to determine if Solid Waste vehicles will be able to safely and efficiently access streets within the project boundary.
16. **Public Service Improvements:** New police and fire substations may be required on-site in order to maintain adequate levels of service as the project develops. Impact fees for development on the property shall be contributed in accordance with City ordinances.
17. **Development Review:** All phases of the proposal shall be reviewed through the appropriate development review process (Large Scale Development, Preliminary/Final Plat, etc.), as determined by the Zoning & Development Administrator, prior to commencement of construction.
18. **Architectural Standards:** Buildings shall be constructed to be consistent with the concepts depicted in the building elevations in the PZD booklet. All buildings shall be designed and constructed to front onto public rights-of-way. All non-residential buildings or mixed use buildings shall adhere to Commercial Design Standards and all multi-family buildings shall adhere to Urban Residential Design Standards.
19. **View protection:** Staff recommends that structures that will be located at higher elevations, such as along Kessler Mountain Bluff, that will be taking advantage of views from the site, be designed with materials, colors and rooflines that are muted and will dissolve into the natural background as much as possible. The intent is to prevent egregious structures from reducing the natural beauty of the surrounding hillside. Where possible, the design of structures should take into account the height of the ridgeline and surrounding tree canopy, to reduce and mitigate the visual impact.
20. **Impact Fees:** All impact fees shall be paid in accordance with city ordinances.
21. **Signage:** Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for specific

- planning areas as designated in the zoning criteria. No pylon or pole signs shall be permitted on the property.
22. The definition of "family" in accordance with Ch. 151 of the UDC shall apply to the proposed PZD; Single family Planning Areas shall be treated as single-family residential districts, and all other planning areas shall be treated as all other zoning districts where residential uses are permitted.
 23. All statements and commitments imposed on the City as discussed in the PZD booklet shall be not applicable. Neither the Planning Commission nor the applicant may bind this City Council or a future City Council to cost-share agreements with the PZD approval. A separate agreement or contract with the City Council is necessary in order to facilitate any cost-sharing measures.
 24. 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.
 25. Due to the very complex nature of this project, a detailed review of all aspects of the site and landscape plans in each phase of construction shall take place prior to issuance of building permits. Future development shall be consistent with the conceptual site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria at the time of development submittal, unless specifically waived or varied by the Planning Commission as part of the PZD approval.
 26. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
 27. Existing rights-of-way and utility easements that conflict with the proposed plans will have to be vacated at the time of development, and prior to issuance of building permits in those areas affected.

Standard Conditions of Approval:

28. 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).
29. 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.

30. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
31. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
32. 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.

Planning Commission Action: ☐ Approval ☐ Tabled ☒ Forwarded to C.C.
Motion: Graves
Second: Lack
Vote: 7-1-0 (Myres voting 'No')
Meeting Date: September 8, 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 08-2989 (SouthPass)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria and City Plan 2025 established by the City Council. The Future Land Use Map adopted as part of City Plan 2025 designated this site City Neighborhood and Civic and Private Open Space/Parks. City Neighborhoods are intended to have a wide range of residential building types, encourage complete, compact and connected neighborhoods, provide non-residential uses that are accessible for the convenience of individuals living in residential districts, encourage walkability as part of the street function, accommodate neighborhood shopping within walking distance of residential uses, or approximately one-quarter mile, and to encourage pedestrian-friendly, mixed use buildings through the use of transparent glass for commercial uses at street level and building entrances that address the street. Civic and Private Open Space/Park Areas are intended for permanently dedicated open space or parkland.

This development is designed to provide a new growth area and regional park for the City of Fayetteville. Rather than a typical, sprawling subdivision the proposal relies upon a complete, compact and connected approach in the northern Town Center and Crescent Park neighborhoods, and a cluster development pattern in other areas of the site where sensitivity to environmental features is a high priority. The property's location is well-suited for growth, with direct access to I-540 and State Highway 265, which leads into the University of Arkansas. It is also in close proximity to the University of Arkansas Research and Technology Park and numerous other amenities. Rezoning this property to R-PZD 08-2989 for a traditional town form and cluster development with a regional park and large amounts of open space is consistent with the City Neighborhood and Civic and Private Open Space/Park Area designations, and is also consistent with several of the six major goals of the City Plan 2025.

The development proposes a maximum of 4,262 units, 344,000 square feet of non-residential space, a 241-acre regional park, and approximately 247 acres of preserved open space. The form of development is compact and clustered to preserve a large percentage of the site (54%) in either parks or open space, and preserve the numerous environmental resources onsite including scenic views, mountains, valleys, streams, and forest. The development has been sensitively designed to concentrate the most intense development in the flatter areas of the site in the northeast corner adjacent to an existing major roadway. This will allow the density of development to take advantage of future transit opportunities.

The remainder of the development occurs in clusters over the site taking advantage of flatter hilltops and valleys to provide a variety of residential housing types. The regional park in the central portion of the site will be easily accessible from all areas of the development.

This development is different in form, use and density than all the surrounding agricultural and rural residential uses in the immediate area and would require substantial infrastructure and public service improvements. However, as previously stated the site is adjacent to on/off ramps of I-540, which provides convenient and efficient transportation for future residents, business and park visitors. For these reasons this site has been identified as a growth area for a number of years in the City's Future Land Use Plan.

The most compact, dense, and intense planning area is the Town Center, located in the northeast corner of the site along the arterial street of Cato Springs Road and just southwest of the I-540 intersection. The Town Center is based around a traditionally mixed-use downtown form and features the center of commercial activity in the site. The design incorporates traditional town form design features including narrow streets, buildings close to the street, and wide urban sidewalks. *To place the size of this portion of the development in context, the 58 acres comprising this area of the project is about the size of the area from Dickson Street south to Mountain, and College Avenue west to Locust Street.*

Moving west from the Town Center the intensity and density transitions to a variety of residential housing types in the Crescent Park Neighborhood, before transitioning into pockets of preserved open space along the Kessler Mountain ridgeline. To the south of Town Center is the regional park. This 200+ acre park encompasses a large flat area in the central portion of the site surrounded by steep hills in one area making a natural amphitheatre. The park is wrapped by clusters of residential development that wind around the slopes and ridges of Kessler Mountain, in a development pattern much like Mt. Sequoyah had developed over the years, with a greater variety of housing types. A majority of the residential development outside of the Town Center is relatively isolated from planned non-residential use. While staff would typically recommend a more mixed use and traditional development pattern throughout the entire site, the unique topography of this location is a constraint to that type of development pattern, and lends itself to a cluster development as proposed. The natural landforms isolate the site into small distinct pockets of developable land, and make a traditional grid street system and a complete mix of non-residential uses infeasible. However, provisions have been written into the proposed zoning code that would allow for various non-residential uses as a conditional use. These uses would not likely be proposed until the neighborhoods build out and have enough population in that particular cluster to support the use. For example, Planning Area 3B-Kessler Mountain Bluff Multi-Family is a relatively isolated cluster of multi-family buildings (500 units, 12 units/acre) on top of the Kessler Mountain ridgeline. Specific mixed use buildings have not been designated at this time, however the zoning criteria allows Use Units 4 and 25 as a Conditional Use. This would allow for non-residential support services such as a day care facility, church, or office as a conditional use permit. In other primarily residential planning areas, revisions to the zoning documents have

incorporated a much wider variety of potential non-residential uses through the Conditional Use Permit process, including office, cultural/recreational facilities, eating places, and neighborhood shopping. The proposed project has been sensitively designed to respond equally to the primary goals of City Plan 2025 goals that encourage both a traditional mixed use development and assembling an enduring green network.

Staff finds that the project is very different from the surrounding land uses and zoning in terms of use, density, intensity, and form. The surrounding property is largely undeveloped agricultural and rural-residential land. SouthPass will undoubtedly result in significant land use change and compatibility impacts to surrounding properties. The aesthetic character of the area will change from undeveloped farmland, mountains, and forest to a new urban area for Fayetteville. The noise and light from SouthPass regional park may impact the surrounding sparsely populated areas, and traffic from SouthPass will result an increase in traffic volume on surrounding underutilized roadways, particularly Cato Springs Road. However, the design incorporates 53% open space over the site which will help provide natural buffers to much of the immediate surrounding property. While the project is not considered an infill development (Goal #1), this site has been anticipated for a number of years and in the City Plan 2025 as an area for greenfield development in the City Neighborhood pattern, and in staff's opinion does not contribute to sprawl, if developed as being proposed. The City Council took these land use considerations into account during the adoption of City Plan 2025 and the Future Land Use Plan. City Plan 2025 discusses that growth is inevitable and desirable, but that growth should be planned to maintain community character and livability while accommodating and benefiting the City as a whole. SouthPass meets the overall goals of City Plan 2025 adopted by City Council based upon direct input from its citizens in the public participation planning process. SouthPass will provide a major benefit by helping create a 200+acre public park, providing a variety of housing types and a new urban center for the existing and future citizens of the City. The proposed zoning criteria and master plan are binding to development of the property and ensure that quality growth occurs in this area.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions to process the application.

- (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 and the City as this project is a public/private partnership including the development of a 200+ acre regional park. 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. Major improvements include the provision for a new police and fire station, a future elementary school, improvements to Cato Springs Road and the extension of Shiloh Road to the site.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow a mix of uses and density over the site. The proposed zoning criteria concentrates the density and intensity along the major thoroughfare, Cato Springs Road, and provides a transition and open space buffers to the existing undeveloped agricultural and rural-residential property adjacent to the entire site. As discussed in Finding No. 1, this traditional neighborhood and cluster development introduces a new City center and growth area of 4,262 residential units and 344,000 square feet of non-residential space in an undeveloped area. However the master plan has sensitively responded to existing landforms and incorporates a large amount of greenspace (53% of the site) to transition to surrounding properties. The major commercial area is adjacent to Cato Springs Road and the I-540 transportation corridor, and naturally buffered by steep topography and dense forests on Kessler Mountain to the west. The multi-family and single family cluster development west of the water tank site is adjacent to large lot rural residential land uses. In order to address land use compatibility issues a 50-foot building setback and vegetated buffer has been incorporated into the plans along the perimeter property lines. The park Knoll area will also require screening to achieve an environment compatible with surrounding land uses, though this area is separated by a public street. Also see discussion provided in Finding No. 1.

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

FINDING: As discussed in Finding No. 1, the development incorporates numerous environmental design features including many large trees and contiguous open space preservation areas, numerous existing mountain biking and hiking trails, and a layout and development pattern that follows the natural topography of the site.

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

FINDING: The intended land uses, a mix of residential, commercial, and civic, would adversely impact the existing road network. Currently this development proposes several points of ingress and egress onto Cato Springs Road to the west, a new access point with the extension of Shiloh Drive to the site, and other points of ingress/egress onto Judge Cummings Road and Kessler Mountain Road to the south. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not overburden the existing road network. Cato Springs Road is an improved two-lane state highway with immediate access to on/off ramps at I-540 providing easy access to a major north-south transportation corridor. Improvements to

Cato Springs Road by the developer are needed to accommodate the project and the extension of Shiloh Drive will be required as the project develops. However, with these improvements and the project's location adjacent to an underutilized on/off ramps at I-540, anticipated traffic impacts will not be significant, based on the results of the traffic study. Pertinent sections of the traffic study have been attached to this report; a full report is available, at the Commission's request.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed SouthPass PZD introduces a new urban center for Fayetteville in the midst of undeveloped or sparsely populated agricultural land uses. This is not unlike the development of the Ruppel Road/Persimmon Street area over the past 8-10 years; however, the positive benefit the City gains from this greenfield development is that it is planned. This project is designed to create a new urban center in a traditional mixed use town form in the flatter areas of the site adjacent to Cato Springs Road in the north, and clusters a variety of housing types over other areas of the site to avoid impacts to prominent hillsides and hilltops. This development pattern is preferred over a typical suburban sprawl development that segregates various residential types and isolates commercial development in an area only accessible by vehicle, while dividing up sensitive natural environments (hillsides, floodplain, tree canopy) into individual lots. This project integrates a mix of residential housing types and plans for the commercial development in a traditional downtown pattern. As discussed in Findings No. 1 and No. 4 much of the edge

of the site is buffered by open space preserve areas, however, there are some areas where dense single family lots are adjacent to undeveloped rural-residential property resulting in land use compatibility issues. This compatibility impacts have been reduced by providing a 50-foot building setback/vegetated buffer along perimeter property lines. The architectural style of the development provides for well-articulated structures and a consistent and overriding theme. The variety of uses and structures prevent a visual monotony while maintaining a compatible architectural design throughout the site and accentuating the natural landforms and resources on the property. The mix of uses and relatively high density in certain areas encourages a balance of people able to live and work in the same area reducing daily vehicle trips that rely on the regional road network. A large amount of public space is proposed that will be a benefit to the community including a 200+ acre regional park, 240 acres of preserved open space with mountain biking and hiking trails, and a new urban center with a mix of commercial services. Significant trees have been incorporated into the design and the large preservation area will preserve large contiguous stands of native forest. This site contains a 33-acre landfill that will be remediated and potentially reused as part of the regional park. Across the country, many cities have begun reclaiming the space left by unused landfills for parks and open space, BMX tracks, trails and active/passive recreation. Circulation is compact and connected in flatter areas and follows the terrain with limited connections in steep areas of the site. Also see Staff Finding No. 1.

- (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: A majority of the surface parking for the mixed use buildings and stand-alone commercial buildings will be internal and screened from the streets. Any large surface parking areas and mechanical and utility equipment facing the street will be screened in accordance with city ordinances at the time of development. Most of the perimeter of the SouthPass property is buffered in preserved open space areas that will provide appropriate screening between adjacent properties. As discussed in Findings No. 1 and No. 4 there are areas proposed in SouthPass with very small lot single family residences that are adjacent to undeveloped or sparsely populated rural-residential land uses. These areas have provided additional screening and landscaping and buffering to reduce land use compatibility impacts. Staff has recommended conditions of approval to address this issue. Landscape plans will be required at the time of development and will include trees along the frontages of all streets, both public and private.

- (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 a system of public streets and alleys as described earlier in this report accessing Cato Springs Road, Shiloh Drive, Kessler Mountain Road and Judge Cummings road. The dwellings face onto streets, and are generally accessed off of internal alleys, providing a hierarchy of circulation that encourage an efficient flow of traffic and a pedestrian friendly environment while minimizing impacts to sensitive landforms onsite. Internal streets follow a hierarchy, based on the context of use and anticipated traffic volume. See page 9 of the project booklet. 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 is proposed in four forms: garages, underground parking decks, on-street, and surface parking lots. Much of the parking for mixed use and residential areas is proposed to be on-street. Parking structures and underground parking decks are proposed for the more intense commercial core areas and under many of the multi-family structures. A majority of surface parking lots will be to the interior of the mixed-use and multi-family residential lots as shown on the submitted plans. Most of the residences will be provided with private parking, either in alley-facing garages or driveways. The applicant requests Planning Commission approval to allow for on-street parking to count towards the fulfillment of parking requirements for non-residential uses, which staff supports. In addition, all parking structures will be required to meet the location and/or screening

standards set out by Ch. 166.22 of the UDC.

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

FINDING: This requirement will be met.

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

FINDING: Public sidewalks will be designed and constructed adjacent to all public streets in accordance with City ordinance, unless otherwise approved at the time of development by the Planning Commission. The existing hiking and mountain biking trails through the site are proposed to be maintained and expanded with this development to provide pedestrian connectivity.

- (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 in compliance with City ordinance.

- (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: The proposed streets are designed for pedestrian and multi-modal access to allow an alternative to vehicular travel in certain areas. The applicant intends to follow the City of Fayetteville standard street cross sections and design parameters inasmuch as possible. However, amendments may be requested as different project phases proceed through development approval. Staff has requested the City Council give the Planning Commission the discretion to consider and approve, if needed, deviations from the Master Street Plan cross-sections as each development is considered. Any private street constructed shall meet the above requirements.

- (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 incorporated many significant trees as environmental design features and proposes to preserve approximately 247 acres in permanent open space (Planning Area 6B) that will provide off-site tree preservation areas. A tree preservation plan will be required at the time of development in accordance with City ordinance. The minimum percent canopy required for a PZD is 25%; those sites located within the HHOD require 30% preservation.

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

for Commercial Structures.

FINDING: The non-residential structures on the site include the mixed use and stand-alone commercial buildings in Planning Area 1- Town Center, office buildings in Planning Area 2B- Crescent Park Apartments, civic buildings in Planning Area 5A-Civic Areas and any other commercial buildings that may be proposed as a conditional use in other areas of the site. All non-residential buildings shall meet this code section, and will be reviewed in detail at the time of development.

- (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: The SouthPass site is identified as a scenic area from I-540 and Cato Springs Road, and scenic views from on-site of surrounding mountains and distant views to downtown Fayetteville are evident. Some of the northern portions of the site are located within the I-540 Design Overlay District. The project has incorporated the natural topography into the design to preserve the natural landform and views to and from the site. Much of the project will be tucked away in the valleys. Hilltops and ridgelines have generally been preserved to minimize development impacts to these sensitive areas. A majority of the west, north, and south borders of the SouthPass site will be protected from adjoining property by preserving existing tree canopy. The PZD plats have identified terminating vistas internal to the site at key locations at the conclusion of many thoroughfares. Staff does not propose height or positioning restrictions for this project; however, staff does recommend that structures that will be located at higher elevations, taking advantage of views from the site, be designed with materials, colors and rooflines that are muted and will dissolve into the natural background as much as possible. The intent is to prevent egregious structures from reducing the natural beauty of the surrounding hillside.

(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 flexibility in density, provision of a variety of housing types, creative arrangement of land uses that are harmonious and beneficial to the community, maximum enhancement and minimum disruption of existing natural features and common open spaces. The following guiding policies within City Neighborhood Areas and Civic and Private Open Space/Parks are applicable to this development, and help to achieve the six primary goals of the City Plan 2025:

City Neighborhood Areas:

- a. Protect adjoining properties from the potential adverse impacts associated with non-residential uses adjacent to and within residential areas with proper mitigation measures that address scale, massing, traffic, noise, appearance, lighting, drainage, and effects on property values.*
- b. Provide non-residential uses that are accessible for the convenience of individuals living in residential districts and where compatibility with existing desirable development patterns.*
- c. Reduce the length and number of vehicle trips generated by residential development by enhancing the accessibility to these areas; encourage walkability as part of the street function. Neighborhood shopping should be within walking distance of residential use, or approximately on-quarter mile.*
- d. Encourage developers to designate and plan for mixed-use corners at the time of approval to properly plan for accessibility to these areas.*

- e. Encourage pedestrian-friendly, mixed-use buildings through the use of transparent glass for commercial uses at street level and building entrances that address the street.*
- f. Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.*
- g. Encourage mixed-use development that is sensitive to surrounding residential uses and allows for day and night utilization of available parking.*
- h. Utilize principles of traditional residential urban design to create compatible, livable and accessible neighborhoods.*
- i. Protect and restore Fayetteville's outstanding residential architecture of all periods and styles.*
- j. Utilize the Master Street Plan and incorporate bike lanes, parkways and landscaped medians to preserve the character of the City and enhance the utilization of alternative modes of transportation.*
- k. Manage non-residential development within and adjoining residential neighborhoods to minimize nuisances.*
- l. Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.*
- m. Limit uses within City Neighborhood areas to those that primarily serve residents of Fayetteville rather than a regional population.*
- n. Develop strategies with the University of Arkansas to encourage students to live in the area, providing density sufficient to support public transit.*

Civic and Private Open Space/Park Areas

- a. Encourage parkland dedication and conservation easements for trails that support the Fayetteville Alternative Trails and Transportation Plan, the 10-Year Parks Master Plan and the enduring green network.*
- b. Provide an integrated network of open space areas throughout the City to serve local residents as well as provide a regional asset and visitor attraction.*
- c. Plan for the long-term preservation and enhancement of open space (including undeveloped natural areas, utility corridors, and key scenic corridors) within the Fayetteville green network.*
- d. Conserve open space within the Fayetteville green network through private acquisition and other acceptable conservation methods.*

e. Encourage the creation of connected trails and walkways between community activity areas and neighborhoods and enhance with kiosks and rest stations.

f. Encourage community-based "green" infrastructure such as rain gardens, vegetated drainages and bio-retention facilities.

g. Encourage pocket parks, especially in the urban center areas.

(B) Rezoning. Property may be rezoned to the Planned Zoning District by the City Council in accordance with the requirements of this chapter and Chapter 166, Development. Each rezoning parcel shall be described as a separate district, with distinct boundaries and specific design and development standards. Each district shall be assigned a project number or label, along with the designation "PZD". The rezoning shall include the adoption of a specific master development plan and development standards.

FINDING: The submitted development plats and Master Development Plan booklets, along with the conditions of approval found applicable and appropriate, are binding with the approval of the requested rezoning. Should the Planning Commission forward this item to the City Council; an ordinance will be drafted for consideration of rezoning this property in accordance with the submittal herein.

(C) *R – PZD, Residential Planned Zoning District.*

(1) *Purpose and intent.* The R-PZD is intended to accommodate mixed-use or clustered residential developments and to accommodate single-use residential developments that are determined to be more appropriate for a PZD application than a general residential rezone. The legislative purposes, intent, and application of this district include, but are not limited to, the following:

- (a) To encourage a variety and flexibility in land development and land use for predominately residential areas, consistent with the city's City Plan 2025 and the orderly development of the city.
- (b) To provide a framework within which an effective relationship of different land uses and activities within a single development, or when considered with abutting parcels of land, can be planned on a total basis.
- (c) To provide a harmonious relationship with the surrounding development, minimizing such influences as land use incompatibilities, heavy traffic and congestion, and excessive demands on planned and existing public facilities.
- (d) To provide a means of developing areas with special physical features to enhance natural beauty and other attributes.

- (e) To encourage the efficient use of those public facilities required in connection with new residential development.

FINDING: Staff is recommending approval of this application, finding the proposed PZD meets the intent of the PZD ordinance as noted above.

- (2) *Permitted Uses.* All permitted uses identified within §162 Use Units of the Unified Development Code shall be allowed as permissible uses, unless otherwise specified, subject to City Council approval of the Planned Zoning District request.
- (3) *Conditional Uses.* All conditional uses allowed within (Residential, Commercial, Industrial) zoning Districts established in the Unified Development Code shall be allowed with Planning Commission approval, unless otherwise specified, subject to the code governing Conditional Use requests.

FINDING: Permitted and Conditional uses are outlined in both the Master Development Plan booklets and plats.

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

FINDING: The 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 undeveloped rural-residential and agricultural. The city's development goals and Future Land Use Plan for this area support a higher density than the surrounding area. This site has been identified by City Council on the Future Land Use Plan as a growth area for a number of years. 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 varied on this project with structures oriented to the street and minimal front setbacks. This project provides for a variety of building footprint types of unit, with a mixed unit type and mixed density. Due to the unique nature of this traditional neighborhood and cluster development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

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

FINDING: Building heights proposed for this project are typical of commercial, single and multi-family development with the highest buildings proposed in the lowest portions of the site. With this development the aesthetics of this area would change from rural to a City neighborhood. This is a complete change, however this change is consistent with the future land use plan designation for this property.

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

FINDING: The lot coverage or building area on this project is variable depending on the Planning Area and the environment proposed. The urban environment proposed in the Town Center portion of the site has no building area minimums typical of an urban condition, whereas the single family portions of the site are a maximum of 70% building area, consistent with typical small residential lot development. The lot coverages are appropriate given the built environment proposed.

***Required Findings for Rezoning Request.**

Land Use Plan: *The City Plan 2025 Future Land Use Plan designates this site as a City Neighborhood Area and Civic and Private Open Space/Parks. Rezoning this property to R-PZD 08-2989, with the associated Master Development Plan, allows this future land use to vary by integrating non-residential uses throughout the site, though the principal use on the property will remain residential with a 200+ acre regional park in the central portion of the site. The proposed plan, commitments, design standards and other conditions placed upon the*

project result in a development that meets 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 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 both the future land use plan for residential, non-residential, park and open space uses, and also allow for a variety of uses and 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: At this time the property is in unincorporated Washington County and a portion of the site is in the City and zoned R-A, which allows for residential and agricultural uses on minimum two-acre lots. The proposed mix of uses, residential density and site layout included with this re-zoning is more appropriate for this area than the existing zoning. In addition, in order to allow for development of the regional park, an adopted goal of the City, a rezoning of the site in such a manner is justified. Rezoning of this property as proposed is advisable in order to allow for development consistent with the Future Land Use Plan.

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

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

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists, and that the commercial and park uses proposed would create additional 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.

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 immediately 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 in the near future. The police department does state that with a development of this size and scale, there is a need for a public safety substation near the site with frontage access to Highway 265, to provide services in a timely manner for residents and businesses. Over the course of build-out in the next 15-20 years, we will begin to see undesirable increases in the population density, traffic danger and congestion, as well as load on police services, without these improvements.

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;

- c. 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.

d. **Finding: N/A**



PC Meeting of July 28, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Greg Howe, Urban Forester

Date: July 23, 2008

ITEM #: R-PZD 08-2898: Planned Zoning District (Southpass Development)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required once this development comes through the development process. This includes an inventory of all significant trees.
2. At the time of development, staff will assess the plans with a minimum canopy cover of at least 25%. Areas that lie within the Hillside Hilltop Overlay District (HHOD) will have a minimum canopy cover of 30%. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and shared canopy along property lines is a high priority for preservation. Staff recommends working to save a vegetative buffer along all adjoining properties.
4. Staff recommends looking at areas of quality trees throughout the development for preservation and greenspace.

LANDSCAPE REGULATION

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



PARKS & RECREATION
113 West Mountain
Fayetteville, AR 72701

To: Jeremy Pate, Director of Current Planning
Thru: Connie Edmonston, Parks and Recreation Director
From: Alison Jumper, Park Planner
Date: June 25, 2008
Re: Regional Park and Southpass Development

History

The development of a regional park has been an extraordinary mission for Parks and Recreation Staff and our Advisory Board. The concept of a regional park dates back to 2000 when we started our master planning process to determine the recreation needs of our citizens.

In April 2000, Lose and Associates was hired to conduct a 10 Year Master Plan for Fayetteville Parks and Recreation. This process also included a series of public meetings and a public survey to identify the recreational needs of our citizens. The results were incorporated into the Plan and it was adopted by Parks and Recreation Advisory Board on April 26, 2001; Planning Commission on November 26, 2001; and City Council on February 19, 2002. The findings included a desire to create a city wide network of trails, provide more neighborhood parks, preserve open space and build a multi-sport complex.

The term "multi-sport complex," which is now referred to as regional park, first originated from this 45 member committee discussing the future of Parks and Recreation. The committee was divided into 7 groups to develop a list of operation and facility additions and improvements. The list of facilities was related by each group and ranked in a finalized priority list. The Regional Park received a ranking of first priority in all groups except for one, where it received a second ranking.

The regional park, however is not only for sports. This facility will have other amenities such as pavilions, picnic areas, playgrounds, aquatic features, trails, volleyball, tennis, nature areas, children's area, horseshoes, an amphitheatre and much more.

Site Selection

In December 2002, Fayetteville Parks and Recreation Staff identified 18 areas of land to evaluate for Fayetteville's new regional park. Staff viewed each of these plots of land, evaluating each of them based on criteria such as amount of available land, infrastructure availability, low

Parks and Recreation Staff narrowed the 18 areas to 4 recommendations and presented them to Fayetteville Parks and Recreation Advisory Board (PRAB). PRAB toured the properties on May 20, 2003. After touring these properties, PRAB asked Parks and Recreation Staff to further analyze each of these sites designing land use maps. At the August 3, 2003 PRAB meeting, it was determined the most suitable location for the regional park was located in South Fayetteville, off of I-540 and Cato Springs Road, referred to as the Cummings property.

Land Acquisition

Based on these results, PRAB appointed three members to work with Staff to determine several possible funding methods for purchase and development of this land. When Mayor Coody presented his idea of a public/private partnership, the subcommittee and PRAB overwhelmingly endorsed the proposal.

RFP 04-13 was advertised in May 2004 requesting interested developers to submit a proposal to purchase the land from the Cummings Family and deed a minimum of 200 acres for the future development of a regional park. A Professional Services Selection Committee reviewed and selected the proposal presented by Southpass Development. Resolution 138-04, approved on September 7, 2004, 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.

Current Status

Since June 10th 2004 City staff has been working with Southpass Development Company to create a master plan for the park. A conceptual plan was approved by Park staff and PRAB in May 2007. Parks and Recreation staff anticipates receiving the deed for the park land within the next few months and looks forward to working on the project.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS
113 West Mountain St.
Fayetteville, AR 72701

ENGINEERING DIVISION CORRESPONDENCE

479-575-8206

To: Andrew Garner, Planner

July 16, 2008

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

Re: PZD Review Comments

Development: **SouthPass PZD**

Engineer: **Appian Centre for Design**

1. All designs are subject to the City's latest design criteria (water, sewer, streets and drainage). Review for PZD approval is not approval of public improvements, and all proposed improvements are subject to further review at the time construction plans are submitted.
2. The supplemental cost share agreements related to offsite improvements (water, sewer, roads, etc) associated with the Community Park must be completed prior to approval at Planning Commission.
3. Kessler Mountain Planning Area does not appear in all maps (sheet 4 Southpass Master Plan, sheet 9, Southpass Street Deliniation, Sheet 13, Community Park) within the booklet.
4. Until the alignment and the required right-of-way of the roadway that serves as a boundary of the Community Park in numerous locations is reviewed and approved at the construction review level, the property boundary cannot be established. The current alignment is conceptual in nature and may change during the construction review process.
5. Revise the layout to allow Shiloh to connect to Cato Springs as shown in the Master Street Plan or Provide a waiver request as indicated in letter of response.

PZD Guidelines:

6. *C1 Streets and Lot Layout:* Remove the commitment from the City to extend and make any necessary improvements to Shiloh Drive from Sixth Street to the point of connection with the new Community Park.
7. *C5 Storm Water Detention Areas and Drainage:* Indicate a private storm water management association will be required to operate and maintain the LID improvements. Including those dedicated to the public.
8. *C7 Existing and Proposed Utility Connections and Extensions* and other locations in the report:
 - a. The statement that "EL-3 must also be upgraded" has a time frame associated with this possibility. This agreement must be executed and returned to the city post haste so that the upgrade will be included in the construction contract.

9. *N 1&2 Dedication of On or Off Site Improvements:* Indicate a private storm water management association will be required to operate and maintain the LID improvements. Including those dedicated to the public.

Plans:

10. Insufficient detail for complete engineering review.
11. Each intersection and street alignment will be reviewed in detail at the time of development submittal. All designs must meet the minimum street standards and AASHTO guidelines. There appears to be numerous locations that does not meet this criteria.
12. Kessler Mountain Bluff Planning Area 3B appears to not have access. Show the proposed offsite access for this area.

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

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 R-PZD 08-2898: (South Pass Development, 632): Submitted by Appian Center for Design for property located W of I-540 and S of HWY 62 and NW of Cato Springs Road 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 910.36 acres.

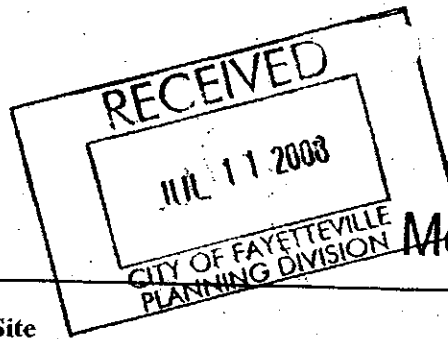
It is the opinion of the Fayetteville Police Department that this R-PZD will not immediately alter the population density, and will not immediately create an appreciable or undesirable increase in the load on police services. We further feel this R-PZD will not immediately create an appreciable increase in traffic danger and congestion within the near future.

With a development of this size and scale, we feel there is a need for a public safety substation near the site with frontage access to Highway 265. This development is located near the city limits at the southern edge of our coverage area. With the proposed community having as large or larger population than adjoining cities, we feel it would require a public safety building for joint use by police and fire, to provide services in a timely manner for residents and businesses.

The original annexation and rezoning will not result in the immediate impact on police services or traffic danger and congestion. However, over the course of build-out in the next 15-20 years we will begin to see undesirable increases in the population density, the traffic danger and congestion as well as the load on police services.

Sincerely,

Captain William Brown
Fayetteville Police Department



Memorandum

Background on Former C & L Landfill Site

Solid Waste landfill Permit 0015-S was issued in October, 1972 to C & L Land Company. The site is approximately 33 acres, located 1.5 miles southwest of the City of Fayetteville, just west of Interstate 540, on Cato Springs Road. The landfill was owned and operated by the Cummings family. Landfill was utilized by City of Fayetteville and Washington County. The landfill received primarily municipal solid waste and some construction and demolition debris. The C & L landfill permit was voided on September 24, 1976. Inspections of the closed landfill were conducted by the SWMD in 1981, 1984 and 1999; The 1999 inspection noted no erosion and noted extensive vegetative cover was present. ADEQ SWMD staff recently visited the site on October 27, 2003. The site was heavily vegetated for the most part with some erosion gullies on the north side of the landfill where it abuts the adjacent hillside. No exposed waste was noted at the time of our site visit.

August 1996 Site Assessment at C & L Landfill

A Preliminary Site Assessment (PSA) was conducted by Terracon Environmental in 1996 for Dr. Douglas Cummings. The PSA Report was submitted to the City of Fayetteville on August 14, 1996. Terracon conducted a PSA to evaluate environmental concerns about the landfill site. This site assessment consisted of reviewing historical records, conducting interviews, conducting on-site visits, performing a limited subsurface exploration of the site with concurrent sampling of both ground water and surface waters in and around the landfill.

A total of six bore holes were advanced to a depth of 4 to 16 feet in the subsurface immediately adjacent to the landfill site. During boring installation, soil samples, soil gas samples and the occurrence of leachate or ground water at depth were monitored during boring advancement. These boreholes were later converted into ground water monitor wells. Water samples collected on and adjacent to the landfill for laboratory analysis included 6 ground water and 2 surface water samples.

Water quality analysis was conducted for typical chemical indicators of landfill leachate. Laboratory analysis included chlorides, sulfates, phosphates, ammonia, nitrite, total organic carbon (TOC) and trace metals (iron, lead, zinc, chromium & manganese).

Analytical Results From Terracon

Monitor wells #1 and #4 had sulfate concentrations in ground water 15 to 32 times higher (152 ppm) than background surface water sulfate concentrations (20 ppm). Surface water sample #7 collected near the northeast corner of the landfill had sulfate concentrations which exceeded the background surface water concentration by a factor of 59.

Ground water in all boreholes except #6 had elevated chloride concentrations between (137 to 1251 ppm). Ground water sample #1, located down gradient from the landfill had a pH of 3.0. Ground water sample #6 had a strong hydrogen sulfide odor.

Total Organic Carbon (TOC) in all background water samples was less than 5 ppm. All samples collected in or near the landfill had TOC concentrations above 5ppm. TOC concentrations exceeded the typical

concentration of 5 ppm by a factor of 3 to 6. Two samples had elevated TOC concentrations (735 ppm and 25 ppm) as well as a strong hydrocarbon odor in the samples.

Terracon's Interpretation of Site Survey Results

Terracon concluded ground water samples from the boreholes and one spring seep indicate the landfill appears to be impacting shallow ground water chemistry in and around the site. Ground water samples from two down gradient locations (#1 and #2) and a surface water sample (#7) immediately off site indicate there is an apparent impact from the landfill on water chemistry off site. Chloride concentrations in surface water sample (#12) are three times the concentration of background surface water sample (#11) suggesting some impact to Cato Springs Branch offsite. Terracon also stated eastward movement of shallow ground water perched on top of the underlying shale appear to have resulted in subsurface migration of impacted waters beyond the eastern boundaries of the fill. Exposed trash in contact with surface water run off appears to have contributed to chemical impacts on surface water as far east as Cato Springs Branch.

ADEQ SWMD Evaluation of Site Assessment Report

The overall scope of Terracon's site assessment was limited. No "ideal" background ground water quality samples were taken up gradient from the site by Terracon (which they freely admit in the report). Ground water sample analyses were compared to "background" surface water samples. Consequently, the water quality concentration comparisons evaluated and reported on by Terracon are less credible than direct comparisons of up gradient and down gradient ground water samples from the site. However, elevated chloride concentrations, elevated sulfate concentrations, hydrocarbon and hydrogen sulfide odors in water samples, as well as elevated TOC concentrations were discovered and all are indicative of possible impacts on water quality in and around this former landfill site. Based on the information presented in Terracon's report, it does appear both surface and ground water quality has been adversely impacted in and around this closed landfill. Until such time as additional site investigations are undertaken, the nature and extent of these impacts will remain undetermined.

Conclusions and Recommendations

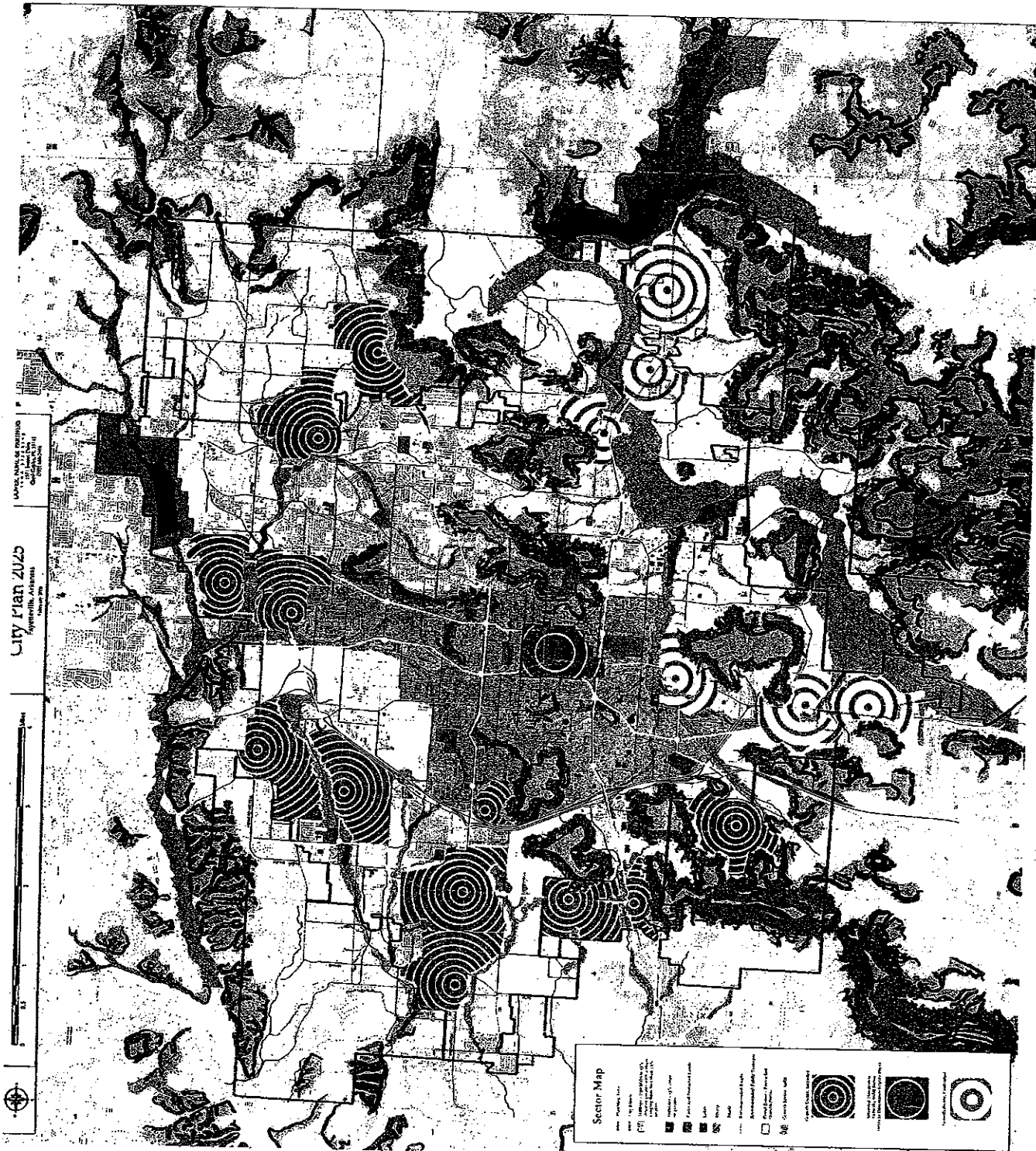
Based on the most recent water quality data collected, it is apparent there minor impacts on local ground water and surface water supplies in and around the old C & L Class 1 landfill site. GWM wells installed around the site have shown some degree of GW contamination. Surface water samples taken downstream from exposed waste have also shown some impacts. The C & L Class 1 facility is an unlined pre-Subtitle D landfill. Current and potential future environmental impacts from this site should be determined by ADEQ staff and/or by an independent third party.

The C & L Class 1 landfill site is being considered for Post Closure Trust Fund eligibility. Dispersal of monies from the Post Closure Trust Fund is recommended for the following activities:

- 1) Field reconnaissance activities to inspect the facility cap and cover;
- 2) Hire an independent third party to perform and prepare topographic survey for the site;
- 3) Continuance of a GW and surface water sampling program in and around the site;
- 4) Determine if leachate sampling is possible and if so collect and analyze leachate samples;
- 5) Evaluate landfill gas issues and perform landfill gas monitoring;

- 6) Evaluate the data collected and based on the findings, if necessary, SWMD Technical Branch staff should prepare corrective action plan for the facility;
- 7) Initiate recommended corrective action plan and the proposed corrective measures for this site.

Corrective Measures may possibly include ongoing water quality sampling of on and off site GW monitoring wells and surface water; improvements to the facility cap and cover system; ongoing LF gas monitoring and installation of a LF gas collection system; ongoing quarterly site inspections and monitoring of the facility.



SECTOR MAP DESCRIPTION

Growth Sector, Intended

These are the areas where new development in the form of Traditional Neighborhood Development is to be centered. The method used to determine these areas will be described in the report and follow existing and proposed transit lines and avoid environmentally sensitive hill and flood zone lands. As described in the SmartCode:

INTENDED GROWTH SECTOR

The Intended Growth Sector shall be assigned to those locations planned by the Planning Office/State Department of Transportation for high-capacity Thoroughfares (or transit) that can thereby support a substantial commercial program.

Within the Intended Growth Sector, communities in the pattern of Regional Center Developments (RCD) shall be permitted by right, as well as TNDs. Regional Centers shall consist of one Long Pedestrian Shed. Additional TNDs may adjoin a Regional Center without buffer requirements.

Regional Center locations that are accessible to available or Planning Office-planned bus or rail transit service, shall be designated as Transit-Oriented Developments (TOD).

Intended Downtown Growth/Infill Sector

This area was defined by the Fayetteville Downtown Plan and the specific infill strategies are described there.

Growth Sector, Controlled

In these areas Traditional Neighborhood Development is to occur but with controls. These areas were designated because they border large stretches of otherwise developable floodplains. Other Intended Growth Areas border narrower floodplains which contain streams and wetlands which are not developable - they are effectively controlled through existing regulations. The same is true for Intended Areas bordering hills which are controlled through the existing hillside protection ordinance. As described in the SmartCode:

CONTROLLED GROWTH SECTOR

The Controlled Growth Sector shall be assigned to those locations where development is encouraged, as it can support mixed-use by virtue of proximity to a Thoroughfare.

Within the Controlled Growth Sector, Traditional Neighborhood Developments (TND) shall be permitted by right, as well as CLDs. TNDs shall consist of one or several Standard Pedestrian Sheds.

Flood Zones, Restricted Growth Centers

For reasons of flood management these areas are to be areas from which development rights should be transferred out for the creation of open space and parks. The Comprehensive Plan in the Existing Conditions Element states the following:

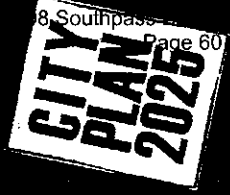
Steep slopes and floodplains are less suitable for more urban forms of development and may require special treatment. Ideally, these areas should be reserved for open space, passive recreation, conservation and agriculture. Where more intensive development of these areas is permitted, performance standards should be utilized in mitigating impacts to the environment. Soils with high water tables and poor percolative ability greatly increase the cost of community sewerage systems.

As described in the SmartCode:

RESTRICTED GROWTH SECTOR

The Restricted Growth Sector shall be assigned to areas that have value as open space but nevertheless are subject to development, either because the zoning has already been granted or because there is no legally defensible reason, in the long term, to deny it.

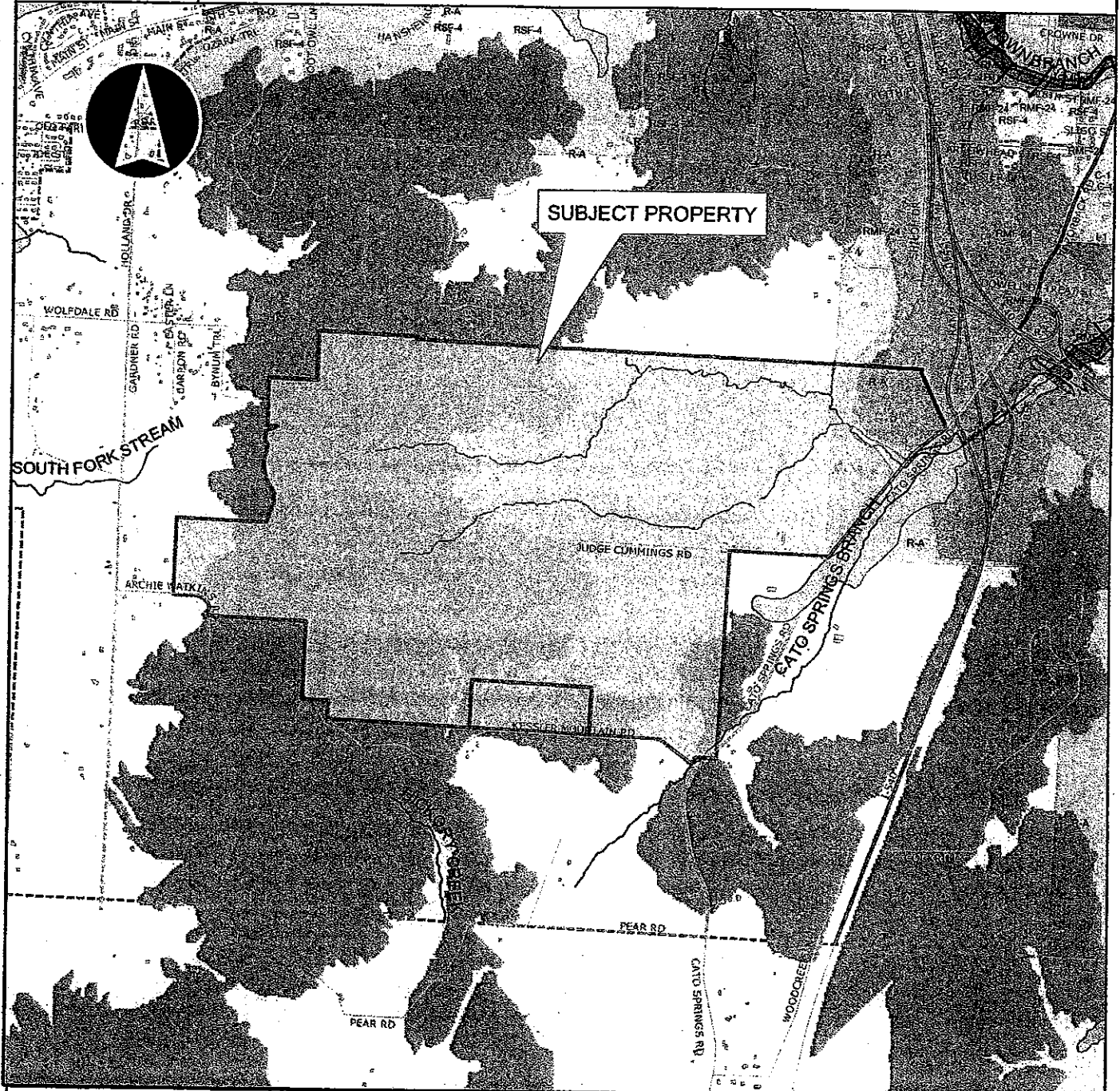
Within the Restricted Growth Sector, Cluster Land Developments (CLD) shall be permitted by right. CLDs shall consist of no more than one Standard Pedestrian Shed with that portion of its site assigned to the T1 Natural or T2 Rural Zones.



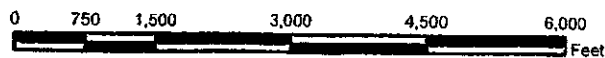
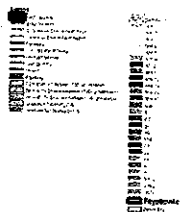
RPZD08-2898

Close Up View

SOUTHPASS DEVELOPMENT



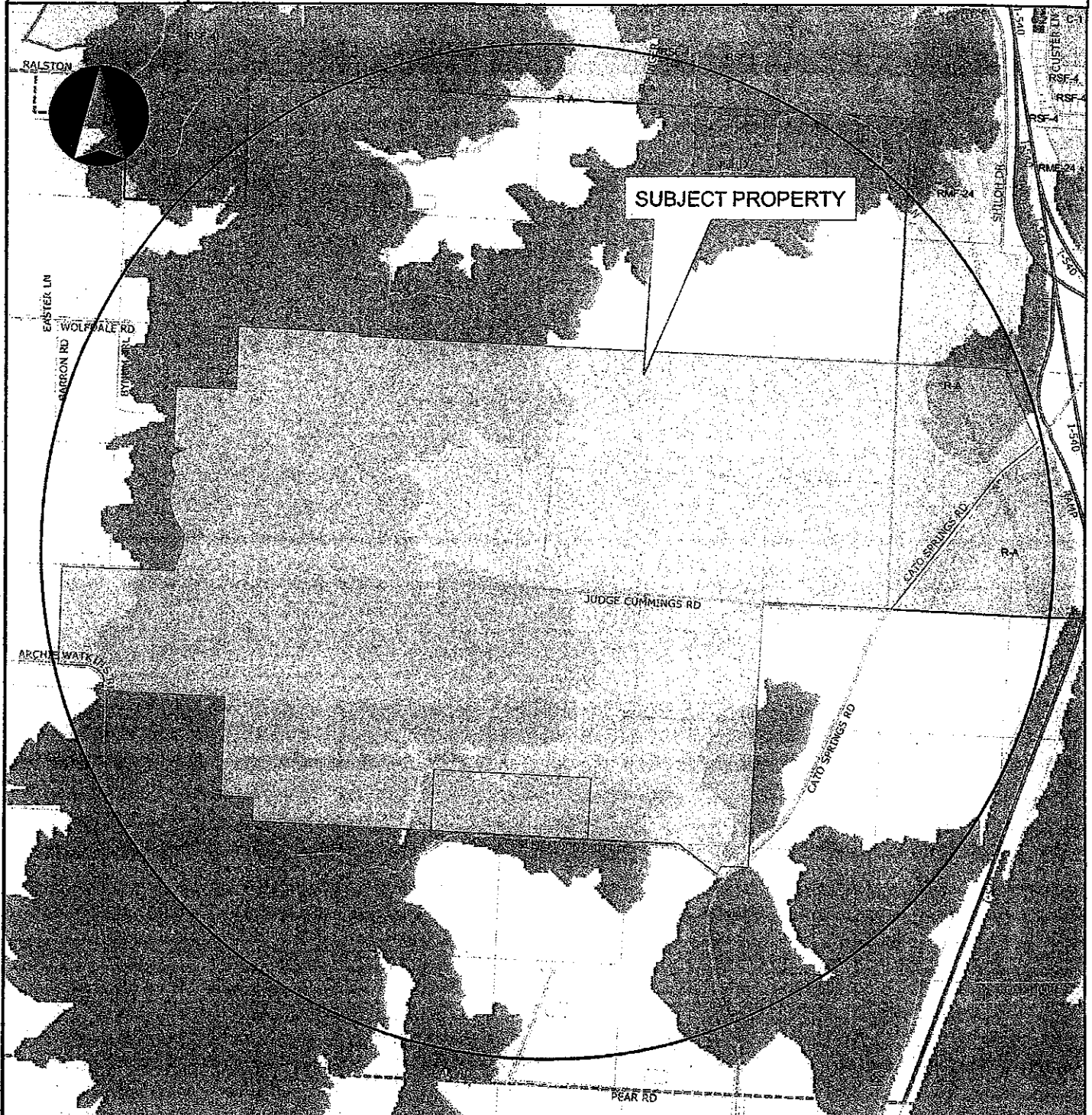
Overview



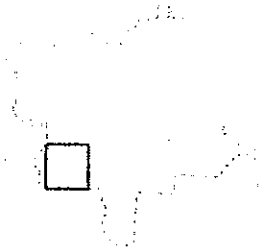
RPZD08-2898

SOUTHPASS DEVELOPMENT

One Mile View



Overview



Legend

Subject Property

RPZD08-2898

Boundary

Planning Area

Overlay District

Outside City

Legend

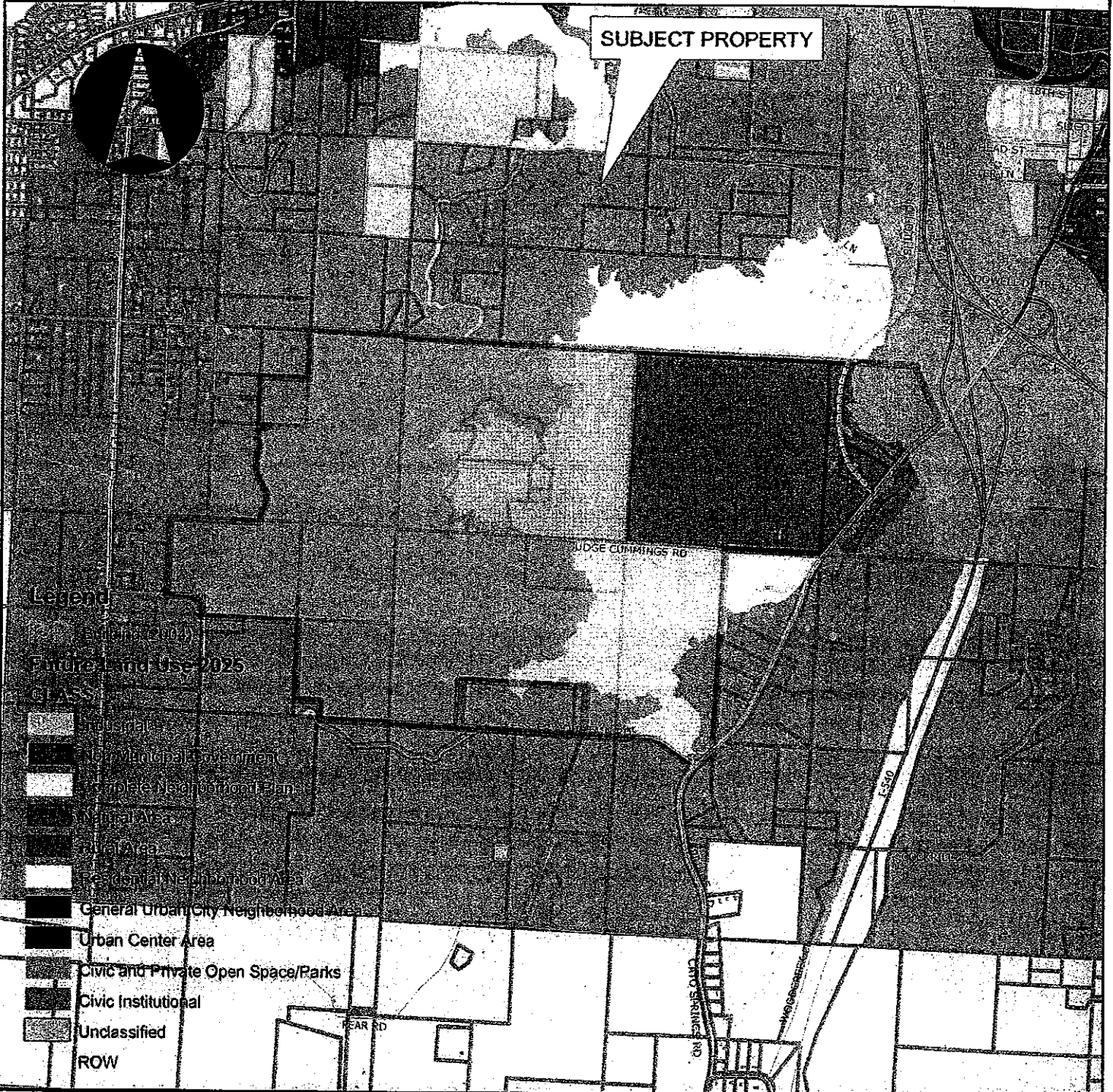
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

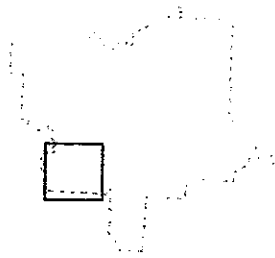
RPZD08-2898

Future Land Use

SOUTHPASS DEVELOPMENT



Overview



Legend

Subject Property

RPZD08-2898

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend

0 750 1,500 3,000 4,500 6,000 Feet

Southpass 2008 Planning Commission Meeting Minutes

- **July 28, 2008**
- **August 11, 2008**
- **August 25, 2008**
- **September 8, 2008**

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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 831.00 acres. The request is to annex the subject properties into the City of Fayetteville.

R-PZD 08-2898: (SOUTHPASS 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 Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

Commissioner Lack discussed the time limits established by the bylaws; 20 minutes for an applicant, 10 minutes for citizens.

Andrew Garner, Senior Planner, gave the staff report, discussing the history of the project, site characteristics, the annexation request and also discussed the PZD request. This meeting is intended to introduce the Commissioners to the project, and allow some major issues to be worked out. Garner discussed some of the major points as identified in the staff report. The applicant is requesting rezoning approval only for a master development plan for a R-PZD, proposing a maximum of 4,320 attached and detached dwelling units, as well as 344,000 s.f. of non-residential and commercial space. The overall density proposed is 4.7 units/acre. The form of development is designed to create a new urban center, surrounded by neighborhoods and a regional park. Staff is recommending in favor of the annexation request; staff is recommending the PZD be tabled at this time in order for staff to work with the applicant and address additional items in the PZD packet and take a look at the traffic study in detail.

Todd Jacobs, applicant, requested additional time for presentation, about 40 minutes total.

Commissioner Anthes suggested that since the presentation was intended to be a review of the broad issues, a full 40-minute presentation may not be necessary.

Jacobs stated that since it was such a large project, a longer presentation would be necessary to cover the project.

Commissioner Lack asked that the applicant try and keep the presentation under 30 minutes.

Jacobs described the existing site and project proposal. He discussed site characteristics; context; each planning area; phasing; site design characteristics, etc., utilizing a powerpoint presentation (*Refer to DVD for full presentation*).

No public comment was received.

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Commissioner Lack stated he would like the Commissioners to discuss the annexation first.

Commissioner Anthes stated that one of the criteria in the annexation guiding policies calls for a fiscal impact assessment on large annexations. I've never seen one done in the City of Fayetteville in the five and a half years I've been on this Commission. What is a large annexation if 831 acres is not, or, when does it kick in that the City would request a fiscal impact assessment on an annexation?

Jeremy Pate, Director of Current Planning, stated that staff did note in the staff report, under this finding, that this is a rather large annexation and a fiscal impact analysis is desired, but that staff did not conduct a fiscal impact analysis for this request. It is anticipated that the city will provide a level of support for infrastructure and improvements due to our agreement with the applicants and a contract agreement that states the city will cost-share extending sewer. A supplemental cost-share agreement is also being prepared for a proposal to the City Council for at least infrastructure improvements. That's not necessarily an economic analysis of the viability of the project or an analysis of what tax revenue may be brought in to the city, or what property tax proceeds may occur. That's not something that we have done in the past; my office has never prepared one. We discussed this at length some years back through a dedicated group, and one of our City Plan 2025 goals is to review our annexation policy because this is never utilized.

Commissioner Anthes stated that it would be helpful for staff and the Council to clarify when they are and when they are not going to require the analysis. If we are not going to require them, we should amend our annexation policy. If we are, we ought to have some criteria that says this is when it kicks in, and then hold to it. We also need to address what would be included in that assessment. I think it's confusing to have this language in the policy and I would like to have it clarified. As far as the annexation goes, other than the fiscal impact analysis, I think the Parks Dept, Mayor's office, and City Council have spoken clearly about their desire to have this piece of property in the City of Fayetteville. It meets many of the criteria in the annexation guiding policy as stated in staff's findings. I find special consideration for the environmentally sensitive areas section, given that there is a landfill that has adversely affected surface and groundwater in the area, and needs some cleanup. In addition, that Kessler Mountain is the top of the watershed, and there are several drainage and streams as well as the great number of acres in the HHOD. For that reason I think it meets the criteria for annexation.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation of approval. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-0-0.**

Commissioner Graves stated that there was an annexation task force set up a few years ago that made recommendations with regard to that particular item, including trying to define what a large annexation was. It might be worth revisiting. I don't remember off-hand if it was supposed to be provided at this level or the City Council level, so if a fiscal impact analysis were done for the City Council it might be more appropriate than at this level. On something this size especially, it would be helpful, if not to this particular Commission at least to City Council, in making the judgments that

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we want our Council members to make. I would ask our staff and City Council to go back and look at that report, and maybe tighten up the language.

Commissioner Lack stated the Commission should proceed into discussion of the PZD. Staff has given us a good list of criteria and a good list of items that, on their review, they recommend we need to discuss. We can start with those items. Phasing is something we need to have lots of discussion about. Segregation of uses is something we need to discuss. Item #1 that staff has recommended we discuss is compliance of this proposal to City Plan 2025, and compatibility with surrounding land uses.

Commissioner Anthes stated that the way this project is planned within itself, the applicant has addressed many goals of City Plan 2025, including the neighborhood form we have requested, especially on a difficult site to develop. Obviously this is what the PZD ordinance was written for, complicated projects of this nature. I would like to reserve any comments about compatibility with surrounding land uses until we got further into the project and had further discussions.

Commissioner Lack concurred that this is what the PZD ordinance was fashioned for. Overall, with City Plan 2025 compliance, we have 910 acres of land that is mixed-use, which is basically the size and population density of a small city. We need to look at the segregation of uses present in some portions of the site. The Town Center and commercial areas look like what we would expect out of the 2025 Plan, but as we move into the next phases, I'm seeing two areas that while they are proposed to be built at the same time, are segregated single-family and multi-family uses. Even to the point of the phasing on that – and I can understand the economic directive – requires it be built out as residential only in the first phases. On phase 1, it looks like the waterway/millrace was not in phase 1, but in the booklet it appears to be the waterway and the buildings to the western side were in the phase 1 development.

Jacobs stated that the west side of the millrace is in Phase 1 development, and that has underground parking. That entire area will have to be undercut and excavated. That provides some of the retail, office space, and lofts in phase 1.

Commissioner Lack stated that although it was not evident by the rendering, he would expect that would have some retail potential at the bottom level at least.

Jacobs stated he had programmed the building at the corner closer to the great lot for retail, and some office in order to feed off the park as we talked about.

Commissioner Lack stated that multi-family was allowable in that zone. If the western half is included, that helps. However, within the single-family and multi-family, it looks like the uses are more segregated.

Jacobs stated that for the western area, the millrace, they did program in office and retail uses as a conditional use in some of these areas.

Commissioner Anthes stated that pgs. 10 & 11 have use unit and zoning comparison charts I had

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the same questions and started looking at it, and was happy to see in some of the multi-family areas, there are use units that allow for neighborhood shopping goods, home occupations and other uses by conditional use permit, and I would expect as we get into these Planning Areas, we would need to look at these conditional use permits very carefully for the reasons you state.

Commissioner Lack stated the Crescent Park single/multi-family areas are concerning, in that he does not see more potential for other uses. Lack asked if any other Commissioners had comments on item one.

Commissioner Anthes discussed her consultation with Kathy Deck at the UA Center for Business and Economic Research, and had asked Ms. Deck about population projections for Washington County in the next 25 years. Projections show growth of just over 90,000 people in the County in the next 25 years. If Southpass does have a build out population to 10,823, taken as number of units times 2.5, that means Southpass will house 12% of the population increase for the entire county. Deck stated that the mere building of housing does not create housing demand. However, she wanted to place that in perspective for the Commissioners.

Commissioner Lack asked about condition #2, development patterns with the Planning Areas.

Commissioner Pate discussed condition #2, which along with conditions #4 and following are intended to go through as the applicant did the Planning Areas and discuss suitability of land development on that area. That's one of the findings in our PZD ordinance. As we toured the site last Thursday we discussed suitability for development. Discussion could include whether you feel that's the appropriate place for that development pattern and secondly, any major comments/issues with compatibility within the site or outside the site, as noted by Commissioner Anthes.

Commissioner Lack asked about the build-to line. He wondered if the applicant had any dialogue about that. Where the city ordinances in downtown development district currently require a percentage of lot width, these planning guidelines recommend a percentage of the building façade to be built-to.

Jacobs stated he has talked to staff about the downtown codes and the build-to lines versus being more flexible. Our tendency for Southpass and the Town Center is to match what you currently have in the downtown code. We're oriented more toward the form-based codes, we do have the look that we intend, but there is some flexibility for the architects to come in and with those buildings, we have lowered this from 85% to 75%. This is one of the sections we need to look at again on a technical basis and see if that is what we want.

Commissioner Lack asked if it is a building façade or a lot width area.

Jacobs stated that they had decided on building lot vs. building façade. I thought we had changed it because we had some confusion back and forth with the city's ordinance, particularly with the 75% of the building façade up to the build-to line.

Commissioner Anthes stated she does not know how to discuss #2 until we get into more detail of

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each of the Planning Areas. She stated she would support staff's recommendation on items #3-10 as listed in the report.

Commissioner Lack directed fellow Commissioners to page 16 & 17 of the PZD booklet to discuss phasing. Phase 1 is to be completed in 3 years from time of approval, which is the western half of the Canal village, and the park entrance roads. He hadn't noticed the importance of the central park at first. He stated he was a little confused at first about the planning of the road through the development before the presentation, but understands now. Lack was concerned about Shiloh Rd. coming through, and did not see that in the bookbook. He asked when Shiloh Dr. was slated to come through.

Jacobs stated that Shiloh Dr. is once phase 1 is established and the park came online, there is a large transmission line that will have to be relocated. The section with that transmission line buried into the boulevard is the same one that crosses Dickson St. As part of Phase 1, Shiloh Dr. will be built, Phase 2 the next portion, and then from our Ph. 2 out to existing is in the cost-share agreement that the City is working on, and I am not sure about the phasing. The large boulevard section will be the design. The City may know a little bit more of the phasing for the off-site Shiloh.

Commissioner Lack asked if it might be reasonable to see Shiloh Dr. connected by phase 2?

Jacobs stated he could not speak to that. The City will be responsible for that.

Commissioner Lack asked about the density that will be present on-site by phase 2.

Jacobs stated phase 1 is 82 SF, 350 MF; phase 2 would be around 50 SF, 200-300 MF.

Commissioner Lack stated he will learn more about that at the next reading, with the traffic study. This will have a huge impact, with one access point to Cato Springs Road.

Commissioner Anthes stated that the Shiloh Dr. issue and traffic issues are huge. She asked if the Northwest Arkansas Regional Planning Commission has looked at this project and if they had put it into their traffic model for the region.

Pate stated he did not believe so.

Commissioner Anthes asked when the Fayetteville Street Committee will assess the traffic study, and what their plans might be for Cato Springs and Shiloh.

Pate stated that typically the PZD process does not involve the Street Committee, specifically. What we would see and what Mr. Jacobs is referring to in terms of a potential City involvement is a bond issue, potentially a bond issue to extend Shiloh Dr. into this development. That would be a voter issue and would be determined after the current transportation bond issue is completed. The overall traffic impact analysis with the study provided by the applicants will let us determine the portions of this development and portions of the regional park that will have an impact, and City Council will have to make some decisions on funding for those improvements and how traffic will best move in

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this area.

Commissioner Anthes stated that it is frustrating because the booklet says that some improvements will need to be made to Cato Springs, but not what the magnitude of those improvements are. What improvements are necessary in order to carry a city's worth of traffic on one road? The thing I keep getting to is, who would build a city of 11,000 people with a tourist attraction that periodically raises the population exponentially and have five ways in and out, but have those five ways in and out go to one road: Cato Springs Road? Shiloh Drive may not be able to happen because that road goes through property that nobody on this development team owns and dumps a messy intersection at 6th & 540. Further, I do not see how a bond issue for extending a road to a private development at the "end of the line," so to speak, would be that popular.

(Video skips here)

Commissioner Lack stated he shares those concerns and would expect that the Commission would seek information on when different phases could start by when the infrastructure would be there to carry the traffic.

Commissioner Anthes repeated that her concern was that it was one road that all connections are dumping into. I don't care how big you make it. You think people are upset about Mt. Comfort and Wedington right now? No matter how many lanes we put out there, it's one road. You have an accident, nobody gets in and out of the whole "city." Are there were any potential alternate connections over the mountain?

Jacobs discussed the potential for other connections down Finger Road by the water tanks, the only other road in this area.

Commissioner Anthes asked if the applicant has explored that connection or talked to the property owners.

Jacobs stated he has not yet talked to the property owners at this time, but if you look at the phasing plan, that a conceptual road is stubbed out for that potential connection, but he has not asked adjacent property owners about their feelings on that connection. Going over the mountain is next-to-infeasible, there are bluff lines on both sides. It is not impossible but highly expensive and difficult from an environmental standpoint. There is an exit is to Greenland and I-540 that way (south).

Commissioner Anthes asked what the applicant views as the real difference between Shiloh and Cato Springs, since they are both parallel routes that lead to intersections at I-540.

Jacobs stated the reason the town center abuts Cato Springs is that it will be an extension of the boulevard that comes into the University. It also provides extremely good access for the people that live there whether they're going to Fayetteville or Bentonville. In the traffic study, we can do some calculations and find out when Shiloh is warranted to come on-line with the traffic study, and have that information available at the next meeting.

Commissioner Anthes stated that that was a big issue.

Commissioner Lack asked about the rest of phasing. This has taken a diversion because of phasing of the roads and access is a critical issue.

Commissioner Anthes stated she needs to know more about the project; she needs to understand what the magnitude of the phases are, be more familiar with the use units so I understand what the mix of uses is in each of those phases, road improvements, water and sewer, etc. It's hard to make comments until I know more about project in general in order to comment. Regarding condition #25, I want to echo staff's comments. Drawings need to be accurate to the booklet. I also have concerns about the size of buildings being 300 feet in length. Condition #27 with density shown and density proposed. Condition #29; I would like to see real connections, not just stub-outs. #31 - # of lots, again, you need to maintain consistency between the booklet and zoning.

Commissioner Lack stated that the phasing works fairly well in general. Just looking at Har-Ber Meadows which had Hwy 412 frontage in Springdale, it took many years before it could support commercial. With the potential to get some commercial in an early phase, he is okay with the phasing of the bulk of commercial in later phases.

Commissioner Anthes stated the applicant is talking about building a 2nd downtown within two miles of our existing downtown, which is already struggling with commercial and retail use. As a zoning decision, I want to know how retail/non-residential and single-family fits in here.

Jacobs stated he used two groups for economic/market analysis, and discussed the anticipated market and demographics.

Motion:

Commissioner Anthes made a motion to table the request, with the items as listed to be addressed and further information to be provided at the next meeting. **Commissioner Kennedy** seconded the motion. **Upon roll call the motion passed with a vote of 6-0-0.**

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Unfinished Business:

R-PZD 08-2898: (SOUTHPASS 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 Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

Andrew Garner, Senior Planner, presented the staff report, giving an update from the previous meeting, the summary of traffic study results, and anticipated street improvements. Garner recommends tabling to allow additional time for discussion.

Todd Jacobs, applicant, discussed the context of transportation/street connections in this area of the City. The site is located in proximity to five of the largest roads in Fayetteville in terms of size, capacity, and amount of traffic they can handle: 6th Street, Fulbright Expressway, Razorback Rd., 71-B, I-540, and 15th St. Due to easy access, and access to arterial streets, this is possibly the best place for this use. Jacobs discussed the existing Razorback bus line (purple route), how it could offer service to this area, offer service to the U of A, and other parts of the city for students, professionals, etc. He discussed the possibility of an internal trolley route that could occur within the development at full build-out. Jacobs discussed the phasing of the project. Phase 1 would be a PPL with 10 commercial outlots, along with the lots identified for immediate development in Phase 1 of the booklet. He discussed the mixture of uses within Ph. 1 (refer to updated phasing chart): 26,000 square feet of non-residential with phase 1, 333 total dwelling units. Phase 2 would have 267 dwelling units, 30,000 square feet of office/retail in 3-4 years. Phase 3 would include 81 single family lots in Crescent Park. Phase 4 would include 182 dwelling units, 6500 square feet of retail/office space, with those uses being civic and live/work primarily. Phase 5 would include 170 dwelling units, 6500 square feet on 7 acres. This area is still within a 5 minute walk of the town center. Phase 6 would include 186 dwelling units and 6500 square feet of office/retail. Phase 7 would include 241 dwelling units and 6500 square feet. By this phase, we hope to have enough people, traffic and activity to have the retail to get going in the town center.

No public comment was received.

Commissioner Trumbo stated that the recommendation is to table; he asked the Commission to talk about the traffic study and phasing. When you are referring to peak hours, when is that?

Jacobs stated the peak hours were from 7-9:00 AM, and 4:30-5:30 PM.

Commissioner Anthes expressed thanks for putting the project in context regionally and within the regional street system. She asked if the actuated traffic signals are tied to phases right now.

Jacobs stated that the traffic study right now is for the full build-out. As park phases come on, we

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would develop a new traffic study to determine proper improvements. For Phase 1, it doesn't warrant widening or signals, but we haven't gotten beyond that. We would like to do more of the town center up front, but we can't justify it functionally right now.

Commissioner Anthes asked the applicant to describe where the 5 lane road section and the 3 lane road section will be along Cato Springs Road.

Jacobs described the rural to urban boulevard section transition on Cato Springs Road.

Commissioner Anthes asked if staff has evaluated the level of service for Cato Springs Road, noting that some are at L.O.S. D and F.

Glenn Newman, City Engineer, stated that Engineering looks typically at the overall intersection level of service; it depends on the volume of traffic at that intersection. He discussed that updated traffic studies would be required as the project is phased in to make specific determinations. Overall the plan looks good for volume with signals and improvements as planned.

Commissioner Anthes stated she understands, then, that staff is satisfied with the general picture, but with more detailed review, you may recommend more improvements?

Newman stated this was correct.

Commissioner Trumbo asked would they still grade out at 'F' with the signals in place?

Newman stated that they would; the current traffic study evaluates them all comprehensively.

Commissioner Lack stated it is very helpful to see the regional traffic system relevant to this project; where traffic goes once it gets beyond the one basic intersection. It does highlight that everything goes through one intersection of Cato/I-540, with the exception of Shiloh. He stated he still needs to have more time to look at the traffic study, especially broken down into phasing. With the size of the development, proper planning needs to incorporate more than one way in than that proposed. We will need to look at other means of access. Shiloh Dr. doesn't necessarily help. Improvements south for different access on Cato Springs might help. Potential access to other sites may be necessary: Holland Dr., Finger Rd., Kessler Mountain Rd.

Commissioner Anthes discussed condition #3 and #5 on connectivity and staff's recommendation that additional connections be found. She asked what other locations staff sees in the future for possible street connections?

Jeremy Pate, Director of Current Planning, discussed the concept of large vs. small roads; as noted in our City Plan 2025, the preference would be to see more, smaller roads for connectivity rather than fewer, larger roads. He stated that this development may drive other development in the area and other connections may become available to provide multiple opportunities of traffic movement. There will likely be several recommended connections through neighborhoods onsite to future neighborhoods offsite; in comparison, staff would not likely recommend additional arterial or

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collector connections over these hillsides. Where stub-outs occur will be very important to provide opportunities for other connections as development occurs.

Commissioner Anthes asked if staff and the applicant have evaluated the magnitude of the off-site street, including the option of improvements to Cato south to Greenland.

Pate discussed traffic impacts. Because this is the largest single development project the City has ever seen, it is logical that it will also require the most extensive street improvements for any development seen. Staff has discussed the width of the bridge under the overpass; the extension south for Greenland exit to be evaluated, etc. The totality of improvements will be immense; ultimately, the City Council will discuss what percentage the City will bear, in relation to the 6% of the traffic generated by the Community Park.

Richard Alexander, developer, discussed the 25 year build-out that is proposed; the magnitude will be driven by the accommodation of a regional park. A large portion of Cato Springs Rd. widening over 25 years will be a long time out, we are phasing over time. The size of each phase will be relatively small for the first 5-10 years. The park will determine what the city needs for traffic. The size of each development is relatively small, and we don't anticipate most of these major improvements in 5 years. 25 years ago we didn't have 71B – no other 4-lane roads fed this town, but we've grown into it.

Commissioner Anthes stated she wanted to ensure the developers were aware of the magnitude of the improvements that would be required of them. She asked what sources the funds would come, especially as these are not state highways eligible for federal funding, and if the developers have had a conversation with staff about the expected assessments that would be required.

Alexander stated that funding issues will take place as development occurs. Funding will come from this development, parks, and surrounding development. He has contemplated it, but it's hard to project 25 years out. We won't even know what I-540 will look like at that time.

Commissioner Winston asked when Shiloh will need to be extended.

Pate discussed the phased traffic study that staff has requested. The Shiloh extension would likely be determined with the results of the phased traffic study.

Commissioner Anthes asked if there were any talks with the owners of the intervening parcel necessary to extend Shiloh, or about options for acquiring that land.

Pate stated there were no formal talks or other information available at this time, to his knowledge.

Commissioner Anthes asked how Shiloh Dr. will be extended.

Pate stated that it would likely be extended by private and public acquisitions of land.

Commissioner Lack asked to clarify the connectivity. It is beyond our purview to say how a right-

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of-way might have to be brought in, but the City Council has asked us to review PZDs. My recommendation is to review and understand the traffic study, and at what phase a connection would need to be made, make a recommendation to the City Council for that break-point; condition the phasing such.

Commissioner Trumbo stated he wouldn't be surprised if people do use the Greenland exit, and this may need to be looked at for future improvements as we move forward.

Commissioner Lack stated a regional park will play a huge part into the Greenland/South Access, because those events will disperse in many directions.

Commissioner Winston stated that the peak times of commuters and regional park would probably differ.

Discussion of Phasing

Commissioner Anthes discussed the correlation of phasing and planning areas. It might be easier to discuss planning areas, as the PZD booklet is organized in that way.

Commissioner Trumbo agreed.

Pate discussed phasing and planning areas, and how they relate.

Commissioner Lack stated that west of water tanks, he saw retail. Is that the case? In phase 7, how does the retail work?

Jacobs discussed live/work as a component of the project. He asked if the Planning Commission is looking for something specific on the phased traffic study, before we go ahead in the discussion.

Commissioner Cabe stated that we are comparing apples and oranges when looking at phases and planning areas. Phasing is in blocks of planning areas, up until about phase 14. Through Phase 14 the bulk of the town center is done. He stated he would recommend breaking it into PA's up until Phase 14.

Discussion of Planning Areas

PA-1a/1b/1c: Town Center

Pate explained that the booklet is the easiest document to utilize in the review of this project. He discussed these Planning areas in detail.

Commissioner Anthes stated she was in support of the proposed use units. She commented on the description of "false fronts" in each Planning Area, and asked if the applicant meant that all four sides of the building will be well articulated.

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Jacobs stated that yes, they will make that change. He discussed building height, parking types.

PA-2a, Crescent Park

Pate discussed changes in this Planning Area since the previous review, and described PA-2, which is primarily single family similar to RSF-8, but more Conditional Use Permit opportunities have been added. The Conditional Use Permit lets the neighborhood and Planning Commission evaluate the impact of the proposal.

Commissioner Anthes stated there was a logical layout of lots, blocks, and an interconnected street pattern; and she appreciates the addition of these use units as a Conditional Use Permit.

PA-3a/3b/3c:

Pate discussed conditions #1-5, relating to some of the planning areas. Staff has provided some recommendations for the size of multi-family buildings; the size of lots in 3B & 3C are discussed in conditions.

Commissioner Winston asked about topography in PA-3C.

Pate stated there was a flat area west of the water tanks; the change in topography should be reflected in the zoning criteria. The recommendation is to break out the planning areas further.

Commissioner Lack asked why multi-family was taken out of PA-3A.

Jacobs stated that because multi-family was already in the other, adjacent PA's – they were okay with leaving it in, though.

Commissioner Lack stated he appreciates the inclusion of a broader scope of use units, and would welcome discussion about putting multi-family back in.

Commissioner Anthes stated she agrees with staff about multi-family being removed from 3A. In the multi-family and higher density areas, where are the use units for the corner coffee shop, etc?

Jacobs stated he believes he originally had them in; we're willing to place them back in as a Conditional Use Permit.

Commissioner Anthes stated she was looking for Use Units 13, 15, 24, and 40 in areas of higher density. In general, on the road network, she would hope scenic overlooks would be planned for.

Garner discussed overlooks on the property, and any parking along the street would need to plan for vertical/horizontal curves.

John Nock, developer, stated that up on the ridge, they have to weigh the benefit of a traffic overlook versus a pedestrian overlook. They envision more opportunity to walk out and look. When

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designing the project, Urban Design Associates told us to think Eureka Springs. The vistas are incredible, and we value them.

Commissioner Anthes asked if the ridgeline road could avoid being directed into the single-family cluster by the water tower site. She discussed road geometry, the precedent of cornice roads and the thru-road network and wayfinding cues. Is it easy for visitors to find their way through the entire site?

Nock discussed topography and trees on the property, and the impact that further development might have in these areas. There are only certain ways to access some of these areas, and we don't want to mess this up. The idea is for low impact. We are open to suggestions, if something that has been missed.

Commissioner Anthes asked about the footprints of the multi-family buildings in these areas. Are these roughly illustrative? Also, why has multi-family been included in this area?

Jacobs stated he believes the land use and views shouldn't be limited to single family estate lots. We prefer to offer the opportunity and flexibility, not limited to a single demographic with large-acre lots.

PA-4

Pate discussed PA-4 with the minor updates from previous submittal. He stated we will work with applicant to update multi-family areas to be consistent throughout the project.

PA-5 Civic

Commissioner Anthes asked about the intent of making the church a remote destination rather than a walk-able destination? It seems remote compared to the rest of the site.

Nock discussed the idea of an iconic architecture opportunity – the idea is to provide an opportunity to provide iconic architecture on this hill, set apart from the rest of the development.

PA-6 Regional Park

Pate described PA-6.

Commissioner Winston asked if the Parks and Recreation Board has made decisions on how the park will develop?

Pate stated that yes, they have approved the concept of what you see here; details for phasing, funding, etc. will be worked out in detail as we go through the project.

Commissioner Cabe asked if the park is the driving force behind this project? Do we have an idea of phasing for the park? Isn't the park the 900 pound gorilla that no one wants to talk about? Is

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there a way to see this is one thing that is big for me – the cost, money, timing. I can't make them go together. This is causing me much more problem than the zoning criteria. I need to see more about how the plan for the park works with the plan for development.

Pate stated that we can get Parks to present various aspects of the plan at the next meeting, and discussed what could be presented.

Commissioner Trumbo asked if Jacobs had seen the conditions of approval.

Jacobs stated he has skimmed the conditions, and doesn't see anything we can't agree with. We'll go over it in more detail with staff before the next meeting.

Commissioner Trumbo stated he was in favor of conditions #1 and 2.

Commissioner Lack stated he was also in favor of conditions #1 and 2. For condition #3, phasing of the park brings up another dynamic. What kind of nod to parks does the traffic study incorporate?

Jacobs stated he could sit down with Parks to determine phasing. They will break it down to 14 phases, and tie parks in with our phasing. The traffic study right now incorporates the park traffic.

Commissioner Lack stated that regarding condition #20, view protection, staff's recommendations on this condition. He sees this more as established views, such as Old Main from downtown. He would like to open dialogue about it; it may not hinder the applicant at all, but would like to discuss.

Motion:

Commissioner Anthes made a motion to table the request to the August 25th Planning Commission meeting. **Commissioner Lack** seconded the motion. **Upon roll call the motion passed with a vote of 7-0-0.**

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Unfinished Business:

R-PZD 08-2898: (SOUTHPASS 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 Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

Andrew Garner, Senior Planner, gave a brief staff report.

Connie Edmonston, Parks Director, gave a presentation on the Southpass history. Lose & Associates reviewed the City parks system as part of the Parks Master Plan process and used four different methods to obtain public input: (1) ten public meetings throughout city; (2) personal interviews; (3) surveys to public; and (4) a committee. The Master Plan process established priorities for the citizens for the park system including: city-wide network of trails, neighborhood/community parks, preservation of natural acres/open space, and a multi-sports complex (regional park). The background on site selection for a regional park was discussed. The criteria listed in renewing 18 sites was discussed. As shown in the map on the PowerPoint slide, sites 'O', 'N', 'F', and 'I' were selected as the final four sites.

Alison Jumper, Parks Planner, discussed the reasons for choosing the Cummings property for the regional site. She discussed funding options, the final and chosen option of which was a public/private partnership with the City and a private developer. After reviewing proposals, the Southpass Development project team was chosen for the partnership. Phasing of the regional park was discussed. It was discussed that majority of soccer current soccer programs are on land the city does not own, so soccer and the 'great lawn' were the phase 1 choices. The subsequent phases were discussed: phase 2 – youth baseball; phase 3 – youth softball and multi-purpose fields; phase 4 – tennis complex and dog park; and phase 5 – multi-purpose fields and amphitheater. Priorities for the phasing will be based on current needs and funding levels, which will incorporate private donations, fundraising and other funding programs.

David Wright, Recreation Superintendent, stated that 95% of users will be residents of our community and as indicated in surveys are in favor of a regional park. The park is overwhelmingly for our citizens' use. He discussed the current Parks programs. Fayetteville Parks and Recreation hosts the largest soccer program in the State. Baseball/softball from March to July and adult softball is a 9-month program. Ultimate Frisbee is year-round. In softball, we turn back 20% of applicants because of lack of field availability. He discussed participation, which has flattened out in recent years due to lack of space and discussed that youth programs are given the space priority over adult programs. Activity locations include Lewis/Asbell, Walker/White River, Hampton/Wilson, Lake Fayetteville/Hampton, etc. He discussed service levels of parks, of all sizes and levels. The service levels of the existing parks will not deviate from those four goals identified by the Master Plan with the addition of a regional park. The regional park will have a positive economic impact and will

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bring a place for active and passive recreation, a park for everyone in Fayetteville. He discussed that different youth sports programs are spread over the City and the regional park would allow for all youth programs in one place to prevent having to drive to various sites. An added feature to the regional park will be the community development. Regional park space is not typically shared with a mixed use development. This will be one of the most unique parks in the country.

Todd Jacobs, applicant, discussed the provided information (passed out Southpass site traffic generated totals). After phase 14, Shiloh Drive would be needed (after year 20). He discussed a graphic that was passed out, with break-out of AM peak hour traffic, after full build out. He discussed that at full build out, the volumes of traffic and levels of service for vehicles going under the overpass and into Fayetteville will be comparable to the volumes of traffic and levels of service at College Ave./Rolling Hills intersection (15 cars per minute; 4 cars per second). Graphic shows the overall traffic impact is not as bad as you think. Shiloh Dr. would be built with phase 15. These are the updates.

Public Comment:

Sharon Davidson, citizen, stated that she supports parks, however, this is not the right place for a park, or the right development team. My problem is this is a landfill. I also have issues with Greenland School District and tax issues of the borderline of commercial being built. The cost of infrastructure is going to be enormous. The problem is a liability issue of taking on a private landfill – we don't know what's in there. We will be liable and will have to pay for years. This development is counter to City Plan 2025 goals as it is sprawl. The parks department has been utilized for cheerleading for this private developer. The original contracts are very disturbing. I am all for parks, but don't do everything the developer wants us to do.

Mary Connetica, citizen, stated she uses all of the City parks with her dog. She is greatly opposed to the entire project for many of the reasons stated in the previous comments including: the landfill, the sprawl of whole project, creation of attainable housing, will have to have police, fire services, sewers. Also, we have a wonderful city square here, the one they are talking about will be a mile and a half down the road. The parks are not all cared for as it is; she discussed Walker Park.

Philip Watson, citizen, stated he was a representative from local ultimate (frisbee) club. They do not have the field space to expand and they obviously don't want to push softball kids off the parks. He discussed that there is lots of potential for youth programs. Our organization has already had to use Burns Park in Little Rock instead of here for tournaments/events because of the lack of field space, would bring economic growth to the city. With more field space ultimate Frisbee would bring 3-4 tournaments a year to the City.

No additional public comment was received.

Kit Williams, City Attorney, stated he has prepared a memo including the contract between Southpass and the City; he discussed the memo. The agreement/contract does not require approval of the Southpass development plan, but does indicate that City Council has approved the size and location of park and surrounding development. The City has already accepted landfill, which had

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solid waste from the City of Fayetteville. It has been examined, many tests conducted by State EPA. I have received a letter from that attorney stating that post-closure trust funds were available to close the landfill, if needed. The existing contract between the City and Southpass does not foreclose your rights to examine the project in context with the UDC.

Commissioner Trumbo asked about the timeframe of constructing phase 1 of the park.

Edmonston stated that \$2.8 million has been saved right now, plus \$1 million will be received from the developer. Once deeds for the park have been received they can begin a fundraising campaign.

Commissioner Trumbo asked about the overall cost.

Edmonston stated it would be around \$15 million, not including infrastructure.

Commissioner Trumbo asked when we would have a park if this was approved.

Edmonston stated it depends on when deeds can be received; we don't have a time frame until we know better the costs of everything else.

Commissioner Trumbo asked how long this regional park will support the needs of the City.

Edmonston stated it depends on how fast the City grows, how fast recreation programs grow. They would love to build it all at once, but it just isn't possible.

Commissioner Graves stated he had a couple of questions about what we should be considering, since City Council has already approved the size and location. His major concern is traffic; has this been passed on by the City Council? The contract lists 800 acres and the proposed development is for 910 acres, which would be extra traffic not anticipated.

Williams stated that traffic can certainly be considered, and he doesn't think the City Council considered that detail as it was too early in the process. He doesn't think that detail was presented, but the City Council understands this is a large project.

Edmonston stated that this project will dedicate an additional 200 acres of parkland to meet parkland dedication requirements, above and beyond the regional park.

Commissioner Graves stated the percentage of traffic going south to Greenland seems high. How many vehicles per day (vpd) will be coming out of this per day?

Jacobs stated that on traffic going south, we looked at who would be leaving here, demographics, etc. The bulk of 300 going south are looping back, going north of I-540. Every phase will also have an updated study to ensure and verify the traffic.

Commissioner Graves asked if any analysis has been done on PM peak hours trips.

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Jacobs stated he used a worst-case scenario only, which is during the AM peak hours.

Jeremy Pate, Director of Current Planning, and Commissioner Graves discussed traffic numbers, including the park, and outside traffic coming to the site.

Commissioner Anthes asked about the economic impact and burden of cost for the City; when will numbers be known for the infrastructure cost? I don't want us to be surprised.

Edmonston stated roughly \$1.7 million for phase 1, but that doesn't include infrastructure.

Commissioner Anthes stated she thinks the public will be interested in knowing the costs associated with the infrastructure as well as the park itself.

Edmonston stated that she only knows the cost of facilities at this time.

Commissioner Anthes stated that the landfill is already a City liability, and that we don't expect to develop the landfill site, correct?

Williams stated that that was correct.

Commissioner Anthes stated she wants to see a traffic synopsis for each phase and staff's recommendation regarding the updated traffic report received today before making a recommendation to the Council.

Motion:

Commissioner Myres made a motion to table the request to the September 8, 2008 Planning Commission meeting. **Commissioner Anthes** seconded the motion.

Commissioner Anthes stated thanks to the City Attorney for the memo. I take very seriously the role of a Planning Commissioner in upholding council's policies, and it is prudent for us to know if the council has made previous decisions that affect our review of the project in conjunction with the UDC.

Upon roll call the motion passed with a vote of 8-0-0.

Unfinished Business:

R-PZD 08-2898: (SOUTHPASS 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 Zoning and Land Use approval for a Residential Planned Zoning District with 809 single family lots, 2,881 multi-family units, 630 condominium lofts, 344,000 square feet of non-residential space, 240 acres of preserved open space, and a 200+ acre regional park.

Andrew Garner, Senior Planner, gave the staff report and discussed information presented since the last meeting, specifically traffic, potential future local street connections, etc. He recommended forwarding the Southpass PZD to City Council with a recommendation of approval, based on findings within the staff report, and with conditions as listed in the staff report. He made a revision to strike the last sentence of condition #2 and to add language under condition 4G that "Future development shall be reviewed for compliance with the access management ordinances of the City of Fayetteville". He discussed conditions #5 and 6 (Master Street Plan Amendments to Shiloh and Cato Springs). He also discussed that the buffer adjacent to offsite properties, Condition #14, has been incorporated into site plans. He also called attention to Condition #19, view protection, noting that staff is recommending some additional design standards to preserve scenic views.

Jeremy Pate, Director of Current Planning, discussed supplemental materials and maps that were included in the Planning Commission packets.

Austin Rowser, applicant, stated he was the design engineer for the project. He discussed that it has been stated by some in previous planning commission meetings that this is a suburban sprawl project and not compliant with City Plan 2025. However, this site and the area are shown as a Future Growth Area on the Sector Map on the City Plan 2025. The Future Land Use Map also from City Plan 2025 shows this area as City Neighborhood, Residential Neighborhood, Civic/Open Space, and Natural Areas. We've attempted to conform to the goals of the Plan, stay consistent with that throughout the site. We heard from Parks Department at the last meeting that this site was chosen for a major regional park, mainly because of its easy access to I-540 ramps. He discussed traffic generation of Southpass by phase and the total for each phase, as estimated by the traffic engineering through fall build-out. There are three primary routes out of site: Cato north, Cato south, and future Shiloh Road extension. He discussed that access to I-540 and Fulbright Expressway are provided by right-hand turning movements. He discussed the vehicle capacity on Cato and subsequent reduction in traffic when Shiloh is opened. He understands that the impact from traffic is real, and the improvements are real and will be sufficient.

Richard Alexander, applicant, stated he would like to address something Commissioner Graves mentioned about the size of the property increasing from that included in the original contract. He discussed that the selection process for this site began by the City in 2002. This has always been a city project. The Cummings family would not sell just 200 acres, only 800 acres. City sent out an RFP for a private developer to purchase the property and give the city 200 acres, a \$10 million gift.

Planning Commission

September 8, 2008

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In order to make the project work with the 800 acres, the developer purchased an additional 83 acres to accommodate the major elements of the park, into the center of the development. This allowed development to occur not on the hillsides. Twenty-five acres were also available on Kessler Mountain Road and have been included in the project. That's where the extra 100 acres came from. When you take out the 33 acres of landfill and 10 acres of water tank, the total project is 860 acres. By doing this, we were able to not disturb the majority of greenspace. Total undisturbed area (by development) is 53%, or 482 acres. Most of the area of the project is parks and greenspace. The driving force for most of the development was siting the park, not vice versa. The master plan design was then wrapped around the park. The location of the park was determined appropriate by the Parks staff and the Parks and Recreation Advisory Board.

Public Comment:

Maryann Connetka, citizen, stated she was a Fayetteville resident and has spoken before, but has come up with some other reasons to delay this project. She asked about sprawl and discussed vacancies of housing in Northwest Arkansas. She also wanted to refer to an article in the NWA Times, where the City Attorney Kit Williams discussed that it is not fair to compare the Renaissance Building to Southpass. I did not know it was the City Attorney's job to promote developers.

Barbara Moarman, citizen, stated she brought a letter for the Planning Commission to read. She is in direct impact path to the north of Southpass. Why has an informal environmental study of the land in question not been completed? She discussed potential impacts of Southpass including access, quality of life, and environmental impacts. She read from a landfill study (1996) that there were impacts to local water quality. No one has said anything about the landfill until someone wants to make money on it. I feel it has been dealt with irresponsibly. There has been no formal needs study. I realize that one is not required. There has been no complete economic analysis. There is no signed cost share agreement between the City and the developers. There is no statement of what the whole cost of project is going to be. Taxpayers need to know what our burden is going to be, clearly defined. I also feel there are some exceptions that have been made for proponents of this project. State legislation has been passed to exempt responsibility for the landfill. The requirements for PZD development in the Hillside (Hilltop Overlay) district have been or reduced or exempted. A PZD may be approved with less % of undisturbed acres. Instead of lighter regulations for a project of this size, the restrictions should be tighter. I don't think you have studies in hand for his project, you should table or deny the project.

Commissioner Trumbo asked that comments be directed to the project. We, as a Planning Commission, cannot consider who the developer is, what projects they have done, how many houses are empty in the City. We are bound by the criteria we have to review.

Connetka asked who will review that? I have nothing further.

No more public comment was received.

Commissioner Trumbo asked City Attorney to discuss the landfill again.

Planning Commission
September 8, 2008
Page 6 of 18

Kit Williams, City Attorney, discussed landfill closure, the post-closure trust fund, and city liability. The City now owns landfill; which has already been decided by City Council. I hope I'm not viewed as a proponent of the developers. The UDC is the language we use to consider a project. A developer, good or bad, cannot be considered in the context of the review of a development application. Our code does not allow the performance of a developer to be considered, in favor or against.

Commissioner Graves stated he had a couple of questions regarding the definition of urban sprawl, development of landfill, environmental or economic analysis.

Pate stated that urban sprawl was defined as unplanned growth at the edge of the city; he discussed the population of Fayetteville will increase by 40,000 by the year 2025. This is a greenfield development, however it meets all the goals of City Plan 2025. The landfill is not in an active portion of the site and will likely be capped and used for passive recreation. There has not been an environmental or economic analysis of this project. He stated that this project has to meet the PZD ordinance, hillside ordinance and greenspace requirements. He discussed that much of the west side of the project will be in a conservation easement and/or used for passive recreation. He said that the methodology for economic analysis of large annexation was not agreed by council and therefore an analysis has not been conducted.

Commissioner Anthes discussed the landfill. Are there any creative measures that might be required, any idea of timeline for remediation?

Williams stated there was no idea on the timeline at this time.

Commissioner Anthes asked when the City Council sees this project, conceivably they could direct staff to go forward with remediation?

Williams stated he was not sure who initiates that, City or State. It could work well with remediation when the initial development was occurring.

Commissioner Anthes asked if any run-off will be present in the park from the landfill.

Rowser described the drainage patterns, which shows that the drainage from the landfill does not go through the park.

Commissioner Anthes asked if the drainage from the landfill will go into the Millrace portion of Southpass, which incorporates a drainage as a water feature.

Rowser stated that, yes, one of the drainages going through the landfill would be diverted into the Millrace.

Commissioner Anthes asked about the developer's stance on the landfill.

Alexander stated that he hopes the city and ADEQ will undertake whatever it takes to remediate, if

Planning Commission

September 8, 2008

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anything. The City will deal directly with ADEQ.

Commissioner Anthes stated that she hopes that with the development, park, everyone involved would begin putting pressure on state office to deal with the landfill, with the public coming here.

Alexander stated he understands it is relatively benign. When we started this process, we made it clear that we would not be responsible for the landfill.

Commissioner Anthes asked if the contract as stated, with current development team, has changed.

Alexander stated the development team has changed and it is now Hank Broyles, John Nock, and himself.

Commissioner Anthes asked if the school district issues have been resolved.

Alexander stated he hoped to have taxes generated from this go to the Fayetteville School District. They have concentrated most of development within Fayetteville School District. We can't control the school district issue as private developers. They hoped to have the City take the lead on that.

Williams stated it was understood in the context of the contract that the City doesn't control where school district boundaries lie. He believes the City has suggested to the school districts that the area for this project be placed within the Fayetteville School District, and the City has now fulfilled that portion of the contract. That issue is in Greenland's court, and is their decision. The developers were aware that the City didn't control the school districts at the time that language was placed in the contract.

Alexander stated he thought that was correct, and stated again that they designed the project for most of the millage to go to the City of Fayetteville.

Williams stated his understanding was that any of the contingencies could be waived by the developer, as we don't control that.

Commissioner Anthes asked what portions of the site the developer plans to go vertical with.

Alexander discussed that they anticipated constructing Phase I, then seeing where it went from there.

Commissioner Anthes discussed that the developers have the right to develop property, and also have prior determination by the City Council for development on this site.

Williams stated that was absolutely correct. City Council did know the general scope and location of the project. As you stated, property owners do have rights; they have to meet certain regulations, or the UDC, and this should be used in your consideration. City Council has approved the project in size and location, but did not determine that it was compliant with UDC.

Planning Commission

September 8, 2008

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Commissioner Anthes asked that when this site was assigned as a Growth Sector/City Neighborhood designation – staff and City Council were anticipating the Southpass project, correct?

Pate discussed that yes, City Council had previously made a policy decision for the Southpass property on this site and staff reflected that decision in our recommendation with the City Plan 2025.

Commissioner Myres asked about the 3-lane and 5-lane sections.

Pate described the sections, transitions and the break to a rural section south of the site.

Commissioner Lack stated the breakdown of traffic by phase was helpful. He does have an issue with condition #19, regarding view protection. He respects staff's viewpoint on this, but disagrees. I read this as protecting views of Old Main, scenic corridors from building mass and form. He is not comfortable with the restrictions in this condition.

Motion:

Commissioner Lack made a motion to strike condition #19. Commissioner Graves seconded the motion.

Commissioner Anthes asked if staff could explain its position.

Commissioner Pate discussed staff findings and the recommendation, and referred to scenic views on and offsite that would be protected by this condition.

Commissioner Anthes asked the applicant if they were happy with condition #19.

Alexander stated that if it makes you happy, we're happy.

Commissioner Anthes stated that she does not find the condition overly restrictive.

Commissioner Graves stated that the his only problem with the condition is a precedent. He is not sure what criteria to protect. It is too fuzzy for my taste, no criteria.

Upon roll call the motion failed with a vote of 4-4-0, with Commissioners Bryant, Winston, Anthes, and Myres voting no.

Commissioner Anthes discussed sports park lighting. She hopes that the park division will ensure that the park is sensitively lit due to its visible location and due to its proximity to surrounding development. Connie Edmonston discussed at the last meeting that earthwork may be done as in-kind for the \$1million, but the contract adds \$1 million in cash. Is that up for discussion?

Williams stated it was more appropriate for City Council, it may be looked at then.

Commissioner Trumbo asked to go through determinations. #1? No comment. #2?

*Planning Commission
September 8, 2008
Page 9 of 18*

Commissioner Lack stated agreement with these conditions.

Commissioner Trumbo asked about #3, connectivity.

Commissioner Anthes stated that because we will be able to review future development as a Large Scale Development or preliminary plat, she is comfortable with the condition as worded. The potential connectivity maps provided by staff do show potential for local roads that will ensure the connections can be made. Because I know other connections can be made, to north, east, and even Ruppel Road, that helps me a lot. Would we at a future time be looking at a Master Street Plan amendment for Ruppel Road?

Pate stated not at this time, it would have to be looked at later.

Commissioner Anthes stated she finds in favor of connectivity, with conditions as they read.

Commissioner Graves stated he doesn't like depending on other jurisdictions such as Greenland for access. The thing that confuses me is the parking, and the fact that it will be reviewed in the future for connections and stub-outs. In general, this type of annexation and development is what the Planning Commission asks for, instead of small pieces one after another, we can see the development as a whole and can plan accordingly if we know what the input is and can plan for it. He is also in support of #3.

Commissioner Trumbo asked if there are any other comments on any other conditions.

Commissioner Anthes stated she wanted to reiterate on the street connections and would like to have the main through street routes identified; and encourage that scenic overlooks be identified. This development will require everyone to drive to a regional park. This is a decision that has been made, but I hope our neighborhood parks will maintain a priority in our parks system, within a walkable distance of homes.

Commissioner Myres stated it was typical to give a reason why not supporting a project, but I can't offer a new one. Partly because of the transportation issue, it bothers me a lot, and the centralization of parks. I can't think of any reason legally I can't support it, but I can't in good conscience vote yes.

Motion:

Commissioner Graves made a motion to forward the request to City Council with a recommendation for approval, with conditions as listed. **Commissioner Lack** seconded the motion.

Commissioner Anthes stated that everyone knows I struggled with this project. When our city decided to build Boys and Girls Club on the west side of town, we knew development was coming. The development around the Boys and Girls Club has not created a community and is unsustainable

Planning Commission

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in its form. While I've publicly shared concerns regarding this development, it is in compliance with City Plan 2025, UDC, HHOD, and PZD ordinances and is preferable to spreading of low-density single-family housing. It is exciting for this entire area to be planned at once, and as a large project has many advantages.

Upon roll call the motion passed with a vote of 7-1-0, with Commissioner Myres voting no.

**Public Comment
Southpass 2008**

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SOUTHPASS COMMUNITY ANNEXATION AND PZD-LANDUSE ZONING**

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

SouthPass Development LLC
217 East Dickson Street, Suite 204
Fayetteville, AR 72701
Office: 479-442-1425
Contact: Steve Aust

Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, AR 72701
Office: 479-442-1444
Fax: 479-442-1450

Planning Commission Meeting:

Monday, **07-28-2008** 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

PROJECT DESCRIPTION:

SouthPass is a proposed project on the old Cummings property that plans to create a new urban center in a traditional mixed use town form. This 910 acre project, located less than one mile from the University of Arkansas campus and two miles from downtown Fayetteville, will feature over 480 acres of Regional Park that will serve the residents of Fayetteville and local community

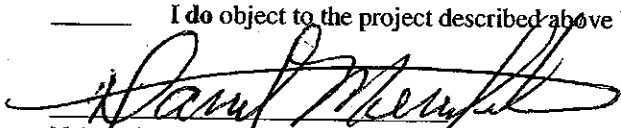
The SouthPass Master Plan emphasizes the principles of new urbanism, conservation design, a variety of land uses, traditional neighborhood design, parks and walkability. SouthPass incorporates diverse and distinctive homes, apartments, live/work units and a network of well connected walkable streets and blocks. Throughout the 480 acres of public parks and open space, trails, and preserved woodlands will connect neighborhoods and establish the community identity. The SouthPass vision is to create interconnected streets and a series of community neighborhoods that will be a model for sustainable development patterns in Northwest Arkansas

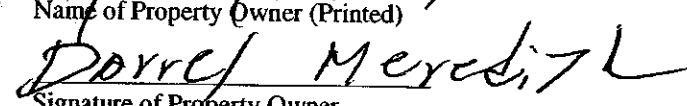
ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning SouthPass Community back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

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

☒ I do not object to the project described above.

☐ I do object to the project described above because:


Name of Property Owner (Printed)


Signature of Property Owner

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SOUTHPASS COMMUNITY ANNEXATION AND PZD-LANDUSE ZONING**

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

SouthPass Development LLC
217 East Dickson Street, Suite 204
Fayetteville, AR 72701
Office: 479-442-1425
Contact: Steve Aust

Appian Centre for Design
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125 W. Mountain Street
Fayetteville, AR 72701

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

☒ I do not object to the project described above. *

☐ I do object to the project described above because:

FRANK SHARP, Trustee Sharpridge Trust
Name of Property Owner (Printed)
[Signature]
Signature of Property Owner
* The amount of green space, retention of trails & respect for terrain is a big plus for this development & the owners & planners are to be congratulated. ✓

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR ANNEXATION AND REZONING OF SHARP PROPERTY**

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

Frank Sharp
2062 South Smokehouse Trail
Fayetteville, AR 72701
Phone # 479-957- 4069

Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, AR 72701
Office: 479-442-1444
Fax: 479-442-1450

Planning Commission Meeting:

Monday, **07-28-2008** 5:30 pm
Fayetteville City Administration Building
113 W. Mountain Street, Room 219

The subject property is located west of South Holland Drive and contains approximately 54.96 acres. The proposal is to annex the subject property into the City of Fayetteville and be re-zoned to RSF-2, which would only allow two single family houses per acre.

ADJOINING PROPERTY OWNERS COMMENTS

Return comments concerning the annexation & rezoning of the **Frank Sharp** property into Fayetteville back to the
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

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

☒ I do not object to the project described above.

☐ I do object to the project described above because:

Goyce Moore
Name of Property Owner (Printed)

Goyce Moore
Signature of Property Owner

**ADJOINING PROPERTY OWNERS NOTIFICATION
OF UPCOMING PUBLIC HEARING
FOR THE SOUTHPASS COMMUNITY ANNEXATION AND PZD-LANDUSE ZONING**

July 15, 2008

APPLICANT/REPRESENTATIVE CONTACT INFO:

SouthPass Development LLC
217 East Dickson Street, Suite 204
Fayetteville, AR 72701
Office: 479-442-1425
Contact: Steve Aust

Appian Centre for Design
217 East Dickson Street, Suite 104
Fayetteville, AR 72701
Office: 479-442-1444
Fax: 479-442-1450

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Return Comments concerning SouthPass Community back to
City of Fayetteville Planning Division
125 W. Mountain Street
Fayetteville, AR 72701

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

JB HANNA LLC
Name of Property Owner (Printed)

[Signature]
Signature of Property Owner

Please provide the following comments to the Planning Commission and place them in the public record.

The Butt Family Trust, with my wife, Shirley and me as trustees, is the owner of approximately 40 acres adjacent to the proposed Southpass project, sharing about 1/3 of the northern boundary. Two of our neighbors have homes on five-acre lots that share additional boundary with Southpass, and another 80 acres adjacent to the northwest corner of Southpass is in a conservation easement.

Our home, known as Deepwood (see www.deepwoodhouse.com <<http://www.deepwoodhouse.com/>>), is only a few hundred feet, if that, from the cluster of lots shown on the site plan immediately west of the two existing water tanks. This residence was designed and constructed by the late Herbert Fowler, former professor of architecture at the University of Arkansas. The house has been widely recognized for its unique architectural design, and being almost 50 years old, may be eligible for historic designation.

The site plan does not show the surrounding land uses and improvements and is therefore deceptive and confusing.

The cluster of lots shown on the site plan immediately west of the two existing water tanks back up right to our property line with backyards of proposed dwellings. There is plenty of space in Southpass and no apparent reason that development has to crowd adjacent property lines.

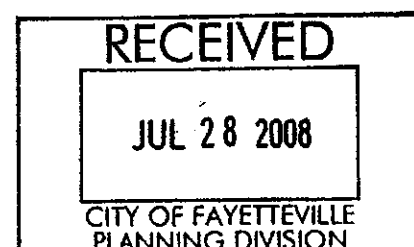
Although I have been unable to obtain the plan that conforms to the location designations in the PZD Application and Materials Submittal, I believe I am referring to the "Kessler Bluff" area.

Southpass is being touted as a new urbanist and sustainable project, but the Kessler Bluff portion has no new urbanist or sustainable characteristics. It is pure classic sprawl. The residential uses shown in the Kessler Bluff area are isolated from schools, services and public transportation. There is no new urbanist street grid. Infrastructure will be relatively expensive and extensive compared to the other developed areas. Substantial woodlands will have to be cleared. Residents will have to depend on their cars to get to school, work and shopping. This Kessler Bluff area is currently a popular mountain biking location with several well-used trails, and the development will destroy this.

I urge you to abandon the sprawling development shown on the northeast corner of Southpass and build instead lower down the hills and closer to schools, work and shopping.

This email is being sent from my home computer.

Tom Butt
235 East Scenic Avenue
Point Richmond, CA 94801



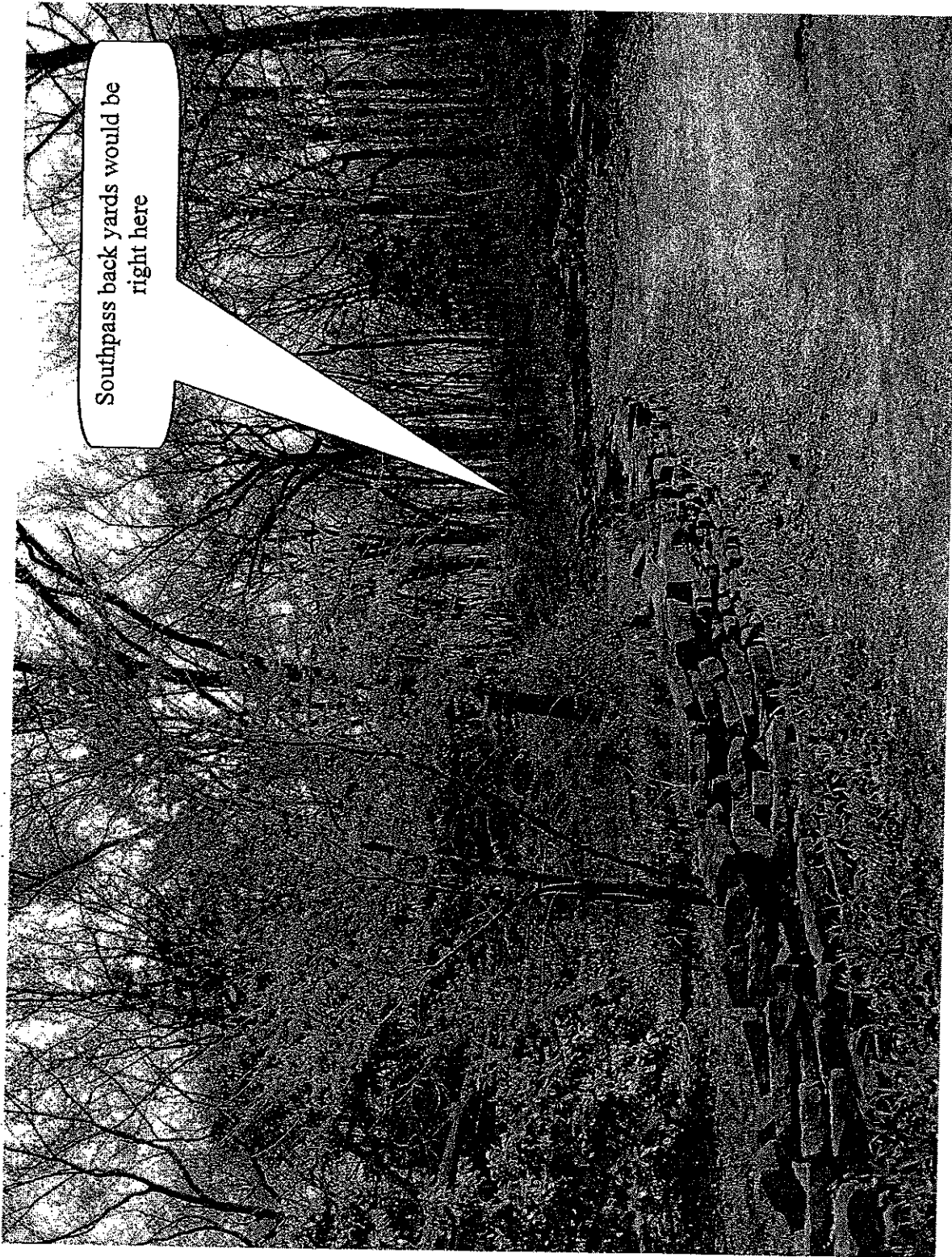


Photo 1, Driveway to Deepwood House

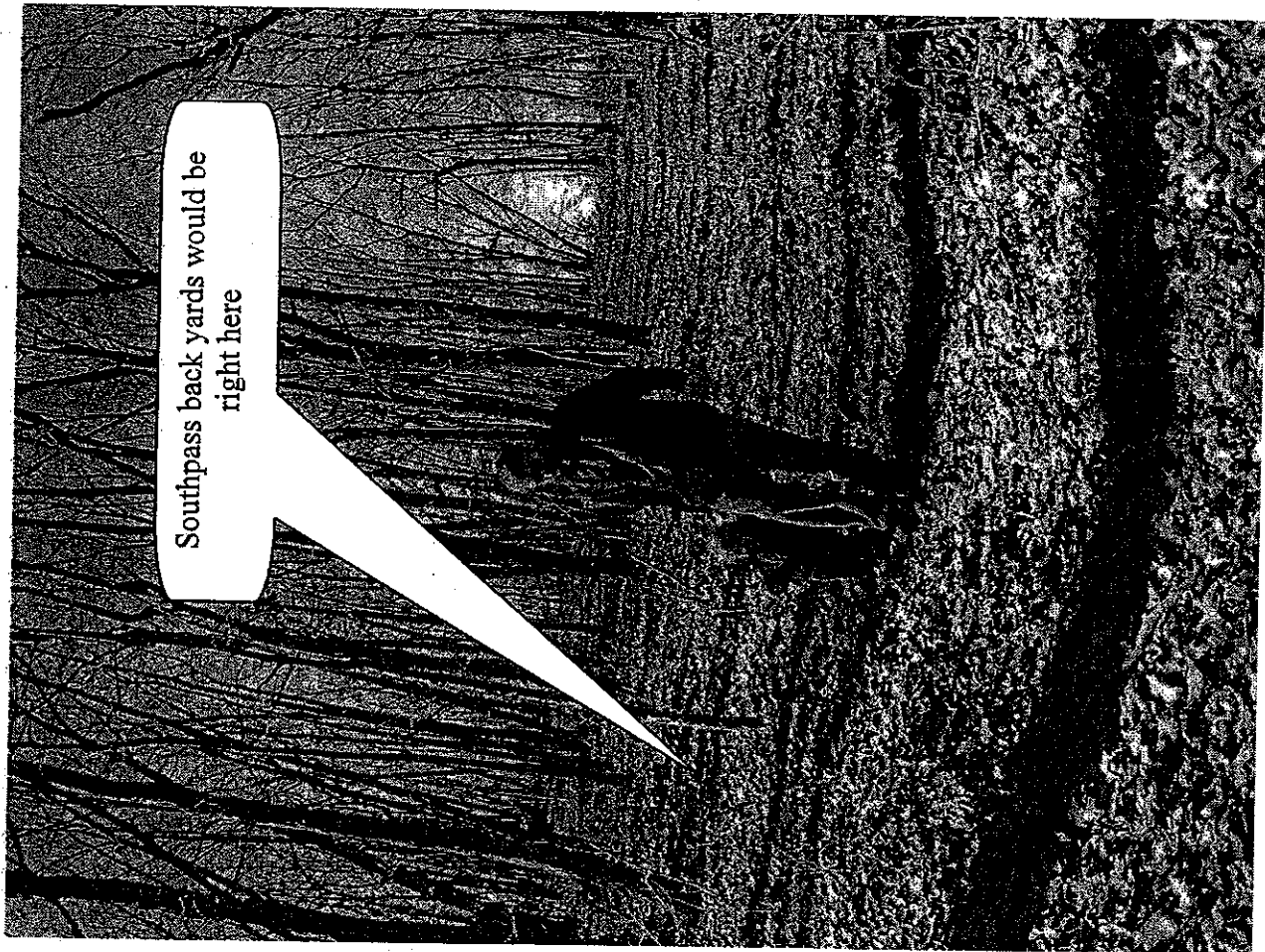
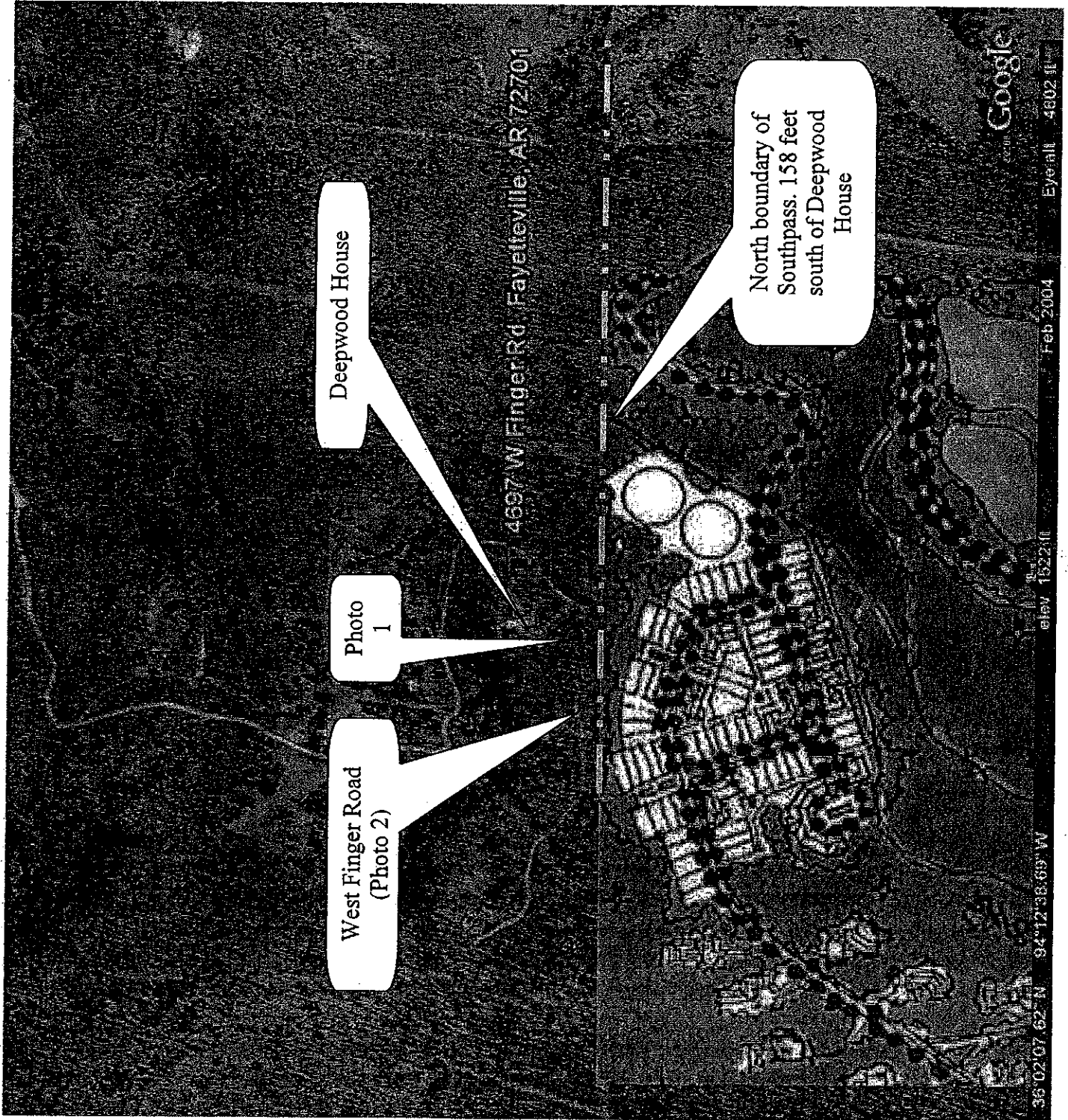


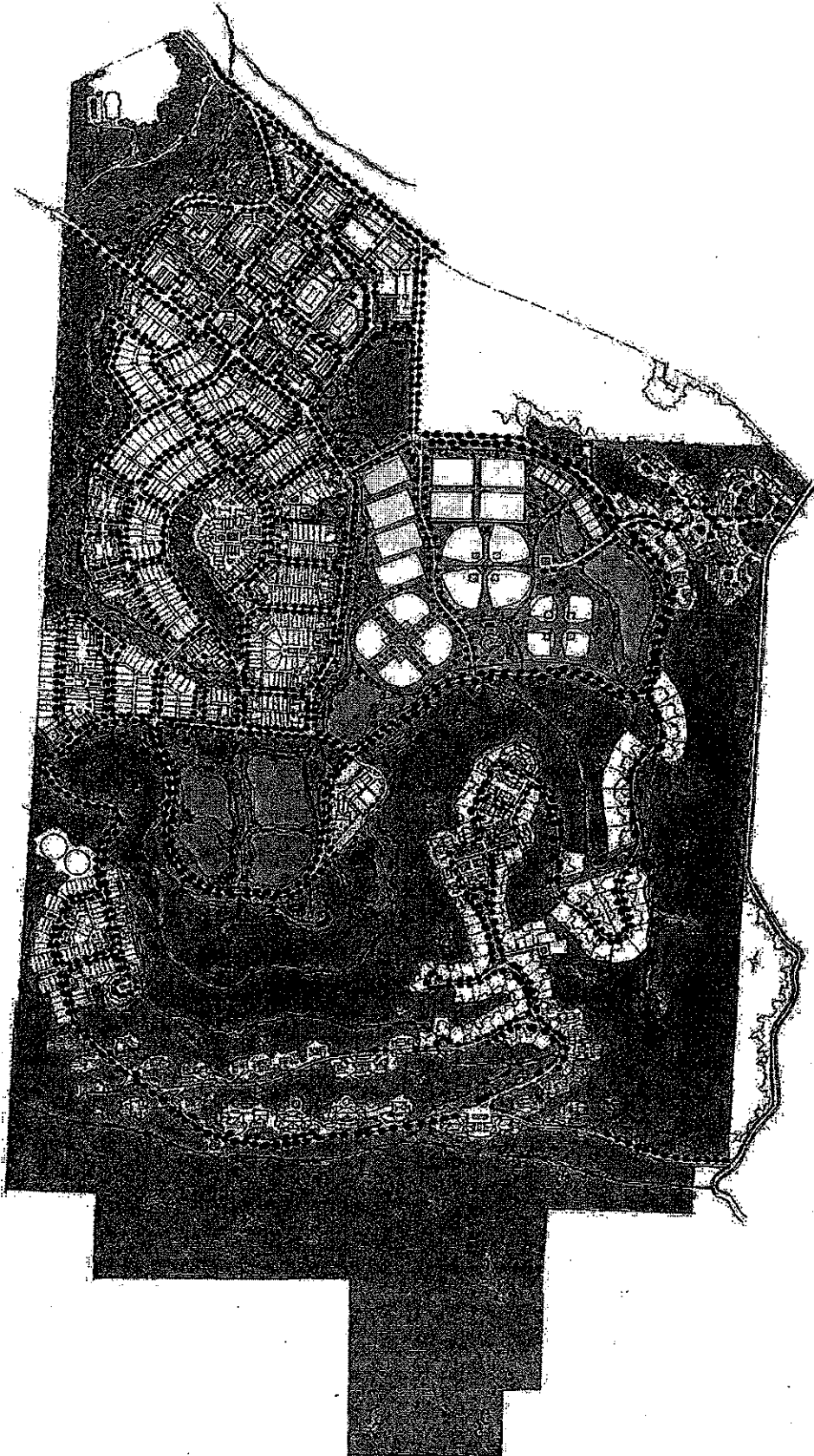
Photo 12 West Finger Road

Overlay showing
Southpass and
Deepwood



Deepwood in the spring





Deepwood is
located here

Southpass Conceptual Site Plan

From: Barbara Moorman <blmoorman@sbcglobal.net>
To: <agarner@ci.fayetteville.ar.us>
Date: 7/28/08 4:27PM
Subject: comments on Southpass, Community Park, Kessler Mountain developments

Dear Mr. Garner:

Here is an abbreviated list of topics in objection to the proposed Community Park, Southpass and other developments for Kessler Mountain on today's Planning agenda. I would appreciate your passing this message along to Planning Commission members.

Problems for Finger Road neighborhood:

1. noise amplified from games, entertainment
2. increased traffic via as yet unknown access
3. lights (games, residences, traffic, security)

Problems for my own property - 90-A conservation easement for habitat (Humane Society Wildlife Land Trust):

1. 1-3 above
2. pesticides
3. clearing- removal of natural vegetation
4. changes in drainage
5. perceived need to eradicate "pests"
6. introduction of invasive species
7. trespassing
8. reduction of surrounding bird and animal habitat

will lead to pressure on populations on my property... eventual degradation of the property's value for conservation.

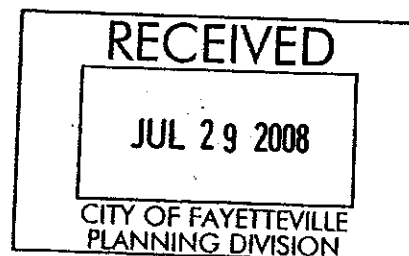
Drawbacks for Fayetteville:

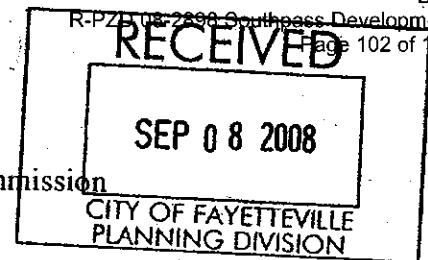
1. destruction of potential greenbelt and wildlife corridor
2. sprawl - violates city's stated intent to avoid sprawl
3. less money and effort available for smaller parks favored by majority
4. there is no established need for this housing
5. tax money will be channeled into infrastructure for this

Thanks for your attention to my comments.

Barbara Moorman
3450/3444 Finger Road
Fayetteville

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<html><head><style type="text/css"><!-- DIV {margin:0px;} --></style></head><body><div style="font-family:times new roman, new york, times, serif;font-size:12pt"><DIV>Dear Mr. Garner:</DIV><DIV>&nbsp;</DIV><DIV>Here is an abbreviated list of topics in objection to the proposed Community Park, Southpass and other developments for Kessler Mountain on today's Planning agenda.&nbsp;<DIV>I would appreciate your passing this message along to Planning Commission members.</DIV><DIV>&nbsp;</DIV><DIV>Problems for Finger Road neighborhood:</DIV><DIV>&nbsp;</DIV><DIV>1. noise amplified from games, entertainment</DIV><DIV>2. increased traffic via as yet unknown access</DIV><DIV>3.&nbsp;<DIV>lights (games, residences, traffic, security)</DIV><DIV>&nbsp;</DIV><DIV>Problems for my own property - 90-A conservation easement for habitat (Humane Society Wildlife Land Trust):</DIV><DIV>1.&nbsp;<DIV>1-3 above</DIV><DIV>2. pesticides</DIV><DIV>3. clearing- removal of natural vegetation </DIV>
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Re Southpass/Sports park and Southpass city 9/8/08 Planning Commission

To say I'm dismayed by the prospect of this enterprise coming to pass would be an understatement. It's really big and it's going to disrupt the environment and what you call quality of life. It's going to affect -- irreversibly -- so many people and so much of our bit of the natural world that if any federal money were involved you'd have to do an environmental impact statement.

In fact, I wonder why you are approving such a big project without first having the need for it established by a formal needs study.

And I wonder why you don't have a complete economic analysis done before approval.

I also wonder that there's not even a local informal environmental impact study. I live near this project. Over the years I've kept a running list of over 300 species and I haven't tried to include them all. Also this is the type of land that is underlaid with springs and aquifers. Documents on the landfill say so and I can show you 19th and early 20th century wells, cisterns and tapped springs on the north end of the Kessler ridge. Groundwater will be affected no matter how much "mitigation" you call for. This project is huge and sinister and it won't impact just south Kessler but all the land from Pear Lane to Highway 62 and that is a whole lot more than the 800 acres sponsors keep talking about. Some of you have told me that of course you plan to "impact" it all with access to this project. The specifics don't matter much because the impact will destroy much of the habitat that's there now. To say nothing of the way of life of the people there.

And why is the landfill going to be fixed only AFTER this thing is approved? In 1996 the company that reported on the landfill for the landowner reported that: "A limited water quality survey has shown that the quality of surface and ground waters have been locally impacted as a result of ... landfill operations" and that "Exposed trash in contact with surface water run off appears to have contributed to chemical impact on surface water quality potentially as far east as the Cato Springs Branch." But this situation's been disregarded for 32 years by everyone who was responsible and should have been doing something about it.

I wonder too why exceptions to regulations have been introduced to satisfy proponents of the project:

- (1) A law was passed in the state legislature that exempts owners -- present owner and City -- from financial responsibility for the landfill. (The developers themselves were wary enough to evade ownership.)
- (2) In the hillside overlay district ordinance the words "should," "may," and "encouraged" replace "shall," "must", and "required", as here, for instance: "Property ... owners of lands located within the Hillside Overlay District are strongly encouraged to have a geotechnical analysis of their property prior to any development."

(Moorman 1 of 2)

(over)

(3) Not even this ordinance's windowdressing applies to the proposed sports park and new town because that will be a PZD and PZDs remain a law unto themselves, especially with Southpass on the agenda. According to the NWAT, 3/4/06: [City Attorney Kit] "Williams told aldermen that at their request, he would draft language that would give the council the 'power to approve a PZD even if it does not strictly meet the Hillside District's requirements.' He referred to the almost 800-acre Southpass project, which was the subject of concern by developer John Nock at an earlier council meeting..... 'No one suggests that development rules or the tree ordinance be disregarded, but minimum percentages might be lessened in light of the project scope,' Williams said."

And indeed we read in the ordinance with regard to land disturbance:
"Planned Zoning Districts shall show undisturbed areas, but may be approved by the City Council with lesser percentages of undisturbed area than shown on the above table."

I should think that "in light of the project's scope", restrictions should have been tightened, not loosened. The grander the scale, the greater the potential harm to the environment and to everyone's well being.

To reiterate: you don't have the studies and the details in place to justify this thing and actions taken by the City and the State show a bias in favor of the proposal that has nothing to do with its merits or with the need for it.

Reject it outright or keep it tabled until you can genuinely justify it.

Barbara Moorman
3450 Finger Road
Fayetteville 72701



Supplementary Materials
R-PZD 08-2898 (SouthPass)

Contents:

Engineering Memo re: Traffic Study, Sept 04 2008

SouthPass Traffic Generation by Phase/Year

Traffic Study Addendum Dated 22 August 2008

Traffic Study Dated 16 July 2008

Resolution No. 138-04, Contract

**Resolution No. 138-04: Staff memo, RFP, RFP
Response Comparison, Southpass RFP Response**

City Council minutes: August 17 & Sept 07, 2004

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Glenn E. Newman, Jr., P.E., Staff Engineer
DATE: September 4, 2008
SUBJECT: South Pass – Traffic Study

Appian Centre for Design has presented a Traffic Study prepared by Peters and Associates for the proposed South Pass Development located southwest of the I-540/Hwy 71 interchange.

Based on the traffic study presented for full build-out, each of the six new traffic signalized intersections proposed will provide an acceptable level of service of "C" or better during the peak hour traffic. The supplemental traffic study indicates Shiloh Drive will not be required until after Phase 14 assuming all other proposed improvements are in-place and the phasing sequence is followed.

As expected, the left turn movements out of the proposed development will have the lowest level of service, specifically at the non-signalized intersections. It is not practicable or efficient to place a signal at each intersection given the layout proposed, alternate routes are available for the vehicles to access Cato Springs Road at a signalized intersection during peak hour operation.

The proposed phasing schedule indicates the development will take place over the next 20 years adding incremental impact to the roadway infrastructure. The significant impact will be Phases 15 through 18 which would begin at 2028 or later.

The Engineering Division recommends accepting the recommendations contained in the Traffic Study dated July 16th and the Supplement provided August 22nd for the Conceptual PZD presented for Southpass with the requirement that a supplemental traffic study will be required to be presented with each phase of development identifying the required infrastructure necessary to support the proposed traffic. The actual offsite improvements and/or assessments would then be determined at the preliminary approval stage for each phase of the Southpass project.

SOUTHPASS TRAFFIC GENERATION BY PHASE

PHASE	PHASE DATE (full phase build out)	CATO SPRINGS ROAD NORTH BOUND (TRIPS/DAY/ PHASE)	CATO SPRINGS ROAD NORTH BOUND CUMULATIVE (TRIPS/DAY)	CATO SPRINGS NORTH CUMULATIVE PEAK HOUR (2- WAY TRIPS)	CATO SPRINGS ROAD SOUTH BOUND (TRIPS/DAY/ PHASE)	CATO SPRINGS ROAD SOUTH BOUND CUMULATIVE (TRIPS/DAY)	CATO SPRINGS SOUTH CUMULATIVE PEAK HOUR (2- WAY TRIPS)	SHILOH DRIVE (TRIPS/DAY/ PHASE)	SHILOH DRIVE CUMULATIVE (TRIPS/DAY)	SHILOH PEAK HOUR (2- WAY TRIPS)	TOTAL
Phase 1	2011	2817	2817	203	497	497	35				3314
Phase 2	2012	2428	5245	378	429	926	66				6171
Phase 3	2013	952	6197	446	168	1094	78				7291
Phase 4	2014	1844	8041	579	326	1420	101				9461
Phase 5	2016	1370	9411	678	242	1662	118				11073
Phase 6	2017	1615	11026	794	285	1947	138				12973
Phase 7	2018	1935	12961	933	342	2289	183				15250
Phase 8	2019	3357	16318	1175	592	2881	205				19199
Phase 9	2020	1458	17776	1280	257	3138	223				20914
Phase 10	2021	1108	18884	1360	195	3333	237				22217
Phase 11	2023	456	19340	1392	80	3413	242				22753
Phase 12	2026	1829	21169	1524	323	3736	265				24905
Phase 13	2026	2281	23450	1688	402	4138	294				27588
Phase 14	2027	1527	24977	1798	269	4407	313				29384
Phase 15	2029	1429	19059	1372	357	4764	338	595	7941	564	31764
Phase 16	2030	1141	20200	1454	285	5049	358	475	8416	598	33685
Phase 17	2032	997	21197	1526	249	5298	376	416	8832	627	35327
Phase 18	2033	2407	23604	1699	602	5900	419	1003	9835	698	39339

ADDENDUM
SouthPass Traffic Study
Prepared by Peters & Associates
Dated 22 August 2008



PETERS & ASSOCIATES
ENGINEERS, INC.

August 22, 2008

Mr. Todd Jacobs
Appian Centre for Design
217 E. Dickson St.
Suite 104
Fayetteville, Arkansas 72701

Re: P1250
Addendum to Traffic Study (Dated July 16, 2008)
South Pass Development
Cato Springs Road
Fayetteville, Arkansas

Dear Mr. Jacobs:

As requested, Peters and Associates Engineers, Inc. has prepared this Addendum to our traffic study report dated July 16, 2008 for the proposed South Pass Development located on the northwest side Cato Springs Road, just southwest of I-540 in Fayetteville, Arkansas. The traffic study analyzed traffic operating conditions for full build-out of the South Pass development, as proposed, and identified specific roadway network infrastructure improvements that were determined to be needed to support the development. The South Pass site is proposed to be developed in 18 phases. This Addendum identifies at which phase of the South Pass development the Shiloh Road connection will be needed. Level of service calculations were performed for projected traffic conditions without the Shiloh Road connection for different stages of development for the AM and PM peak hours and included the same study intersections as the traffic study report dated July 16, 2008. These projected traffic conditions were analyzed with the recommended lane geometry and traffic control as shown on Figure 9, "Recommended Schematic Lane Geometry and Traffic Control," in the traffic study report.

Components of development for Phases 1 thru 14 (of 18 total phases) were provided by Appian Center for Design and are attached with this Addendum.

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

Traffic operational analysis calculations were performed as a part of this Addendum for projected traffic at different phases of development. This analysis was performed using Synchro Version 6, 2003. This computer program has been proven to be reliable when used to analyze capacity and levels of traffic service under various operating conditions. The adjacent street AM and PM peak traffic periods were used for these calculations. Detailed capacity calculations are included with this Addendum for projected traffic condition to include existing traffic plus site-generated traffic through Phase 14. Traffic volumes used for this analysis

Mr. Todd Jacobs
August 22, 2008
Page 2

are shown on Figure A-1, "Without Shiloh Road Connection – Phases 1-14 Site-Generated Traffic Plus Existing Traffic Volumes AM Peak Hour," and Figure A-2, "Without Shiloh Road Connection – Phases 1-14 Site-Generated Traffic Plus Existing Traffic Volumes PM Peak Hour."

For this analysis condition, it was found that all vehicle movements at the proposed traffic signal controlled intersections are projected to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM and PM peak hours. The only vehicle movements with capacity and LOS results expected to demonstrate very long traffic delays are the eastbound left-turn vehicle movements from Drive A at Cato Springs Road and from Drive C at Cato Springs Road with "Stop" sign control. These vehicle movements have alternate proposed traffic signal control intersections, which would be available. These results are the same as the full build-out results described in the traffic study report.

Findings and recommendations of this Addendum are summarized as follows:

- It was found that the Shiloh Road connection will not be needed until at some level of development after the completion of Phase 14.
- Findings and recommendations in the traffic study dated July 16, 2008 are still appropriate for full build-out conditions.

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

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.



Ernest J. Peters, P.E.
President

SouthPass Densities Phase 1 - 7

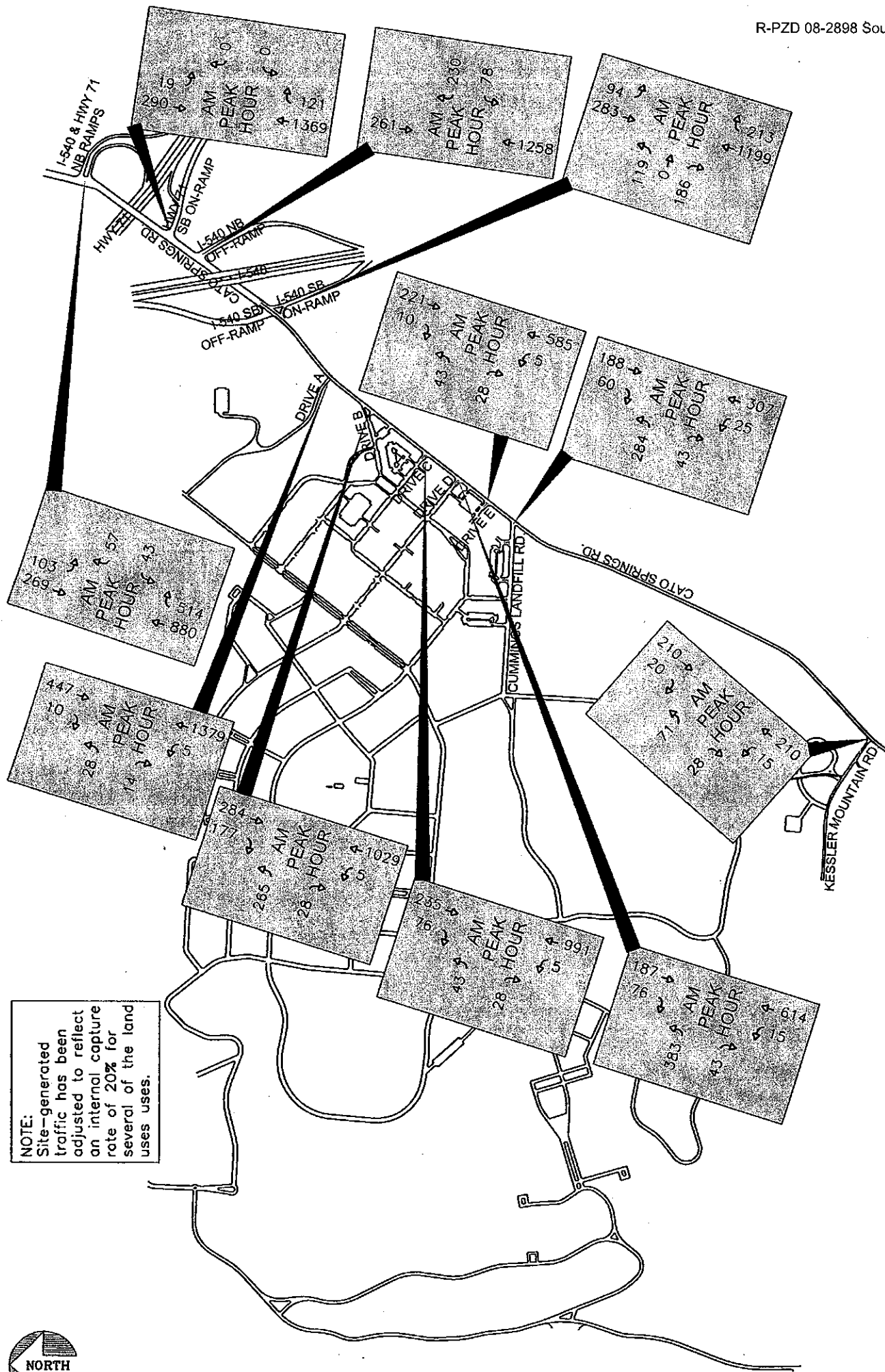
	Phase 1	Phase 2	Phase 3	Totals	Phase 1 - 7 Denalities
Total Acreage	35.5 acres	19.3 acres	14.5 acres	69.3 acres	125.3 acres
Residential Single Family (Lots)	82	24	81	187	364 Lots
Residential Multi-family (Units)	25	244	0	269	1147 Units
Density (units/acre)	9.4	20.1	5.1	14.9	11.7 units/acre
General Office sq.ft.	13,600sq.ft.	12,400sq.ft.	N/A	26,000sq.ft.	35,800sq.ft.
General Retail sq.ft.	12,400sq.ft.	17,000sq.ft.	N/A	29,400sq.ft.	48,100sq.ft.
TOTAL Units/Lots	233	268	81	582	1511 units/lots
TOTAL General Office/Retail sq.ft.	26,000sq.ft.	30,000sq.ft.	N/A	56,000sq.ft.	82,000sq.ft.

SouthPass Densities Phases 8 - 14

Phase 8 - 14 Densities	
Total Acreage	185 acres
Residential Single Family (Lots)	190 Lots
Residential Multi-family (Units)	1435 Units
Density (units/acre)	9 units/acre
General Office sq. ft.	12,060 sq. ft.
General Retail sq. ft.	77,819 sq. ft.
TOTAL Units/Lots	1625 units/ots
TOTAL General Office/Retail sq. ft.	103,637 sq. ft.

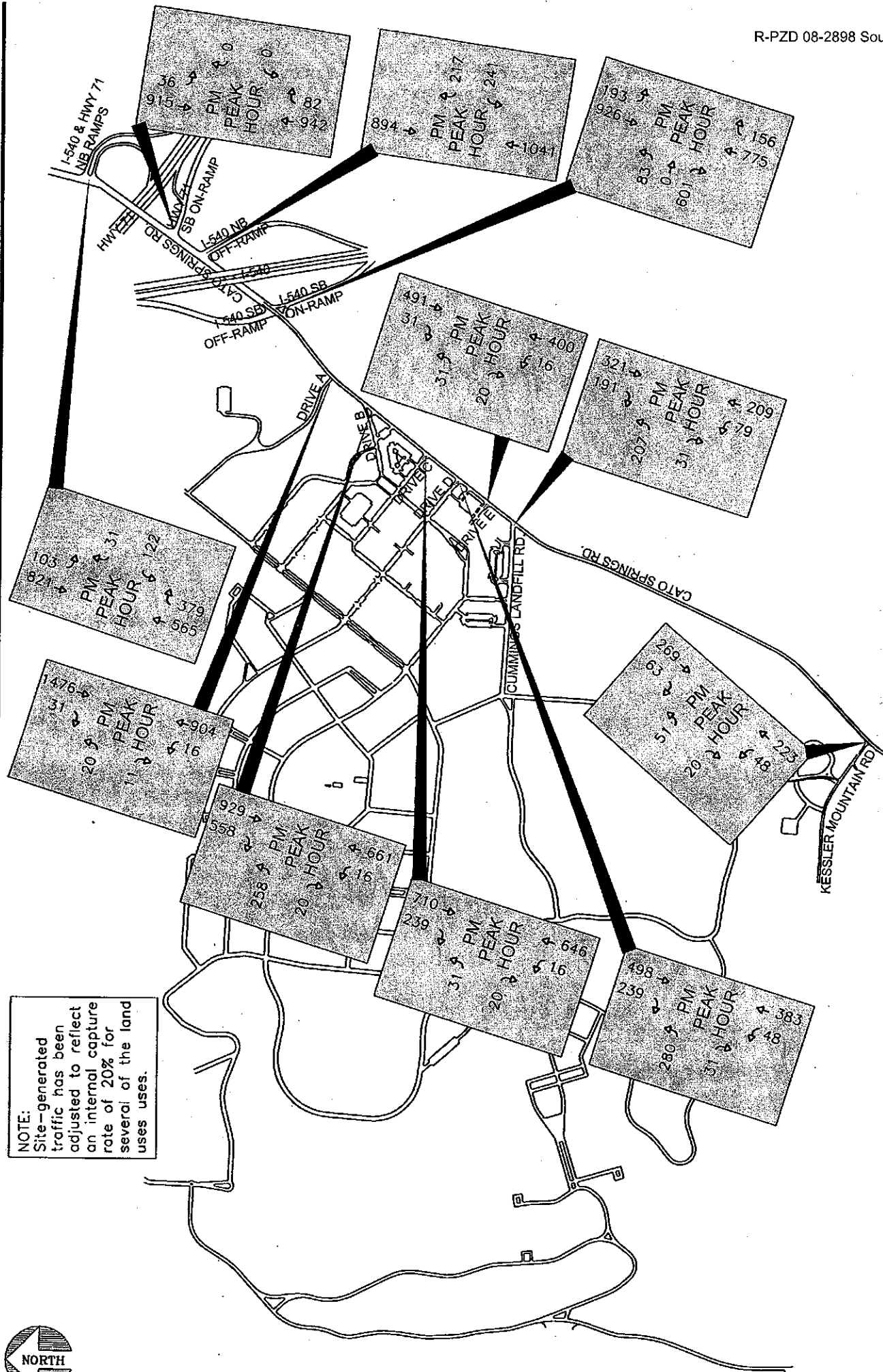


NOTE:
Site-generated
traffic has been
adjusted to reflect
an internal capture
rate of 20% for
several of the land
uses uses.





NOTE:
Site-generated
traffic has been
adjusted to reflect
an internal capture
rate of 20% for
several of the land
uses uses.



WITHOUT SHILOH ROAD CONNECTION
PHASES 1 - 14 SITE-GENERATED TRAFFIC
PLUS EXISTING TRAFFIC VOLUMES
PM PEAK HOUR

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1250
DATE: 8-22-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



SouthPass Traffic Study
Prepared by Peters & Associates
Dated 16 July 2008

Traffic Study

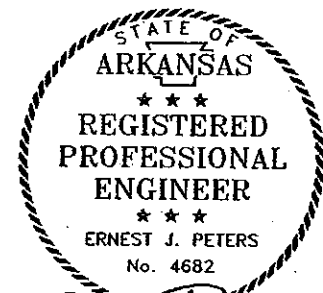
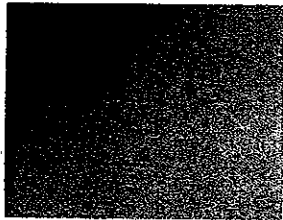
South Pass Development

prepared for:

Appian Centre for Design

Cato Springs Road

Fayetteville, Arkansas



*for
PC*

7-28-08

[Signature]

Project No.: P-1250



**PETERS & ASSOCIATES
ENGINEERS, INC.**

• CIVIL & TRAFFIC ENGINEERING •

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

FILE

Copies

July 16, 2008

Traffic Study

EXECUTIVE SUMMARY

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development (South Pass) located on the northwest side of Cato Springs Road (also Highway 265), just southwest of I-540 and northwest of Kessler Mountain Road in Fayetteville, Arkansas. The mixed-use development is proposed to consist of a variety of commercial, office and residential uses plus a park, school, police and fire station as indicated on the project site plan (a reduced copy of the plan is included in the Appendix for reference).

Existing 24-hour traffic counts were made in the vicinity of the site at the following locations:

- Cato Springs Road, just south of I-540
- Approaches to the intersection of Cato Springs Road and I-540 southbound ramps
- Approaches to the intersection of Cato Springs Road and I-540 northbound on-ramp
- Approaches to the intersection of Cato Springs Road and I-540 northbound on-ramp / Highway 71 northbound ramps.

Existing AM and PM peak hours vehicle turning movement counts were made for the following intersections along Cato Springs Road in the vicinity of the site:

- Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
- Cato Springs Road and Highway 71 southbound on-ramp
- Cato Springs Road and I-540 northbound off-ramp
- Cato Springs Road and I-540 southbound ramps.

There are no planned Arkansas State Highway and Transportation Department (AHTD) or City of Fayetteville roadway improvement projects in the immediate vicinity of the site.

Projected traffic volumes for full build-out of the proposed development were calculated. These projected site-

Traffic Study

generated trips were added to the existing traffic volumes, which resulted in total projected traffic volumes at full build-out of the South Pass development.

Recommendations of this study are summarized as follows:

- It is recommended that fully actuated traffic signals be installed at the following intersections along Cato Springs Road before completion of full build-out of the development as proposed:
 - Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
 - Cato Springs Road and I-540 northbound off-ramp
 - Cato Springs Road and I-540 southbound ramps
 - Cato Springs Road and Drive B
 - Cato Springs Road and Drive D
 - Cato Springs Road and Cummings Landfill Road.
- These recommended traffic signals should have provisions to be coordinated as a part of a closed-loop coordinated traffic signal system.
- It is recommended that the lane geometry at the study intersections be constructed as shown on Figure 9, "Recommended Schematic Lane Geometry and Traffic Signal Control."
- Traffic signal designs, roadway improvements and curb cuts along Cato Springs Road must conform to design standards of the City of Fayetteville and AHTD.
- If development is phased, needed roadway improvements and traffic signal improvements could be staged, consistent with traffic demands of development phases and with the concurrence of the City and AHTD.

Traffic Study

INTRODUCTION

Peters & Associates Engineers, Inc., has conducted a traffic engineering study relating to a proposed mixed-use development (South Pass) located on the northwest side of Cato Springs Road (also Highway 265), just southwest of I-540 and northwest of Kessler Mountain Road in Fayetteville, Arkansas. The mixed-use development is proposed to consist of a variety of commercial, office and residential uses plus a park, school, police and fire station as indicated on the project site plan (a reduced copy of the plan is included in the Appendix for reference).

Projected traffic volumes for full build-out of the proposed development were calculated. These projected site-generated trips were added to the existing traffic volumes, which resulted in total projected traffic volumes at full build-out of the South Pass development.

This is a report of methodology and findings relating to a traffic engineering study undertaken to:

- o Evaluate existing traffic conditions at the site.
- o Ascertain projected traffic operating conditions at adjacent study intersections and the major access drive intersections proposed to serve the development.
- o Identify the effects on traffic operations resulting from existing traffic in combination with site-generated traffic associated with full build-out of the development.
- o Evaluate proposed access to the site and make recommendations for mitigative improvements which may be necessary and appropriate to ensure minimum impact and acceptable traffic operations.

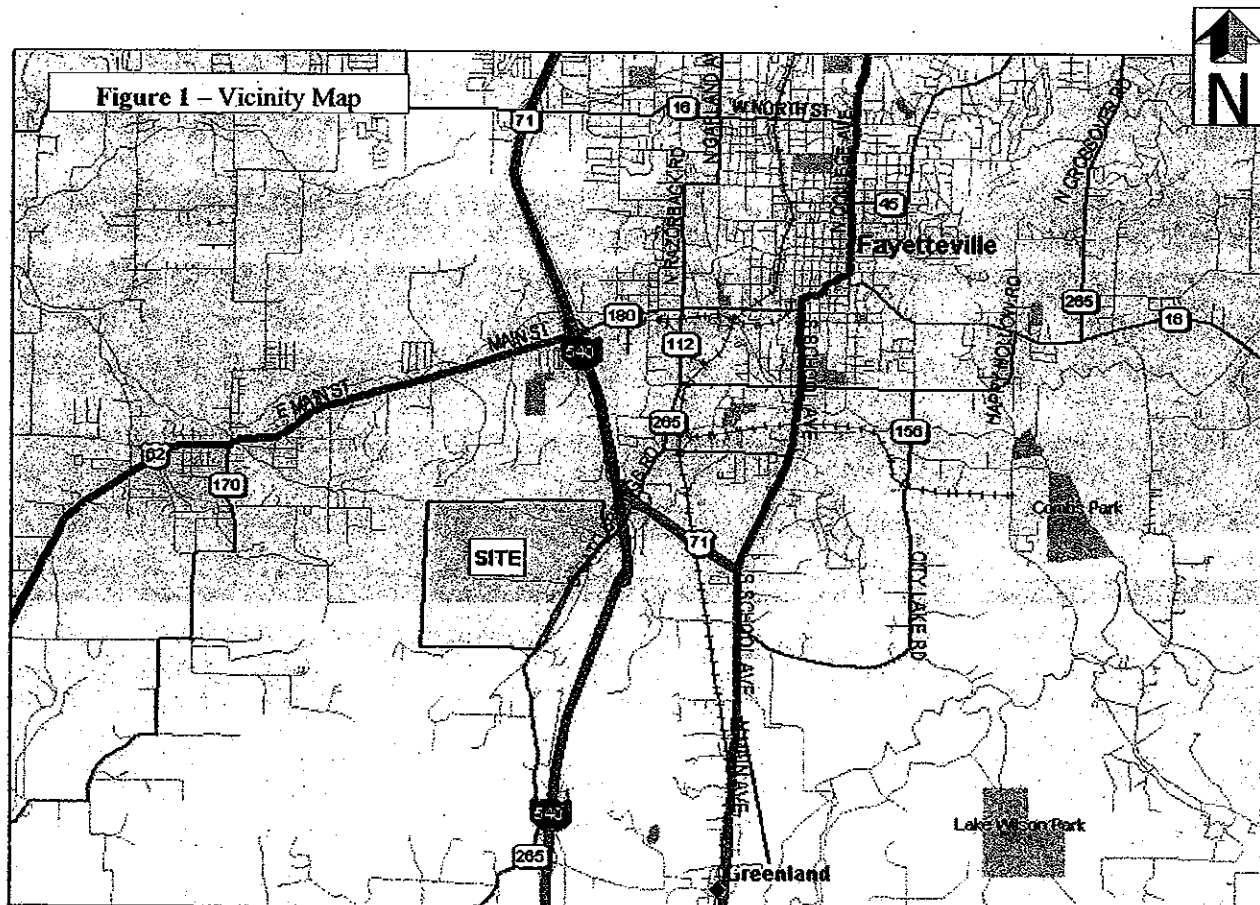
In the following sections of this report there are presented traffic data, study methods, findings and recommendations of this traffic engineering investigation. The traffic engineering study is technical in nature. Analysis techniques employed are those most commonly used in the

Traffic Study

traffic engineering profession for traffic impact analysis. Certain data and calculations relative to traffic operational analysis are referenced in the report. Complete calculations and data are included in the Appendix of the report.

THE SITE

The location of the development is within the City of Fayetteville in Washington County, Arkansas. The site is located on the northwest side of Cato Springs Road, just southwest of I-540 and northwest of Kessler Mountain Road. The proposed development site location and vicinity are shown on Figures 1 and 2, which follow.



Traffic Study

Access to the site, as shown on the site plan, is from six points of access along Cato Springs Road. These are as follows:

- Drive A
- Drive B
- Drive C
- Drive D
- Drive E
- Cummings Landfill Road
- Kessler Mountain Road.

Additionally, as a part of this development, Shiloh Drive will be extended to access the site from the north. The locations of the access drives and distances between them are shown on Figure 4, "Directional Distribution - Site Traffic."

The approximate 800 acre site development plan calls for the construction of the following land-uses plus associated parking, landscaping, new streets and access drives:

- 816 residential single-family lots
- Approximately 630 residential condominiums
- Approximately 2,875 multi-family residential units
- Approximately 180,000 square-feet of retail
- Approximately 64,000 square feet of office
- An approximate 400 student elementary school
- An approximate 16,000 square-foot church
- A fire station
- A police station
- Approximately 240 acres of park use plus park offices.

The site plan shows the various proposed land uses and the approximate location of the streets or drives proposed to serve the site. The site currently is mostly undeveloped.

Traffic Study

STREET SYSTEM

Cato Springs Road, in the immediate vicinity of the site, is approximately 22 feet wide consisting of two lanes. Cato Springs Road is asphalt and constructed with shoulders and drainage ditches. There are no sidewalks and the speed limit is 40 miles per hour in the vicinity of the site. Cato Springs Road is classified as a Collector on the City of Fayetteville Master Street Plan (MSP).

The intersection of Cato Springs Road and the I-540 ramps and Highway 71 ramps are shown on the following photos.

There are no existing traffic signals in the immediate vicinity of the study area. The following photos show the general layout of Cato Springs Road and the I-540 ramps and Highway 71 ramps and surrounding land uses in the vicinity of the site. These were taken at locations as indicated on the photo captions.

Cato Springs Road and
I-540 SB On and Off-Ramps



Traffic Study

EXISTING TRAFFIC CONDITIONS

Hourly, 24-hour traffic counts were compiled for the following locations in the vicinity of the development as a part of this study:

STREET	TWO WAY 24 HOUR VOLUME	TABLE & CHART
Cato Springs Road Approaches to NB Hwy 71 and I-540 Ramps (Two-Way)	6,661	Table 1/Chart 1
NB Hwy 71 Off-Ramp Approach to Cato Springs Road	870	
Cato Springs Road Approaches to NB I-540 Off-Ramp (Two-Way)	4,271	Table 2/Chart 2
NB I-540 Off-Ramp Approach to Cato Springs Road	2,194	
Cato Springs Road Approaches to SB I-540 Ramps (Two-Way)	3,709	Table 3/Chart 3
SB I-540 Off-Ramp Approach to Cato Springs Road	1,325	
Cato Springs Road at the Site (Two-Way)	2,174	Table 4/Chart 4

Hourly 24-hour traffic count data are summarized on the following Tables and Charts 1, 2, 3 and 4.

Other traffic count data collected as a part of this study include AM and PM peak hour vehicle turning movement counts at the following intersections:

- Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
- Cato Springs Road and Highway 71 southbound on-ramp
- Cato Springs Road and I-540 northbound off-ramp
- Cato Springs Road and I-540 southbound ramps.

The AM and PM peak hours turning movement count data at these intersections are summarized in the following peak hour turning movement charts. These AM and the PM peak hour turning movement counts are presented in detail in the Appendix of this report.

The AM and PM peak hour vehicle turning movement counts made as a part of this study are shown on Figure 3-A, "Existing Traffic Volumes - AM Peak Hour," and Figure 3-B, "Existing Traffic Volumes - PM Peak Hour."

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

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

Using the selected trip-generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip-generation rates to the land-uses proposed for the development makes these calculations. Results of this calculation are summarized on Table 5, "Summary of Trip Generation," below.

PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Residential Single-Family	816 Lots	210	7,809	155	457	522	302
Residential Condominiums	630 Units	230	3,692	44	233	221	107
Residential Multi-Family	2,875 Units	220	19,320	288	1179	1150	633
Retail*	180,000 Sq. Ft.	820	6,183	90	58	259	281
General Office*	64,000 Sq. Ft.	710	564	70	10	13	63
Elementary School*	400 Students	520	413	74	61	0	0
Church*	16,000 Sq. Ft.	560	117	5	4	4	4
Fire Station	7,000 Sq. Ft.	730	483	35	7	3	6
Police Station	3,000 Sq. Ft.	730	207	15	3	1	2
Parks Office	20,000 Sq. Ft.	715	231	32	4	5	29
Regional Park*	240 Acres	Varies**	1,489	6	6	153	81
TOTALS:			40,508	814	2022	2331	1508
			TOTAL ENTERING + EXITING	2,836		3,839	

*These volumes adjusted to reflect 20% internal capture

**Land-use for the Parks includes ITE uses for number of soccer/multi-purpose fields and regional park uses.

Table 5 – Trip Generation Summary - Site Full Build-Out



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Traffic Study

These calculations indicate that approximately 40,508 vehicle trips (combined in and out) per average weekday are projected to be generated by the proposed full build-out of this site. Of this total, approximately 2,839 vehicle trips are estimated during the traffic conditions of the adjacent street AM peak hour and approximately 3,839 vehicle trips are estimated during the traffic conditions of the adjacent street PM peak hour.

The data for several of the land uses have been adjusted for "internal trip capture" (i.e. multi-purpose trips within the site as opposed to new trips for each site land use).

These data have not been adjusted for "pass-by" trips (i.e. that portion of the site-destined traffic that could come from the existing adjacent street traffic stream) due to the location of the site and the fairly low existing traffic volume on the adjacent street.

Residential and office traffic, as will be the majority of traffic associated with this site, ordinarily does contribute to the adjacent street traffic conditions during the on-street AM peak traffic hour and the PM peak traffic hour. Accordingly, both the AM and PM peak traffic periods of the adjacent streets in the immediate vicinity of the site are the traffic operating conditions which have warranted primary traffic analysis as a part of this study.

Traffic Study

CAPACITY ANALYSIS

Existing Traffic Conditions

Capacity and level of service analysis was performed for existing traffic conditions for the adjacent street AM and PM peak hours for the following intersections:

- Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
- Cato Springs Road and Highway 71 southbound on-ramp
- Cato Springs Road and I-540 northbound off-ramp
- Cato Springs Road and I-540 southbound ramps.

As indicated in Table 6, "Level of Service Summary – Existing Traffic Conditions," for the intersections studied, all existing vehicle movements for existing traffic conditions presently operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours. Traffic volumes used for this analysis are shown on Figures 3-A and 3-B.

EXISTING TRAFFIC CONDITIONS		Traffic Control	PEAK HOUR - LEVEL OF SERVICE										Overall
PEAK HR	INTERSECTION		WB LT	WB TH	WB RT	WB LT	WB TH	WB RT	WB LT	WB TH	WB RT	WB LT	
AM	Cato Springs Road and I-540 NB On-Ramp and Hwy 71 NB-Ramps	SIGN	C		B				A	A	A		n
PM	Cato Springs Road and Hwy 71 SB On-Ramp	SIGN	C		A				A	A	A		n
AM	Cato Springs Road and I-540 NB Off-Ramp	SIGN	A		A				A	A	A		n
PM	Cato Springs Road and I-540 NB Off-Ramp	SIGN	A		A				A	A	A		n
AM	Cato Springs Road and I-540 SB Ramps	SIGN	B		B				A		A		n
PM	Cato Springs Road and I-540 SB Ramps	SIGN	B		B				A		A		n
AM			C		A				A	A	A		n
PM			C		A				A	A	A		n

Table 6 - Level of Service Summary - Existing Traffic Conditions

Traffic Study

Projected Traffic Conditions

Level of service analysis was performed for the full build-out projected traffic conditions for the AM and PM peak hour traffic conditions. This analysis was performed for the following intersections:

- Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
- Cato Springs Road and Highway 71 southbound on-ramp
- Cato Springs Road and I-540 northbound off-ramp
- Cato Springs Road and I-540 southbound ramps
- Cato Springs Road and Drive A
- Cato Springs Road and Drive B
- Cato Springs Road and Drive C
- Cato Springs Road and Drive D
- Cato Springs Road and Drive E
- Cato Springs Road and Cummings Landfill Road
- Cato Springs Road and Kessler Mountain Road.

Traffic volumes used for these projected traffic conditions are shown on Figure 8-A, "Site-Generated Plus Existing Traffic Volumes - AM Peak Hour," and Figure 8-B, "Site-Generated Plus Existing Traffic Volumes - PM Peak Hour." The operating conditions projected to exist at these intersections are summarized in Table 7, "Level of Service Summary - Projected Traffic Conditions."

As indicated in Table 7, for the intersections studied, vehicle movements with capacity and LOS results expected to demonstrate extreme traffic delays (LOS "F") during the worst-case PM peak hour for these projected traffic conditions are the following:

- The eastbound left-turn vehicle movement on Drive A at Cato Springs Road with the "Stop" sign control during the AM and PM peak hours. This volume is low (only 40 vehicles during the AM peak hour and 30 vehicles during the PM peak hour) and the delay should only occur for short times during these AM and PM peak hours.



Traffic Study

- The eastbound left-turn vehicle movement on Drive C at Cato Springs Road with the "Stop" sign control during the PM peak hour. This volume is low (only 60 vehicles during the PM peak hour (approximately one vehicle a minute) and the delay should only occur for a short time during the PM peak hour.

Vehicle movements with delay projected to be excessive have alternate traffic signal control intersections proposed, which would be available.

All other vehicle movements are projected to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM and PM peak hours. Additionally, during the worst-case AM and PM peak hours, overall intersection LOS is projected to operate at LOS "C" or better for each of the signalized intersections analyzed as a part of this study.

Projected traffic conditions were analyzed with the recommended lane geometry and traffic signal control as shown on Figure 9, "Recommended Schematic Lane Geometry and Traffic Control."

Traffic Study

PROJECTED TRAFFIC CONDITIONS		Traffic Control	PEAK HOUR - LEVEL OF SERVICE										Overall Intersection
PEAK HR	INTERSECTION		WB LT	WB TH	WB RT	WB LT	WB TH	WB RT	WB LT	WB TH	WB RT	WB LT	
AM	Cato Springs Road and I-540 NB On-Ramp	SIGNAL				C		A			A	D	A
PM	and Hwy 71 NB-Ramps					D		A			A	D	A
AM	Cato Springs Road and Hwy 71 SB On-Ramp	SIGN				A		A			A	D	A
PM						A		A			A	D	A
AM	Cato Springs Road and I-540 NB Off-Ramp	SIGNAL				A		A			A	B	A
PM						A		A			A	B	A
AM	Cato Springs Road and I-540 SB Ramps	SIGNAL				C		C			A	B	A
PM						B		B			A	B	A
AM	Cato Springs Road and Drive A	SIGN	C		C						A	A	A
PM			B		D						C	A	C
AM	Cato Springs Road and Drive B	SIGN	F		A						A	A	A
PM			F		C						A	A	A
AM	Cato Springs Road and Drive C	SIGN	D		A						D	B	
PM			D		A						C	A	
AM	Cato Springs Road and Drive D	SIGN	D		A						A	A	A
PM			F		B						A	A	A
AM	Cato Springs Road and Drive E	SIGN	C		C						A	A	A
PM			D		C						B	A	
AM	Cato Springs Road and Cummings Landfill Road	SIGNAL	C		A						A		A
PM			C		C						A		A
AM	Cato Springs Road and Kessler Mountain Road	SIGN	D		C						B	A	
PM			C		C						C	A	
			C		C						A		A
											A		A

Table 7 - Level of Service Summary - Projected Traffic Conditions

Traffic Study

TRAFFIC SIGNAL WARRANTS ANALYSIS

In evaluating the need for a traffic signal, certain established warrants must be examined by a comprehensive investigation of traffic conditions and physical characteristics of the location. The decision to install a traffic signal at a particular location must be evaluated quantitatively relative to these warrants. Satisfaction of conditions for only one of the warrants, as specified, is required for signalization. These warrants, as specified in the Manual on Uniform Traffic Control Devices (MUTCD), are described in detail in the appendix of this report. They are summarized as follows:

- ♦ **Warrant One: Eight-Hour Vehicular Volume**
- ♦ **Warrant Two: Four-Hour Vehicular Volume**
- ♦ **Warrant Three: Peak Hour**
- ♦ **Warrant Four: Pedestrian Volume**
- ♦ **Warrant Five: School Crossing**
- ♦ **Warrant Six: Coordinated Signal System**
- ♦ **Warrant Seven: Crash Experience**
- ♦ **Warrant Eight: Roadway Network**

Traffic signal warrants analysis was made for projected traffic conditions for full build-out of the development for the following intersections:

- Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
- Cato Springs Road and I-540 northbound off-ramp
- Cato Springs Road and I-540 southbound ramps
- Cato Springs Road and Drive B
- Cato Springs Road and Drive D
- Cato Springs Road and Cummings Landfill Road.

Signal Warrants Results

It was found that traffic signal warrants are projected to be met for the intersection of Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramp at full development of the proposed site. Volumes are projected to be sufficient at this intersection to satisfy War-

Traffic Study

rants 1B, 2 and 3 with the development as proposed. The traffic signal warrants analysis results for this intersection are summarized in Table 8, "Traffic Signal Warrants Results - Cato Springs Road and I-540 Northbound On-Ramp / Highway 71 Northbound Ramp - Projected Traffic Conditions."

It was found that traffic signal warrants are projected to be met for the intersection of Cato Springs Road and I-540 northbound off-ramp at full development of the proposed site. Volumes are projected to be sufficient at this intersection to satisfy Warrants 1A, 1B, 1AB, 2 and 3 with the development as proposed. The traffic signal warrants analysis results for this intersection are summarized in Table 9, "Traffic Signal Warrants Results - Cato Springs Road and I-540 Northbound Off-Ramp - Projected Traffic Conditions."

It was found that traffic signal warrants are projected to be met for the intersection of Cato Springs Road and I-540 southbound ramps at full development of the proposed site. Volumes are projected to be sufficient at this intersection to satisfy Warrants 2 and 3 with the development as proposed. The traffic signal warrants analysis results for this intersection are summarized in Table 10, "Traffic Signal Warrants Results - Cato Springs Road and I-540 Southbound Ramps - Projected Traffic Conditions."

It was found that traffic signal warrants are projected to be met for the intersection of Cato Springs Road and Drive B at full development of the proposed site. Volumes are projected to be sufficient at this intersection to satisfy Warrants 1A, 1B, 1AB, 2 and 3 with the development as proposed. The traffic signal warrants analysis results for this intersection are summarized in Table 11, "Traffic Signal Warrants Results - Cato Springs Road and Drive B - Projected Traffic Conditions."

It was found that traffic signal warrants are projected to be met for the intersection of Cato Springs Road and Drive D at full development of the proposed site. Volumes are pro-

Traffic Study

jected to be sufficient at this intersection to satisfy Warrants 1A, 1B, 1AB, 2 and 3 with the development as proposed. The traffic signal warrants analysis results for this intersection are summarized in Table 12, "Traffic Signal Warrants Results - Cato Springs Road and Drive D - Projected Traffic Conditions."

It was found that traffic signal warrants are projected to be met for the intersection of Cato Springs Road and Cummings Landfill Road at full development of the proposed site. Volumes are projected to be sufficient at this intersection to satisfy Warrants 2 and 3 with the development as proposed and only one hour from satisfying Warrant 1AB. The traffic signal warrants analysis results for this intersection are summarized in Table 13, "Traffic Signal Warrants Results - Cato Springs Road and Cummings Landfill Road - Projected Traffic Conditions."

Traffic Study

FINDINGS AND RECOMMENDATIONS

Findings of this study are summarized as follows:

- Traffic volumes projected to be generated by the site at full development are approximately 40,5089 vehicle trips (combined in and out) per average weekday.
- The AM and PM peak hours of the adjacent street have been determined to be the worst-case traffic conditions in the vicinity. It is estimated that approximately 2,836 additional vehicle trips will seek ingress and egress at the site during this adjacent street AM peak hour and approximately 3,839 additional vehicle trips will seek ingress and egress at the site at full build-out during this adjacent street PM peak hour.
- Capacity and LOS analysis was conducted for existing traffic conditions for the AM and PM peak hours. Currently all vehicle movements operate at what calculates as an acceptable LOS "C" or better for the AM and PM peak hours at the study intersections.
- Capacity and LOS analysis was performed for the full build-out of this development projected traffic conditions for the AM and PM peak hours. For the intersections studied, vehicle movements with capacity and LOS results expected to demonstrate extreme traffic delays (LOS "F") during the worst-case PM peak hour for these projected traffic conditions are the following:
 - The eastbound left-turn vehicle movement on Drive A at Cato Springs Road with the "Stop" sign control during the AM and PM peak hours. This volume is low (only 40 vehicles during the AM peak hour and 30 vehicles during the PM peak hour) and the delay should only occur for short times during these AM and PM peak hours.
 - The eastbound left-turn vehicle movement on Drive C at Cato Springs Road with the "Stop"



Traffic Study

sign control during the PM peak hour. This volume is low (only 60 vehicles during the PM peak hour (approximately one vesicle a minute) and the delay should only occur for a short time during the PM peak hour.

(Vehicle movements with delay projected to be excessive have alternate traffic signal control intersections proposed, which would be available).

- All other vehicle movements are projected to operate at what calculates as an acceptable LOS "D" or better for the worst-case AM and PM peak hours. Additionally, during the worst-case AM and PM peak hours, overall intersection LOS is projected to operate at LOS "C" or better for each of the signalized intersections analyzed as a part of this study.
- It was found that traffic signal warrants are projected to be met for the following intersections at full build-out of the site:
 - Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
 - Cato Springs Road and I-540 northbound off-ramp
 - Cato Springs Road and I-540 southbound ramps
 - Cato Springs Road and Drive B
 - Cato Springs Road and Drive D
 - Cato Springs Road and Cummings Landfill Road.
- The recommended signal control at these intersections would allow acceptable traffic operations and add safety and convenience for these intersections, as well as help accommodate growth in the vicinity of the site.

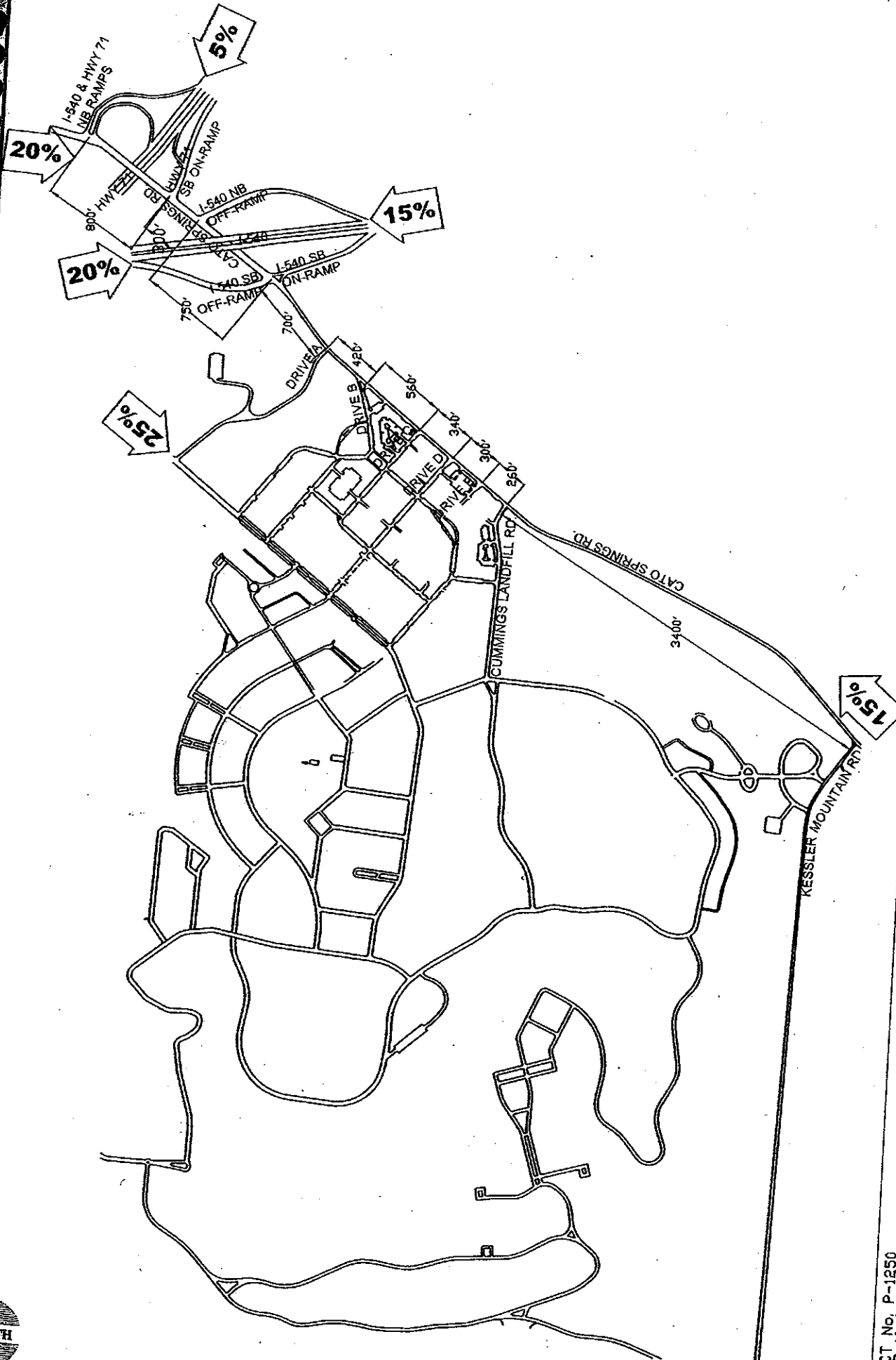


Traffic Study

Recommendations of this study are summarized as follows:

- It is recommended that fully actuated traffic signals be installed at the following intersections along Cato Springs Road before completion of full build-out of the development as proposed:
 - Cato Spring Road and I-540 northbound on-ramp / Highway 71 northbound ramps
 - Cato Springs Road and I-540 northbound off-ramp
 - Cato Springs Road and I-540 southbound ramps
 - Cato Springs Road and Drive B
 - Cato Springs Road and Drive D
 - Cato Springs Road and Cummings Landfill Road.
- These recommended traffic signals should have provisions to be coordinated as a part of a closed-loop coordinated traffic signal system.
- It is recommended that the lane geometry at the study intersections be constructed as shown on Figure 9, "Recommended Schematic Lane Geometry and Traffic Signal Control."
- Traffic signal designs, roadway improvements and curb cuts along Cato Springs Road must conform to design standards of the City of Fayetteville and AHTD.
- If development is phased, needed roadway improvements and traffic signal improvements could be staged, consistent with traffic demands of development phases and with the concurrence of the City and AHTD.





PROJECT No. P-1250
REV 7-10-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING

SOUTHPASS DEVELOPMENT TRAFFIC STUDY FAYETTEVILLE, ARKANSAS

DIRECTIONAL DISTRIBUTION
SITE TRAFFIC

FIGURE 14

SITE-GENERATED
TRAFFIC VOLUMES
PM PEAK HOUR

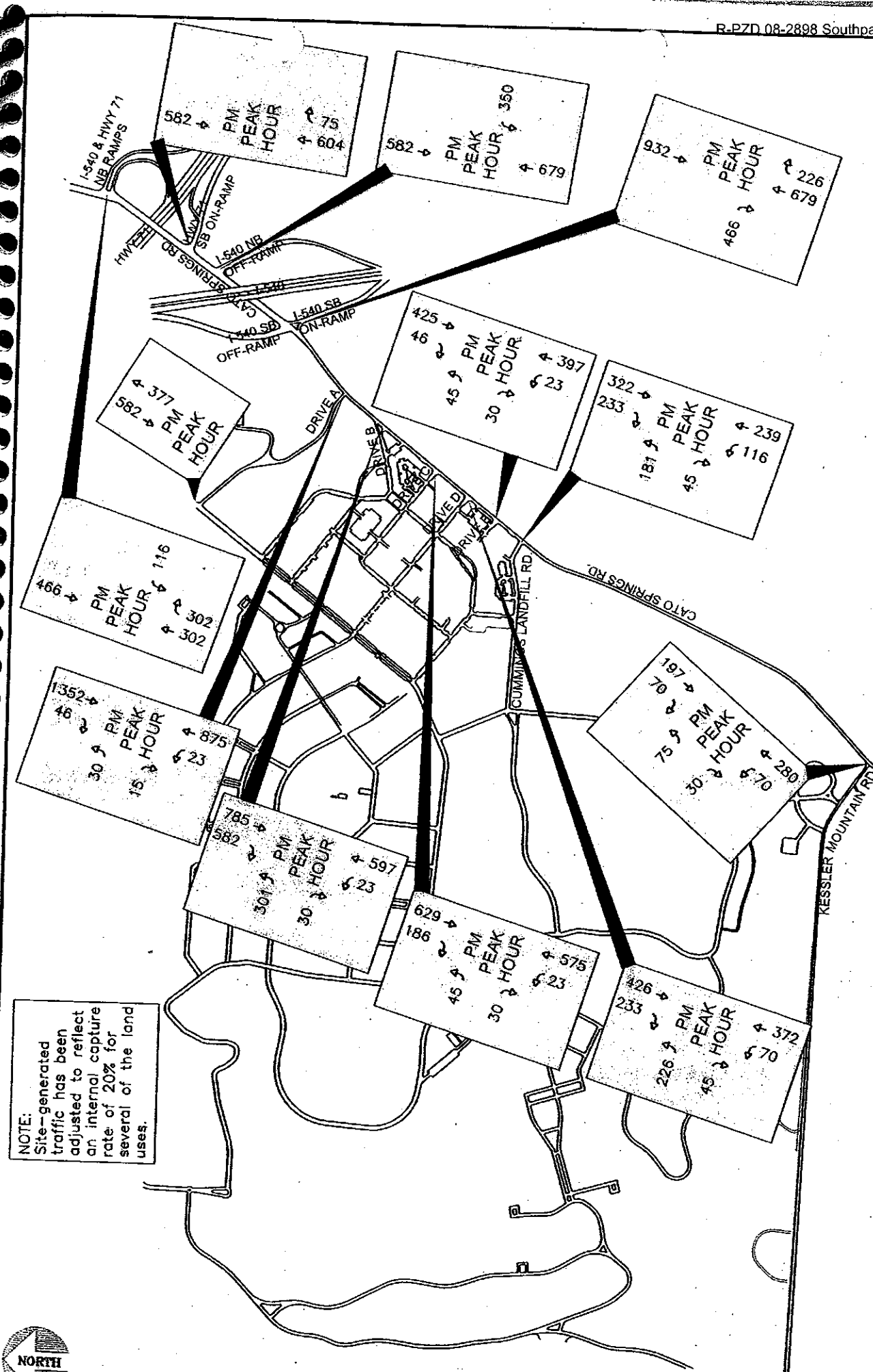
SOUTHPASS DEVELOPMENT
TRAFFIC STUDY

PROJECT No. P-1250
DATE: 7-10-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING

NOTE:
Site-generated
traffic has been
adjusted to reflect
an internal capture
rate of 20% for
several of the land
uses.



SITE-GENERATED TRAFFIC PLUS
EXISTING TRAFFIC VOLUMES
PM PEAK HOUR

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

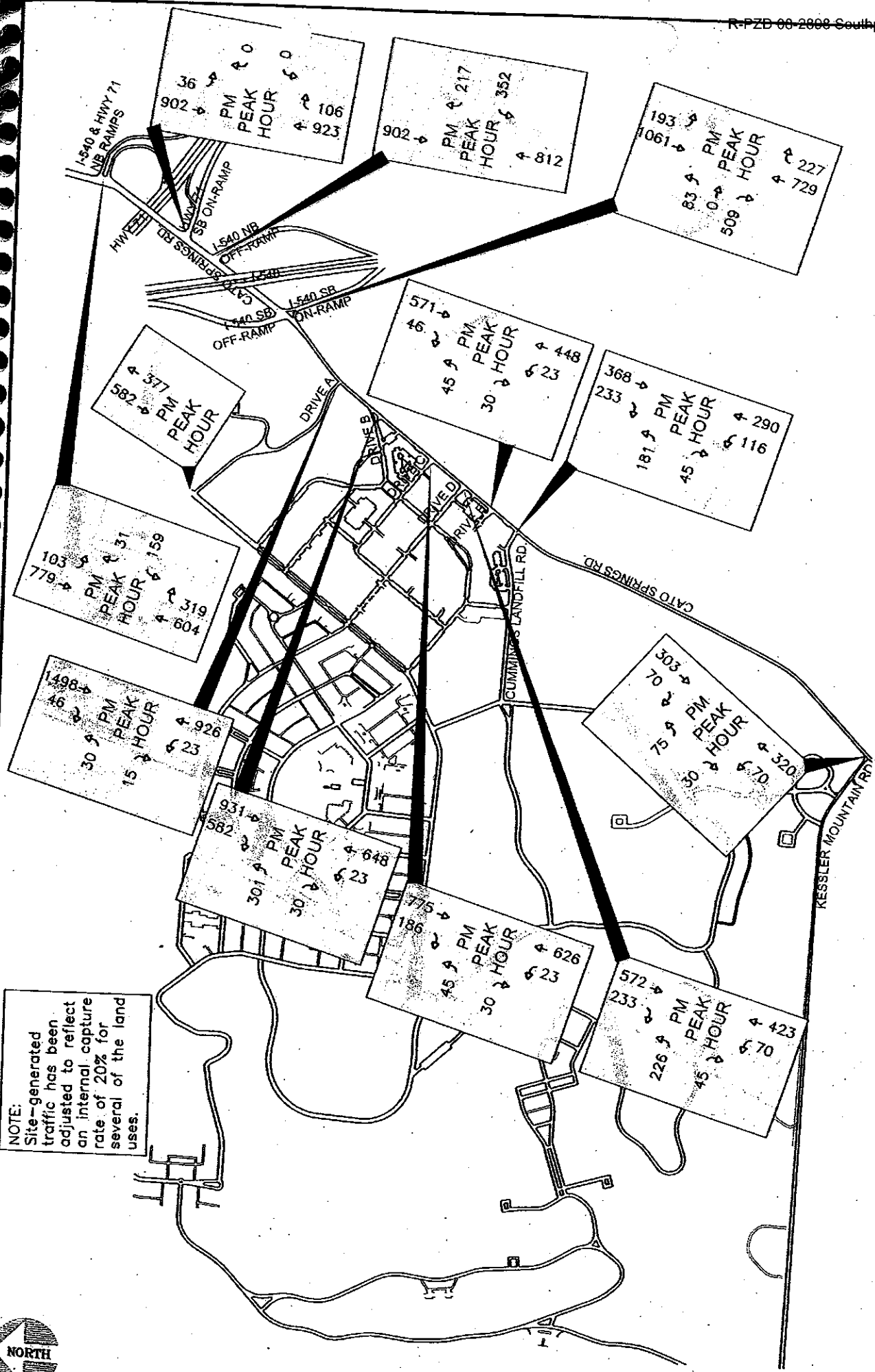
PROJECT No. P-1250
DATE 7-10-2008

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



NOTE:
Site-generated
traffic has been
adjusted to reflect
an internal capture
rate of 20% for
several of the land
uses.

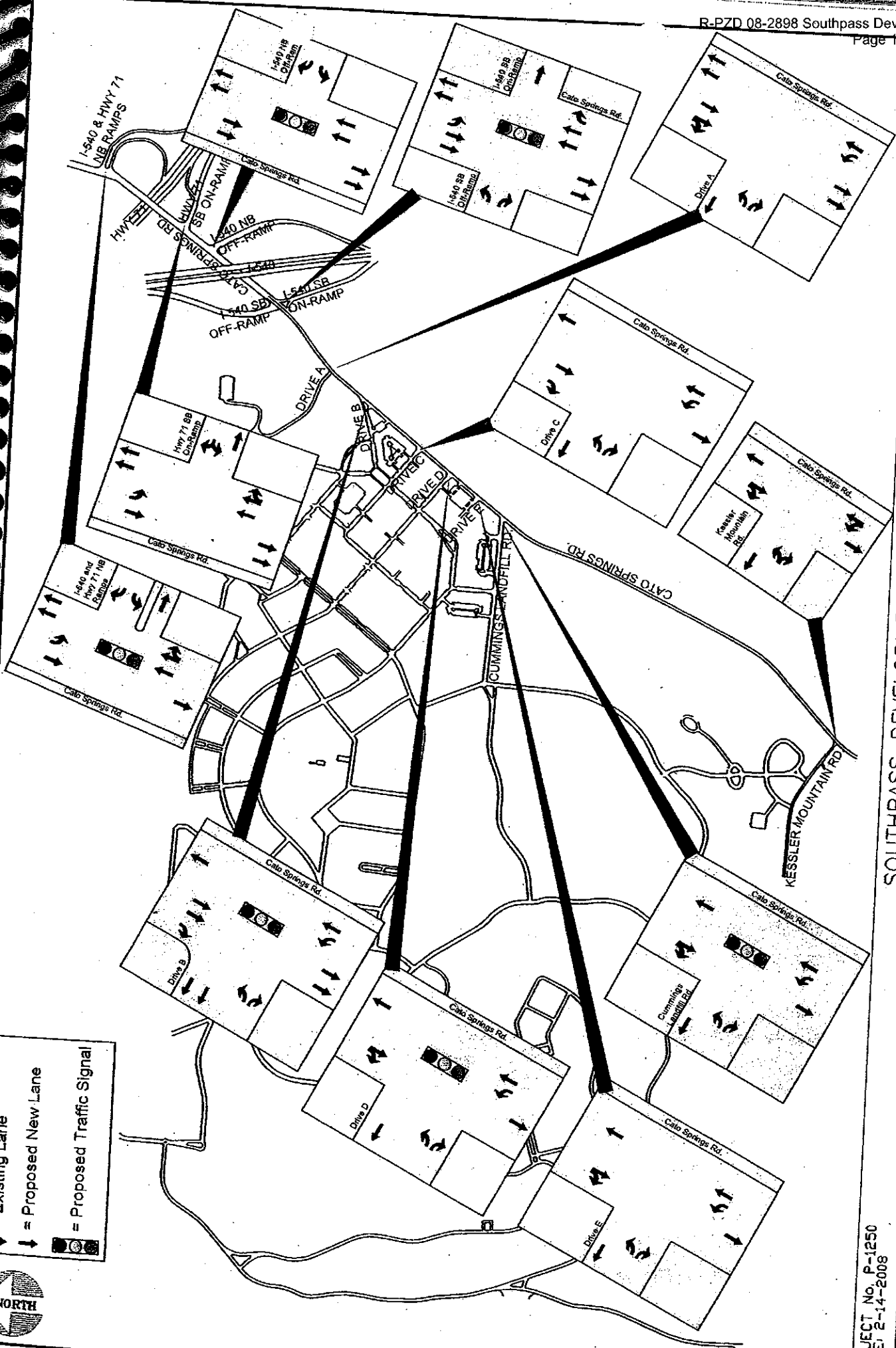
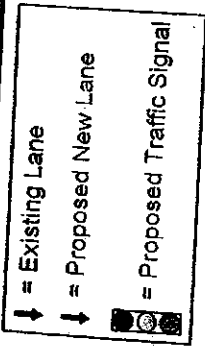


REVISED 2-15-08 RECOMMENDED
SCHEMATIC LANE GEOMETRY
AND TRAFFIC CONTROL

SOUTHPASS DEVELOPMENT
TRAFFIC STUDY
FAYETTEVILLE, ARKANSAS

PROJECT No. P-1250
DATE 2-14-2008

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



Resolution No. 138-04
Approved Resolution
Signed Contract

RESOLUTION NO. 138-04

SCANNED

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.

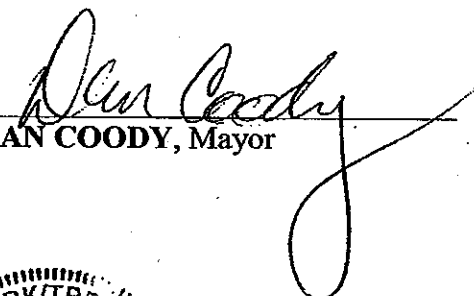
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

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.

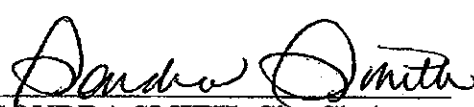
APPROVED:

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.

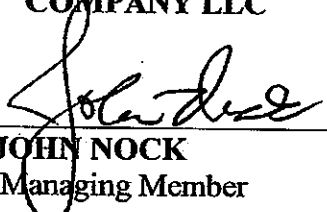
7. The City of Fayetteville and SouthPass shall cost share (50/50) all costs of extending sewer to the Community Park site and neither shall charge for the acquisition of necessary water or sewer easements across their property to serve their land within this 800 acre area.

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.

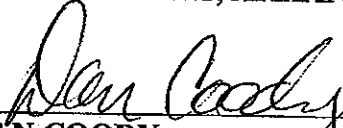
Signed this 7th day of September, 2004.

**SOUTHPASS DEVELOPMENT
COMPANY LLC**

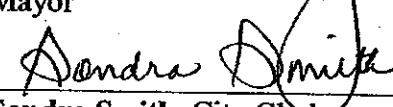
By: 

JOHN NOCK
Managing Member

**CITY OF
FAYETTEVILLE, ARKANSAS**

By: 

DAN COODY
Mayor

Attest: 

Sondra Smith, City Clerk

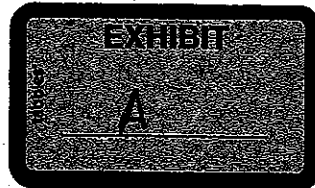


*Attached as Exhibit A are copies of the current Capital Improvement Program adopted last December by the City Council showing 2004-2008 Parks Development Fund allocations for Community Park Development (total about \$2.4 million) and Sales Tax CIP funds allocated to Community Park Development (total 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.

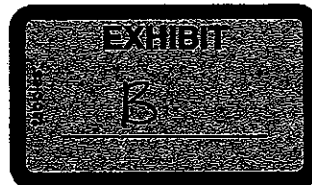
EFFECT OF THE PROJECT ON ANNUAL OPERATIONS

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>



Resolution No. 138-04
Agenda Memo
Request for Proposals (RFP) 04-13
RFP Response Comparison
SouthPass RFP Response Documents

Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

From: Gary Dumas, Director of Operations

Date: August 19, 2004

Subject: **APPROVAL OF 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 AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL**

RECOMMENDATION

Approval of 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 and other consideration for the city's acceptance of ownership of a 33 acre landfill.

BACKGROUND

In 2000 the community through a public participation process defined the need for a Community Park. In December 2002 the Parks and Recreation Advisory Board requested the staff to pursue land for the future Community Park. From this search 18 potential sites were evaluated against numerous criteria. One site emerged as the best site, the property known as the Cummings Farm in Southwest Fayetteville along Cato Springs Road.

The sole issue with the site, was the impact that an abandoned landfill on approximately 33 acres of the 800 acre site would have upon development of a Community Park and other surrounding land uses that may develop in proximity to the Community Park.

The City partially funded with the Arkansas Department of Environmental Quality an initial study to determine any impacts that the landfill would have on the use of the landfill site and surrounding land. That study found that the landfill did not pose a significant environmental concern. Two corrective actions were proposed however: these were; the recapping of all or part of the landfill and the restoration of the stream corridor. The Arkansas Department of Environmental Quality concurred with the study and agreed to fund the corrective actions necessary, at no cost to the City, by utilizing the State Landfill Post Closure Trust Fund. This State cost will range of \$1.5 million to \$3.3 million depending upon options and techniques developed by the State.

There has been significant public debate concerning the need for a community park beginning prior to September 9, 2002 when this issue was discussed before the Parks and Recreation Advisory Board meeting. The public discussion continued through January and February 2004 when the Parks and Recreation Advisory Board discussed options on funding the purchase and development. These options ranged from the use of sales tax to property tax to selling off a part of the property to pay for the land needed for the Community Park through a public-private partnership. Through the late winter and spring the concept of the public-private partnership evolved until May 23rd when a

Agenda Item Number

request for proposals was issued seeking a private partner. The general focus of the request is as follows:

Request for Proposals

RFP 04-13

For Public – Private Partnership to facilitate the Acquisition and Development of a Community Park

The City of Fayetteville is interested in partnering with a private developer or developers to facilitate the acquisition and development of a community park in southwest Fayetteville.

The City of Fayetteville has purchase options to approximately 800 acres (formerly known as the Cummingss Farm) in southwest Fayetteville. This property is for the most part outside of the City Limits of Fayetteville and within the jurisdiction of Washington County. The majority of the land lies within the Greenland School District. A properly closed landfill is located on the site.

Currently water supply is available at an adjacent storage facility and sewer service is available near Cato Springs and I-540. Other utilities, if available, are only available along the southern perimeter. The exact boundary of the community park will be determined through negotiation and in conjunction with a mutually agreed upon development designer. The City of Fayetteville has publicly expressed a desire for a park to serve the community in this area. The City of Fayetteville Parks and Recreation Advisory Board have determined this location as the preferred location to serve this community need.

Each proposer is expected to avail themselves to any and all public information concerning the City's desire for a community park.

Each proposal must include

- method of transferring property from owner/City/proposer,
- methods in which the proposer prefers to address landfill issues
- address how the proposer wishes to address the ability to provide appropriate sewage disposal facilities to the site described above
- amount of acreage to be provided to the City for a Community Park

Agenda Item Number

- address how the proposer prefers to provide appropriate transportation access to the site described above
- any additional payment to the City
- any other items to be required of the City,
- any additional issues that the proposer wishes to include within the proposal

On June 9, 2004 two responses were opened. One was determined non-responsive by the Purchasing Agent and City Attorney. The second was evaluated and selected for negotiation. For the Council's information the non-responsive proposal was evaluated and compared to the responsive proposal. That comparison is attached.

Since June 10th the staff has been in negotiation with SouthPass Development Company, L.L.C. in order to develop a contract which could be considered by the City Council. That contract is now ready for City Council consideration.

DISCUSSION

The following are the action steps contained within the contract which will result in the City obtaining 243 acres for a Community Park and an existing water tank storage site at no cost, \$1,000,000 in cash, impact fees, and an approximate 560 acre development and resulting sales and property taxes.

The Company's participation in this project is contingent upon the City obtaining all necessary permits, approvals, or other assurances demonstrating that the abandoned C & L Landfill area is not an environmental hazard.

The following sets forth the obligations of the Company and the City:

The Company will:

- a. Agree to purchase the entire approximate 800 acre property at a price not to exceed \$8,500 per acre (approximately \$6,900,000) and
- b. contemporaneously with said acquisition in a manner acceptable to current property owner, the City and the Company, will deed to the City, without monetary consideration and free and clear of all liens or encumbrances, approximately 233 acres that the City shall use in connection with the development of a community park inclusive of baseball and soccer fields, related amenities and other park uses and
- c. contribute \$1,000,000 in cash to the City in furtherance of the development of this community park contemporaneously with the City's contractual expenditure of funds within the Parks Development Fund and Parks Capital Improvement Program committed to Community Park Development initiating construction of the community park, and
- d. retain and fund to a maximum of \$10,000, a mutually acceptable community master planning consultant that will identify and outline the usable land amounts and the highest and best uses of the property in harmony with a 233 acre community park.

The City will subject to City Council approval:

Agenda Item Number

- a. assist in facilitating the planning, zoning and other approval processes in accordance with a mutually acceptable master plan and
- b. annex the property into the City's boundaries and
- c. assist to the fullest extent possible with the Greenland School District and the Fayetteville School District to extend the Fayetteville School District boundary to encompass the property and
- d. work with ADEQ to resolve all landfill issues using the State's landfill closure trust fund at no additional cost to the City or the Company and
- e. cost share all costs of extending sewer to the park in accordance with normal City of Fayetteville off-site cost share policies and practices and
- f. provide all other City utilities and services to the park in accordance with the City's normal off-site utility extension policies.

BUDGET IMPACT

The City of Fayetteville financial obligation is to participate in all normal off-site improvements required to service the community park and private development. The participation in the off-site improvement for sewer extension is specifically listed as this service is necessary to serve the community park. This cost share for sewer is 50% for both SouthPass and the City.

Additional financial requirements are:

1. funding the perimeter survey of the property and the survey of the area to become the community park; estimated cost \$50,000.
2. committing to fund the first phase of the park development in order to receive the \$1,000,000 donation toward park improvements.
3. long term operation and maintenance of the community park; the current operation and maintenance budget for Lewis Soccer Complex will be transferred to the Community Park as the Lewis Complex reverts back to University use.

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>
Parks Development Fund:					
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>
Sales Tax Capital Improvements					
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>

Proposed Community Park
RFP 04-13
Comparisons of Developers

"SouthPass" Project

- Developer Purchases 800 Acres, and donates 233 acres to the City of Fayetteville
- Developer invests \$10,000 towards a Master Plan for the 800 acres
- Developers Contribute \$1,000,000 to the City of Fayetteville towards the Development of the Community Park
- The City of Fayetteville must annex the property into the City limits and the Fayetteville School District, zone the property to the specific needs as indicated by the Master Plan
- The City of Fayetteville must resolve the Landfill and Environmental Issues
- The City of Fayetteville and the Developers will cost-share the costs of providing sewer lines to the property.
- The City of Fayetteville must invest in the costs of Engineering, Installation of Infrastructure and utilities, project marketing, and building other necessary improvements.

Tower Enterprise, LTD

- The City of Fayetteville purchases the 800 acres
- The City of Fayetteville retains the old land-fill, which is 33 acres
- The City of Fayetteville would retain 300 acres for a community park, the acres of the city's choice
- Developers provides \$3,500,000 to the City of Fayetteville towards the development
- The City of Fayetteville sells 50-acre parcels at a time to the Developer
- The Development would be all residential houses, no commercial property
- The 50-acre parcels lots bought by the Developer would be pre-sold, and ready for title-transfer once final plat is approved
- The City of Fayetteville receives a proportionate share of the closing costs to each lot sold
- Only 50-acres of land are developed at a time, when land is pre-sold; once all 50 acres is developed, the developer would purchase another 50-acres of land from the City of Fayetteville. If more than 50 acres of the land were pre-sold by the developer, than more than 50-acres could be developed at a time
- Developers responsible for all street improvements within area to be developed
- City of Fayetteville invests in sewer lines to the land site
- City of Fayetteville responsible for streets and roadways to the proposed property
- City of Fayetteville would provide all utilities to site, but waive impact fees on each lot; all supplies to be purchased through the City of Fayetteville with no sales tax
- The City of Fayetteville gains 1,500 owner occupied affordable housing units

Proposed Community Park RFP 04-13[illegible]

RFP 04-13: Comparison

Cost to City	SouthPass Project	Tower Enterprises, LTD
Purchase	\$0	(\$6,900,000)
Land Donation	233 acres	300 acres
Cash for Park Development	\$1,000,000	\$0
Cash from Lot Sales over Several Years	\$0	\$3,500,000
Development Plan	\$10,000	\$0
Utilities	(\$100,000)	(\$100,000) + unknown
Impact Fees	\$1,700,000	\$0
Benefits (Costs) to City	233 acres \$2,610,000	300 acres (\$3,500,000) plus unknown utilities and loss of Sales Tax)

"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD



RESPONSE TO REQUEST FOR PROPOSAL RFP-04-13
FOR PUBLIC-PRIVATE PARTNERSHIP TO FACILITATE
THE ACQUISITION AND DEVELOPMENT OF A
COMMUNITY PARK

JUNE 9, 2004

SOUTHPASS DEVELOPMENT, LLC

JOHN NOCK - MANAGING MEMBER



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

RESPONSE TO REQUEST FOR PROPOSAL

SOUTHPASS DEVELOPMENT COMPANY, LLC (THE "DEVELOPER") COMPRISED OF A TEAM OF LOCAL DEVELOPERS AND PROFESSIONALS PROPOSES TO ENTER INTO A PRIVATE/PUBLIC VENTURE WITH THE CITY OF FAYETTEVILLE TO DESIGN A MASTER PLAN, ACQUIRE NECESSARY ACREAGE, PRESERVE APPROPRIATE NATURAL TERRAIN, PROVIDE CERTAIN FUNDS FOR A COMMUNITY PARK ALL ON APPROXIMATELY 800 ACRES HELD UNDER OPTION BY THE CITY OF FAYETTEVILLE (ON LAND FORMERLY KNOWN AS THE CUMMINGS FARM) IN SOUTHWEST FAYETTEVILLE. THIS RESPONSE TO RFP 04-13 SETS FORTH IN GENERAL TERMS THOSE CONDITIONS FOR THE ACQUISITION AND DEVELOPMENT OF THE PROJECT.

IT IS THE RESPONDENT'S INTENT UNDER THIS PROPOSAL TO CREATE A MASTER-PLANNED DEVELOPMENT WITH A COMMUNITY PARK AS THE CENTRAL FEATURE IN THE LAND PLANNING PROCESS. PRELIMINARY DESIGN IDEAS INCLUDE APPROXIMATELY 233 ACRES SET ASIDE FOR COMMUNITY PARK USE AND APPROXIMATELY 567 ACRES FOR MIXED USE NEIGHBORHOODS. AMENITIES OF THE DEVELOPMENT WILL INCLUDE THE COMMUNITY PARK, NATURE TRAILS, WATER FEATURES, MIXED USE LIVING WITH "LIGHT" RETAIL, AND A HARMONIOUS MIX OF THE BUILT AND NATURAL ENVIRONMENTS.

FROM THE INITIAL DEVELOPMENT STEPS, THE DEVELOPER WILL WORK IN PARTNERSHIP WITH THE CITY IN CREATING A LONG RANGE COMPREHENSIVE LAND USE MASTER PLAN. IT IS INITIALLY CONTEMPLATED THAT DESIGN WORKSHOP OZ ARCHITECTS WGM GROUP, INC. WILL BE RETAINED FOR THE LAND PLANNING AND DESIGN PROFESSIONAL SERVICES. THE COST FOR AN INITIAL LAND USE/CONCEPT MASTER PLAN WILL BE BOURNE BY THE DEVELOPER.

THE FOLLOWING SETS FORTH THE DEVELOPER'S PROPOSED TERMS:

1. DEVELOPER WOULD BE RESPONSIBLE FOR FUNDING \$10,000 TOWARD AN INITIAL CONCEPT MASTER PLAN. THIS PLAN WOULD IDENTIFY AND OUTLINE USABLE LAND AMOUNTS AND THE HIGHEST AND BEST USES OF THE PROPERTY. THE DEVELOPER WOULD WORK DIRECTLY WITH THE PROJECT ARCHITECT AND CITY STAFF TO EFFECTIVELY DEVELOP CONCEPT MASTER PLAN.
2. ASSUMING THAT AN APPROPRIATE MASTER PLAN CAN BE DEVELOPED, THE DEVELOPER WOULD PROPOSE TO ACQUIRE THE LAND AT A PRICE

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Fayetteville, AR 72701
Fax: 479-444-9775
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"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

NOT TO EXCEED \$8,500 PER ACRE FOR ALL 800 ACRES (APPROXIMATELY \$6,900,000).

3. CONTEMPORANEOUSLY WITH SAID ACQUISITION, THE DEVELOPER WOULD DEED TO THE CITY, WITHOUT CONSIDERATION AND FREE AND CLEAR OF ALL LIENS OR ENCUMBERANCES, APPROXIMATELY 213 ACRES THAT THE CITY MAY USE IN CONNECTION WITH THE DEVELOPMENT OF A COMMUNITY PARK WITH RECREATIONAL FIELDS AND RELATED AMENITIES.
4. THE DEVELOPER WOULD PROPOSE TO CONTRIBUTE \$1,000,000 IN ADDITIONAL CASH TO THE CITY IN FURTHERANCE OF THE DEVELOPMENT OF THE COMMUNITY PARK ON THIS SITE.
5. IN EXCHANGE FOR THE FOREGOING, THE CITY WOULD ACTIVELY ASSIST IN FACILITATING THE PLANNING, ZONING AND OTHER APPROVAL PROCESSES IN ACCORDANCE WITH A MUTUALLY ACCEPTABLE MASTER PLAN, ANNEX THE PROPERTY INTO THE CITY'S BOUNDARIES, ASSIST IN THE COORDINATION OF THE EXTENSION OF THE FAYETTEVILLE SCHOOL DISTRICT'S BOUNDARIES TO ENCOMPASS THE PROPERTY, RESOLVE ALL LANDFILL AND ENVIRONMENTAL ISSUES ASSOCIATED WITH THE PROPERTY, COST-SHARE THE EXTENSION OF SEWER LINES TO THE DEVELOPMENT AND PROVIDE ALL OTHER CITY UTILITIES AND SERVICES TO THE DEVELOPMENT.
6. UPON COMPLETION OF THE FOREGOING THE DEVELOPER WOULD PURSUE A COURSE OF ACTION TO ACCOMPLISH THE DEVELOPMENT'S MASTER PLAN. ACTIONS WILL INCLUDE REQUIRED ENGINEERING, INSTALLATION OF INFRASTRUCTURE INCLUDING UTILITIES AND ROADWAYS, PROJECT MARKETING AND THE BUILDING OF OTHER NECESSARY IMPROVEMENTS.

IF THIS PROPOSAL MEETS WITH THE CITY'S INITIAL APPROVAL, THE DEVELOPER WILL IMMEDIATELY ENGAGE THE SERVICES OF THE MASTER LAND PLANNER FOR THE CREATION OF A CONCEPT PLAN AND A LAND USAGE DETERMINATION. ASSUMING ACCEPTABILITY, THE PROPOSAL AS OUTLINED HEREIN COULD BE IMPLEMENTED. DUE TO THE EXTENSIVE COORDINATION REQUIRED FROM UTILIZING A PUBLIC/PRIVATE "PARTNERSHIP" STRUCTURE CERTAIN PROVISIONS OF THIS PROPOSAL ARE CONCEPTUAL IN NATURE ONLY AND SHOULD NOT SERVE TO BIND THE CITY, THE DEVELOPER OR ANY OF ITS PRINCIPALS.

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"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

THIS PROPOSAL SUBMITTED ON THE 9TH DAY OF JUNE, 2004
BY

JOHN NOCK, MANAGING MEMBER
SOUTHPASS, LLC

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One East Center Street
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Fayetteville, AR 72701
Fax: 479-444-9775
johnnock@yahoo.com



"SOUTHPASS" PROJECT

COMMUNITY PARK & MASTER PLANNED NEIGHBORHOOD

DEVELOPMENT TEAM

THE DEVELOPMENT TEAM INITIALLY SHALL CONSIST OF THE FOLLOWING PERSONS:

JOHN NOCK

RICHARD ALEXANDER

ROB MERRY-SHIP

KEITH ROBERTS

TIM COOPER

MITCHELL MASSEY

MORGAN HOOKER

BRANDON BARBER

HANK BROYLES

HAL FORSYTHE

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City Council Minutes
Regional/Community Park Discussion
August 17, 2004
September 07, 2004

**City Council
Meeting Minutes
August 17, 2004**

PRESENTATIONS:

Regional/Community Park:

Gary Dumas, Operations Director gave an overview of the proposed Regional/Community Park.

Peggy Vice, Purchasing discussed the RFP process and the bids that were received on the RFP. She stated two bids were received one from SouthPass Development and one from Tower Enterprises. She reviewed the bids for compliance with the proposal requirement. Tower's bid did not have a signature. She then spoke to the City Attorney Kit Williams about the Tower bid.

City Attorney Kit Williams: The Purchasing Officer, Peggy Vice, brought the bid over to my office and showed me the proposal which I had not seen before. The sixth content proposal requirement says *signature of persons legally authorized to represent the proposal*. There was no signature there, in fact the proposal was by Tower Enterprises, LTD and there was no indication that the individual that sent the proposal had any authority to act for that company. The other problem that was readily apparent in the proposal was the seventh content proposal requirement that says *the successful proposer must post an irrevocable letter of credit or other comparable financial instrument that demonstrates the proposer has the funds on hand or funds available to close the land transaction*. If you looked at the proposal the proposal was that the city buy the property and then he would be in partnership with the city. I think there were two major reasons why this proposal was not responsive to what the city had requested. I agreed with Peggy. She showed me the regulation in procurement, Regulation R719-11-229B4, which stipulates, *only signed sealed bids delivered prior to date and time of bid opening shall be accepted*. I agreed with Peggy at that point in time that this proposal had not been responsive and could not be properly considered by the city.

Alderman Rhoads: Have there been any other similar situations like that and if so how did we handle them?

Peggy Vice: No, we have never accepted a proposal or an RFP without a signature.

Kit Williams: There was a similar one when the Dickson Enhancement Project was being bid we had several bids from various construction companies. One of the construction companies, which would have had the lowest bid, had not signed a particular form required. There were federal funds involved, therefore we were told by our consultant and I agreed with him that we could not consider that bid. It would have been illegal for the city to do it; therefore we did not consider that bid and awarded the contract to the next lower bidder.

Gary Dumas went through the two proposals and the differences in the proposals.

Mayor Coody: This has been very informative. Thank you very much.

Alderman Jordan: I am curious about the million dollar match. Do we have to come up with one million to get the million dollar match, is that correct?

Gary Dumas: That is correct.

Alderman Jordan: Where is that money coming from?

Gary Dumas: Currently in the existing 2004 CIP there is about \$800,000 already identified for community park development. Next year in the amount of \$850,000 or \$865,000 is also proposed for a community park. So in January there will be a little over \$1.6 million already committed to the community park.

Mayor Coody: Actually the match or our portion will be between \$1.5 and \$2 million dollars. We haven't finalized that. They have asked for \$2 million dollars of our money to match their one million. We are in conversations about this right now, if we can cut a deal to where our part of the match is \$1.5 million dollars and then they would put their million in, that means we could match it in January or early next year. If our match is \$2 million it would just take a little bit longer but we would come up with that over time.

Alderman Jordan: You are saying this is coming out of capital improvements?

Gary Dumas: No HMR, there are HMR funds committed currently in the CIP for the community park.

Alderman Marr: When did that match become a condition because the bids that we received in our box, I don't remember a 2 to 1 or a 1 for 1 match in the document.

Gary Dumas: In the development of the letter of intent the developers are interested; I think they want the park developed to assist in the sale of their property.

Alderman Marr: Was that a requirement of their bid?

Gary Dumas: In the development of the letter of intent they have requested that the match be there just so they can be assured that the million dollars that they provide will go to the community park instead of some other city activity.

Alderman Marr: The bid that responded did not have that requirement in it?

Gary Dumas: No.

Peggy Vice: Normally on RFP's when you do a request for proposal you take proposals and then you take the best proposal that meets your requirements and then you negotiate a contract from there. You often do change what has been submitted.

Alderman Jordan: In the other proposal, if I understand it correctly, the city would have to put up the money and basically become the banker.

Gary Dumas: Yes, the city would have to buy the property out right on the front end.

Alderman Jordan: What would happen if the developer could not deliver on what he said he was going to do?

Mayor Coody: I don't know, Kit what do you think would happen?

Kit Williams: I guess we would have a lot of property.

Gary Dumas: Then we would have to seek another private developer I'm sure.

Mayor Coody: Thank you very much.

**City Council
Meeting Minutes
September 7, 2004**

NEW BUSINESS:

SouthPass Development Company Purchase Option Transfer: 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.

Mayor Coody explained that this is only a resolution. There are some contingencies and the contract is not being signed tonight.

Alderman Lucas asked if the City is going to spend money to survey the property before everything has been settled.

Gary Dumas: The City will be responsible for surveying the 200 acre park once the developer has retained their master planning consultant, working with the City to define what the perimeter will be. The City will also be responsible at some point to cover the survey expenses for the 800 acre parcel.

Alderman Lucas: That being the case, if the Greenland School District does not agree to allow the parcel to be transferred to the Fayetteville School District, would the developer not have to give the City the \$1 million for the park and we wouldn't get the 200 acres?

Gary Dumas: The City would want to wait to do the surveying until some of those earlier contingencies are resolved.

Alderman Lucas said so we won't spend any money until those contingencies are resolved is that the game plan? She thinks this is a wonderful idea, Ward 4 needs a park and it would be good for the City, but she is concerned about the school district issue and that that issue may keep us from getting the property for the park.

Gary Dumas: The school district issue is a major issue and the developers are well aware of that. The City won't go forward until that is resolved.

Alderman Rhoads said he thought he was hearing two different things. He asked if the City will survey.

Gary Dumas: The City will be responsible for the survey, which will cost something less than \$50,000.

Alderman Rhoads asked if the City can waive contingencies.

Kit Williams: The City and the developer can mutually do that, but this is basically the developer's requirement not the City's so it would be up to the developer.

Alderman Reynolds asked if the City is going to make any move on the project before we find out if we will be getting the \$1.5 to \$3.5 million cleanup fee from ADEQ.

Gary Dumas: Staff has been in contact with ADEQ today and they indicated that funding is available and there would be no requirement for either the City or the property owner to refund the post closure trust fund. However they have indicated that they will not provide that assurance to us, as a third party, in writing. They explained that their legal counsel is the legal Counsel for ADEQ and not for the property owner or for the City. The City Attorney will be in contact with them and we may have more information later.

Kit Williams said he plans to write to their legal counsel with his interpretation of what the statute means in the matter of whether or not the City or the owner would have to repay the \$1.5 to \$3.5 million. He said that his interpretation is that we would not have to repay the amount but he wants to make sure that ADEQ's legal counsel agrees to that in writing before the City goes forward. He thinks they will respond. If they do not, he recommends that the City ask for an opinion from the Attorney General.

Alderman Cook had several constituents ask him about the landfill. He asked for information about the current situation with the landfill, what the corrective actions will be and whether the City might be liable in the future if something comes up that we don't foresee at this time.

Gary Dumas: ADEQ will be preparing a plan for what the remedial action will be for the landfill. The early indications in the Terracon report were that corrections would be made along the stream that runs through the landfill and a recapping. The magnitude of that recapping is something that ADEQ will have to determine. The remediation to the creek could be some type of channelization or a rerouting of the creek around the landfill. ADEQ's specialists will have to determine how they want to spend the money.

Mayor Coody said that the running water is not so much a creek as it is wet weather drainage.

Kit Williams: One of the things the City is bringing to the table in this agreement is potential future liability for this landfill. I hope the City will never face that though we may face it even without the agreement since it is City of Fayetteville trash in the landfill. At this point it looks like the Post Closure Trust Fund will be able to pay for the entire fix and not have to come back to the City to get money back. I want to make sure of that before I say more. The developers don't want to own the landfill. The proper owner for the landfill would be the government because we can do the best job of making sure it continues to not be a threat to the community. I believe this is one of the major things the City brings to the table with this agreement and it is why we are getting 200 acres for free and \$1 million for the park. The landfill was only open a couple of years and was closed

in 1976, for the last 28 years it has been sitting there and now needs remediation. I can't say that more remediation might not be necessary in another 30 years and I can't say who would be responsible for that remediation at that point.

Alderman Cook: The Terracon report did not say anything negative; it sounded fairly good.

Gary Dumas: The only material in the landfill is normal municipal garbage and they found no indication of anything more there. Since it has been fairly stable this far and if the State does corrective actions at this time, there is a likelihood that there will be no other action required. But there is also the possibility that there could be some methane gas or other issues that would have to be dealt with just as with any landfill.

Alderman Cook has also been asked what will happen to the rest of the parks system if this amount of money is used on this park.

Gary Dumas: This will be a major addition to the parks system and with any major addition of any infrastructure element, whether it's new subdivisions and streets or police and fire there is going to be a cost. The initial revenue that has been identified would be the revenue that is currently spent for maintenance of the Lewis Soccer Complex. That money will be available for transition when the complex is returned to its current owner. There will be other funding issues that will have to be addressed as the park is developed through the various stages over the next 4 to 7 years.

Mayor Coody: Where would the funds come from the Park Development Fund?

Gary Dumas: Park Development funds will probably not be sufficient to develop the park completely in the 4-7 years timeframe. The operational and maintenance funds cannot come from Parks Development.

Mayor Coody: But if we had a ten year time span, it would be easier to absorb over time. The other factor is this would be able to handle regional competition and would generate income.

Alderman Cook asked if the City is still in a match situation if we get \$1 million will we have to match that with \$1 million.

Gary Dumas: The contract as written says we will spend what is available in the Parks Development Fund through 2005. In the currently adopted CIP for 2004-2008 \$1.62 million is in this fund right now. There will be some expenditure from that, probably around \$50,000 for the survey.

Alderman Cook: So we are dedicating \$1.62 million dollars not just a million dollar match we are dedicating \$1.62 million?

Gary Dumas: It is money that is already in the adopted CIP.

Mayor Coody opened the floor for public comment, asking that comments be kept brief so that all would be allowed to speak. He encouraged civility from all parties.

Sharon Davidson stated that she is in favor of a community park and thinks that the Cummings property is a good piece of property for a lot of reasons. However, she asked the Council to not move forward with this particular SouthPass proposal. She does not believe this is the appropriate way to go with this developer. She does not want to use Wilson Springs money for roads and suggested using the money instead to purchase this property. She feels the whole process has been tainted and spoke of her concerns about the bid process and how she feels it has been handled.

Spencer Scarborough a lifelong resident of Fayetteville and asked the Council to do what it takes to get a community park like this. He thinks this proposal is a win-win situation. He feels this will increase property value on the land, which will bring more taxes into the schools. The creation of the park itself will benefit the health of both youth and adults.

Bill Ackerman encouraged the Council to afford this project due diligence but feels they should take advantage of this proposal. He said that the opportunity to get 200 acres in one tract located as well as this tract is located is almost impossible. He served several years on the Parks & Recreation Advisory Board and they never had an opportunity to acquire this kind of tract of land. If 200 acres had become available, the cost would probably have been cost prohibitive. He feels that partnering with someone under these favorable conditions is a win-win situation for the City, State and the community as a whole and it is important to take advantage of the opportunity.

Kathy McGuire-Bouwman a citizen watchdog she feels that most citizens would not know what is going on from the way the resolution is worded. She feels the resolution should say "would we like a park in exchange for a south side school surrounded by 500 acres of new housing development as well as the infrastructure needs that go with that." She also questioned the legality of something she read in the paper that said the parks board had spent several hundred dollars in postage asking families of youth soccer players to attend this meeting tonight. She said there are people who don't think it is an advantage to have a million new cars coming into our quiet town for these mega-sports events. There are two sides to this and though she isn't sure whether she is for the park or not, she feels both sides should be heard.

Linda Ralston asked when it was decided that we needed a huge community park.

Mayor Coody: In 2001 the City completed the Lose & Associates Parks Master Plan for the entire city. One of the top recommendations was a large multi-use park for consolidated sports fields, etc. This master plan came after many public meetings and a lot of public input.

Linda Ralston said she is concerned about this park, particularly because she doesn't believe the public has been told enough about what is going on. She questioned whether a school will be included in the plan. She asked what the term "other consideration" in the resolution really means.

Kit Williams: The term includes all the contingencies in the plan. He didn't want to put all the contingencies in the resolution because it would make the title too long. If the Council passes this resolution tonight, they will be authorizing the Mayor to sign the contract. However, the contract has at least five contingencies before it is really effective and can get under way. The first contingency is approval of a Master Plan for the entire 800 acres. This Master Plan must be approved not only by the developers but also by the City Council, at that point in time the Council and the public will know exactly how this land will be developed.

Mayor Coody said he doesn't believe that the question of moving this property into the Fayetteville school district has the intent of building a school out there. He said he thinks the developers want the property in the Fayetteville school district because it is easier to sell homes in that school district than it is in the Greenland school district. If the school system wants to build out there, that will be between them and the developers.

Donna Williams indicated that she is for any kind of reasonable plan that will continue to grow the parks system in this area.

Jerry Patton said this is a great idea and encouraged the Council to carry on with it. There has been tremendous growth in Fayetteville and the region and that growth will continue. We need a great community park. The planning and vision that have brought the City to this point are good. He encouraged the Council to pass the resolution and make this a reality.

Phillip Watson, president of the local Ultimate Club said he feels good points have been made tonight. He particularly agrees with the point that 200 acres of parkland all together in one area is a huge bonus for the City. He and his organization are in support of this project.

Barbara Moorman: Stated she has nothing to say against the idea of a park but feels it is wrong for the Parks Board to lobby for this particular arrangement. She disagreed with the term "gift" on a brochure sent out to members of the public; she said this is not a gift. The City will be taking on a huge liability and will make the taxpayers pay for it. She said the landfill study uses terms such as "not a significant environmental concern at this time" and "appears to be confined" and "evidence of potential impact is not definitive". When ADEQ talks of remediation, they are talking about recapping and channelizing the creek, not diverting it. She feels they are not doing what might be the best way to remediate and are trying to do it for somewhere between \$1.5 million and \$3.5 million. She says the City is doing the property owner and developer a huge unnecessary favor by relieving them of this liability. She questioned how much property would actually be annexed with this project.

Mayor Coody: The total property is about 800 acres, some of that is already in the city leaving about 500 acres to be annexed. This is just an estimate.

Barbara Moorman said the City is committing themselves to a large subdivision and all the cost of roads, sewer, etc. She feels that if this resolution is approved, the rest of the process will just be de-facto. She questioned if this developer has anything in his past that has been successfully completed. She discussed her perception of what the Council will be agreeing to with this resolution. She urged the Council to table this item until they have something to vote on that gets as much as it gives away.

Mayor Coody clarified that the Post Closure Trust Fund is made up of a portion of the fees collected when cities or individuals take loads of waste to a landfill. This is the money that is earmarked to clean up the landfill.

Fran Alexander asked if the public is going to receive an outline of hearings and discussions that will take place about this park. When can the public ask questions? She questioned whether 200 acres would really be enough land to incorporate all the ball fields and still be a true community park. She wondered if the City will have outgrown the park by the time it is developed. She again asked what the process is for the public.

Mayor Coody: In the Lose and Associates study they stated that the City would need 110 to 150 acres. This is 200 acres so that should provide for some expansion. This will not be just ball fields but a multitude of uses, some passive and some active.

Susan Porter asked how the quadrants are established and what the boundaries are on the southwest quadrant of the parks.

Connie Edmonston, Director of Parks & Recreation said that several years ago the City was divided into four quadrants. Highway 71 basically divides the east from the west and Highway 16 East and 16 West basically divide the north and the south quadrants. This was determined years ago while developing the Master Plan and working on impact fees.

Susan Porter said she likes parks and voted for the HMR tax. She had several concerns including the sprawl being promoted by annexing land outside the City limits and questioned why such a large area is being discussed. She also questioned whether citizens in this quadrant would like to see the City annex 800 acres and build infrastructure for it for a park outside the city limits. She questioned whether the City really needs 200 more acres of parks, according to the Lose & Associates study; Fayetteville ranks high in acreage in the parks system. She reviewed some of the information from the Lose and Associates Master Plan and the needs outlined in that study. She reviewed the definitions used in the Lose & Associates study of the different types of parks as set forth by the National Recreation and Parks Association, which define a "community park" as 20 to 50 acres and a "regional park" as 50 to 250 acres. She stated that we are talking about a regional park here, not a community park. She said she has not seen anything that defines

the operational costs of this proposed park and is concerned about how much that will be. She wondered why the acreage around the new wastewater treatment plant couldn't be used for the community park. She feels more public input and discussion is needed on this and she encouraged the Council to look again at the Master Plan that has already been approved.

Mayor Coody apologized for calling this a community park instead of a regional park.

Phil a resident from Ward 2 said he finds it painful to sit and listen for an extended period of time to public input and suggested the Council set a time limit for each speaker so the comments will be more focused.

Wade Coldwell, Chair of the Parks & Recreation Advisory Board said the Board has worked for the past two years looking at all these issues. He questioned why annexation of an undeveloped area has become an issue. He said the Parks Board was fully aware that there is a landfill on the property and they have been going after the funds to clean it up. The City needs the parks space to meet the growing needs of the community. He also sees this as a business deal, giving the City what it needs and wants. He feels the Mayor has been wise in the way he has handled it.

Tom Howard said he has coached children for 30 years in soccer, baseball, etc. He said he appreciates everybody's comments. He said some children don't get the opportunity to play sports because their parents don't have the time to drive to separate fields for different children. He thinks it is important to have a central area for these sports so people can drive to one area for all sports. He thinks the City needs a community park and feels the opportunity to play sports is invaluable to the children and families.

Melissa Terry: Stated the wet weather drainage going through the Cummins property is Cato Springs Branch, which is at the headwaters of Town Branch watershed, which drains into the west fork of the White River. She works as a conservation organizer for Audubon Arkansas and asked that the City consider working with her group on this issue if the project gets to the place where channelizing or moving the creek is being considered.

Dorothy Neely because of her background as an environmental consultant and because this acreage was previously a City landfill, she asked if an in-depth environmental assessment is included in the contingencies for this property.

Mayor Coody said Terracon did an environmental assessment and the report stated that the landfill was not a real environmental problem. He said a copy of the study is available for anyone who wishes to see it. He asked Ms. Neely, considering her background, if she felt it was better to walk away from a landfill site such as this or to do remedial work.

Dorothy Neely said she thought remediation and stabilization of the surface with vegetation would be best. She said she would prefer vegetation rather than pavement. She said concerns with the watershed need to be addressed.

Connie Edmonston, Director of Parks & Recreation corrected something she said earlier: the division line for the east and west quadrants of the parks system are actually Highway 16 West to Old Wire Road when you cross Highway 71. She stated that her division has been working on many of the projects outlined in the Parks Master Plan including opening playgrounds, establishment of new neighborhood parks, new trails and ADA compliance. The community park is just one of the items her division and the City believe is very important. They have looked at and evaluated 18 different sites for the park and this was chosen as the best site due to location and usable land. They will need 115 acres for current needs for active sports. The remaining acreage would be used for passive recreation. The soccer, baseball & softball programs are exploding with over 5000 participants in baseball/softball and 1300 kids playing soccer. The City believes that obtaining this property would help meet those needs as well as help us to be good environmental stewards of our land. It would reduce the traffic of families traveling from park to park for different games and also the travel of maintenance crews between the different locations.

Alderman Thiel said she thinks there has been some confusion regarding the term used to describe the park. In the Master Plan the term "multi-sports complex" was what people identified with and changing the verbage makes it more difficult to follow the support that was gathered during the creation of the Master Plan. This is not necessarily a community park; it will be a regional park if it is the size being discussed. She asked for clarification from Connie about the actual amount of parkland in the City, minus the lake and water areas.

Connie Edmonston: We have 795 acres of water in the parks system. The total acreage is around 3,300 making about 2800 acres of actual parkland. Much of the land is nature preservation and not usable for active sports.

Alderman Jordan asked how many acres are in Finger Park.

Connie Edmonston: Finger Park is between 19 and 21 acres.

Alderman Jordan: Is that the largest park in Ward 4?

Connie Edmonston: Yes. That is by far the largest.

Alderman Jordan: What else would be in this community/regional park besides soccer and baseball fields? Will there be picnic tables, playground equipment etc. that would allow a family to go and have a barbeque and family outing?

Connie Edmonston: Parks has a map that outlines the active and passive usage of the Cummins property. They are looking at soccer, baseball, softball, ultimate Frisbee,

tennis, disc golf, an amphitheater, trails, a pavilion and maybe some kind of water feature. All of this would be determined following many public meetings to determine the public's demands for the park, 115 acres of the 200 acres will be for active use, the remainder will be for passive use.

Mayor Coody: That doesn't include what the surrounding development will give up as far as trails, bluff areas, preserved areas, etc. outside the 200 acres that will be used by the public.

Connie Edmonston said of the 18 sites her division evaluated during their search, three have already been sold. Large tracts of land are difficult to find within the City and they are going fast. She believes this is the premier spot for the park, the land is very usable; the hillside is being preserved, there are many pluses to this property.

Jim Bemis said he is not proud of the City's parks system west of I-540. Between Highway 112 and the Cummins property there is nothing for the people living in that area. He is not against a park in this area but would rather see four community parks stretched between Highway 112 and this property rather than 200 acres in one park.

Mayor Coody closed the discussion to public comment opened the floor to the Council.

Alderman Thiel said she appreciated the comments being made. When she was on the Parks Board they had looked at this issue and hired Lose and Associates and she went to almost all the public meetings. One of the concerns of the parents during this process was that they wanted to have one place they could take their children of various ages participating in different sports without having to drive them all around town. That was one of the original motivations for the discussion of a multi-sports complex. The baseball fields in Walker Park are worn out; we'll have to do something about the soccer fields. Something will have to be done to accommodate the desires of the parents who have children who want to play in these activities. She likes the location and thinks Parks worked diligently to find a location that met all the criteria. It serves Ward 4, which does not have a large park and it is very accessible. One of the advantages of the athletic or sports complex side of parks is that it helps pay for itself. The passive parks don't pay for themselves and are costly to keep maintained. This location also offers the opportunity for the City to do something about a landfill that really does need to be addressed. She says she supports this with the exception of the resolution of the landfill issue and the school district issue, those are big concerns. She understands that the City won't be expending any funds toward this until those two issues are a little bit more resolved.

Alderman Cook spoke of his concerns that the park may take too much money and he is concerned about the remainder of the parks system. He is concerned about other financial needs of the City. He is nervous about the landfill issue and wants to make sure we know exactly which land we will get in the area. The positive side is that it is a great site with a great view of town and I-540 access. He struggles with comments about the park being on the edge of town. You can't find this much land in town so it would have

to be on the edge of town. Economic development is also a positive; there is no question that we will draw events to a park like this. The City does need the facility. It will provide areas for sports we don't have room for now as well as passive activities. He thinks the positives outweigh the negatives on this but remains a little nervous.

Alderman Jordan said his concern is that he hasn't received any information about what is going to go in to the old Lewis Soccer Complex over by the Asbell neighborhood.

Hugh Earnest said he will be meeting with the U of A regarding this. The only thing he knows at this time is that several years ago a general comment was made that married student housing might go in there. He doesn't think anything has been designed as far as type of housing but he will check into it and get some information.

Alderman Jordan stated he does have concerns about the western part of town not having any sort of park and he thinks this park would provide something desperately needed in that part of town. He doesn't really like the location and will have some strong concerns about the development that goes in there.

Alderman Marr said during the process of campaigning and talking with citizens and questioning them about their concerns he has realized that no matter how much is done to make sure citizens understand what is happening, it is not enough. He spoke of how long this issue has been going on. He thinks many good questions have been asked tonight. He sees huge economic opportunities associated with this and feels it is an avenue to maintenance of livability and quality of life in the City of Fayetteville. His biggest concern is not having enough resources left over for neighborhood parks. He thinks both are needed and feels it is the job of the Council to make sure that both are made available. This discussion is about whether to explore the possibility of a community park not that we are choosing that over neighborhood parks. He feels this is worth the investment, not at the expense of everything else, but it is worth pursuing.

Mayor Coody said he feels this is a historic opportunity. If the City walks away from this opportunity to pick up this amount of acreage now, it could be walking away from it for a long time, a better opportunity may never come up. It may not be perfect but he feels it is good. This is not an "either/or" situation where a community park is being chosen over neighborhood parks. The neighborhood parks will come in. He feels if the City does not take advantage of this opportunity it will be shortchanging itself now and in future generations.

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

Resolution 138-04 as Recorded in the Office of the City Clerk.

Addt'l Documents
Boundary Survey Approval & Contract
Landfill Warranty Deed Information

SCANNED

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

ENG
APPROVED
AGREE
Critical Path
Design Inc./
Southpass

N/A

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

Approval of a contract with Critical Path Design, Inc. for a boundary survey for the Southpass property.

\$19,950.00

Cost of this request

4470.9470.5315

Account Number

02002.10

Project Number

\$

1,622,936.00

Category/Project Budget

\$

Funds Used to Date

\$

1,622,936.00

Remaining Balance

Community Park Development

Program Category / Project Name

Parks & Recreation Improvements

Program / Project Category Name

Sales Tax Capital Improvements

Fund Name

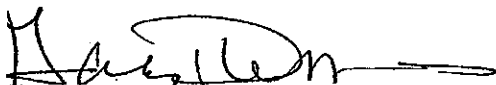
Budgeted Item

☒

Budget Adjustment Attached

☐

File w/
138-09



Department Director

10-21-05

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:



City Attorney

10/24/05



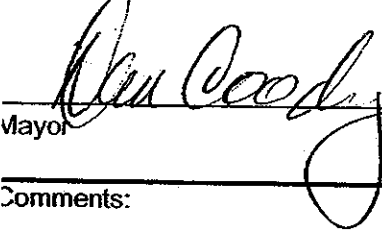
Finance and Internal Service Director

10-24-05

Date

Received in City Clerk's Office

ENTERED
10/24/05
AWT



Mayor

10/27/05

Date

Received in Mayor's Office

ENTERED
10/24/05
PH

Comments:



THE CITY OF FAYETTEVILLE, ARKANSAS

To: Mayor Dan Coody

Thru: Gary Dumas, Director of Operations 

From: Ron Petric, City Engineer

Date: October 10, 2005

Subject: Southpass Surveying Contract

RECOMMENDATION

Staff recommends approval of a contract with Critical Path Design, Inc. in the amount of \$19,950.00 to provide a boundary survey for the Southpass Park.

BACKGROUND

On July 7, 2004 the City Council approved 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 and other considerations for the City's acceptance of ownership of a 33 acre landfill.

DISCUSSION

At this time a boundary survey is needed for the site. Critical Path Design, Inc. was selected for this project by an engineering selection committee on September 15, 2005. They have submitted a contract to the City that covers the items necessary for this survey project.

BUDGET IMPACT

Community Park (Project #02002.10) will be charged the \$19,950.00 required for these services.

REQUEST FOR VENDOR FILE MAINTENANCE

(CHECK ALL AVAILABLE RESOURCES, VENDOR LIST, ACCESS
SYSTEM PRIOR TO SUBMISSION OF THIS REQUEST)

DATE OF REQUEST: 10/18/05 REQUESTED BY: Matt Casey, 2119
DEPT./DIVISION: Operations/Engineering EFFECTIVE DATE: ASAP
TELEPHONE EXTENSION: 429

NEW VENDOR: ☒ VENDOR CHANGE: ☐ VENDOR RE-ENTRY: ☐
VENDOR #: _____ VENDOR #: _____

VENDOR NAME: Critical Path Design, Inc.

STREET OR P.O. BOX: 21 W. Mountain

CITY: Fayetteville STATE: AR ZIP CODE: 72701

ATT: Clay Grote PHONE: 527-0055

E-Mail clay@cpcmi.com Fax # 527-2798

REMITTANCE ADDRESS IF DIFFERENT FROM ABOVE:

NAME: _____

ADDRESS: _____

CITY, ST, ZIP: _____

TYPE OF ORGANIZATION

FEDERAL ID 200902542
OR
SOCIAL _____

CORPORATION	(100):	☒
PARTNERSHIP	(200):	☐
INDIVIDUAL	(300):	☐
EMPLOYEE	(400):	☐
PENSION	(500):	☐
NON-PROFIT	(600):	☐

PURCHASING OFFICE USE ONLY

NEW VENDOR: _____	ENTERED BY: _____
VENDOR CHANGES: _____	DATE: _____
VENDOR RE-ENTRY: _____	G. L. FILE: _____
W-9 FORM MAILED: _____	INVENTORY FILE: _____

SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of September 28, 2005 ("Effective Date") between

City of Fayetteville ("Owner")

and Critical Path Design, Inc. ("Engineer")

Engineer agrees to provide the services described below to Owner for "Southpass" ("Project").

Description of Engineer's Services: Services include a boundary survey for approximately 800 acres located south of
The City of Fayetteville. The subject property is also known as "Southpass".

Owner and Engineer further agree as follows:

1.01 Basic Agreement

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard

hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the

design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.

E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).

F. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

8.01 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive together with any expressly incorporated appendix), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

9.01 Payment (Lump Sum Basis)

Using the procedures set forth in paragraph 2.01, Owner shall pay Engineer as follows:

1. A Lump Sum amount of \$ 19,950.00

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Fayetteville

By: *Don Corley*

Title: MAYOR

Date Signed: 10/27/05

Address for giving notices:

113 W. Mountain
Fayetteville, AR 72701

ENGINEER: Critical Path Design, Inc.

By: *A. Chy. Nute*

Title: Principal Engineer

Date Signed: 9/28/05

License or Certificate No. and State 1154 AR

Address for giving notices:

21 West Mountain, Ste 121
Fayetteville, AR 72701

City Of Fayetteville
(Not a Purchase Order)

Requisition No.:
P.O. Number:
Date: 10/18/2005
Expected Delivery Date:

Order # _____ Vendor Name _____ Critical Path Design, Inc.

Address: 21 W. Mountain, Suite 121 Fob Point: _____

City: Fayetteville State: AR Zip Code: 72701 Ship to Code: 90

Requester: _____ Requester's Employee #: 2119 Extension: 429

Item Description Quantity Unit of Issue Unit Cost Extended Cost Account Numbers Project/Subproject # Inventory # Fixed Asset #

1 Southpass Development Survey Contract \$19,950.00

3 \$0.00

4 \$0.00

5 \$0.00

6 \$0.00

7 \$0.00

8 \$0.00

9 \$0.00

Shipping/Handling Lot \$0.00

Special Instructions:

Subtotal: \$19,950.00
Tax: _____
Total: \$19,950.00

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____ Other: _____

From: Clarice Pearman
To: Petrie, Ron
Date: 10/31/05 4:48PM
Subject: Critical Path Design

Ron,

Attached is a copy of the agreement with Critical Path Design for the boundary survey. I will return to you two of three signed originals via interoffice mail. I will also forward your purchase requisition to the Internal Auditor.

Thanks.

Clarice

CC: Bell, Peggy; Deaton, Vicki

NAME OF FILE: Resolution No. 138-04

CROSS REFERENCE:

[illegible]

STAFF REVIEW FORM - FINANCIAL OBLIGATION

XXX AGENDA REQUEST
CONTRACT REVIEW
GRANT REVIEW

For the Fayetteville City Council Meeting of: September 7, 2004

FROM:

Gary Dumas

Name Division Department

Operations Department

ACTION REQUIRED: APPROVAL OF 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 AND OTHER CONSIDERATION FOR THE CITY'S ACCEPTANCE OF OWNERSHIP OF A 33 ACRE LANDFILL

COST TO CITY:

\$50,000 est for survey	\$ 1,676,150.00	Community Park
Cost of this request	Category/Project Budget	Program Category / Project Name
2250.9255.2806.00		Parks Development
4470.9470.5806.00	\$ 53,600.00	Sales Tax Capital
Account Number	Funds Used to Date	Program / Project Category Name
02002	\$ 1,622,550.00	Sales Tax Capital/Parks
Project Number	Remaining Balance	Development

BUDGET REVIEW:

xxxx Budgeted Item Budget Adjustment Attached

Budget Manager

Date

CONTRACT/GRANT/LEASE REVIEW:

Accounting Manager

Date

Internal Auditor

Date

City Attorney

Date

Purchasing Manager

Date

STAFF RECOMMENDATION: Approve Resolution

Division Head

Date

Received in Mayor's Office

Date

Department Director

Date

Cross Reference:

Finance & Internal Services Dir.

Date

Previous Ord/Res#:

Chief Administrative Officer

Date

Orig. Contract Date:

Orig. Contract Number:

New Item:

Yes

No

City Officials Say Park Could Happen Next Year

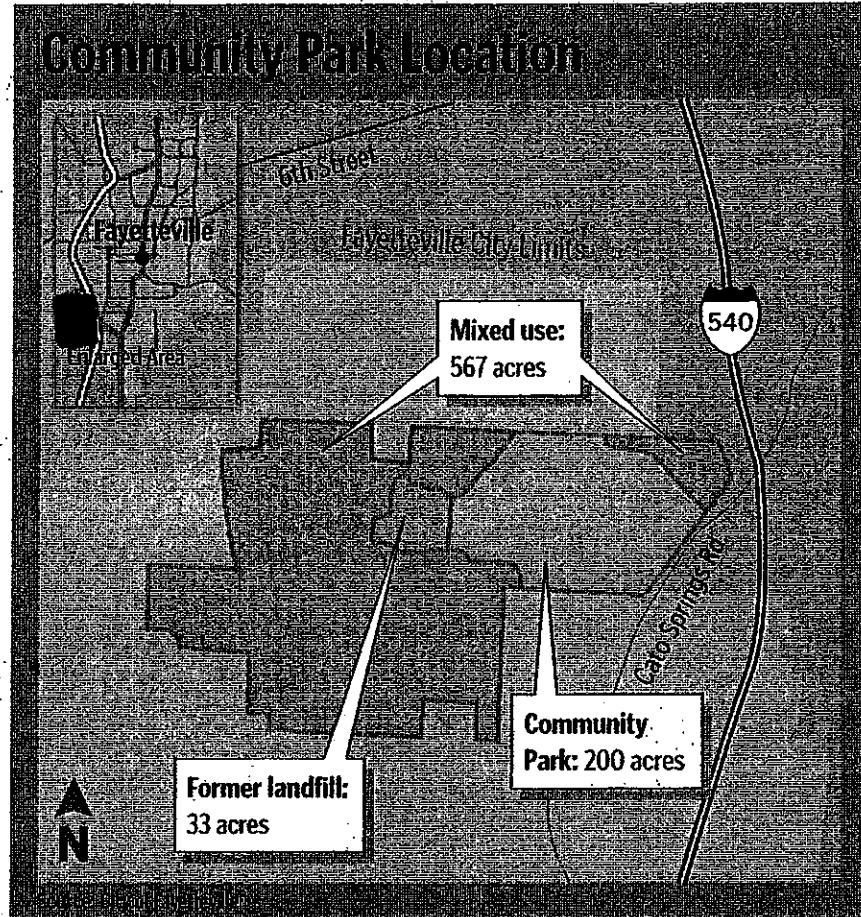
8-18-04

**earmarked funds
could cover
cost of project**

By Dan Craft

THE MORNING NEWS • DCRAFT@NWAONLINE.NET

FAYETTEVILLE — Fayetteville's part of the money needed to establish a new community park may be available as soon as January, city officials said Tuesday. The city's capital improvement plan calls for \$850,000 to be set aside for the project in 2005, matching an equal amount set aside under the plan for this year, said Gary Dumas, the director of operations. If costs come in on the lower side of estimates, the 2004 and 2005 funding would cover the full amount of the city's costs for the project, Dumas said. The city expects its portion of the cost to run between \$1.6 million and \$2 million, said Mayor Dan Coody.



MATT BAKER • THE MORNING NEWS

Pro Land Title
2713 SE I Street, Suite 7
Bentonville, AR 72712
479-271-6003 or Fax 479-271-6075

PLM
10/12/05
DEED
Special Warranty Deed
C & L Land Co.

ARCHIVED

City of Fayetteville
Attn: Mayor Dan Coody
113 W. Mountain
Fayetteville, AR 72703

Please find enclosed the following documents:

Original Special Warranty Deed

Thank you for choosing Professional Land Title Company of Arkansas to Close your Loan.

If you have any questions, please contact our office. Thank you for your business.

Sincerely,

Tiffany Blankenship

Tiffany Blankenship
Final Policy Department

Enc.



Doc ID: 009273010006 Type: REL
Recorded: 10/26/2005 at 01:33:40 PM
Fee Amt: \$23.00 Page 1 of 6
Washington County, AR
Bette Stamps Circuit Clerk

File **2005-00048123**

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

111-044

That C. & L. Land Co., Inc. a corporation organized under and by virtue of the laws of the State of Arkansas, by its President and Secretary, duly authorized by proper resolution of its Board of Directors, in consideration of the sum of TEN DOLLARS (\$10) and other valuable considerations, paid by the City of Fayetteville, Arkansas, the receipt of which is hereby acknowledged, does hereby grant, sell and convey unto the City of Fayetteville, Arkansas, its successors and assigns forever, the following described land situated in the County of Washington, State of Arkansas:

Starting at the SW Corner of Section 30 Township 16N
Range 30W.

Thence:

S87-20-41.0268E 947.368, S4-18-51.4876W 5.027, more
or less, to the point of beginning, said point being further
described in State Plane Coordinates at 658609.008
624159.812,

Thence:

N4-18-51.4876E 99.355,
N29-53-33.6022E 205.311,
N50-54-22.1080W 30.881,
S58-27-31.1659W 353.169,
N3-45-3.3747W 69.105,
N33-10-44.9698E 101.575,
N12-14-10.0074W 147.076,
N59-18-19.1298W 137.058,
N13-29-43.1727E 140.965,
N51-54-24.7299E 126.318,
N30-22-44.8536E 85.532,
N4-29-49.7458W 113.577,
N9-9-33.3492E 124.227,
N36-40-57.8683E 75.51,
N73-4-20.9530E 91.758,
N25-18-22.9532E 252.506,
N7-1-42.2265W 144.432,
N80-47-20.3042W 147.209,

N3-46-38.3683E 43.824,
N69-0-4.6115E 134.909,
N18-26-54.4537E 151.344,
N45-34-43.4121E 137.47,
N78-45-57.4792E 107.89,
S61-48-52.3953E 123.395,
S36-42-18.1263E 135.18,
S66-13-53.0714E 130.631,
S84-30-33.4630E 127.845,
S68-47-26.7859E 91.431,
N85-14-45.1645E 117.452,
S31-9-21.6273E 142.592,
S11-12-21.4110W 104.712,
S66-48-5.0744W 51.659,
S11-18-35.7569W 34.587,
S43-7-14.2372E 134.364,
S4-57-24.0658W 93.546,
S59-37-54.4190W 143.848,
S0-46-50.2966W 58.32,
S78-6-40.8311E 98.808,
S52-54-7.9019E 170.551,
S3-35-24.6717W 384.682,
S74-31-16.9026W 126.287,
N89-22-34.4361W 458.075,
S9-22-34.4779E 386.506,
S88-40-4.0085E 80.536,
S44-57-0.1837E 142.362,
Thence N87-23-13.6480W 802.329 to the P.O. B.

Containing 39.6 Acres More or Less

PROVIDED, however, this conveyance is subject to the following conditions
and exceptions:

1. Matters that would be reflected on an accurate ALTA/ACSM Land Title Survey
of the land, including all additional survey requirements;
2. Matters that are disclosed by the *Site Characterization Report, Former C&L
Landfill, West Washington County Road #200, Fayetteville, Washington County,
Arkansas;*

3. Applicable zoning, building and land use laws, codes and ordinances;
4. Public or private roads, highways, streets and alleys, if any;
5. Easements and restrictions of record; and
6. All oil, gas, coal and other minerals and minerals rights are reserved by the Grantor.

PROVIDED FURTHER the City of Fayetteville accepts title to the land subject to the conditions and exceptions stated herein and agrees that: (i) any park that is established on the land will be named in honor of Judge L. Maupin Cummings; and (ii) the said City will use and maintain the land in accordance with applicable laws and regulations.

TO HAVE AND TO HOLD the same unto the City of Fayetteville, Arkansas, its successors and assigns forever, with all tenements, appurtenances and hereditaments thereunto belonging. And C. & L. Land Co., Inc. hereby covenants with the City of Fayetteville, Arkansas that it will forever warrant and defend the title to said lands against all claims and encumbrances done or suffered by or through it, but against none other.

IN WITNESS WHEREOF, the name of the grantor is hereunto affixed by its President and its seal affixed by its Secretary, this 12th day of October, 2005.

C. & L. Land Co., Inc.

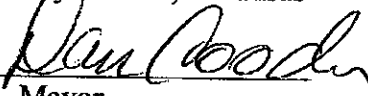
By _____
President

ATTEST:

_____
Secretary

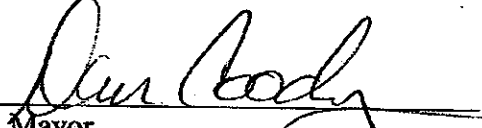
Conveyance of the land is accepted this 12th day of October, 2005.

City of Fayetteville, Arkansas

By 
Mayor

I certify under penalty of false swearing that at least the legally correct amount of documentary stamps has been placed on this instrument.

City of Fayetteville, Arkansas

By: 
Mayor

113. W. Mountain
Grantee's Address

ACKNOWLEDGMENT

STATE OF ARKANSAS)
)
COUNTY OF SEBASTIAN)

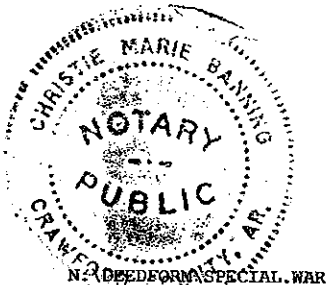
On this 12th day of October, 2005, before me, the undersigned, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Robert E. Hornberger, being the person or persons authorized by said corporation to execute such instrument, stating his respective capacities in that behalf, to me personally well known, who stated that he was the President and Secretary of C.&L. Land Co., Inc., a corporation, and is duly authorized in his respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 12th day of October, 2005.

Christie Marie Banning
NOTARY PUBLIC

My Commission Expires:

11-8-05



ACKNOWLEDGMENT

STATE OF ARKANSAS)

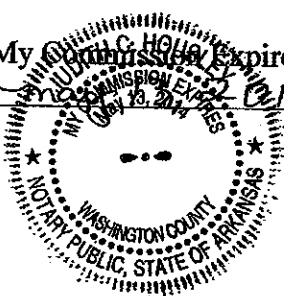
COUNTY OF Washington)

On this 13th day of October 2005, before me, a Notary Public, duly commissioned, qualified and acting within the State and County aforesaid, appeared in person the within named Dan Coady, to me personally well known, who stated that he is Mayor of the City of Fayetteville, Arkansas, and as such was duly authorized in that capacity to execute the foregoing instrument for and in the name and behalf of said city, and further stated and acknowledged that he had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

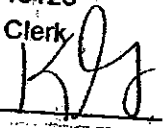
IN TESTIMONY WHEREOF, I have hereunto set my hand and seal on the date first mentioned above.

[Signature]
NOTARY PUBLIC

My Commission Expires: Oct 13, 2007





Washington County, AR
I certify this instrument was filed on
10/26/2005 01:33:40 PM
and recorded in Real Estate
File Number 2005-00048123
Bette Stamps - Circuit Clerk
by 

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

7-Oct-08

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 08-3117: (Southpass MSP Amendments): Submitted by Appian Centre for Design for property located south of Fayetteville at the intersection of Interstate 540 and Cato Springs Road. The property is zoned R-A, Residential Agricultural. The request is amend the current Master Street Plan to reflect the approved PZD for this property, realigning a portion of Shiloh Drive to the south and re-classifying Cato Springs Road from a Collector to a Principal Arterial as indicated in the attached maps.

N/A	N/A	N/A
Cost of this request	Category/Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name
	\$ -	

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 9.19.08
Department Director Date

[Signature] 9-19-08
City Attorney Date
This needs to go to the Street Committee FIRST

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Paul a. Beebe 9-19-08
Finance and Internal Service Director Date

[Signature] 9/21/08
Mayor Date

Received in City Clerk's Office
9-19-08 10:00
ENTERED

Received in Mayor's Office
9/19/08
ENTERED

Comments:

RESOLUTION NO. _____

A RESOLUTION FOR ADM 08-3117 AMENDING THE MASTER STREET PLAN, REALIGNING SHILOH DRIVE, A COLLECTOR, THROUGH THE SOUTHPASS PZD SITE SOUTH TO CATO SPRINGS ROAD, AND CHANGING THE DESIGNATION OF CATO SPRINGS ROAD FROM A COLLECTOR TO A PRINCIPAL ARTERIAL IN THE SOUTHPASS VICINITY, AS DESCRIBED AND DEPICTED IN THE ATTACHED MAPS.

WHEREAS, the Southpass Community Planned Development is extending Shiloh Drive into and through its site in the alignment that was presented and approved in R-PZD 08-2898 Southpass by the Planning Commission and City Council; and

WHEREAS, the City Council finds that a realignment of Shiloh Drive to the south as indicated in the attached maps maintains the integrity of the north-south Collector connection while routing the road through the Town Center of Southpass; and

WHEREAS, the City Council finds that changing the designation of Cato Springs Road from a Collector to a Principal Arterial in the location indicated is appropriate given that Cato Springs Road is anticipated to carry a high volume of traffic into and out of the Southpass site, will allow for the continuation of a major north-south transportation corridor from 6th Street to the southern border of the Southpass site, and will transition into a two-lane rural highway south of the Southpass site.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby amends the Master Street Plan as indicated in Exhibit "A," attached hereto and made a part hereof.

PASSED and APPROVED this ____ day of _____, 2008.

APPROVED:

ATTEST:

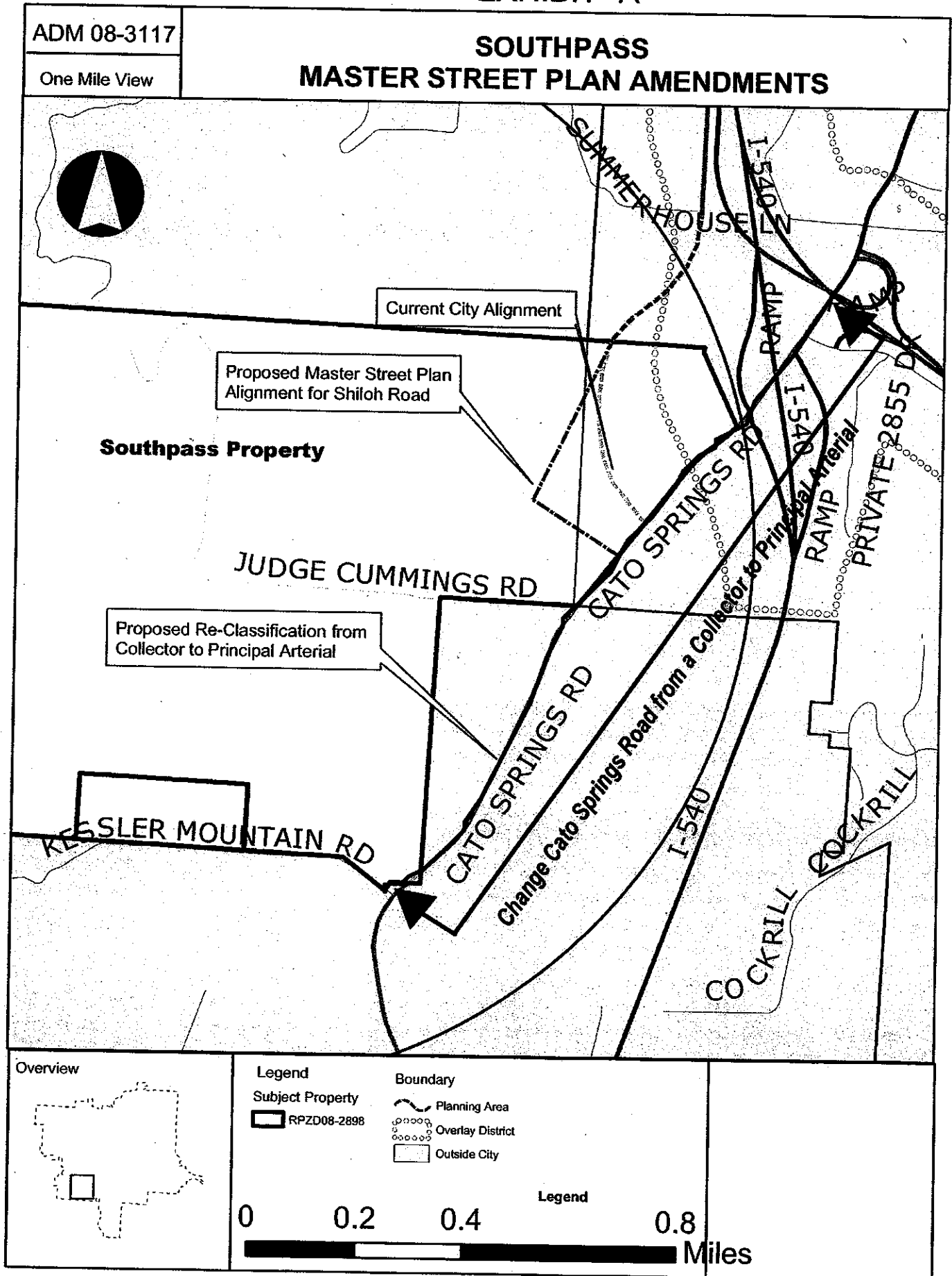
By: _____

By: _____

DAN COODY, Mayor

SONDRA SMITH, City Clerk

EXHIBIT "A"



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

10/7/2008
City Council Meeting Date

Ron Petrie
Submitted By

Engineering
Division

Operations
Department

Action Required:

A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future Community Park.

\$ -	N/A	N/A
Cost of this request	Category / Project Budget	Program Category / Project Name
N/A	N/A	N/A
Account Number	Funds Used to Date	Program / Project Category Name
N/A	N/A	N/A
Project Number	Remaining Balance	Fund Name

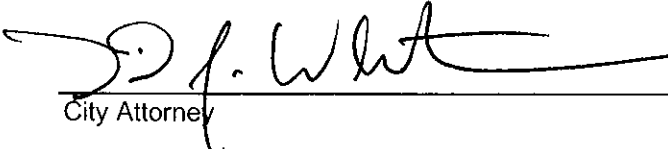
Budgeted Item ☒ Budget Adjustment Attached ☐


Department Director

9.19.08
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____


City Attorney

9/19/08
Date

Original Contract Number: _____

Paul A. Beck
Finance and Internal Service Director

9-22-08
Date

Received in City Clerk's Office
9-19-08 


Mayor

9/23/08
Date

Received in Mayor's Office 

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer

Date: September 20, 2008

Subject: A resolution expressing the willingness of the City of Fayetteville to cost share street and sewer infrastructure costs that would be utilized by both the SouthPass development and the future Community Park.

RECOMMENDATION:

In accordance with Resolution No. 138-04, city staff recommends approval of this resolution expressing the willingness of the City to cost share street and sewer infrastructure costs that would be utilized by both the Southpass Development and the future Community Park.

BACKGROUND:

In an effort to obtain a 200 acre Community Park for the citizens of Fayetteville, the Parks and Recreation Advisory Board studied available sites and determined that the Cummings's property was the most desirable site for the park. Since this property, located west of Cato Springs Road and adjacent to I-540, is 800 acres in size, it became necessary to solicit proposals from developers for a public/private partnership to make the Community Park feasible. The City Selection Committee selected Southpass Development Company, LLC and a contract was subsequently approved by the City Council on September 7, 2004.

DISCUSSION:

This approved contract states that "*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.*" On September 16, 2008 the City Council agreed to upgrade the sewer line contained in the Wastewater System Improvement Project's EL-3 in order to have the capability to serve the SouthPass area in the future. In addition, the developer agreed to fund 50% of this upgrade. At this point, the sewer line from EL-3 to the SouthPass/Community Park property will have to be addressed in order to provide service to both developments. City Staff has studied four (4) different routes for this sewer line (See Exhibit A) with an estimated cost range from \$1.49 million to \$4.02

million as shown on the attached cost estimates (See Exhibit B). The option with the lowest cost is recommended which would install a pump station on the property and route a force main to the north along the future extension of Shiloh Drive. An existing encasement under I-540 located to the north of the Cato Springs interchange would be utilized and the force main would discharge into an existing sewer line located on Custer Avenue. A portion of the Custer Avenue sewer line would need to be upgraded to 12" in size. This total cost has been estimated to be \$1.49 million which when split 50/50 would result in an estimated cost to the city in the amount of \$745,000. All of this sewer work would need to be installed as a part of the first Phase of construction either for the Park or SouthPass.

In the conceptual phase of developing the street layout, the Parks and Recreation staff and Advisory Board worked closely with the project designers to put together a plan that would serve both developments. The Community Park contains a perimeter road that will be utilized for both vehicular access and parallel parking in order to minimize the construction of parking lots for Park users. In an effort to reduce the City costs, portions of this perimeter road are also adjacent to lots that will be developed as a part of SouthPass. These street segments are recommended to be cost shared at a 50/50 ratio split along with the primary access road to Cato Springs Road. The portions of this perimeter road that are surrounded entirely by the Community Park would be 100% the City responsibility and would have to be paid by the Park Development fund. The costs for these street segments that will not be cost-shared and paid 100% by the City are not included in the attached cost estimates (Exhibit C).

The construction of the road through the 10 acre water tank site will provide the City a hard surface reliable access to this important City infrastructure component. It has been estimated that this construction would occur during Phase 11 of construction that has been predicted to be completed in 2023.

Shiloh Drive currently dead ends approximately ¼ mile north of the SouthPass property. During the Transportation Bond Program discussions at the Street Committee level, the construction of this road extension to Cato Springs Road was placed on a list for the future bond issue. This street extension will provide a secondary access to both the SouthPass and Community Park developments. The current proposal is for the City & developer to cost share 50/50 for the portion of this road that is contained through the SouthPass property and for the City to pay 100% for the street segment that is contained offsite of both the City and SouthPass property.

The attached drawing labeled Exhibit G shows a graphical representation of which streets will be cost shared, which streets that will be the full responsibility of the City, and which streets that will the full responsibility of the SouthPass Development Company. The two sheets shown as Exhibit C are cost estimates based on 2008 dollars that show the estimated year in which the funds would be needed to be available to align with the various phases of development of both the Community Park and the SouthPass Development. This time frame will span a period of 25 years.

In order to provide a full picture of the costs for all aspects of the project, the two sheets shown as Exhibit E were developed by the Parks and Recreation Division to provide a breakdown of the various cost components and a timeline of when the funds will need to be available. In addition, Exhibit D was also developed that shows the cost **(using 2008 cost numbers)** of the Community Park assuming that it is a stand alone development at this site and there would be no participation from any development. The primary differences in these costs is that without the partnership, the City would have to purchase the entire property instead of the land being donated, the City would not get \$1 million donated from the developer, and the City would have pay for 100% of all the necessary infrastructure in order to develop the park including streets, parking lots, water, and sewer. These cost estimates are summarized below:

Estimated Cost for Community Park with Southpass Partnership - \$26,168,218*
 Estimated Cost for Community Park w/o Southpass Partnership - \$39,115,229*

***THESE ESTIMATES ARE BASED ON 2008 DOLLARS AND HAVE NOT BEEN INFLATED FOR FUTURE YEAR EXPENSES**

BUDGET IMPACT:

Upon approval of the project, various cost share agreements as outlined on the attached exhibits would be submitted to the City Council for approval over the next 25 years as both the SouthPass development and the Community Park develops. The funds for these cost shares will be encumbered at the various phases of construction by separate approval. The following is a summary of the funds that could be utilized for the future cost share agreements:

ITEM	CITY FUND
Sewer Extension	Sewer Impact Fee Fund
Shiloh Drive	Transportation Bond Issue (Future)
Water Tank Street	Water/Sewer Fund
Remainder of Streets	Park Development Fund

RESOLUTION NO. _____

A RESOLUTION EXPRESSING THE WILLINGNESS OF THE CITY OF FAYETTEVILLE TO COST SHARE STREET AND SEWER INFRASTRUCTURE COSTS THAT WOULD BE UTILIZED BY BOTH THE SOUTH PASS DEVELOPMENT AND THE FUTURE COMMUNITY PARK

WHEREAS, Southpass Development Company, LLC is constructing an 800 acre (approximate) mixed use development on the west side of I-540 adjacent to Cato Springs Road in eighteen phases over an estimated 25 year time span, and

WHEREAS, *The Agreement to Acquire and Develop the Community Park for Fayetteville* that was approved by the City Council on September 7, 2004 stated that Southpass Development Company, LLC shall convey a Two Hundred (200) parcel for the Community Park upon approval of the Southpass Planned Zoning District, and

WHEREAS, this approved agreement stated that the City of Fayetteville and Southpass shall cost share (50/50) all costs of extending sewer to the Community Park site, and

WHEREAS, entering into a future cost-share agreement with Southpass Development Company, LLC will avoid unnecessary duplication of effort which would arise if each party constructed separate street and sewer systems to serve each development.

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 agrees that the City will participate in accordance with its designated responsibilities in this project as shown on the attached exhibits.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby pledges the City's full support and hereby authorizes Southpass Development Company, LLC to initiate action to implement this project.

PASSED and **APPROVED** this the _____ day of _____, 2008.

APPROVED:

By: _____
DAN COODY, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

* Attached as Exhibit A is a drawing of the recommended sewer route that would serve both the Southpass Development and the Community Park.

Attached as Exhibit B are cost estimates of the alternate sewer routes.

Attached as Exhibit C is a cost estimate based on 2008 dollars and timeline of the expected expenses for the streets that are to be paid partially or fully by the City of Fayetteville. This list excludes the streets fully within the Community Park that will be paid out of the Park Development Fund.

Attached as Exhibit D is a cost estimate of the full City of Fayetteville costs using 2008 dollars without the City utilizing a partnership agreement.

Attached as Exhibit E is a cost estimate of the full City of Fayetteville costs using 2008 dollars with the City utilizing a partnership with Southpass Development, Incorporated.

Attached as Exhibit F is a drawing of the proposed streets that reflects the responsibilities of the City of Fayetteville without the City utilizing a partnership agreement.

Attached as Exhibit G is a drawing of the proposed streets that reflects the responsibilities of both the City of Fayetteville and Southpass Development Company, LLC with the City utilizing a partnership agreement with Southpass Development, Incorporated.

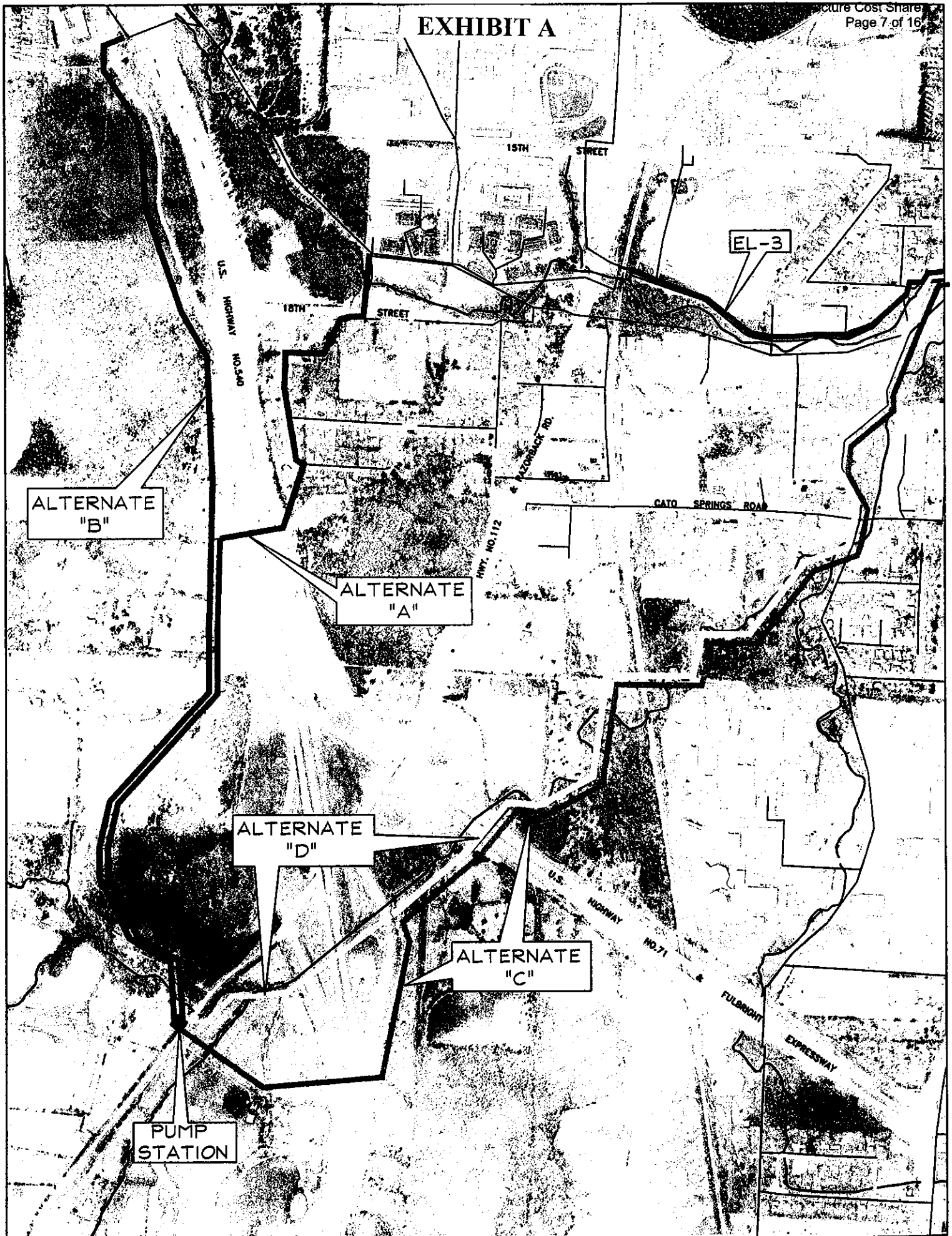


EXHIBIT B

EXHIBIT B

SOUTHPASS COST ESTIMATE FOR OFF SITE SEWER IMPROVEMENTS

Item	Description	19-Oct-07		Alternate C		Alternate B		Park Only		Alternate D		Recommended Alternate A	
		Price	2008	Price	2008	Price	2008	Price	2008	Price	2008	Price	2008
Pump Station													
	750 GPM Pump Station for Southpass Phase 1&2		\$165,000				\$165,000						\$165,000
	Backup Generator		\$49,500				\$49,500						\$49,500
	SCADA Control		\$16,500				\$16,500						\$16,500
	50 GPM for Park Only							\$16,500					
	Backup Generator							\$66,000					
								\$11,000					
Force Main													
	8" Force Main		\$109,560										\$348,480
	8" Force Main						\$557,040						
	3" Force Main							\$145,200					
Sewer Pipe													
	12" Gravity Sewer Pipe		\$639,540										\$207,900
	Manhole 4' Diameter to 8' Deep		\$96,800										\$52,800
	Manhole 5' Diameter to 8' Deep		\$21,450								\$21,450		
	24" Gravity Sewer Pipe		\$95,288								\$95,288		
	36" Bore and Casing (W Cato Springs)		\$57,750								\$57,750		
	24" Bore and Casing (Rail Road)		\$89,575										
	12" Gravity Sewer Pipe										\$695,475		
	Manhole 4' Diameter to 8' Deep										\$105,600		
	48" Bore and Casing (I-540)										\$1,210,000		
	36" Bore and Casing (Rail Road)										\$94,875		
	36" Bore and Casing (S Cato Springs)										\$57,750		
Misc Items													
	Removal and Disposal		\$11,000				\$11,000	\$5,500			\$11,000		\$11,000
	Maintenance of Traffic		\$1,650				\$5,500	\$1,650			\$1,650		\$5,500
	Restoration of Surfaces		\$22,000				\$22,000	\$5,500			\$22,000		\$22,000
	Fencing & Erosion Control		\$11,000				\$11,000	\$5,500			\$11,000		\$11,000
	Utility Relocation		\$5,500				\$5,500	\$1,100			\$5,500		\$5,500
	Special Conditions (Creek Crossings)		\$22,000				\$22,000				\$22,000		\$22,000
	Odor Control		\$71,500				\$44,000	\$13,200			\$121,000		\$44,000
	Mobilization												
Construction Subtotal			\$1,465,613				\$909,040	\$276,650			\$2,532,338		\$961,180
Engineering													
	Engineering, Survey, & Land Acquisition (15% of 2008 Const.)		\$199,856				\$123,960	\$37,725			\$345,319		\$131,070
Easements													
	30ft Utility Easement		\$1,020,600				\$675,200	\$84,800			\$726,600		\$84,800
	20ft Utility Easement							\$168,800					\$168,800
	10ft Utility Easement						\$67,520	\$8,480			\$48,440		\$8,480
	10ft Construction Easement												
Subtotal			\$2,754,109				\$1,775,720	\$576,455			\$3,652,697		\$1,354,330
Contingencies (10%)			\$275,411				\$177,572	\$57,646			\$365,270		\$135,433
Off Site Improvements													
	Ultimate Buildout												
	Increase capacity by 2MGD (6" increase in diam. Of EL-3)												
TOTAL			\$3,029,520				\$1,953,292	\$634,101			\$4,017,967		\$1,489,763

EXHIBIT C

SouthPass Community and Community Park Street Cost Sharing Calculations Prepared by City of Fayetteville, Engineering Division

SouthPass Phasing	Start of Construction	LF per Phase	Cost/LF Using SouthPass Section	Total Cost Using SouthPass Section	City %	City Cost
Phase 1*	2009	5188	\$536	\$2,846,395	50%	\$423,198
Phase 2	2010	1659	\$610	\$1,011,990	50%	\$505,995
Phase 6	2015	1767	\$468	\$832,800	50%	\$416,400
Phase 7	2016	662	\$460	\$304,520	50%	\$152,260
Phase 13	2024	2323	\$450	\$1,045,350	50%	\$522,675
Phase 16	2027	1606	\$450	\$722,700	50%	\$361,350
Water Tower Ext.-Phase 11	2021	2585	\$350	\$904,750	100%	\$904,750
Shiloh Drive Extension-Phase 15	2027	1360	\$350	\$476,000	100%	\$476,000
Subtotal				\$8,144,505		\$3,762,628
10% Contingency**				\$814,451		\$476,263
15% Engineering/Const. Mgmt.**				\$1,221,676		\$714,394
Totals-In 2008 Dollars				\$10,180,631		\$4,953,284

* "City Cost" for Phase 1 includes developer contribution of \$1,000,000 to be used for Phase I construction.

** Contingency and Engineering are calculated without developer's contribution.

EXHIBIT C

SouthPass Community and Community Park Street Cost Sharing Estimated City Costs-2008 Dollars

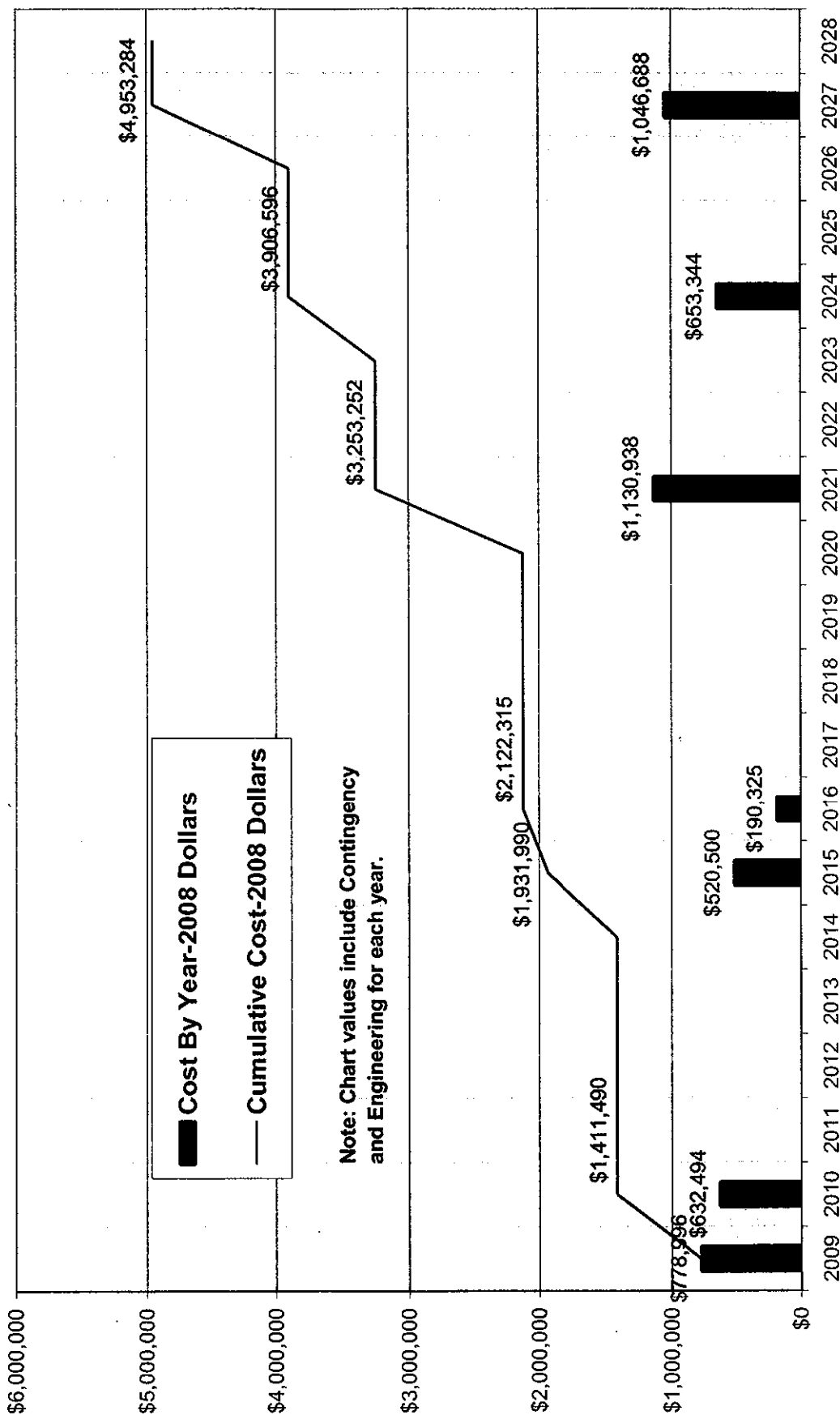


EXHIBIT D

D. 11

Southpass Development
Infrastructure Cost Share
Page 11 of 16

Regional Park Costs Without Southpass				
Phase	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Phase 1	Soccer (lighted)	4	\$ 200,000.00	\$ 800,000.00
	Soccer (unlighted)	4	\$ 100,000.00	\$ 400,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	large playground	1	\$ 150,000.00	\$ 150,000.00
	splash pad	1	\$ 215,000.00	\$ 215,000.00
	large shelter	1	\$ 150,000.00	\$ 150,000.00
	art landscaping	1	\$ 10,000.00	\$ 10,000.00
	water	1	\$ 100,000.00	\$ 100,000.00
	electric-includes main power to park	1		\$ -
	Amenities	1	\$ 150,000.00	\$ 150,000.00
Total Phase 1				\$ 2,325,000.00
Phase 2	lighted fields	8	\$ 655,000.00	\$ 5,240,000.00
	concession/restroom	2	\$ 350,000.00	\$ 700,000.00
	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	small playground	1	\$ 50,000.00	\$ 50,000.00
	splash pad	1	\$ 215,000.00	\$ 215,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	Infrastructure			
	Amenities			
Total Phase 2				\$ 6,372,000.00
Phase 3	unlighted fields	4	\$ 530,000.00	\$ 2,120,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	Multi-purpose fields	1	\$ 100,000.00	\$ 100,000.00
	large amphitheater	1	\$ 300,000.00	\$ 300,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	Infrastructure			
Total Phase 3				\$ 3,087,000.00
Phase 4	unlighted fields	4	\$ 175,000.00	\$ 700,000.00
	concession/restroom	4	\$ 175,000.00	\$ 700,000.00
	Multi-purpose fields	4	\$ 175,000.00	\$ 700,000.00
	large amphitheater	4	\$ 175,000.00	\$ 700,000.00
	trails	4	\$ 175,000.00	\$ 700,000.00
	small pavilion	4	\$ 175,000.00	\$ 700,000.00
	water	4	\$ 175,000.00	\$ 700,000.00
	sewer	4	\$ 175,000.00	\$ 700,000.00
	electric	4	\$ 175,000.00	\$ 700,000.00
	Infrastructure			
Total Phase 4				\$ 2,800,000.00
Phase 5	Multi-purpose fields	4	\$ 100,000.00	\$ 400,000.00
	Landscaping	1	\$ 40,000.00	\$ 40,000.00
	trails	1	\$ 150,000.00	\$ 150,000.00
	small amphitheater	1	\$ 50,000.00	\$ 50,000.00
	disc golf	1	\$ 25,000.00	\$ 25,000.00
	Infrastructure			
	Amenities			
	Subtotal Phases			\$ 13,552,000.00
	Design and Engineering of Park - 10%			\$ 1,355,200.00
	Contingency - 10%			\$ 1,355,200.00
Total Park				\$ 16,262,400.00
land purchase		200	\$ 40,000.00	\$ 8,000,000.00
Street and sewer infrastructure	Shiloh Extension from park to existing road to water tanks	3627	\$ 350.00	\$ 1,269,450.00
	sewer	2585	\$ 350.00	\$ 904,750.00
	sewer- EL3	1	\$ 507,200.00	\$ 507,200.00
	park roads	1,425	\$ 89,115.00	\$ 89,115.00
	park roads	4,990	\$ 810.00	\$ 889,250.00
	park roads	1431	\$ 536.00	\$ 2,674,640.00
	park roads	5,620	\$ 468.00	\$ 669,708.00
	park roads	3,142	\$ 450.00	\$ 2,529,000.00
	total linear feet	22,820	\$ 350.00	\$ 1,099,700.00
	Subtotal infrastructure			\$ 11,882,263.00
Design and Engineering of Infrastructure - 15%				\$ 1,782,339.45
Contingency Infrastructure - 10%				\$ 1,188,226.30
Total Infrastructure				\$ 14,852,828.75
Total costs				\$ 39,115,228.75

EXHIBIT E

Regional Park Costs with Southpass				
Phase 1	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Soccer	Soccer (lighted)	4	\$ 200,000.00	\$ 800,000.00
	Soccer (unlighted)	4	\$ 100,000.00	\$ 400,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
	large playground	1	\$ 150,000.00	\$ 150,000.00
Great Lawn Area	large splash pad	1	\$ 215,000.00	\$ 215,000.00
	large shelter	1	\$ 150,000.00	\$ 150,000.00
	art, landscaping	1	\$ 10,000.00	\$ 10,000.00
Infrastructure	water	1	\$ 100,000.00	\$ 100,000.00
	electric-includes main power to park	1		\$ -
Amenities	benches	1	\$ 150,000.00	\$ 150,000.00
Total Phase 1				\$ 2,325,000.00
Phase 2	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Youth Baseball	lighted fields	0	\$ 655,000.00	\$ -
	concession/restroom	2	\$ 350,000.00	\$ 700,000.00
Infrastructure	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
	small playground	1	\$ 50,000.00	\$ 50,000.00
Amenities	large splash pad	1	\$ 215,000.00	\$ 215,000.00
	benches	1	\$ 150,000.00	\$ 150,000.00
Total Phase 2				\$ 6,372,000.00
Phase 3	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Youth Softball	unlighted fields	4	\$ 530,000.00	\$ 2,120,000.00
	concession/restroom	1	\$ 350,000.00	\$ 350,000.00
Multi-purpose fields	unlighted fields	1	\$ 100,000.00	\$ 100,000.00
	large amphitheater	1	\$ 300,000.00	\$ 300,000.00
Amenities	benches	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
Infrastructure	water	1	\$ 5,000.00	\$ 5,000.00
	sewer	1	\$ 7,000.00	\$ 7,000.00
	electric	1	\$ 5,000.00	\$ 5,000.00
Total Phase 3				\$ 3,087,000.00
Phase 4	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Tennis	lighted courts	8	\$ 75,000.00	\$ 600,000.00
	unlighted courts	4	\$ 75,000.00	\$ 300,000.00
Volleyball	lighted sand courts	4	\$ 7,000.00	\$ 28,000.00
	unlighted sand courts	1	\$ 25,000.00	\$ 25,000.00
Amenities	benches	1	\$ 150,000.00	\$ 150,000.00
	small pavilion	1	\$ 50,000.00	\$ 50,000.00
Total Phase 4				\$ 1,103,000.00
Phase 5	Facility	QTY.	Estimated Unit Cost	Estimated Total Cost
Multi-purpose fields	unlighted fields	4	\$ 100,000.00	\$ 400,000.00
	landscaping	1	\$ 40,000.00	\$ 40,000.00
Amenities	benches	1	\$ 150,000.00	\$ 150,000.00
	small amphitheater	1	\$ 50,000.00	\$ 50,000.00
Total Phase 5				\$ 665,000.00
Subtotal Phases				\$ 13,552,000.00
Design and Engineering of Park - 10%				\$ 1,355,200.00
Contingency - 10%				\$ 1,355,200.00
Total phases				\$ 16,262,400.00
Park street and infrastructure	Shoich extension from Southpass to existing Shoich road to water tanks	1380	\$ 350.00	\$ 478,000.00
	road to water tanks	2500	\$ 350.00	\$ 875,000.00
	sewer	1	\$ 595,904.00	\$ 595,904.00
	park roads	2,721	\$ 536.00	\$ 1,458,456.00
	park roads	337	\$ 468.00	\$ 157,716.00
	park roads	1,445	\$ 450.00	\$ 650,250.00
	park roads	3,142	\$ 350.00	\$ 1,099,700.00
Total parks				\$ 5,312,776.00
50% Street Cost Share with Southpass	roads	1,659	\$ 619.00	\$ 1,016,881.00
	roads	5,188	\$ 346.65	\$ 1,800,188.00
	roads	1,767	\$ 471.31	\$ 831,400.00
	roads	682	\$ 480.00	\$ 327,360.00
Total cost share				\$ 3,981,829.00
Subtotal Infrastructure				\$ 9,294,605.00
Design and Engineering of Infrastructure - 15%				\$ 1,394,690.75
Contingency of Infrastructure - 10%				\$ 929,460.50
Total Infrastructure				\$ 11,618,756.25
Donation from Southpass				\$ (1,000,000.00)
Total costs				\$ 20,618,756.25

EXHIBIT E

Regional Park Estimated Costs with SouthPass

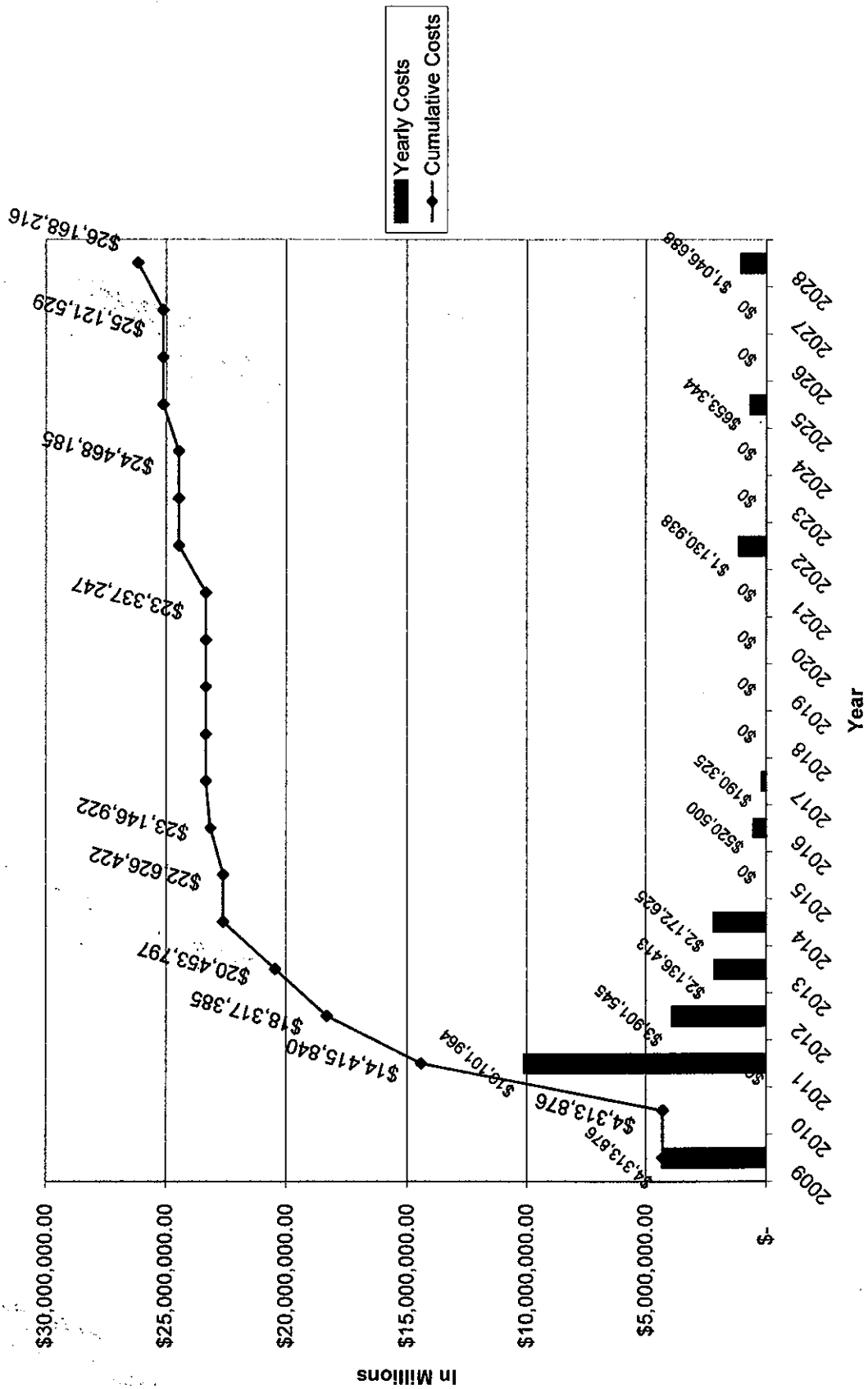
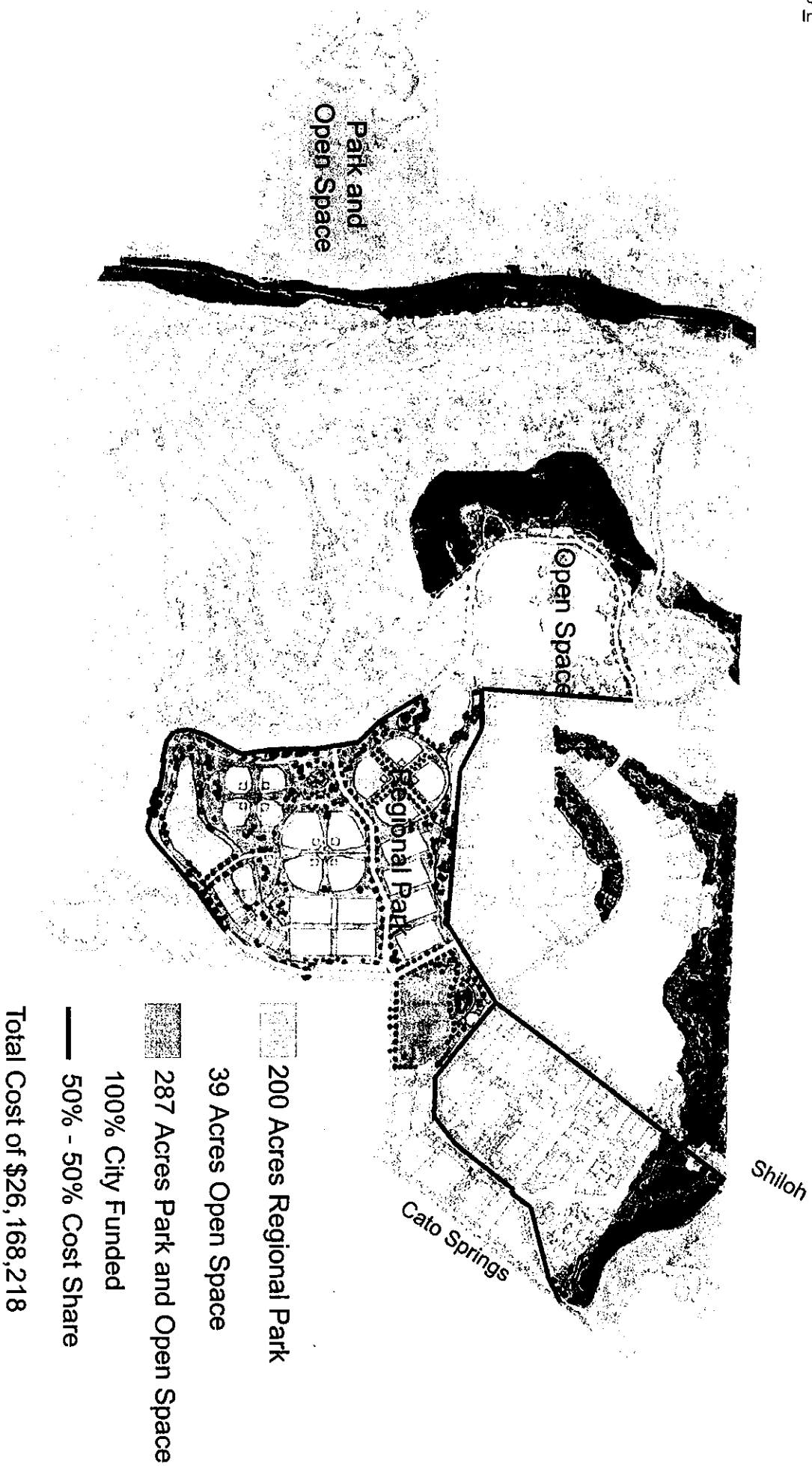
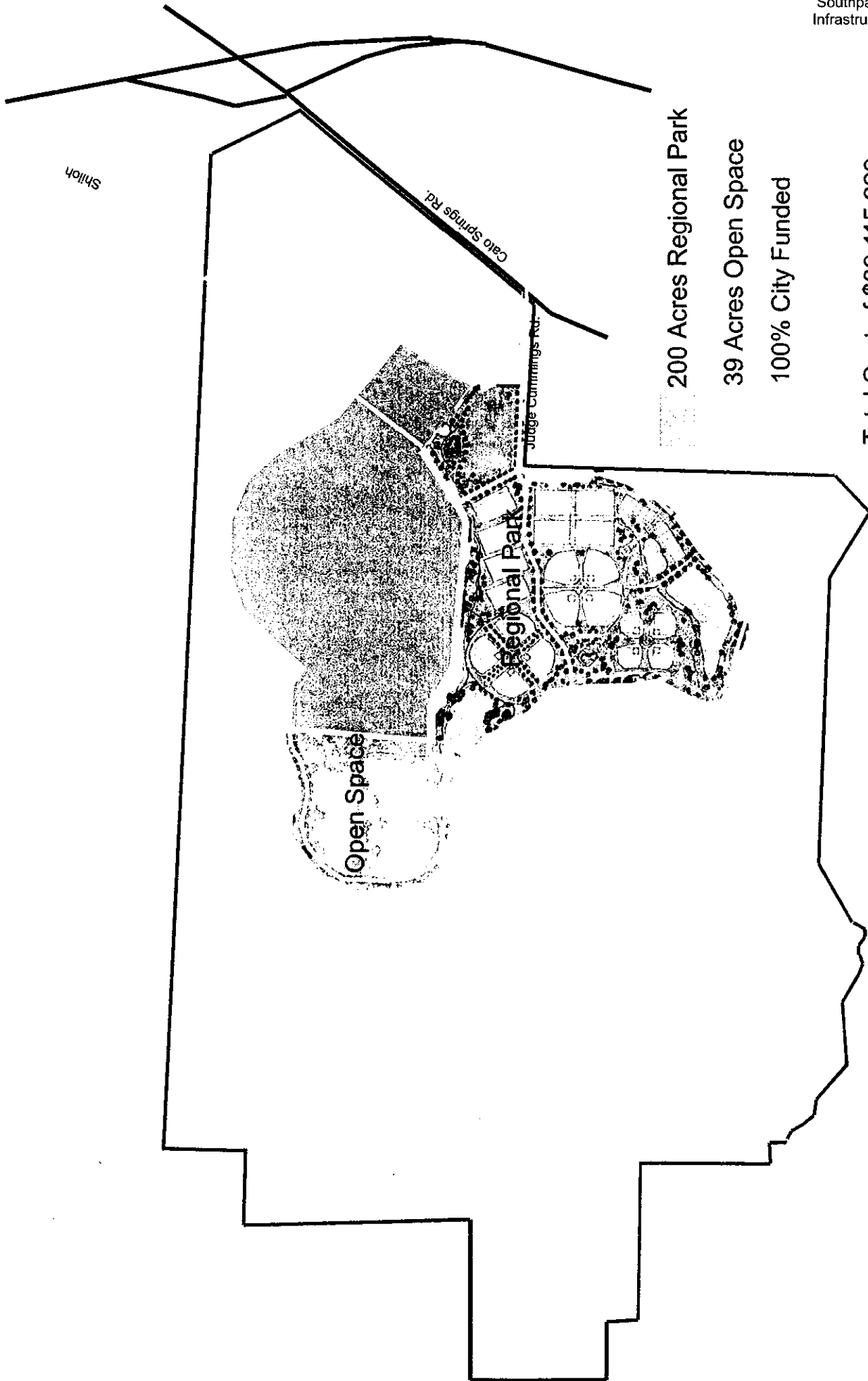


EXHIBIT G



Regional Park with SouthPass

EXHIBIT F



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

*Handed out at
Agenda Session
9/30/08*

D. 12
Fayetteville Government Channel Policy
Page 1 of 6



LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor
City Council
Susan Thomas
Shelli Bell, Telecommunications Board Chair

FROM: **Kit Williams**, City Attorney

A handwritten signature of Kit Williams, written in dark ink, extending across the line.

DATE: **September 30, 2008**

RE: **Fayetteville Government Channel Policy**

We need to give a big thanks to Shelli Bell and her Telecom Board for its hard work reviewing the policy for the Government Channel and their recommendation for reasonable changes. From a legal and constitutional point of view, I believe that the suggested changes to current policy adopted by Resolution NO. 2746 are worthwhile and fair.

I do recommend some stylistic changes to paragraph C.4. to clarify exactly what the candidate forums and ballot issue forums are and how they should be handled. I have attached a slightly modified version of the policy as the Exhibit A for the Resolution for your consideration.

My first change would in C.4. Moderated Public Forums. Rather than "Declared candidates for any public office" (anyone could declare their candidacy for any office at any time), I recommend we limit these to real candidates who have already legally filed to run for office: "Candidates that have legally filed for an elective office which can be voted upon by Fayetteville citizens. . . ." This would limit such debates on our local government channel to those who have legally filed to seek an elective office which a Fayetteville citizen could vote for. This would be a long list: all City of Fayetteville elective offices; all Fayetteville School Board positions; some or all Farmington and Springdale School Board positions; all Quorum Court members whose district includes any of Fayetteville; all County-wide elective offices (County Judge, County Clerk, etc.); any State Representative or Senate position whose district includes a portion of Fayetteville; Third Congressional District and United States Senate candidates; all state-wide elective offices; and candidates for President and Vice President.

My second proposed change is a rewrite of the ballot initiative language for improved clarity only. I recommend that the following be used to replace the current second sentence of C.4.

“Candidates that have legally filed for an elective office which can be voted upon by Fayetteville citizens and advocates/opponents of any referendum or initiative that can be voted upon by Fayetteville citizens will be eligible to appear only in a moderated public forum venue.”

My third proposed change is to remove the old language providing that the Cable Administrator would decide whether or not to cancel a debate (moderated public forum) if one candidate or the advocate/opponent of a ballot issue would not appear. One side's refusal to appear to debate should not prevent the other side from participating in the moderated forum (which would, in effect, squelch the other side's freedom of speech). Thus, I have rewritten this language to ensure a debate cannot be canceled because one side refuses to participate.

I have also corrected some typos in the Editing and Other Content section, paragraph C. where it now reads: “outside agencies **of** declared candidates”, but was probably meant to read: “outside agencies **or** declared candidates.” I also deleted C. and D. from the Appeals sections that were just inadvertent copies of the paragraphs in the previous section.

With these minor drafting changes, I believe the recommendations from the Telecommunications Board clarify and improve the Government Channel's Use and Programming Policy.

EXHIBIT 'A'

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

INTRODUCTION

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

I. TELECOMMUNICATIONS BOARD

The Fayetteville Telecommunications Board was created under Ordinance 4504, Chapter 33, which authorizes the board "to facilitate the creation of policies regarding cable cast material selection, time guidelines for cablecast material, viewer and facility user complaint feedback practices, and other such policies regarding the use and administration" of the Government Channel. The purpose of this policy is to establish

(a) the criteria for which Governmental entities and related organizations are eligible to have programming on the channel and (b) allow the Government Channel staff to operate without determining the programming content.

POLICIES

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

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

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

B. SECOND LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL PROGRAMS

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

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

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

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

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

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEEES

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

4. MODERATED PUBLIC FORUMS

Third level priority will also be given to two types of moderated public forums: candidate forums and ballot issue forums. Candidates that have legally filed for an elective office which can be voted upon by Fayetteville citizens and advocates/opponents of any referendum or initiative that can be voted upon by Fayetteville citizens will be eligible to appear only in a moderated public forum venue. All such candidates or sides of an issue are to be given an equal opportunity to appear in public moderated forums. A moderated public forum will not be cancelled just because one candidate or side of a ballot issue refuses to appear to debate. The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election. The City, through the Cable Administration Division, may conduct one ballot issue forum before each election. No candidate forums will be held before the last filing deadline. All election forums and debates will be moderated by a non-partisan group (such as, but not limited to, the League of Women Voters) and will be overseen by a public forum committee, responsible for considering the issue representation with regard to participants, and format.

D. BULLETIN BOARD MESSAGES

Last priority will go to the "Government Channel Bulletin Board." The bulletin board will provide printed information about both City and community events and services when other

programs are not being cablecast. It may also be used to inform residents of other "free" community events and activities.

COVERAGE REQUESTS

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

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

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

EDITING AND OTHER CONTENT POLICIES

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

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

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

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

APPEALS OF COVERAGE OR PROCEDURAL ISSUES

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

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

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
October 7, 2008**

A meeting of the Fayetteville City Council will be held on October 7, 2008 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Agenda Session Presentations:

- 1. Illinois River Watershed Partnership Annual Report - Dr. Delia Haak**
- 2. On-going Recycling Study Presentation given by R.W. Beck**
- 3. Southpass Informational Item**

Mayor's Announcements, Proclamations and Recognitions:

- 1. Methamphetamine Awareness Month**

Presentations, Reports and Discussion Items:

- 1. Fayetteville Town Center Annual Report given by Sandra Bennett, Facilities Manager of Fayetteville Town Center**
- 2. Off Street Parking Improvement District No. 1 Board Vacancy:**
Approve the appointment of Rick Woods
(Appointed by the District and Approved by the City Council)

3. The November 4, 2008 City Council meeting will be on Election Day. Do we want to change the meeting date?

Agenda Additions:

A. Consent:

1. Approval of the September 16, 2008 City Council meeting minutes.
2. **Bid # 08-58 Golden Circle Ford:** A resolution awarding Bid # 08-58 and approving the purchase of one (1) sign body truck with crane from Golden Circle Ford in the amount of \$72,660.00 for use by the Transportation/Traffic Division, such approval being contingent upon the sign body meeting the required specifications.
3. **AOT Public Safety Corporation:** A resolution approving a contract with AOT Public Safety Corporation, pursuant to RFP # 08-03, to provide false alarm reduction administrative services to the City of Fayetteville.
4. **Fayetteville Government Channel Policy:** A resolution adopting the recommendations of the Telecommunications Board and approving changes to the City of Fayetteville Government Channel Policy.
5. **McClelland Consulting Engineers Inc. Task Order # 5:** A resolution approving Task Order # 5 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs and bidding associated with the Runway 16 Safety Area Improvements at Drake Field; authorizing the Airport Staff to apply for and accept a grant from the FAA with a matching grant from the Arkansas Department of Aeronautics; and approving a budget adjustment.
6. **Hazard Mitigation Plan:** A resolution adopting the Hazard Mitigation Plan for Washington County.

B. Unfinished Business:

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

One is a full-time Animal Services Officer – Animal Services

One Part-Time Caregiver- Animal Services

2. **Epperly Condemnation:** A resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel and Reba Epperly. ***This resolution was tabled at the September 2, 2008 City Council meeting to the October 7, 2008 City Council meeting.***

3. **ADM 08-3093 (Hill Place Culvert Removal):** A resolution to approve a request to modify and replant a portion of the tree preservation area associated with Hill Place PZD, in order to remove a culvert within College Branch Creek and to install a vehicular bridge, as described herein. *This resolution was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.*
4. **Amberwood Place Appeal:** An ordinance establishing a Residential Planned Zoning District titled R-PZD 08-2965, Amberwood Place, located south and east of Double Springs and Dot Tipton Road; containing approximately 39.98 acres; amending the official zoning map of the City of Fayetteville; and adopting the associated master development plan. *This ordinance was tabled at the September 2, 2008 City Council meeting to the September 16, 2008 City Council meeting. This ordinance was tabled at the September 16, 2008 City Council meeting to the October 7, 2008 City Council meeting.*

C. Public Hearing:

1. **Fayetteville Farmington Land Swap Public Hearing:** The Farmington City Council passed Ordinance 2008-15 on September 8, 2008, detaching approximately 8.035 acres from Fayetteville and annexing the property into Farmington.

D. New Business:

1. **Illinois River Watershed Partnership:** An ordinance waiving the requirements of §34.23, (purchases and contracts not in excess of \$20,000.00), of the Fayetteville Code of Ordinances and approving a contract with the Illinois River Watershed Partnership (IRWP) in the amount of \$10,000.00 for watershed education and planning services.
2. **Amend Chapter 71, Traffic Rules:** An ordinance to enact Article XI Operation of Vehicles and use of city trails in Chapter 71 Traffic Rules of the Fayetteville City Code.
3. **Amend Chapter 157, ADM 08-3021 (UDC Chapter 157 Notification):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 157: Notification, to consolidate and clarify required notification for items being considered at certain public meetings.
4. **Amend Chapter 158, Bonds and Guarantees:** An ordinance amending Chapter 158: Bonds and Guarantees, of the Unified Development Code, to accept a guarantee to satisfy the maintenance requirements for public improvements.
5. **Amend Chapter 164, ADM 08-3094 (UDC Chapter 164.04 Animals & Fowl):** An ordinance amending the Unified Development Code by repealing and replacing Chapter 164.04: Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the city, subject to the restrictions herein.
6. **Amend Chapter 178, ADM 08-3054 (Sidewalk Café and Vendor Ordinance):** An ordinance amending the Unified Development Code by repealing Chapter 178: Sidewalk Cafes and replacing it with Chapter 178: Outdoor Vendors.

- 7. Smith Two Way Radio Appeal:** An appeal of the conditions of approval for the conditional use for Smith Communications/Township CUP 08-3050.

Announcements:

- 1. City Council Tour: October 6, 2008**

Adjournment:

NOTICE TO MEMBERS OF THE AUDIENCE

All interested parties may appear and be heard before the City Council. If you wish to address the City Council on an agenda item please queue behind the podium when the Chair asks for public comment. Once the chair recognizes you, go to the podium and give your name and address. Address your comments to the Chair, who is the presiding officer. The Chair will direct your comments to the appropriate elected official, staff member or others for response. Please keep your comments brief, to the point and relevant to the agenda item being considered so that everyone has a chance to speak.

Interpreters or TDD for hearing impaired are available for all City Council meetings, a 72 hour advance notice is required. For further information or to request an interpreter, please call 575-8330.

As a courtesy please turn off all cell phones and pagers.

A copy of the City Council agenda is available at accessfayetteville.org or in the office of the City Clerk, 113 West Mountain, Fayetteville, Arkansas.

SEP 18 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

PETITION AND NOMINATION
TO FILL VACANCY ON THE
OFF STREET PARKING IMPROVEMENT DISTRICT NO. 1
OF THE CITY OF FAYETTEVILLE, ARKANSAS
BOARD OF IMPROVEMENT

To: Mayor Dan Coody and the City Council of the City of Fayetteville, Arkansas.

Pursuant to Arkansas Code Annotated Section 14-88-304, and a petition dated March 16, 2005, the City Council, on April 19, 2005, appointed Rick Woods to serve as a member of the Off Street Parking Improvement District No. 1 of the City of Fayetteville, Arkansas, Board of Improvement. Through an oversight, the Oath of Office provided for in Arkansas Code Annotated Section 14-88-302 was not filed within the ten days mandated by that Section and therefore the position is deemed to be vacant. Therefore the undersigns, property owners in the said District, hereby petition that Rick Woods be appointed as Commissioner to fill the position.

By signing below, we, the Petitioners, certify that we are property owners in the District.

Dated this 18 day of September 2008.

PETITIONERS

[Signature] George B. Morton 118 d. Block
Fayetteville
Bobby Lee Adam Bobby Lee Adam 1 East Mountain
Fayetteville, Ar
Elamar Pettus Elamar Pettus 3899 N. Sassafras Hill Rd
David B. Huff 109 N. Block, Ave.
Helen B. Huff 109 N. Block
Ave.

City of Fayetteville Staff Review Form

A. 2
Bid # 08-58 Golden Circle Ford
Page 1 of 6City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items Only

Dennis Pratt

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding Bid #08-58 to Golden Circle Ford in the amount of \$72,660.00 for the purchase of a Sign Body truck with crane for use by Transportation Traffic Division, contingent upon the sign body meeting City specifications.

\$ 72,660.00

Cost of this request

\$ 546,618.00

Category / Project Budget

Light/Medium Utility Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$ 397,983.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02078.2007

Project Number

\$ 148,635.00

Remaining Balance

Shop

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

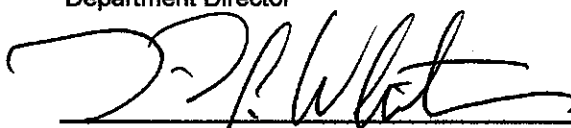


Department Director

9-18-08

Date

Previous Ordinance or Resolution #



City Attorney

9/19/08

Date

Original Contract Date:

Original Contract Number:



Finance and Internal Service Director

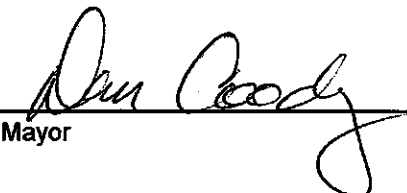
9-21-08

Date

Received in City
Clerk's Office

9-18-08

ENTERED



Mayor

9/22/08

Date

Received in
Mayor's OfficeENTERED
9/19/08

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425

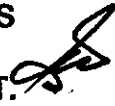


A. 2
rcle Ford
age 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DENNIS PRATT, FLEET OPERATIONS SUPT. 

DATE: SEPTEMBER 17, 2008

SUBJECT: Purchase of one Sign Body truck with crane

RECOMMENDATION: That City Council approve the purchase of one sign body truck with crane for assignment to the Transportation Traffic Division in the amount of \$72,660.

BACKGROUND: Bid #08-58 was opened on September 10, 2008 for one sign body truck with crane for assignment to the Transportation Traffic Division. Five bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #317, a 1999 Ford that was budgeted for replacement in 2006. Much of the delay is the result of difficulty finding a body manufacturer to build a sign body to our specifications. That has now been accomplished.

The low bid from Golden Circle Ford meets all specifications for the truck, sign body and crane. The vendor has advised that they will send CAD drawings of the sign body once a Purchase Order is received so the City can determine that it does in fact meet specs.

I recommend acceptance of the bid from Golden Circle Ford in the amount of \$72,660.

Funds for this purchase are available in Fleet project #02078 – Light / Medium Utility Vehicles.

This purchase was approved by the Equipment Committee on September 16th, 2008, contingent upon the sign body meeting City specifications.

CC: Gary Dumas

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #08-58 AND APPROVING THE PURCHASE OF ONE (1) SIGN BODY TRUCK WITH CRANE FROM GOLDEN CIRCLE FORD IN THE AMOUNT OF \$72,660.00 FOR USE BY THE TRANSPORTATION/TRAFFIC DIVISION, SUCH APPROVAL BEING CONTINGENT UPON THE SIGN BODY MEETING THE REQUIRED SPECIFICATIONS.

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 #08-58 and approving the purchase of one (1) sign body truck with crane from Golden Circle Ford in the amount of \$72,660.00 for use by the Transportation/Traffic Division, such approval being contingent upon the sign body meeting the required specifications.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: Dennis Pratt, Fleet Operations Supt *DP*

DATE: Sept. 15, 2008

SUBJECT: Award of Bid 08-58

Bid #08-58 was opened on September 10, 2008 for one sign body truck with crane for assignment to the Transportation Traffic Division. Five bid responses were received. A detailed tabulation sheet is attached.

This unit is a replacement for #317, a 1999 Ford that was budgeted for replacement in 2006. Much of the delay is the result of difficulty finding a body manufacturer to build a sign body to our specifications. That has now been accomplished.

The low bid from Golden Circle Ford meets all specifications for the truck, sign body and crane.

I recommend acceptance of the bid from Golden Circle Ford in the amount of \$72,660.

Funds for this purchase are available in Fleet project #02078 – Light / Medium Utility Vehicles.

Cc:
Gary Dumas

9-16-8
Approved
Unanimously
BD.

BID: 08-58
9/10/2008
2:00 PM
CITY OF FAYETTEVILLE



Bid 08-58, Sign Body Truck with Crane

Bidder	Manufacturer	Model	Total Bid Price
1 Golden Circle Ford Item 1 Item 2 Item 3	2009 Ford Reading Auto Crane	F550 UR132AHH-DW Custom Service Body 3203FM	\$33,289.00 \$23,875.00 \$15,496.00 \$72,660.00
2 Landers Ford Lincoln Mercury Item 1 Item 2 Item 3	Ford Reading Auto Crane	F550 UR132AHH Titan 16 3203H FM	\$32,867.00 \$53,400.00 Included \$86,267.00
3 Landers McLarty Ford Item 1 Item 2 Item 3	2009 Ford Reading Auto Crane	F550 UR146AHH 3203	\$34,368.80 \$51,397.00 Included \$85,765.80
4 Peterbilt of Fort Smith			No Bid
5 Scruggs Equipment Company - OPT 1		Not Identified	\$91,926.00
6 Scruggs Equipment Company - OPT 2		Not Identified	\$89,726.00

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

CERTIFIED: 
A. FOREN PURCH AGENT


WITNESS

9/10/08
DATE

City Of Fayetteville

(Not a Purchase Order)

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date: 9/17/2008
Vendor # 16664										P.O Number	Expected Delivery Date:
Address: Vendor Name: GOLDEN CIRCLE FORD										Mail Yes: No: XX	
City: State:										Taxable Yes: No: XX	
Requester: Barbara Olsen										Division Head Approval	Quotes Attached
Item Description										Ship to code: 050	Yes: No:
Quantity Unit of Issue Unit Cost Extended Cost										Requester's Employee # 1940	Extension: 485
1	2009 FORD F550 WITH READING	1	EA	\$72,600.00	\$72,600.00	9700.1920.5802.0	02078.2007	Inventory #	Fixed Asset #		
2	CUSTOM SERVICE SIGN BODY AND		EA		\$0.00						
3	AUTO CRANE 3203 HFM CRANE		EA		\$0.00						
4	PER BID 08-58. TO BE UNIT #368		EA		\$0.00						
5	FIXED ASSET #700368		EA		\$0.00						
6			EA		\$0.00						
7			EA		\$0.00						
8			EA		\$0.00						
9			EA		\$0.00						
10			EA		\$0.00						
	Shipping/Handling		Lot		\$0.00						
Special Instructions:										Subtotal: 72,600.00	
										Tax: EXEMPT	
										Total: 72,600.00	
Approvals:										Purchasing Manager:	
Mayor:										Department Director:	
Finance & Internal Services Director:										Budget Manager:	
Dispatch Manager:										IT Manager:	
										Utilities Manager:	

City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items OnlyGreg Tabor
Submitted ByPolice
DivisionPolice
Department

Action Required:

Council approve a resolution authorizing Mayor Coody to sign a contract with AOT Public Safety for False Alarm Administration Services.

\$ -

Cost of this request

\$ -

Category / Project Budget

Program Category / Project Name

\$ -

Account Number

Funds Used to Date

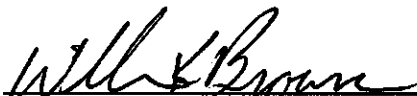
Program / Project Category Name

\$ -

Project Number

Remaining Balance

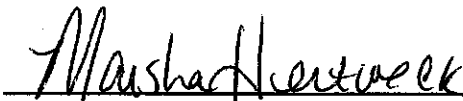
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐
Department Director9-12-08
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:


City Attorney9/15/08
Date
Finance and Internal Service Director9/14/08
DateReceived in City
Clerk's Office9-12-08 U.S.
ENTERED
Mayor9/16/08
DateReceived in
Mayor's OfficeENTERED
9/15/08
PH

Comments:

Departmental Correspondence

TO: Mayor Dan Coody and Members of the City Council

FROM: Greg Tabor, Chief of Police 

DATE: September 12, 2008

SUBJECT: Contract for False Alarm Administration Services

Recommendation:

City Council approves a resolution authorizing Mayor Coody to sign a contract with AOT Public Safety for False Alarm Administration Services.

Background:

City Council passed the Alarm Reduction Ordinance on 11-20-07. Proposals were sought via RFP #08-03 for False Alarm Administration Services. The selection committee accepted the proposal of AOT Public Safety.

Discussion:

AOT Public Safety will register alarm users, track false alarms, bill and collect the fees assessed under the Alarm Reduction Ordinance.

Budget Impact:

There will be no cost to the city under this contract. Fees collected under the ordinance will be split between AOT and the City in accordance with the cost-share proposal included in the RFP.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH AOT PUBLIC SAFETY CORPORATION, PURSUANT TO RFP # 08-03, TO PROVIDE FALSE ALARM REDUCTION ADMINISTRATIVE SERVICES TO THE CITY 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 approves a contract with AOT Public Safety Corporation, pursuant to RFP # 08-03, to provide false alarm reduction administrative services to the City of Fayetteville. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville
RFP 08-03, False Alarm Administration Services
Final Contract

This contract executed this ____ day of _____, 2008, between the City of Fayetteville, Arkansas, and AOT Public Safety Corporation ("Contract"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. AOT Public Safety Corporation at its own cost and expense shall furnish all labor, materials, supplies, machinery, equipment, tools, supervision, bonds, insurance, tax permits, and all other accessories and services necessary to complete items per request for proposal (rfp) 08-03 as stated in AOT Public Safety Corporation proposal, and in accordance with specifications attached hereto and made a part hereof under RFP #08-03, all included herein as if spelled out word for word.
2. The City of Fayetteville shall pay AOT Public Safety Corporation based on their proposal in an amount not to exceed as described in such response. Payments will be made after approval and acceptance of work and submission of invoice. Payments will be made within 30 days after receipt of invoice or as referenced in RFP 08-03.
3. The Contract documents which comprise the Contract between the City of Fayetteville and AOT Public Safety Corporation consist of this Contract and the following documents attached hereto, and made a part hereof:
 - A. Form identified as RFP 08-03 with the specifications & conditions typed thereon.
 - B. AOT Public Safety Corporation response to RFP 08-03, including interview documents provided to AOT Public Safety Corporation before the execution date of this Contract.
4. These Contract documents constitute the entire agreement between the City of Fayetteville and AOT Public Safety Corporation and may be modified only by a duly executed written instrument signed by the City of Fayetteville and AOT Public Safety Corporation.
5. AOT Public Safety Corporation shall not assign its duties under the terms of this agreement, except that the sale of a majority of the common stock or assets of AOT Public Safety Corporation to another company shall not be considered an assignment of duties

6. AOT Public Safety Corporation agrees to hold the City of Fayetteville harmless and indemnify the City of Fayetteville, against any and all claims for property damage, personal injury or death, arising from AOT Public Safety Corporation performance of this Contract. This clause shall not in any form or manner be construed to waive that tort immunity set forth under Arkansas Law.
7. AOT Public Safety Corporation shall furnish a certificate of insurance addressed to the City of Fayetteville, showing that he carries the following insurance which shall be maintained throughout the term of the Contract. Any work sublet, the contractor shall require the subcontractor similarly to provide worker's compensation insurance. In case any employee engaged in work on the project under this Contract is not protected under Worker's Compensation Insurance, AOT Public Safety Corporation shall provide and shall cause each Subcontractor to provide adequate employer's liability insurance for the protection of such of his employees as are not otherwise protected.
1. Workers' Compensation: Statutory Amount
 2. Comprehensive General & Automobile Insurance
 3. Bodily Injury Liability:
\$250,000 for each person injured.
\$500,000 for each accident.
 4. Property Damage Liability: \$500,000 aggregate.

The premiums for all insurance required herein shall be paid by AOT Public Safety Corporation.

8. AOT Public Safety Corporation to furnish proof of the following licensure as required by local and state agencies.
9. This Contract may be terminated by the City of Fayetteville or AOT Public Safety Corporation with 60 days prior written notice, except that AOT Public Safety Corporation shall retain an interest in all Accounts Receivable created under the Contract and be entitled to compensation in accordance with the Contract procedures for any amounts billed prior to the date of termination. In the event that the Contract is terminated, the City of Fayetteville shall also use best efforts to continue to collect any such Accounts Receivable amounts after the date of termination.
10. Collection process vendor shall be handled by AOT Public Safety Corporation for entire Contract term unless collection fee exceeds 25%. In the event such fee exceeds 25%, AOT Public Safety Corporation shall notify the City of such and at such time the City shall have the option to elect to find its own third party collection vendor to handle collections for this project. The City may at anytime elect to hire its own third party collection vendor upon notifying AOT Public Safety Corporation in writing with 30 days prior notice, except that any amounts sent by AOT Public Safety Corporation to collections prior to changing third party collection vendors shall only be reassigned to the new collection vendor in accordance with the collection agreement with the collection process vendor selected by AOT Public Safety Corporation. City of Fayetteville shall review and approve in advance any such agreement between AOT Public Safety Corporation and a collection process vendor.

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

WITNESS OUR HANDS THIS _____ DAY OF _____, 2008.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

DAN COODY, Mayor

Attest:

Sondra Smith, City Clerk

AOT Public Safety Corporation
CONTRACTOR

Leo Greenberg
BY LEO GREENBERG CHIEF
NAME AND TITLE EXECUTIVE
OFFICER

ATTEST: COMPANY SECRETARY

[Signature]
3261 Old Washington Road
Suite 2011
Waldorf, Maryland 20602

BUSINESS ADDRESS

Proposal



CRYWOLF®

REAL FALSE ALARM SOLUTION

False Alarm Administration Services

RFP: Bid No. 08-03

May 30, 2008

AOT Public Safety Corporation

3261 Old Washington Road Suite 2011

Waldorf, MD 20602

False Alarm Administration Services for Fayetteville, AR

*Fayetteville,
Arkansas*





May 27, 2008

City of Fayetteville
Attention: Andrea Foren – Room 306
113 W. Mountain
Fayetteville, AR 72701

Subject: Request for Proposal (RFP No. 08-03)
False Alarm Administration Services

Dear Ms. Foren:

AOT Public Safety Corporation (PSC) is pleased to submit our proposal to provide Fayetteville complete False Alarm Administration Services to support the City's new False Alarm Reduction Ordinance. As requested, one (1) Original and five (5) copies of the written Proposal, including one electronic Proposal copy on a CD attached to the inside copy of the Original, are enclosed. This proposal is a firm offer for a period of 60 days from the Proposal opening date.

For more than eight years, PSC has provided false alarm management solutions to local governments across the country. Today, PSC is the leading provider of false alarm management solutions to 140 cities and counties throughout the United States, including over 40 jurisdictions in the Southeast.

As a core part of this proposal, we are pleased to offer Fayetteville the leading alarm registration and false alarm management technology in the industry, CryWolf®. Our patented, state-of-the-art technology helps to ensure that the Fayetteville False Alarm Reduction Program efficiently meets all City objectives.

We have reviewed the RFP terms and conditions and request no exceptions. If selected by the City, we will also provide the requested Certificates of Insurance with required coverages.

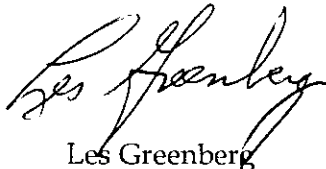
Every year, our technology and services are used to:

- Process over 2 million false alarms
- Track over 1.5 million alarm systems
- Collect \$50 million in alarm registration and false activation revenue
- Issue nearly 5 million alarm-related correspondence items

Should you have any questions about our proposal, please do not hesitate to contact me at the numbers below. I am authorized to negotiate and bind the company.

We look forward to serving the City of Fayetteville, and are eager to become the City's False Alarm Administration Services partner.

Sincerely,



Les Greenberg
Chief Executive Officer
AOT Public Safety Corporation
(240) 607-1401 (phone)
(301) 638-9319 (fax)
lgreenberg@publicsafetycorp.com

Corporate Information

Legal Name:	AOT Public Safety Corporation
Headquarters Address:	3261 Old Washington Rd., Suite 2011 Waldorf MD, 20602
Branch Locations:	Edgewood, MD Castle Rock, CO
Principals:	Luther Grainger George Wilson Les Greenberg
Past / Present Law Suits Filed:	None

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Appendix A Supporting Documentation

- Staff Resumes
- Sample Policies, Letters and Telephone Scripts

Appendix B Required Fayetteville Forms

- Offer Form
- Statement of Disclosure
- Vendor Form



1. EXECUTIVE SUMMARY

AOT Public Safety Corporation (PSC) is pleased to have the opportunity to submit this response to the Fayetteville, Arkansas ("City") request for proposals (RFP) for the provision of False Alarm Administration Services. PSC is committed to providing the City with a superior solution that meets all of its data processing, customer service, and information management needs.

False Alarm Reduction is PSC's primary business. For more than eight years, PSC has provided false alarm management solutions to local governments across the country. In every case, PSC technology and services have helped these jurisdictions reduce false alarms, increase collections and improve efficiency. Today, PSC is the leading provider of false alarm management solutions to cities and counties throughout the United States and Canada. This experience also includes extensive alarm registration, tracking and billing services on a "self-funded", revenue sharing basis to many jurisdictions including Baltimore City MD, Charlotte NC, Concord NC, Jefferson County KY, Highland Village TX, Greenville NC, Huntersville NC, Larimer County CO, Louisville KY, Mathews/Mint Hill NC, Mecklenburg County NC, New Castle County DE, Spokane WA and Wilmington DE.

Our proposed alarm administration services are provided 100% by our own employees. Even our administrative software system and the related technical support services are 100% owned and controlled by PSC.

As a core part of this proposal, we are proud to offer Fayetteville the leading alarm tracking and billing system in the industry, CryWolf®. Our patented technology has been chosen by 140 cities and counties in 28 states, and Canada. These clients include forty-five (45) agencies in the south eastern United States, and range in population size from under 25,000 to nearly 4,000,000. No other company has the extensive qualifications, experience and track record of false alarm management performance demonstrated by PSC. Our unique experience, especially with other comparably sized communities in the southeast, helps ensure the Fayetteville Program's operational success.

Especially important to the proposed project is our unique and extensive technical expertise which greatly minimizes startup risk and time. For example, CryWolf® already imports alarm event information generated by New World CAD/911 systems in multiple jurisdictions, can accept the simple MS Excel-based CAD data feed described in the RFP, and supports simultaneous interfaces during CAD/RMS transition periods. We have also launched dozens of new alarm programs by importing initial bulk registrations electronically from alarm companies in MS Excel format, and by establishing secure, web-based registration processes.

Our system also offers unique features required in Fayetteville. For example, CryWolf® fully supports billing false activations based on different fee schedules for burglary and robbery alarms. We have implemented this approach in multiple locations. Our technology also includes built-in Geographic Information System (GIS) tools for validating addresses. In addition, we have established commercial bank lockboxes for alarm payments in locations throughout the country. Because CryWolf® is our patented, proprietary technology; we can assure Fayette-



ville that its citizens and businesses will continue to receive state-of-the-art Alarm Administration Services throughout the life of the contract.

Our alarm management expertise and technology offering are unmatched and provide Fayetteville a superior solution for Alarm Administration. We are especially proud of our unique on-line information access and web-based functionality which we believe support the City's customer oriented, technology goals and provide the convenient service expected by communities, like Fayetteville. We also have the technical infrastructure necessary to keep City alarm data secure and confidential.

The PSC Difference—Understanding the City's Needs

In most areas of the country, law enforcement resources are unfortunately scarce. When combined with the demand for services created by the special needs of communities such as Fayetteville, governments continually ask Police Departments to do more with less.

In this context, non-critical calls for service, such as false alarms, decrease the amount of time that officers can spend responding to true emergencies and reduce the number of staff that can work proactively to prevent crime from occurring.

Unfortunately, the number of false alarms that law enforcement must respond to has increased in recent years. Fayetteville estimates that it currently responds to nearly 4,000 annual false alarms. Recognizing the impact that false alarms have on law enforcement resources, the City took an important step when it approved a new City false alarm ordinance in November, 2007. The issuance of the RFP marks the next step in this process, allowing the City to procure the final tool that Fayetteville will need to address the problem of false alarms in earnest.

Meeting Fayetteville's Needs - The PSC Solution

PSC has a long track record of helping cities and counties increase their service levels, expand the use of innovative technologies, and increase revenue collections on a risk-free basis - PSC will obtain payment exclusively from the revenues we help generate. There are no upfront systems development, licensing, conversion, or equipment costs. PSC will purchase, configure, install, and customize everything we need to administer the Fayetteville alarm program. Based on our experience, we are confident that Fayetteville can expect the program to generate collections of more than \$200,000 annually and to result in fewer false alarms.

PSC proposes to provide Fayetteville with a solution that meets all of its noticing, tracking, and customer service requirements. Specifically, our solution includes the following functionality:

- **User Tracking and Database Maintenance.** PSC will register, renew and reinstate alarm systems; maintain registration holder information; and identify non-registered locations. Outstanding charges will be automatically tracked for all accounts regardless of registration. Both CryWolf program staff and the Fayetteville designated Program Administrator will be



able to securely search online for data stored in the system. Even CAD/911 Dispatch operators can access key premise information, if desired. No other alarm management service offers this direct inquiry flexibility.

- **Seamless integration of computer interfaces**—Fayetteville requires flexible data interfaces and information exchange capabilities. PSC has more experience building, installing and maintaining interfaces in support of alarms processing than any other company. We are confident in our ability to complete the required interfaces for this project, and to continue to update information exchange capabilities as the City's needs evolve.
- **Automated generation of violation invoices and notices to alarm users.** Our solution will automatically generate letters/notices and invoices for false alarm events in accordance with the Fayetteville Ordinance. The technology we offer fully supports different notices for residential, commercial and other locations; separate burglary and robbery fee schedules; and Fayetteville defined permit statuses such as Active, Suspended and Revoked.. In addition, our system maintains critical information for every account including outstanding balances, and reasons for registration denial or permit suspension.
- **Proven Collection Techniques.** With over 1 million false alarms processed annually by our technology, PSC is the proven industry leader in alarms processing and collections. Our solution includes a variety of techniques to help the City collect fees including multiple and varied noticing, research of bad addresses, and other targeted collection techniques.
- **Production of Management Reports.** Fayetteville will have direct access to a variety of management and tracking reports that can be produced by our system. The system also maintains individual account histories that include payment dates and all actions taken on an individual account.

Features that are especially unique to our service offering include:

- **Secure Online Fayetteville access to many tailorable reports.** We will provide Fayetteville with direct data inquiry and report generation access via real-time, secure Web-based connection to the alarm database. We use this approach in multiple Alarm Programs offering flexibility, security and timeliness that no other reporting process provides.
- **Internet-based, fully-interactive alarm registration and updating.** When citizens need to register their systems, have questions or want to update their registration information, they would like to be able to obtain prompt access. PSC supports this not only with skilled customer service representatives (CSRs), but with secure, online access technology that allows an alarm user to register online or enter a unique registration number/password combination, and have limited access to his/her registration information without waiting to speak with a CSR. This service is available on a 24/7 basis.



- **Internet-based payment of invoices.** PSC can process false alarm payments made over the web. If desired by Fayetteville, we will integrate a real-time, Pay-by-Web system directly into a dedicated Fayetteville Alarm Program website we will host so that citizens can pay individual alarm invoices or the full balance owed from their web browser on a 24/7 basis.
- **Enhanced Alarm Data Security.** Alarm response services require the collection, maintenance and communication of sensitive and highly confidential data about alarm locations. Understandably, businesses, citizens, security alarm companies and City officials are concerned with unauthorized access to this information. In providing its alarm response services, PSC has the technical infrastructure required to ensure the highest levels of data security. This includes core network and DMZ server firewalls; private internal IP addresses; and real-time, virus scanning of all data. Our CryWolf® Alarm Management system also stands apart in providing 128-bit encrypted (Certified SSL) data transfer for all web functions;
- **Extensive Adjudication and Hearing Support.** Our service offering contains a fully integrated hearing and appeal system that will allow for the adjudication of any action for any account. Our system also generates various reports that document and support all billing, noticing and status change decisions.
- **Unparalleled Technology Enhancement Program.** Our patented CryWolf® technology includes a robust enhancement program driven by the needs of 140 cities and counties. This program has resulted in over 500 added features in the last 5 years. Our solution assures Fayetteville that the technology will evolve to keep up with technical and programmatic advances over the life of the services contract.

What Makes PSC Uniquely Qualified – Exceptional Experience and Technical Capacity

We are proud to be able to offer this comprehensive solution to meet Fayetteville's alarm billing needs. Our firm provides the City with unique background, capabilities and reputation necessary to ensure a reliable, smooth-functioning, state-of-the-art solution.

1. *We have been providing false alarm solutions for more than eight years and to over 140 cities and counties;*
2. *Our patented, state-of-the-art CryWolf System already supports all Fayetteville Alarm Ordinance provisions in numerous locations, including the billing of different fees based on alarm type, i.e. burglary and robbery;*
3. *For nearly 5 years, we have been providing complete alarm administration services ;*
4. *Our CryWolf System already works with New World CAD/911 System data;*
5. *Our secure Bank lockbox approach to collections is used in multiple locations; and,*
6. *Our Project Team has extensive law enforcement backgrounds, technical expertise, alarm management experience, and a Project Manager combining all of these qualifications in over 70 false alarm reduction projects.*

No other company can make these claims.



PSC is confident that the proposed solution will meet all Fayetteville requirements and help reduce the number of false alarm calls responded to by Police officers annually. We already have the necessary program components in place and have proven our proposed methodology in multiple jurisdictions of Fayetteville's size and larger. Accordingly, we believe that we can offer Fayetteville a fast-paced Program implementation that begins live registration activities within 30 days of contract approval.

We look forward to working with the City to successfully implement this new program and to help the City accomplish their program objectives while benefiting citizens, City staff, and the perception of City services.



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2. CORPORATE QUALIFICATIONS

In the RFP, Fayetteville expresses the need for a highly qualified and experienced company to provide the City False Alarm Administration Services. As described in this Section, PSC offers Fayetteville unparalleled qualifications to manage the tasks required for a highly effective false alarm reduction program.

2.1 Minimum RFP Compliance Requirements

PSC complies fully with the following minimum requirements stated in the RFP:

- 1) A minimum of 3 years experience in false alarm administration. As described in this Section, PSC has been providing False Alarm Management solutions for over 8 years. For nearly 5 years (since July 2003), PSC has also provided the false alarm administration services requested by Fayetteville.
- 2) No interest whatsoever in the security alarm business. PSC has no involvement in the security alarm business including no membership in any organization promoting the interests of the security alarm business.
- 3) Single provider with 100% control of the quality of service provided. PSC is the single provider of services to most of its alarm administration clients and proposes no subcontractors will be used to furnish the services requested by Fayetteville. In addition, PSC is the sole owner of the alarm management system proposed for the Project and maintains in-house technical staff to fully support this technology including all web functions.

HIGHLIGHTS

- *Offer over eight years experience implementing 140 false alarm registration and billing programs*
- *Support the alarm programs of 45 Southeastern agencies*
- *Provide Alarm Administration Services to 20 jurisdictions*
- *Propose no subcontractor staff for the requested services*

2.2 Company Description

AOT Public Safety Corporation (PSC) was established in 1999 as the public safety arm of AOT, a large engineering services company that started in 1984. PSC is headquartered in Waldorf, Maryland, a suburb of Washington, DC.

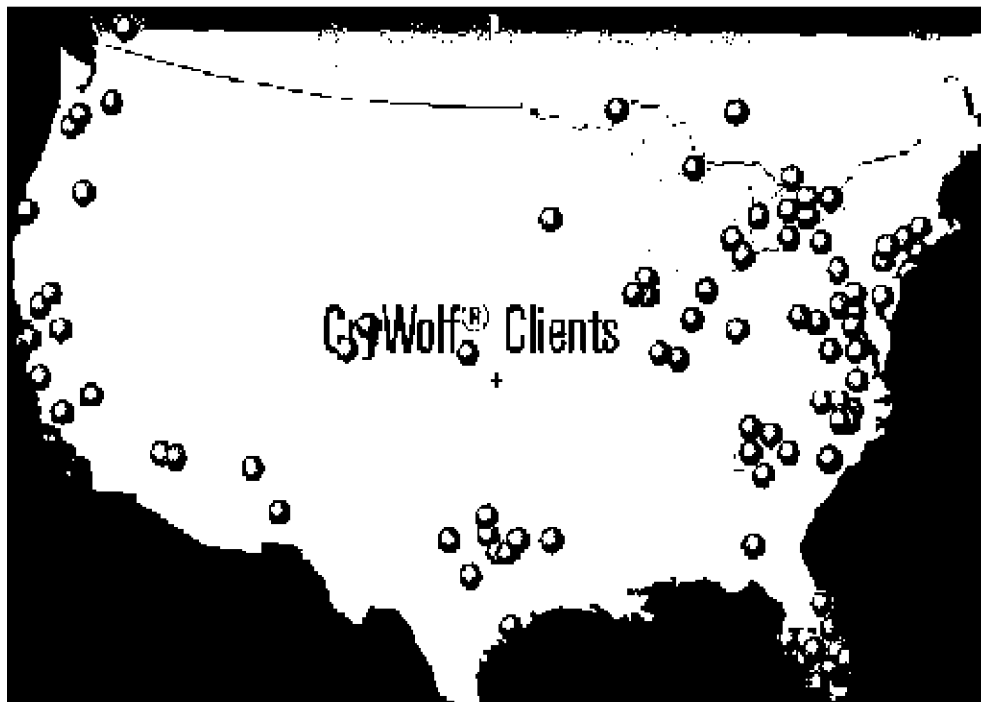
PSC's founding mission was to improve the efficiency and effectiveness of emergency response by public safety professionals. As part of this mission, PSC has been providing false alarm billing systems and services since its inception more than eight years ago. Security alarm administrative services remain the company's primary service.

Today, PSC is widely recognized as the leader in False Alarm Management, with its patented (U.S. Patent No. 6,856,246) software, CryWolf®. As shown in the map below, CryWolf® has been



chosen by more than 140 cities and counties throughout the United States and Canada. These jurisdictions range in population from under 20,000 to nearly 4,000,000, and process between 1,500 and over 100,000 annual false alarms.

Our Southeast alarm program clients include agencies in Florida (20), Georgia (4), Kentucky (2), North Carolina (9), South Carolina (5), Tennessee (2) and Virginia (3). We provide complete outsource alarm administration services similar to those requested by Fayetteville in about 20 jurisdictions including nine in the Southeast.



Our large client community benefits Fayetteville in several important ways. Our clients drive a robust system enhancement program that has resulted in more than 500 new system features over the last five years. All CryWolf® clients receive these updates at no additional cost. Our Alarm Management clients also comprise a large users group with similar objectives and false alarm reduction issues. Members of this group regularly communicate among themselves through PSC sponsored newsletters, web access and an annual Users Group meeting to share technology ideas, unique approaches and discuss upcoming program enhancements.

Our extensive experience also helps ensure that we have met Fayetteville's technical requirements before. For example, we already import alarm incident data from the City's New World CAD system in Indian River County FL and Wilmington DE. In addition, our technology is already used to bill alarm fees that differ by type of Alarm (Burglary versus Robbery) in multiple locations including Lewisville TX, Louisville KY (Alarm Administration Services), Madera CA and Texas City TX.



We have included contact information for **six (6)** especially relevant projects in **Section 5 – Past Performance/References**. If requested, we would be pleased to also provide contact information to the Fayetteville proposal evaluation team for any of the other jurisdictions cited in this Proposal.

2.3 Summary of Alarm Experience

Experience Area	AOT Public Safety Corporation (PSC)
Working with alarm companies	PSC has worked directly with alarm companies in over thirty (30) cities and counties. Data on nearly 300,000 alarm sites have been imported directly from these companies into the CryWolf® System. (See Section 4 – Project Approach and Schedule, Required Services)
Establishing new alarm permit programs	PSC has designed and/or helped establish new alarm registration programs in more than 70 cities and counties . Some of these are in the list of larger CryWolf® clients shown in Section 2.4 below.
Establishing false alarm billing processes	PSC's patented CryWolf® software is designed specifically to perform alarm billing. Accordingly, PSC has established and/or designed false alarm billing programs for all of the 140 jurisdictions that have selected CryWolf®. A partial list of these communities is shown in the CryWolf® lists of related projects in Sections 2.4 and 2.5 below.
Providing False Alarm Administration Services	PSC provides alarm administration services to twenty (20) active false alarm programs . These programs are responsible for over 400,000 alarm sites. Most of these projects are described in the Current Alarm Administration Services Programs in Section 2.5 below.

2.4 Partial List of Alarm Program Projects

The following Table provides a partial list of PSC false alarm solution clients. Cities and counties, like Fayetteville, receive a high level of program scrutiny from Municipal/City management, elected council representatives and the public at large. Accordingly, the false alarm enforcement programs for these communities require a system provider with the alarm program expertise, systems experience and resources to assure reliable program operation, continuing state-of-the-art technology, strong financial controls and positive public perception. As shown, PSC has demonstrated these capabilities to a broad and demanding audience.



Partial List of Larger CryWolf® System and Service Clients

Jurisdiction	Install Type	Population	Contract Date
Los Angeles CA		3,750,000	In Progress
Miami-Dade County FL		2,450,000	November-04
Toronto Metro ON		2,350,000	November-02
Broward County FL		1,700,000	December-04
Hillsborough County FL		1,100,000	October-05
Fairfax County VA		1,000,000	August-01
York Region ON		900,000	February-05
Fresno County CA		865,000	September-07
Ottawa ON		855,000	December-05
Prince George's County MD		850,000	September-01
Baltimore County MD		760,000	February-02
Baltimore City MD	Alarm Admin Services	650,000	July-03
Charlotte NC	Alarm Admin Services	540,000	April-05
Durham Region ON		530,000	November-02
Hamilton ON		500,000	August-02
New Castle County DE	Alarm Admin Services	500,000	December-07
Anne Arundel County MD		490,000	April-06
Albuquerque NM		480,000	February-03
Halton Region ON		450,000	August-05
Washington County OR		445,000	September-06
Jefferson County KY	Alarm Admin Services	440,000	February-05
Sacramento CA		420,000	In Progress
Monterey County CA		405,000	March-05
Greenville/Greenville Cnty SC		400,000	September-03
Minneapolis MN		385,000	January-06
Cincinnati OH		350,000	April-03
Pittsburgh PA	Alarm Admin Services	335,000	October-07
Buffalo NY		330,000	December-03
Windsor ON		310,000	July-02
Riverside CA		300,000	October-02
Manatee County FL		270,000	December-04
Louisville KY	Alarm Admin Services	256,000	February-05
Howard County MD		250,000	October-02
Larimer County CO	Alarm Admin Services	250,000	April-06
Greensboro NC		225,000	July-05
Chandler AZ		210,000	May-01
Spokane WA	Alarm Admin Services	200,000	February-06
Regional Okanagan District BC		175,000	November-06
Vancouver WA		160,000	December-04
Tempe AZ		160,000	May-07



2.5 Current Alarm Administration Services Programs

PSC has a wealth of relevant experience related to the planning, design, construction, installation, and operation of large-scale False Alarm Billing and Tracking programs. This experience demonstrates our ability to perform the services required by Fayetteville. The following are active Alarm Administration Services projects listed in chronological order of their start dates:

Baltimore City, MD (Population 650,000) Alarm Administration Services

For nearly 5 years, PSC has provided Alarm Administration services to the Baltimore City False Alarm Reduction Program, as subcontractor to Affiliated Computer Services (ACS - the general City Systems Integrator). In our role as a teaming partner, PSC provides the technology (Cry-Wolf®), Program implementation and upgrade services, staff supervision, technical support required to operate the Program. PSC assisted Baltimore City in starting its alarm program by importing over 55,000 initial alarm registrations electronically from Alarm Companies. The Baltimore City Program was made fully operational in less than 60 days. Since the program started, the annual number of false alarms has dropped significantly from 125,000 to under 60,000.

Louisville KY (Population 256,000) Jefferson County KY (Population 440,000) Alarm Administration Services

In July 2004, PSC was selected to provide Alarm Administration Services to the combined programs of the City of Louisville and Jefferson County, Kentucky. The Louisville and Jefferson County Programs also include licensing of Alarm Installation and Monitoring Businesses and alarm technicians. In order to help start this program, we imported about 25,000 alarm locations electronically from Alarm Companies doing business in the Louisville Metro area. Similar to Fayetteville, we also administered the registration and licensing of Alarm Companies. As part of the services, we provide the City and County secure, online access to account data and Alarm Companies secure, online access to their respective customer false alarm activity. In Louisville, we use a local Commercial Bank (Republic Bank) lockbox to receive all correspondence and collect all fees and fines. The Louisville / Jefferson County alarm program was fully operational in less than 60 days and has cut false alarms in half.

Charlotte NC (Population 540,000) Mecklenburg County NC (Population 155,000) Alarm Administration Services

In April 2005, PSC was selected to team in providing Alarm Administration Services to the combined programs of the City of Charlotte and Mecklenburg County, North Carolina. The Charlotte and Mecklenburg County programs replaced administrative services provided by another service contractor. As part of the conversion, historical false alarm data on over 160,000 alarm sites was imported electronically by PSC into the CryWolf® system, and the transition planning resulted in no interruption in alarm program revenue.



For the Charlotte and Mecklenburg County programs we have helped implement secure, fully interactive, online web registration and citizen account inquiry/update functions. These Programs also accept online payments and Pay-By-Phone (IVR Technology) payments of false alarm fees and fines.

Mathews/Mint Hill NC (Population 40,000)
Alarm Administration Services

In August 2005, PSC was selected to team in providing Alarm Administration Services to the cities of Mathews and Mint Hill, North Carolina. This program was fully implemented in 30 days and has been operational for nearly a year. This program provides secure, online access to data and reports by authorized Mathews NC Police managers.

Highland Village TX (Population 20,000)
Alarm Administration Services

In October 2005, PSC was selected to provide Alarm Administration Services to Highland Village, Texas. As part of this project, we replaced a previous Alarm Administration program operated internally by the City. Initially, all existing alarm permit data was imported electronically into the Crywolf® alarm database. The program was fully implemented in about 30 days with no loss of transition alarm revenues. Like the other programs indicated above, this program provides secure, online access to data and reports by authorized Highland Village managers.

Spokane WA (Population 195,000)
Alarm Administration Services

In February 2006, PSC was awarded a contract to provide Alarm Administration Services to the City of Spokane WA. The Program was fully operational in less than 60 days. In Spokane, we use a local Commercial Bank (Sterling Bank) lockbox to collect all fees and fines. We also imported about 10,000 alarm registrations electronically from Alarm Companies and offer online access to the Alarm Companies to register their own customer sites. In addition, we installed online (web-based) alarm registration, renewal and Alarm School functions to make it easier for citizens to comply with the ordinance requirements. Like the other programs indicated above, this program provides secure, online access to data and reports by authorized City managers.

Larimer County CO (Population 250,000)
Alarm Administration Services

In early April 2006, PSC received a contract to provide Alarm Administration Services to Larimer County CO. This Program went live in less than 60 days (June 2006). In order to start the program quickly, we imported about 4,000 initial alarm registrations electronically from Alarm companies doing business in Colorado. In Larimer County, we use a Commercial Bank lockbox located in Denver to collect all fees and fines. Similar to the other programs indicated above, this program also provides secure, online access to data and reports by authorized Larimer County managers.



Huntersville NC (Population 30,000)
Alarm Administration Services

In February 2007, PSC was contracted to provide Alarm Administration Services to Huntersville NC. This Program went live within 30 days. In Huntersville, we use a local Commercial Bank (Wachovia) lockbox to receive all correspondence and collect all fees and fines. Similar to the other programs indicated above, this program also provides secure, online access to data and reports by authorized Huntersville managers and online access by Alarm Companies.

Greenville NC (Population 60,000)
Alarm Administration Services

In July 2007, PSC was selected to provide Alarm Administration Services to Greenville NC. This Program also went live in less than 30 days. In Greenville, we use a (Wachovia) Bank lockbox to receive all correspondence and collect all fees and fines. Similar to the other programs indicated above, this program also provides secure, online access to data and reports by authorized Greenville managers and online access by Alarm Companies.

Wilmington DE (Population 70,000)
Alarm Administration Services

In September 2007, PSC was selected to team in providing Alarm Administration Services to Wilmington, Delaware. This new Alarm Reduction Program was fully implemented in less than 60 days. As part of the startup, alarm system data on over 12,000 alarm sites was imported electronically by PSC from about 100 alarm companies into the CryWolf® system.

Pittsburgh PA (Population 335,000)
Alarm Administration Services

In November 2007, the City of Pittsburgh requested PSC to convert its Alarm System technology contract with the City to an outsource Alarm Administration Services contract. This Program is currently being implemented. In Pittsburgh, we will use a local Commercial Bank (PNC) lockbox to receive all correspondence and collect all fees and fines. Similar to the other programs indicated above, this program will also provide authorized Pittsburgh managers secure, online access to data and reports.

San Luis Obispo CA (Population 45,000)
Alarm Administration Services

In October 2007, PSC was awarded a contract to provide Alarm Administration Services to San Luis Obispo. This Program is currently being implemented. This Program is currently being implemented. We use a local Commercial Bank (Bank of America) lockbox to receive all correspondence and collect all fees and fines. Similar to the other programs indicated above, this program will also provide authorized San Luis Obispo managers secure, online access to data and reports.



**New Castle County DE (Population 500,000)
Alarm Administration Services**

In December 2007, PSC worked with a Philadelphia-based teaming partner to start the New Castle County False Alarm Reduction Program. This Program is now fully operational. As part of the startup, alarm system data on over 15,000 alarm sites was imported electronically by PSC from about 100 alarm companies into the CryWolf® system.

**Concord NC (Population 60,000)
Alarm Administration Services**

In January 2008, PSC was awarded a contract to provide Alarm Administration Services to Concord. This Program recently began full operation (45 days) after importing about 4,000 initial alarm registrations electronically from Alarm Companies. In Concord, we use a local Commercial Bank (Bank of America) lockbox to receive all correspondence and collect all fees and fines. Similar to the other programs indicated above, this program will also provide authorized Concord managers secure, online access to data and reports.

**Douglas County CO (Population 280,000)
Alarm Administration Services**

Based on a recent competitive procurement, PSC was selected in April 2008 to provide Alarm Administration Services to the Douglas County Sheriff's Office. This award continued PSC's track record (4 jurisdictions) as the main provider of false alarm reduction solutions to Colorado agencies.

**Kannapolis NC (Population 40,000)
Alarm Administration Services**

PSC was recently selected in May 2008 to provide Alarm Administration Services to the Kannapolis Police Department. This selection represents the tenth North Carolina jurisdiction to choose CryWolf to support false alarm reduction efforts.



3. EXPERIENCE, COMPETENCE AND CAPACITY

3.1 Proposed Program Staff

Our proposed Fayetteville Alarm Administration team combines unparalleled experience in the design, development, testing, training, implementation, and operation of false alarm administration programs. This project will have the support of individuals who have extensive knowledge of law enforcement operations, government processes, problem solving experience, and proactive management foresight to manage our service delivery solution.

State-of-the-art systems are critical, of course, but they must be complemented by experienced and qualified personnel to ensure an alarm program's success. Our personnel and alarm program experience ensures contract success and citizen acceptance.

Customer Service is an integral part of the Alarm Administration process. PSC currently employs twenty (20) full-time employees. Of our total employees, twelve (12) are experienced staff involved in client alarm program support and this staff has been growing more than 25% annually.

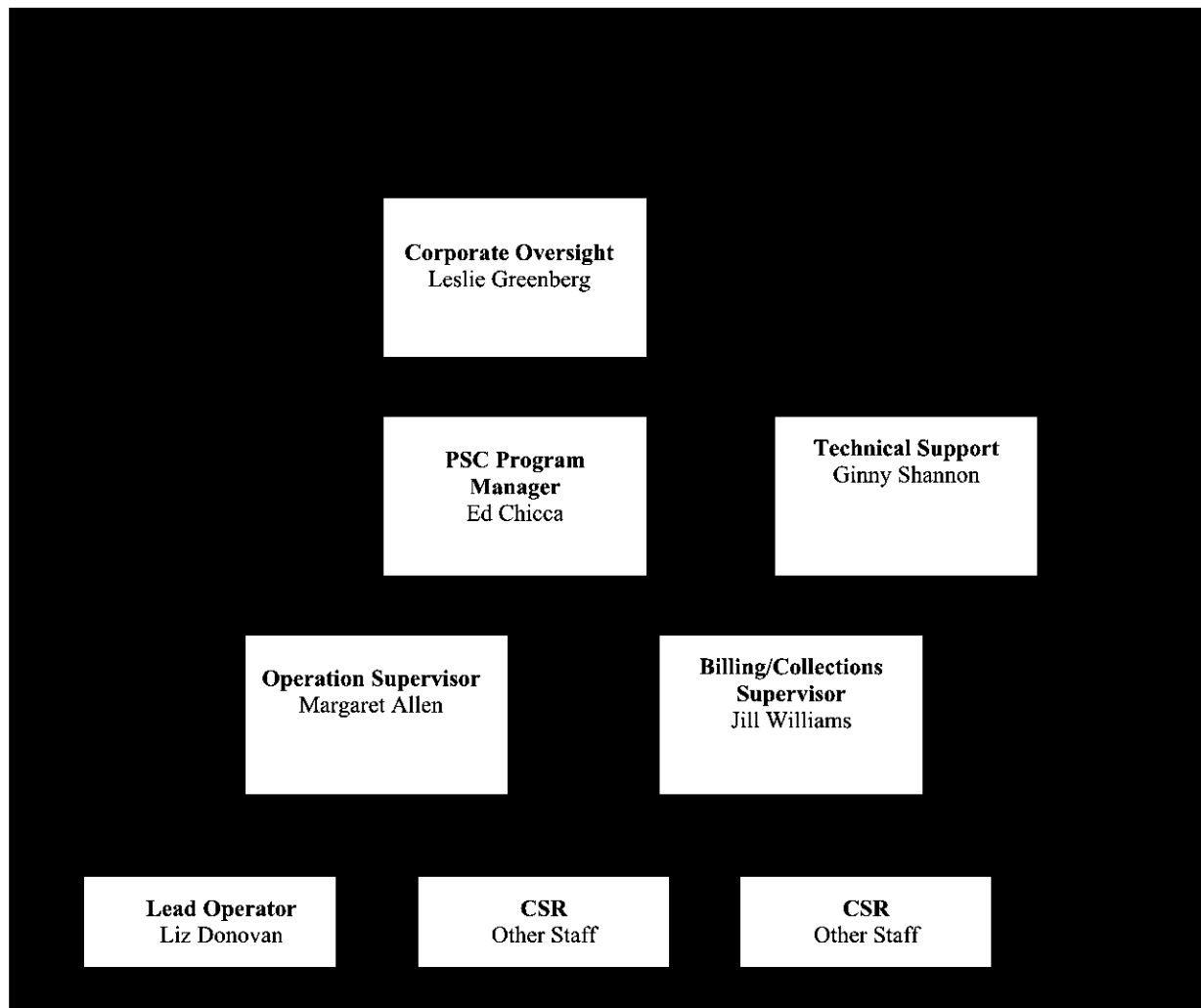
Our on-staff technical team combines extensive experience in alarm administration software development, bi-directional CAD/RMS alarm data transfer, financial system interfaces and web-based alarm management functions. This team is responsible for alarm management technology used by over 140 cities and counties. Because this staff is employed by PSC, we can ensure that the numerous technical needs of the False Alarm Program are met quickly and effectively throughout the life of the project.

We propose a group of individuals who possess the right mix of Alarm Management experience for a project of this importance. The following project team includes a project manager, technical support group, customer service support staff and corporate oversight/account management. All of these staff members are already in place and ready to immediately begin administering the City's false alarm reduction program. Proposed staff qualifications are summarized in this Section and more detailed resumes are included in Appendix A.

HIGHLIGHTS

- *Program Operations Manager with a 20+ year law enforcement background and experience with over 70 false alarm programs*
- *Twenty employees including more than a dozen experienced alarm program support staff with extensive law enforcement, financial control and false alarm reduction backgrounds*
- *Single service provider, i.e. no subcontractor personnel, with 100% control over the proposed services*
- *Strong, in-house technical team with 100% control over our patented Cry-Wolf® alarm software including CAD/financial / web functions & interfaces*





The Project Manager role demands an individual with program knowledge and extensive experience with alarm processing. The Project Manager is critical to the success of the project as the main point of contact for overall program responsibilities. Mr. Chicca has established many close working relationships with Police Department management personnel and understands how important these relationships are to the success of alarms processing programs. In addition to serving as the point of contact, he will monitor and report the project status, coordinate all technical activities, review and submit all project deliverables, and manage the PSC staff assigned to this project.

Mr. Chicca is a retired police officer with over 20 years of Law Enforcement experience, including 5 years as Commander of Information Systems for the Prince George's County, Maryland (Population 850,000) Police Department. He also has nearly 15 years of systems development experience. In addition, Mr. Chicca led the team that designed, developed and currently maintains the patented, CryWolf® Alarm Management System. He has also managed the implementation of CryWolf® false alarm billing systems for over 70 jurisdictions, including Albuquerque, NM; Baltimore City, MD (Alarm Administration Services); Baltimore County, MD; Cape Coral, FL; Chandler, AZ; Charlotte NC and Mecklenburg County NC (Alarm Administration Services).



es), Concord NC (Alarm Administration Services), Fairfax County, VA; Greenville NC (Alarm Administration Services), Greenville County and City, SC; Hamilton, ON; Huntersville NC (Alarm Administration Services), Indian River, FL; Larimer County, CO (Alarm Administration Services); Lewisville, TX; Louisville KY and Jefferson County KY (Alarm Administration Services); Mathews NC (Alarm Administration Services); Miami-Dade County, FL, Mint Hill, NC (Alarm Administration Services); Toronto, ON and Spokane WA (Alarm Administration Services).

Operations and Customer Service Staff

Experienced Customer Service Representatives (CSRs) will handle false alarm notice billing, accounts receivable processing, initial and renewal registration processing, and the related printing, mailing, and reporting. CSRs will also provide correspondence management. In addition, our alarm services staff is skilled in customer interaction and will provide hands-on support to facilitate citizen inquiries and support service needs.

The overall billing and collection services will be managed by our proposed Operations Supervisor, Margaret Allen. She will maintain primary day-to-day contact with the Fayetteville Program Manager. Ms. Allen has supervised and supported CryWolf® alarm services programs for more than a half dozen jurisdictions. Prior to joining PSC three years ago, she supervised law enforcement programs for the Charles County (MD) Sheriff's Office.

The billing, collection and customer service team will also include the following experienced personnel:

Billing / Collections Supervisor, Jill Williams – Ms. Williams has managed CryWolf® alarm billing and collections for five cities including Highland Village TX, Huntersville NC, Larimer County CO, Louisville KY and Spokane WA.

Our Lead Customer Service Representative (CSR), Liz Donovan, has been an alarm PSC Customer Service Representative covering five cities including Highland Village TX, Huntersville NC, Larimer County CO, Louisville KY and Spokane WA. Prior to PSC, Ms. Donovan was with the U.S. Air Force Military Police.

Other backup/peak coverage CSR's – As Assigned

In addition to those permanently assigned to this project, PSC will draw upon the resources and skills of others within the organization that have intimate knowledge of the processes and operational methods which will be used. As with our other contracts, backup customer service personnel will be cross-trained on the specific procedures and responses to be used in dealing with telephone and written inquiries.

Technical Support – Ginny Shannon

Ms. Shannon has been providing technical support to CryWolf alarm and permit management system clients for about five years. She has performed Crywolf technical services in over 30 CryWolf system installations. She has many years of systems development and database man-



agement (DBA) experience with various databases including MS Access, MS SQL Server and Oracle. Ms. Shannon also brings extensive experience (over 20 Projects) in importing alarm permit and incident data into the CryWolf System.

Corporate Oversight and Fayetteville Relationship

It is PSC's practice to assign corporate oversight to ensure an additional layer of project accountability, internal financial control and to quickly address any project issues that are escalated by our local project personnel. The following people will monitor performance through weekly reports and internal project status meetings, and periodically interface with Fayetteville Alarm Program Administration to assess overall program performance and outcomes.

- Leslie Greenberg has overseen all PSC Alarm Management contract activity since the company's inception. He has over 25 years experience in the public and private sectors. His past experience includes Senior Manager, Consulting Division with the Public Accounting Firm of Touche Ross (now Deloitte and Touche), and the senior management of several companies specializing in the implementation of financial systems. Mr. Greenberg represents PSC at the National False Alarm Reduction Association (FARA). He also holds an MBA from the Wharton School of Finance at the University of Pennsylvania.
- Jill Williams will supervise all financial aspects of the project, including the establishment of proper internal financial controls. As our Alarm Administration Accounting Supervisor for PSC, Ms. Williams is responsible for monthly alarm program bank reconciliations and oversight. She has performed this role for eight other alarm services projects.

Production Control and Infrastructure

Our Waldorf, Maryland (near Washington D.C.) Processing Facility is already equipped to handle the processing volume of the Fayetteville Alarm Tracking and Billing Program, and accommodate all needs for growth. Existing computer, communications, telephony, high-speed internet and mailing facilities can handle substantially increased production volumes to support the proposed services, as well as support additional functionality, as needed. The Processing Facility operates from 8:00AM to 7:00PM CST.

3.2 Demonstrated Technical Competence and Performance Capacity

Technical competence and a track record (capacity) of performance are cornerstones for a successful Alarm Administration Project. In this Section, we will attempt to demonstrate our firm's excellence in these areas by showing that agencies in different parts of the U.S. recognize these qualities in PSC as evidenced by their willingness to regularly recommend our alarm services to nearby jurisdictions.

The following is a review of two cases where CryWolf Alarm Administration Services have been adopted over time by multiple agencies in the same geographic area. The cases involve groups of nearby agencies in the southeastern State of North Carolina and the southwestern State of Colorado.



PSC began providing False Alarm Administration Services to Charlotte-Mecklenburg, North Carolina about three years ago as a result of a competitive procurement (RFP) process. This Project was soon followed by similar services to the towns of Matthews and Mint Hill in Mecklenburg County. Over the next year, false alarm system (software and installation services) projects were undertaken in the cities of Asheville and Greensboro. Since then we have implemented complete alarm administration services projects for the North Carolina cities of Concord, Greenville, Huntersville and, most recently, Kannapolis. As far as we know, we are now the only company providing False Alarm Administration Services in North Carolina. Concord, Greenville and Huntersville are among the false alarm administration reference sites we provide in Section 5 – Past Performance.

We have had similar experience in the State of Colorado. Two and a half years ago we were selected to provide complete false alarm administration services to Larimer County, Colorado in a competitive procurement (RFP) process. Over the next several years we were selected to install our alarm administration technology in Summit County, including the towns of Frisco and Copper Mountain, and in the City of Pueblo. Most recently, we were again selected to provide complete False Alarm Administration Services to Douglas County just south of Denver. No doubt, these Colorado agencies had far closer choices for a contractor when they chose CryWolf. In support of our performance, we include Larimer County among the false alarm administration reference sites we provide in Section 5 – Past Performance.



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4. PROJECT APPROACH and SCHEDULE

4.1 Alarm Administration Requirements

Fayetteville seeks False Alarm Administration Services to collect alarm registration data from alarm companies and alarm users; import alarm incident data maintained by the City's Computer-Aided-Dispatch (CAD) system; monitor and report on false alarms; issue notices of violation; invoice false burglary and robbery activation fees, collect fees, issue registration forms and alarm identification numbers, maintain records and support appeals.

The ideal solution would offer complete alarm administration services supported by proven, state-of-the-art technology. The services and technology would be provided by an organization with extensive experience in the design, implementation and operation of alarm management programs in multiple jurisdictions of comparable size and complexity to Fayetteville.

AOT Public Safety Corporation (PSC), the nationwide leader in Alarm Administration technology and services, offers this solution and provides Fayetteville the infrastructure, resources and large-scale systems experience necessary to operate a premier false alarm reduction program.

Program Analysis

Fayetteville requires a proven false alarm management system that is designed to support its requirements and false alarm volumes with a database design and application software that can be rapidly deployed, and can easily adapt to future operational and ordinance changes. Fayetteville also requires an approach that accurately manages alarm registrations, properly accounts for financial transactions, efficiently handles unregistered alarms, and has proven capability to import alarm incident data extracted from the Fayetteville CAD system. In addition, the City must ensure that the sensitive and confidential alarm location data provided by security alarm companies and citizens is treated with the highest degree of confidentiality and protected accordingly. These attributes are necessary to ensure a successful false alarm reduction program that provides prompt, secure and efficient service to the citizens of Fayetteville.

To support our service proposal, PSC is pleased to offer Fayetteville the leading technology in alarm management, CryWolf®. This patented (U.S. Patent No. 6,856,246) technology provides all of Fayetteville's functional and operational requirements with minimum customization.

HIGHLIGHTS

- *Alarm Administration Services Approach and Schedule proven in 20 cities and counties to minimize start-up time and risk*
- *The only Patented (U.S. Patent No. 6,856,246) alarm billing technology, CryWolf®*
- *Experience importing alarm incident data from Fayetteville's New World CAD System in multiple jurisdictions*
- *Technical infrastructure necessary to ensure the highest alarm data confidentiality and security*



No other system is as well tested to meet Fayetteville's specific requirements. For example, our CryWolf® technology already imports alarm event information generated by New World CAD systems in Indian River County FL and Wilmington DE. Our CryWolf® technology also already receives financial data from bank lockboxes and other financial systems, offers secure (SSL level) web-based registration and monitoring company access, receives registration data electronically from alarm companies, provides advanced address validation capabilities, fully supports hearings and appeals – all in multiple locations. CryWolf is also used currently to bill false burglary and robbery alarms with different fees in many locations including Lewisville TX; Louisville KY (Alarm Administration Services); Madera CA; and Texas City TX. In addition, CryWolf® is designed to provide Fayetteville secure, web-based, real-time database and report access on demand. This unparalleled system experience means that the alarm reduction program can be started and made fully operational quickly and without the technical risk and time delay associated with system customization, development or excessive trial-and-error testing.

Because we solely own and control the alarm administration technology including all web-based registration/permitting functions, we can assure Fayetteville that its Alarm Reduction Program will be responsive to any ordinance and business rule changes, and remain state-of-the-art throughout the life of the contract. Because the technical and service staffs we propose are our employees, we can also assure Fayetteville that we control the quality of Program service 100%.

4.2 Overall Administration Process

PSC has designed and tailored the Alarm Administration Services to meet and exceed all Fayetteville requirements. The following is a summary of the main Program services with more detailed responses to the RFP service requirements located in the next **Section 4.3 – Required Scope of Services**:

1. **Maintain and manage the City's Alarm Reduction Program.** The false alarm program operations will be organized as follows:
 - An experienced alarm management team will install, operate, process and maintain the Alarm Administration program in accordance with the RFP requirements and the Fayetteville False Alarm Ordinance No. 5083 dated 11/20/07 ("Ordinance"). This team will be comprised of an alarm project manager, alarm and registration processors, and customer service representatives. Members of the proposed team have installed and/or operated false alarm management programs in over 140 cities and counties.
 - PSC False Alarm Program administration staff services will include:
 - Working with alarm companies to collect and import initial alarm registration data
 - Processing new registration, renewal and reinstatement applications by mail and online
 - Importing daily false alarm incident data, and producing and mailing alarm notices
 - Billing for false burglary, robbery and other alarm fees as defined the Ordinance



- Obtaining, entering and reconciling all collection data from the designated commercial bank lockbox and alarm program account
 - Answering alarm company, citizen and business inquiries, and providing other customer services on a full 8am to 7pm Central Standard Time basis each business day
 - Notifying (noticing) delinquent accounts of payment requirements and late fees. Managing collection activities as may be authorized by Fayetteville, e.g. engaging third-party collection agency, transferring information to City collection department, filing liens
 - Supporting the City's false alarm appeals process
 - Providing information to support enforcement efforts, including decisions on permit suspension/revocation
 - Notifying City Dispatch of pertinent changes in Permit Status, e.g. Suspended, Revoked
 - Consulting with the City on ordinance changes, false alarm communications and public education efforts
 - Maintaining all required records of alarm installation/monitoring companies and users
 - Reporting to City management false alarm program activities and progress
- PSC will arrange to direct (via dedicated bank lockbox) all payments for deposit into a Fayetteville designated-bank account established for the Alarm Program. At the beginning of the Project, we will work with Fayetteville to develop a payment processing plan that ensures collections are accurately and efficiently processed, financial transactions are well-documented in accordance with Fayetteville fiscal policies and revenue is shared in accordance with the revenue sharing plan outlined in the Fee Section of this Proposal.
 - PSC program management will also conduct program status meetings with Fayetteville Program administration, respond to telephone and written inquiries by alarm users and alarm companies, insert alarm prevention information in selected false alarm correspondence, schedule and prepare support for hearing and appeal requests, and perform other tasks, as required, to ensure a successful false alarm reduction program.

PSC will furnish and maintain all computer hardware, furniture, equipment and software necessary to install and operate the system at our processing facilities. Because we propose a state-of-the-art client/server based system, primary false alarm processing will be performed at fully equipped and staffed PSC facilities in Waldorf, MD (near Washington DC). This facility is currently used to administer alarm programs in cities and counties throughout the U.S.. As described in Paragraph 10 below, PSC will also provide all necessary forms, supplies, postage and mailing materials to administer the Program at these facilities.

2. **Process applications for alarm permits.** As required, CryWolf processing staff will review registration applications for completeness and research information that is missing or incomplete. Staff will also ensure that no outstanding fees are owed before issuing a permit. The proposed CryWolf® system is designed to register and track alarm users and/or alarm companies as required. The system also tracks registration holders and non-registered locations through the system's "point and click" user interface. CryWolf® issues verification that the application was received, and notification of its acceptance or denial. Outstanding charges are automatically tracked for all accounts regardless of registration status.



Data stored in the system can be searched electronically by a variety of fields including but not limited to registration status, registration number or partial number, name or partial name, address or partial address, and phone or partial phone number.

In order to ensure that only alarm sites within the unincorporated areas of the City are registered, CryWolf processing staff will use the CryWolf® System to verify (geo-validate) new registration locations against either an address verification database, or an ESRI-standard GIS (map) street centerline file provided by the City. Alternatively, we can provide a commercially available GIS map, if the City prefers.

CryWolf® is designed to process alarm system registration information received through the mail, direct (electronically) from alarm companies and online (web-based).

3. **Process Permit renewals and re-instatements.** CryWolf® monitors issue and renewal dates, and automatically generates notifications for permit renewal that will be mailed by CryWolf staff in order to provide alarm users sixty (60) days advance notice of the need to renew every two years. Our staff will also ensure that the system is promptly updated with all renewal information received from alarm users. CryWolf staff will also process applications for Permit reinstatement, following any suspensions/revocations, in accordance with the Ordinance. With its patented design, the system also can allow registration information to be renewed / updated securely over the internet, as specified by Fayetteville.
4. **Process daily alarm activations.** As part of our solution, we will create and maintain a database of alarm locations, including permit numbers and holders. This database will be accessed by the CryWolf® system installed at our state-of-the-art Waldorf, MD processing facility.

CryWolf® will receive a daily update of alarm incidents from Fayetteville's CAD system to be tracked and billed. Each day, a file of alarm incident information for the previous day (or weekend) will be extracted by the CAD/911 center and sent electronically via our FTP site (or email) to our processing facility. CryWolf is designed to use Dispatch and Clearance codes to distinguish between types of alarms, e.g. burglary or robbery, and false alarms. The proposed CryWolf® System interfaces with false alarm incident files extracted from nearly twenty CAD/911 systems including New World.

CryWolf® automatically generates notices of false alarm events and invoices for the amounts detailed in accordance with the alarm ordinance for excessive activations. In addition, the system maintains critical account information for every account including outstanding balances and false alarm statistics, i.e. alarms by month, day and hour. Detailed daily billing transactions and correspondence will be stored for direct access by CryWolf and authorized City staff.

In accordance with the Ordinance, after three burglar alarms within three months the CryWolf system will generate a special letter to be mailed to the Alarm User requiring an inspection of the System by a licensed Alarm Installation Company. The System can also au-



tomatically attach an Inspection Form with content and format designed jointly by Fayetteville and PSC. This Request for Inspection can also be flagged in order for the System to track for response by the alarm user. A sample System Screen displaying how this process is setup is shown in Section 4.3 – Generating Notifications, page 4-20.

CryWolf staff will promptly (typically same business day) produce, insert in envelopes and mail all alarm billings for false activations processed each day, as well as send late notices on returned and unpaid billings. Our solution includes a variety of techniques to help the City collect fees including multiple and varied noticing. Staff will also determine, in accordance with City approved business rules, if a permit should be suspended or revoked in accordance with the proposed Ordinance provisions.

5. **Process alarm activations for unregistered locations.** While processing daily alarm activations, the CryWolf® System is designed to identify unregistered locations, i.e. locations not found in the registration database. When this occurs, the system first prompts CryWolf staff to review the alarm location to ensure the CAD-provided address is correct. The system assists this review process by providing possible alternate addresses based on nearby registered locations and selections made when last processing an alarm at the subject address. The system also can display for the false alarm, common place names, e.g. Joe's Barber Shop, officer and dispatcher comments and other alarm related information, if available from the CAD/911 system. This information is often helpful in correcting inaccurate addresses.

If the CryWolf staff determines that an unmatched address is an unregistered location, a temporary registration number is established for the location, and a Registration packet is automatically generated for mailing to the alarm site. If approved by Fayetteville, this packet would include a letter requesting registration, a Registration Form to be completed, and an invoice for the required Registration fee plus the penalty for operating an unregistered alarm system, as required in the Alarm Ordinance.

6. **Provide all programming requirements of the system per Fayetteville specifications.** We propose to undertake any and all programming necessary for the system to meet the City specifications described in the RFP. The CryWolf® system includes over 300 tailorable features and table-driven options that allow the system to quickly adapt to future ordinance and business rule changes. The CryWolf® system is also covered by a robust technology update program, driven by over 140 clients, that has resulted in an average of 100 system enhancements per year over the past five years.
7. **Generate required management reports.** Fayetteville will have direct, secure, online access to a variety of management and tracking reports that can be produced by our system. No other system provides the extensive and flexible reporting capabilities of CryWolf®. The system includes nearly sixty (60) standard financial and activity reports with various data filter and format choices. In addition, CryWolf staff has access to unlimited custom reports through a built-in report generator as well as via third-party report generators such as Crystal Reports. The system can also generate individual account histories that include



payment dates and all actions taken regarding an individual account. The extensive reporting capability is described more fully in Section 4.3.

8. **Establish Program accounting policies and procedures.** PSC will establish policies and procedures for handling, processing and reporting alarm billings and fees. These procedures will be in accordance with sound accounting practices and consistent with City accounting policies. Our dedicated financial staff will help ensure proper internal financial controls are in place.

PSC has established similar policies and procedures for other local government business partners. Similarly, the proposed CryWolf® system has been reviewed by many local government finance departments to ensure system compliance with sound accounting practices.

9. **Reconcile activity to receipts.** Payment information for the previous day will be entered into CryWolf® by Program processing staff or imported electronically into CryWolf® from a bank and/or other payment system, e.g. online payment, and applied to accounts and invoices. A financial payment report detailing all daily payment transactions will be available for direct online access by CryWolf and authorized City staff. CryWolf staff will also reconcile activity to receipts and retain all related transaction documentation for a period specified by Fayetteville. PSC will confirm its understanding of and compliance with any confidentiality and non-disclosure requirements for any data under its control.
10. **Provide required forms and mailing supplies.** PSC will supply all necessary forms and supplies for the administration and operation of the Alarm System. These will include Registration Forms, Permit Forms, False Alarm Notification letters, Postage and other mailing supplies, and Invoice Forms.
11. **Offer on-line (website based) alarm user access.** The proposed CryWolf® alarm tracking and billing application includes interactive on-line data access capabilities. This function provides the ability for an alarm user to register and access information about their account on-line. In addition, we have provided the capability for alarm monitoring companies to have limited access to information about their own alarm customer accounts. Because of commercial privacy concerns, this latter capability will only be implemented at Fayetteville's request.
12. **Interface with the City's information technology staff.** We will interface with the appropriate Fayetteville technical staff to ensure the following information transfers occur:
 - a. Monitor daily City transfer of alarm incidents to the designated CryWolf® Alarm Processing site
 - b. Enter daily Permit additions, modifications and deletions into the CryWolf® system
 - c. As specified by Fayetteville, export updates of new registrations and registration status changes for import into the CAD system



- d. Provide a weekly report to the Alarm Program Administrator of any valid addresses that are not in the City's GEO database (including street number, street name, City/city and applicant's name)
 - e. Work with alarm companies to resolve any invalid address discrepancies
13. **Notify expiring permit holders of upcoming expiration dates.** The proposed CryWolf® system is designed to automatically generate written notifications of upcoming expiration dates to mail to expiring permit holders. These notifications will be mailed so as to provide at least forty-five (45) days written notice. The system is designed to allow a completed registration form to accompany the notice to facilitate any changes in permit holder information that may accompany the renewal application.
14. **Change registration status, as directed by the City.** The CryWolf staff will provide timely notification to the Fayetteville Alarm Program Administrator of alarm users that are subject to suspension or permit reinstatement, and apply any status decisions made by authorized City managers.
15. **Provide marketing and communications support.** PSC will also provide the following assistance to promote the alarm program if requested by Fayetteville:
- a. Consult on alarm school curricula and educational materials, if requested
 - b. Consult on point of purchase displays, brochure production, false alarm notification stickers and distribution to new and existing registered alarm sites , and other support as needed to effectively administer the program

4.3 Required Services

PSC proposes to provide comprehensive false alarm administration services that meet and exceed all Fayetteville Proposal specifications. As requested in the RFP, this Section addresses the Services Requirements in the order presented in the RFP. Each requirement will be highlighted followed by our response. Where possible, we have used system Screen Views and examples to more clearly describe our answers.

We shall provide all of the following specific services. These services fully meet and exceed those required in the RFP:

- **Provide an electronic database to track all security alarm registrations.**

Nationwide, CryWolf systems maintain databases containing over 2,000,000 permitted and non-permitted alarm locations. The system is designed to register and track alarm companies, alarm users and, as required in some locations, alarm technicians. Up to 95 fields of information can be maintained for each alarm location including eight (8) Fayetteville-specified, custom fields.

As shown in the Master Permit information screen below, CryWolf displays the alarm location (at the top of the screen) and information on an unlimited number of related parties at the bot-



tom of the screen including the “Responsible Party” who is the main recipient of alarm-related correspondence and invoices.

Registration Database Entry Screen

As shown above, the Master Registration Screen contains Tabs at the bottom half of the screen to also store Alarm Information (up to 4 alarm companies and Fayetteville-specified types of alarm systems), Special Conditions (hazards plus 6 custom fields), Additional Information, Administrative Notes (customer service representative comments) and Responses Received (such as Fayetteville’s required Inspection Certification for false robbery alarms).

The Master Registration Screen and its Tabs will be used to store the following data specified in Section (C) Paragraph (6) Topics (a) – (g) of the City False Alarm Reduction Ordinance (130.23):

- a. the name, complete address (including apt/suite number), and telephone numbers of the Person who will be the Permit holder and be responsible for the proper maintenance and operation of the Alarm System;
- b. the classification of the Alarm Site (e.g. single or multi-family residential, commercial, warehouse, governmental, etc.);
- c. mailing address, if different from the address of the Alarm Site;
- d. the date of installation, Conversion or Takeover of the Alarm System;
- e. the name, address, and telephone number of the Alarm Installation Company or companies performing the Alarm System installation, Conversion or Takeover, and of



- the Alarm Installation Company responsible for providing repair service to the Alarm System;
- f. the name, address, and telephone number of the monitoring Company, if different from the Alarm Installation Company; any protection / reactive systems, and;
 - g. Signed certification from the Alarm User stating that:
 - i. A set of written operating instructions for the Alarm System, including written guidelines on how to avoid False Alarms, have been left with the applicant by the Alarm Installation Company;
 - ii. The Alarm Installation Company has trained the applicant in the proper use of the Alarm System, including instructions on how to avoid False Alarms, and;
 - iii. The Alarm User is aware of the fact that a police response may be influenced by factors including, but are not limited to, the availability of police units, priority of calls, weather conditions, traffic conditions, and staffing levels.
- Track false alarm responses as provided by the City and registration status (ex. Active, suspended or revoked) using the database.

PSC will install and operate at PSC's alarm administration facilities the state-of-the-art alarm tracking and billing system known as CryWolf. CryWolf is PSC's proprietary system used to administer the false alarm programs of over 140 cities and counties throughout the United States and Canada.

CryWolf® is a table-driven, modular, high volume, transaction-based, alarm management system. Its unique, yet flexible design helped make CryWolf® the only patented (U.S. Patent No. 6,856,246) Alarm Administration system available. This patent also helps to ensure that the technology in use by the Fayetteville Program does not infringe on the intellectual property rights of other technology companies.

As false alarm information is received from Fayetteville (described later in this Section), CryWolf® alarm processing staff compares (validates) each address with the addresses in its alarm location database. If the address is found, the system automatically determines from the location database the proper count for that false alarm, based on the one year calendar period required by the Fayetteville Ordinance. Using the alarm count (1st, 2nd, etc.) and the Ordinance provisions, the system automatically produces a letter and/or invoice addressed to the alarm user named in the account record.

If an address is not found in the database, CryWolf® automatically displays a list of possible address matches. CryWolf System operators have the option of adding a new, temporary Registration, editing an existing Registration, or choosing one of the possible matches.



Popup Screen for Unregistered Location

If it is determined that a false alarm occurred at an unregistered location, i.e. not in the registered system database, CryWolf staff will automatically notify or invoice (depending on the alarm count) the alarm user for the false alarm plus add the \$250.00 fee for being unregistered. A Registration Form and Prevention Information will also be attached, as appropriate. As outlined in the Ordinance, the unregistered fee can later be waived if application is made within 10 days of unregistered notification.

Add Temporary Permit Account



We have clients that track and process more than 300 false alarms per day using CryWolf®.

As shown in the Master Registration screen below, the CryWolf system also tracks other important information such as Fayetteville-defined Permit Status (e.g. Active, Suspended, Referred to Collection, Revoked), Amount Outstanding, Number of False Alarms, Permit Issue and Expiration Dates. Also shown, on the upper right side of the Master Screen above are Special Color-Coded, "Flags" that can be set for NR-Do-Not-Respond, R-Revoked, S-Suspended and turned on automatically (colored Red) when status-change notification letters are generated to alarm users. Other fields can also include color coding to highlight key parameters or statuses, as required.

Business/Residence Registration

Permit # 5371 Search Residential 1 Outstanding \$15.00
 TA/Org A+ NAILS Created 05/11/2000
 Business Updated 04/28/2007
 Address 12050 JEFFERSON FARM PL III # Flags
 LOS ANGELES CA 90012 GeoCode FA Cnt 0 FAs / #10
 Phone (213) 638-7222 Fax () - Issued 09/01/2003 Expiration
 Email Status Permitted Status Date 04/30/2007

Persons Information Alarm Information Special Notices/Custom Data Additional Information Admin Notes Responses Received

☐ Use The Same Responsible Party As Registration # 4 Related Names

Person 1
 Position Responsible Party Title Phone (213) 638-7222
 Last First SULLICK CHARLES Fax () -
 Address 12050 S MAIN STREET # Fax () -
 WELINGTON CA 90023 Fax () -
 Email
 ID 1 ID 2

Copy Owner Delete Send Ltr N/A - None History Documents Reg Form Update Clear

Displaying permit status information

- Make registration, false alarm and registration status data available for import/export to/from the City and alarm companies in Microsoft Excel format.

We transfer alarm related data to and from CAD systems and alarm companies in nearly 20 Alarm Administration Services engagements. While the process is typically tailored for each client, the following approach is typical:

CAD to CryWolf Alarm Incident Data Transfer

Our CryWolf System currently interfaces with alarm files extracted from CAD/RMS systems manufactured by approximately 20 System Vendors including New World. We have worked with alarm incident data from New World CAD systems in Indian River County, Florida (four years) and Wilmington, Delaware (eight months).



[illegible]

List of CryWolf “Call for Service” fields

On a daily basis, alarm incident data will be extracted from the CAD/911 system by Fayetteville. The daily files can be placed on our secure FTP site or emailed to us. Many of our clients prepare and send these files automatically using Windows Server Scheduling, usually soon after midnight each evening, to avoid a manual process. Each business day, our alarm administration staff processes the previous day's alarm file (weekend files on Mondays) and generates the required correspondence and invoices for mailing that day.

CryWolf to CAD Permit Status Data Transfer

CryWolf can also generate files of permit information in various formats including comma and fixed-length delimited, ASCII, text and XML. Our exported files are usually tailored to the CAD system needs and can include any of the alarm permit data maintained by CryWolf including Permit Status, Contact Names and Phone Numbers and Site Hazards. We recommend that only changes in this data are regularly transferred to minimize transfer time. Full data transfers could also be scheduled periodically to ensure database synchronization, if desired.

In order to implement a "Do-Not-Respond" policy, we will need to notify Fayetteville of alarm locations where the Permit Status has changed (to/from a Suspended or Revoked status) in accordance with the City's Ordinance provisions. This functionality is implemented for various CryWolf clients in several ways. Where possible, our CryWolf data transfer application can work in conjunction with Windows Server Scheduling to automatically push the selected Permit status data updates to a City FTP site for processing by CAD. Alarm site information added, changed and deleted by Alarm Administration staff is generally scheduled for exchange on a daily basis.

Alarm Company to CryWolf Alarm Registration Data Transfer

PSC pioneered the electronic transfer of false alarm information between alarm companies and agencies. We have imported alarm related data on nearly 300,000 registrations from alarm companies to Alarm Programs in many jurisdictions including Albuquerque, NM; Baltimore City, MD; Loudoun County, VA; Louisville KY, Manatee County, FL; Prince George's County, MD and Larimer County CO. Several jurisdictions where we have accomplished this transfer are among the referenced agencies in Section 5 – Past Performance. This functionality is already built into CryWolf and uses a predefined Microsoft Excel spreadsheet format. All of the national, and many regional, alarm monitoring companies are very familiar with our data transfer process.

Alarm Company Access to Selected CryWolf Permit Data

In many CryWolf communities, Alarm Companies have benefited from our ability to host an Alarm Company website providing access for Alarm Companies to enter alarm system registrations and view their own customers' false alarm performance. An example of an Alarm Company website is shown below:



Sample Online Alarm Company Screen

We expect that this offering would also be well-accepted by alarm monitoring companies doing business in Fayetteville and enhance cooperation among the companies, their Alarm Association and the City Alarm Administration Program.

- Provide the City with electronic lists of new registrations and changes of registration status on an as-needed basis.

The CryWolf System is updated with any Status change, including Permit Suspension or Revocation, normally within one business day. City of Fayetteville notification can be made by email. We are also open to discussing special procedures for accelerating this update process.

Typically, we find that our alarm administration clients prefer to review critical decisions such as Suspension or Revocation, before any "Do-not-Respond" action is taken. Accordingly, we propose working with the City of Fayetteville at the beginning of the Project to establish a procedure ensuring that any "Do-Not-Respond" decisions are properly authorized before the CAD system is updated.

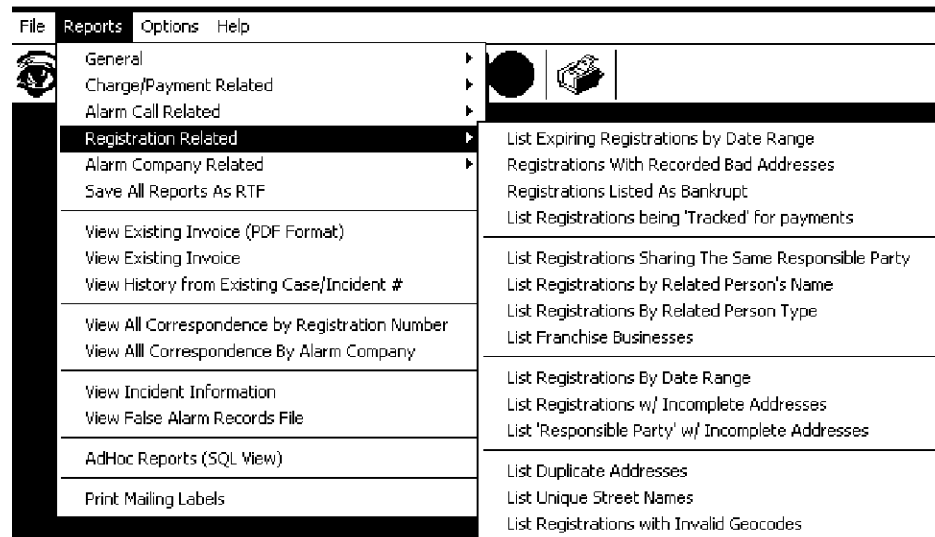
If Fayetteville chooses to accept electronic permit status change updates, e.g. Do-Not-Respond, via a file for import into the City CAD system, we would propose generating this file daily and placing it on a secure City FTP site, although our secure FTP site could be used. We currently generate CAD update files in multiple locations and also transmit updates by email in a few jurisdictions.

CryWolf® currently generates nearly 60 standard reports. Many reports can be generated on-demand. Most reports are date specific, and can include additional filters such as limits by sta-



tus, e.g. Active and location types, e.g. Business or Residential. Examples of the various reports are included on the CD included with this Proposal.

The following snapshot shows the large number of registration related reports available, including initial security alarms registered, renewal alarm notices sent and received and changes in Registration status, as required in the RFP. We will review these reports with the Fayetteville Program Administrator(s) and select one or two that the Administrator will regularly want to access online. These will be included in an online report menu tailored for Fayetteville.



Registration Related Reports

In addition, the following snapshots show the large number of other standard reports included in the system. The Report menus are shown by major Report category. Financial reports are included in the first two major categories (Screen Snapshots). These reports include:

- Billed and collected false alarm notices, including the number of bills each week (actually for any specified date range) and associated amounts, as well as collected bills each week (or other specified date range);
- Outstanding false alarm invoices due, including a list of all outstanding invoices issued and not collected within the previous 30, 60 and 90 days (see Aging Report in the second screen shot below); and,
- Remittance report (see Payment Tally Sheet in the second screen shot below), including a summary of all collected revenues from false alarm activations, late fees and other service charges.



File	Reports	Options	Help
	General		Review Account History
	Charge/Payment Related		Workload Snapshot By Date Range
	Alarm Call Related		List Accounts Receiving Certain Correspondence
	Registration Related		List Accounts for 'Response Required' Correspondence
	Alarm Company Related		List Top Offenders by Incident Date Range
	Save All Reports As RTF		Special Category Report
	View Existing Invoice (PDF Format)		Review Appeal Hearing
	View Existing Invoice		Appeal Hearings Listing/Statistical Report
	View History from Existing Case/Incident #		List Pending Hearing Requests
	View All Correspondence by Registration Number		Activities Summary By Action Date Range
	View All Correspondence By Alarm Company		Data Entry Statistics by Date Range
	View Incident Information		AR/AC Registration Statistics By Date Range
	View False Alarm Records File		Write Payment Data to File
	AdHoc Reports (SQL View)		Write Registration Data To File
	Print Mailing Labels		Write Outstanding Payments To File
			Alarm Processing Integrity Check

General Reports

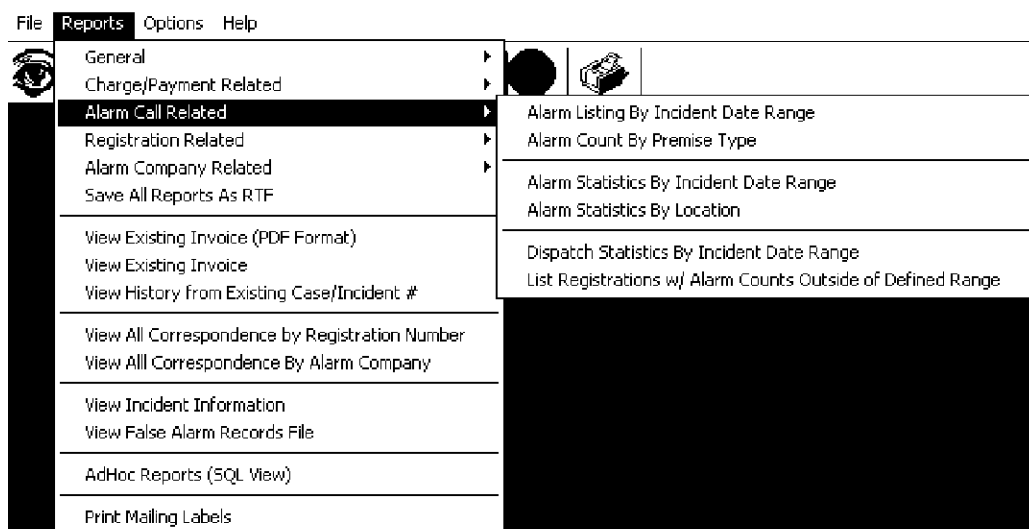
File	Reports	Options	Help
	General		
	Charge/Payment Related		Payment Tally Sheet
	Alarm Call Related		Search Payments By Check Number
	Registration Related		
	Alarm Company Related		Aging Report (Using Date Letter Sent)
	Save All Reports As RTF		Delinquent Account Analysis Report
	View Existing Invoice (PDF Format)		Charge and Payments Controlled by Date Range
	View Existing Invoice		
	View History from Existing Case/Incident #		List Payments By Location Type
	View All Correspondence by Registration Number		List Accounts With Escrow Funds
	View All Correspondence By Alarm Company		List Accounts Receiving Refunds By Date Range
	View Incident Information		List Payment Files Processed by Date Range
	View False Alarm Records File		
	AdHoc Reports (SQL View)		
	Print Mailing Labels		

Charge / Payment Related Reports

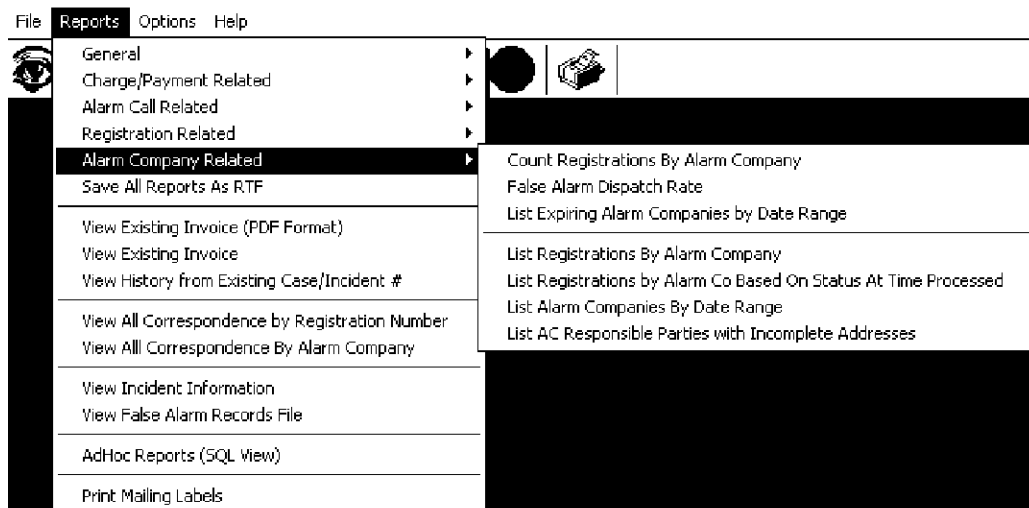


FAYETTEVILLE, ARKANSAS
FALSE ALARM ADMINISTRATION SERVICES

SECTION 4
PROJECT APPROACH and SCHEDULE



Alarm Call Related Reports



Alarm Company Related Reports

As shown in the snapshot below, all CryWolf Screen reports include 'hyper-link' functionality. Clicking the mouse over any alarm registration/permit number, invoice number, hearing number, or case number in a report will automatically display that item's supporting information, e.g. invoice, CAD incident data, on the screen. Supporting information may then be viewed or printed.



Top Offenders by Date Range

From: 01/01/2003
To: 12/31/2003
Location Type: -ALL-
Current Status: All Res
Cancel & Exit

Register #	Resident or Business Name
1001	CHILTON, C. J.
1002	CHILTON, C. J.
1003	CHILTON, C. J.
1004	CHILTON, C. J.
1005	CHILTON, C. J.
1006	CHILTON, C. J.
1007	CHILTON, C. J.
1008	CHILTON, C. J.
1009	CHILTON, C. J.
1010	CHILTON, C. J.
1011	CHILTON, C. J.
1012	CHILTON, C. J.
1013	CHILTON, C. J.
1014	CHILTON, C. J.
1015	CHILTON, C. J.
1016	CHILTON, C. J.
1017	CHILTON, C. J.
1018	CHILTON, C. J.
1019	CHILTON, C. J.
1020	CHILTON, C. J.
1021	CHILTON, C. J.
1022	CHILTON, C. J.
1023	CHILTON, C. J.
1024	CHILTON, C. J.
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1036	CHILTON, C. J.
1037	CHILTON, C. J.
1038	CHILTON, C. J.
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1097	CHILTON, C. J.
1098	CHILTON, C. J.
1099	CHILTON, C. J.
1100	CHILTON, C. J.

Current Status: AR Expiring
Location Type: New Res
Issue Date:
Expiration Date:
Length of History:

Alarm Summary

Alarm Type	Total
BURG	274
ROBB	
Other/Unk	

Invoice Summary

Invoice #	Headline
137968	760

Invoice

Invoice #	Headline
92297	
90193	
89996	

Hearing

Comments

Invoice

Invoice #	Headline
137901	

CC

Incident Information Record

Case No: 8023420293
Alarm No: 5371
Date Entered: 12/9/2002
Derived Location: 12050 JEFFERSON FARM PL
Complete Location: 12050 JEFFERSON FARM PL, HOME DEPOT
Incident Date: 12/8/2002 - Sunday
Incident Time: 22:11
Monitored By: 4097
Incident Type: 3635
Time Dispatched: 22:17
Time On Scene: 22:19
Time Cleared: 23:03
Dispatcher Info: Telephone
clearance: FA
beat No: 03C1
officer ID: A315

All reports can be saved as PDF through the program (no external software required) or as Rich Text Format (RTF) for reviewing and editing in word processing software such as MS Word or WordPerfect.

- Generate and mail false alarm notifications, billings, and registration status change notifications to individuals and businesses

An effective alarm management program keeps the public, alarm companies, program management and other stakeholders well informed through managed correspondence.

CryWolf will be setup to automatically generate new permit approval letters as well as renewal notices 45 to 60 days, as required, before the expiration of the two year permit period. Using CryWolf's flexible Letter (Notice) generator (or copy and paste from MS Word), an Ordinance summary will be automatically attached to each permit letter sent to new alarm system users. In addition, the Ordinance summary will be posted online at the alarm program website for any alarm user to review and print as needed.

PSC will generate and mail required notifications each business day for every false alarm, typically for false alarm incidents received and processed that morning. This will include printing, folding, stuffing and mailing all correspondence, and recording the mailing date. Regarding invoices, if payment is not received within 30 days a late fee will be added in accordance with



the Ordinance and a late notice/invoice automatically generated, referencing and updating the original charge.

We will review the format and content of all correspondence with Fayetteville alarm program management before it is used. Our CryWolf® technology provides for an unlimited number of letters. These letters and documents are designed to be professional in appearance with personalized information. They include merged data, e.g. date and time of a deputy's response and the current number of false alarms at the subject location.

As shown below, the system can be easily configured to automatically notify, upon the third false burglar alarm (BURG Dispatch Group in the example below) that the Alarm System must be inspected ("False Alarm Inspection Rqrd" letter in the sample screen below). The same letter can also automatically include an attached Fayetteville-approved, Inspection Form to be completed and returned. The "False Alarm Inspection Rqrd" letter can be further marked in the CryWolf system as a "Response Required" letter triggering the system to look for the alarm user's inspection response.

Fines and Status

Location: <General> Copy <General> View All Matrices

Dispatch Groups: BURG Groups: BURG

Additional Unreg: <General> Add Additional: BURG Apply fines when this Status is used: BURG

GRID - False Alarm Charges per Alarm Count

	From	Thru	Fine	Letter
1	1		\$0.00	FA Burglary Warning
2	2		\$75.00	FA Burglary
3	3		\$100.00	False Alarm (Inspection Rqrd)
4	4		\$150.00	FA Burglary
5	5		\$200.00	FA Burglary
6	30000		\$250.00	FA Burglary
*				

Cover Letter for <False Alarm Summary> Events: FA Statement

☐ Combine Invoices for Linked Responsible Parties

Selection of a letter where the 'Mail To' party is set to an Alarm Co (MonitoredBy, etc) causes False Alarm charges to be billed to that type of Alarm Co.

Submit

Screen to Setup Automatic Inspection Letter

As this example demonstrates, CryWolf can generate special request letters to any location for any reason at any time. These letters can be automatically generated based on a custom business rule, e.g. three false alarms within a consecutive 365 day period, based on outstanding debt such as more than 90 days delinquent, or manually generated at any time.

Similar to the example cited, a separate schedule of fees and letters will also be established for robbery alarms in accordance with the Ordinance provisions.



	Anytown Registration Form		Renewal Period: 10/07/77
	123 Main St. Anytown, USA 12345		
ALARM REGISTRATION - RENEWAL			
A. HOME RESPONSIBLE PARTY INFORMATION: DEPARTMENTS FROM REQUEST BE SUBMITTED WITH EACH CHARGE/REGISTRATION FORM. MAKE CHECK OR MONEY ORDER PAYABLE TO:			
1. Name of Home Owner: _____ (If owner does not have complete picture, please send a copy of page 2.)			
Alarm Location: _____			
Type of Alarm (check all that apply): Burglar ☒ Fire ☒ Medical ☐ Robbery/Kidnap ☐			
B. Commercial Alarm User Information (Complete if alarm user, please complete Section B through D)			
COMPANY'S PHONE NUMBER: _____			
Alarm Location: _____			
DEWANE ROAD _____ _____ _____			
Owner or Owner of Business: _____			
Local Manager: _____			
C. MAILING ADDRESS: _____ _____ _____			
D. Contact Information (List telephone, other than the owner, who is responsible for alarm company)			
List Contact Name: _____ _____ _____			
List Contact Name: _____ _____ _____			
E. Alarm Service/Install Company: _____			
License No. _____		Contact Person _____	
F. Alarm Monitoring Company: _____		_____	
License No. 1234		Contact Person: THOMAS ROZDZINSKI	
_____		Phone (432) 555-5522	

Once an unregistered account registers, converting the account to a permanent account is easily accomplished by simply changing the Fayetteville-defined status from "Permit Pending" to "Active" or "Permitted". The Permit Number does not change and all prior charges and actions are automatically transferred.

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PROJECT APPROACH and SCHEDULE

Registration Information

Set Registration Fees By Location Type

Location Types, Fees, and If a Name (First and Last) is needed

Location Type	Years	New Reg Fee	Renewal Fee	Renewal Fee (No FAs)	Name
Residential	2	\$0.00	\$0.00	\$0.00	☐
Commercial (Non Financial)	2	\$0.00	\$0.00	\$0.00	☐
Commercial (Financial)	2	\$0.00	\$0.00	\$0.00	☐
Government	2	\$0.00	\$0.00	\$0.00	☐
Senior Citizen	2	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐
	0	\$0.00	\$0.00	\$0.00	☐

Submit

Modifiable Alarm Permit Period / Fee Table

- Ensure that only alarms within the City of Fayetteville are being registered.

CryWolf Program staff will help ensure that only alarm systems located within Fayetteville are being registered and billed for false alarms. As shown below, the CryWolf® system is designed to geo-validate (GeoCode) addresses as they are entered through the registration process. Once validated, these addresses are the locations used for billing purposes.

Permit Address Validation (GeoCode) Button

The screenshot shows a registration form with a 'GeoCode' button circled in red. An arrow points to the button. The form includes fields for 'Reg #', 'Last Name', 'First Name', 'Address', 'City', 'State', 'Zip', 'Phone', 'Fax', 'Email', and 'Status'. The 'GeoCode' button is located next to the 'Address' field.

Permit Address Validation (GeoCode) Button



As shown below, CryWolf can geo-validate addresses based on either an address database provided by the City or through Geographic (Map) Information System (GIS) technology, using ESRI standard electronic maps.

Score	Firm Left	To Left	Firm Right	To Right	Prefix	Street	Type
21						JEFFERSON	RD
0	101	115	100	114		JEFFERSON	RD
0	1255	1299	1254	1298		JEFFERSON	RD
0	144	116	145	117		JEFFERSON	LN
0	1252	1200	1253	1201		JEFFERSON	LN
0	170	146	171	147		JEFFERSON	RD
0	198	172	199	173		JEFFERSON	RD

Geo-file verification

- Provide a toll free customer support telephone line. These services shall not be outsourced and shall be conducted by the company that enters into a contract with the City. Customer service personnel must have experience in handling the administration aspects (tracking and billing) of the program and the service must be able to support ant citizen's inquiries about our alarm ordinance, registrations, fines, etc.

CryWolf staff will be available to assist citizens and businesses, and answer administrative and billing questions by telephone toll-free. This customer service support will be available 8am – 7pm Central Standard Time (CST), Monday through Friday, excluding national holidays. A voice mail system with customized greeting will be used to capture calls made at other times for timely call back the next business day. The toll-free number will be published on all invoices (tickets), alarm registration notices and other correspondence.

The CryWolf customer support staff is mainly located in existing False Alarm Program support offices in Waldorf, MD. All of these staff are PSC employees and include no subcontract personnel. PSC employs a staff of 20 people including 12 experienced alarm program support personnel. Intensive staff training, telephone scripts and Agency-specific operations manuals help ensure the highest quality of customer support. Sample telephone scripts and policies are included in the Proposal Appendix.

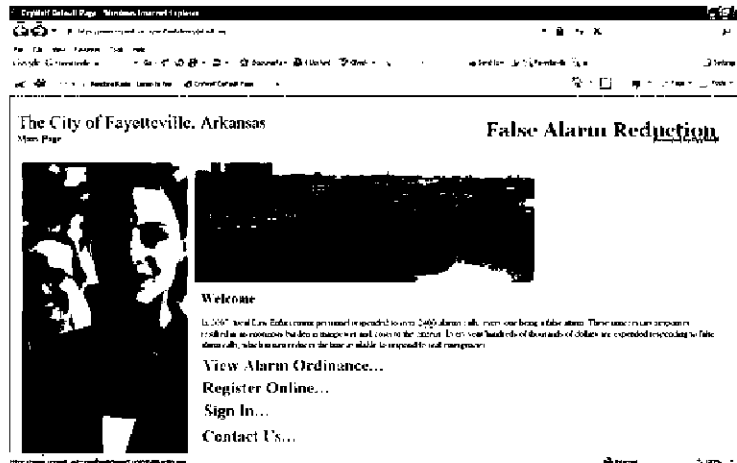


The Waldorf, Maryland processing facility offers the latest customer service computer and telephone system equipment including high-speed, high-volume folding, sorting and mailing equipment; high-speed internet connection; hosted website for Fayetteville access and database backup/disaster recovery equipment/services.

Customer service representatives will respond to citizen and business inquiries based on scripts pre-approved by Fayetteville Program administration.

- Provide continuing education programs

As we have done in many other locations, we will tailor and host a dedicated Fayetteville False Alarm Reduction website similar to the one shown below.



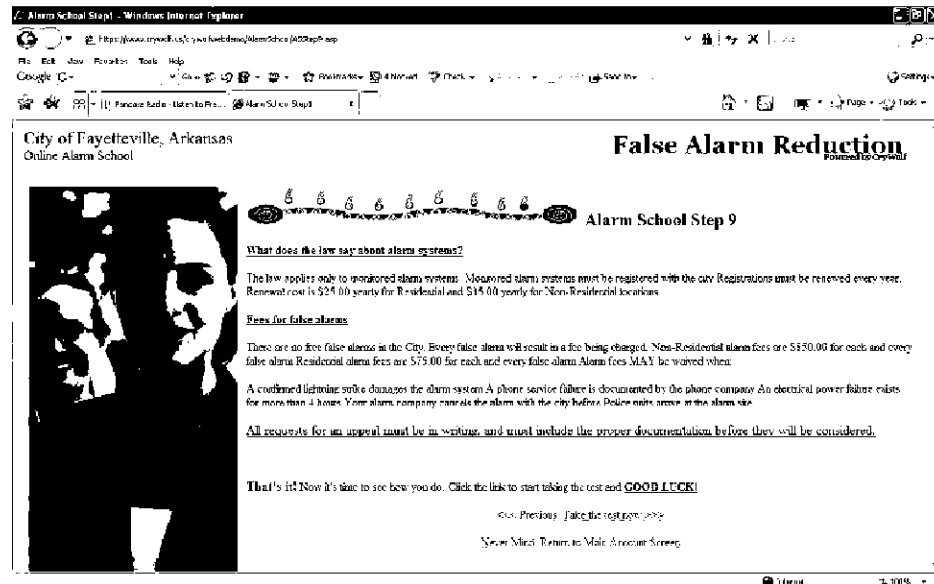
This site may be linked to the general Fayetteville City website and can provide Citizens and businesses continuing alarm education by (1) presenting False Alarm Reduction Information and by (2) providing access to an online Alarm Awareness Class (Alarm School).

The online False Alarm Reduction Program information can include:

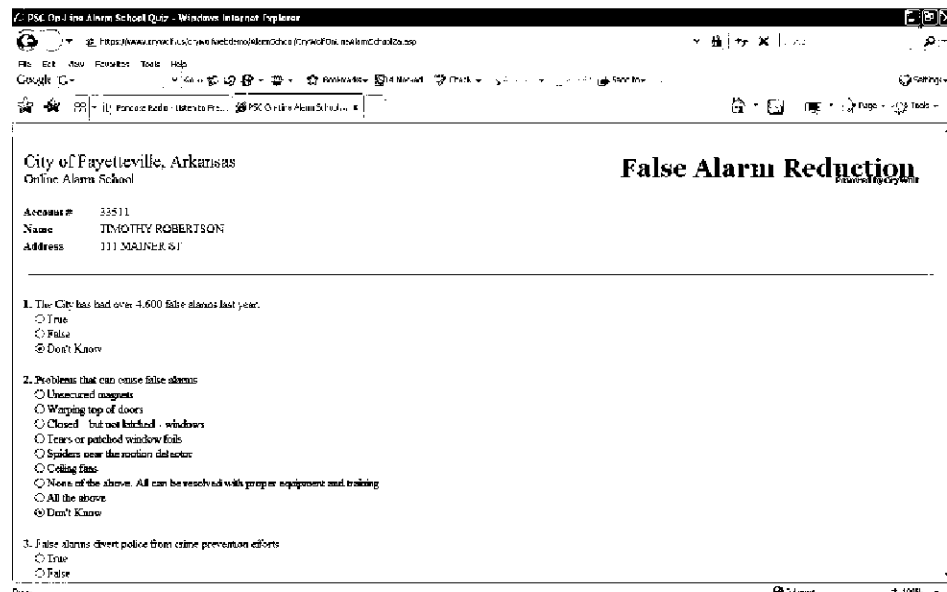
1. Alarm Ordinance
2. Appeal process
3. Registration requirements
4. False alarm fee structure
5. Reinstatement requirements
6. Unregistered users
7. Law Enforcement response guidelines

As shown in the sample screens below, we also host an online Alarm School in multiple cities. The first sample screen shows the 9th step (screen) in a multi-step process where online visitors, via secure logon, are provided tailored questions and answers about the causes of false alarms and how to prevent them.





Once online visitors complete the multi-step education process they are provided an online test (shown in the sample screen below). This testing process automatically draws a random subset of questions from a larger question universe to help ensure that the test varies from visit to visit. The test results are reviewed with the online visitor and the test “pass or fail” result is written to the visiting alarm user’s account history.

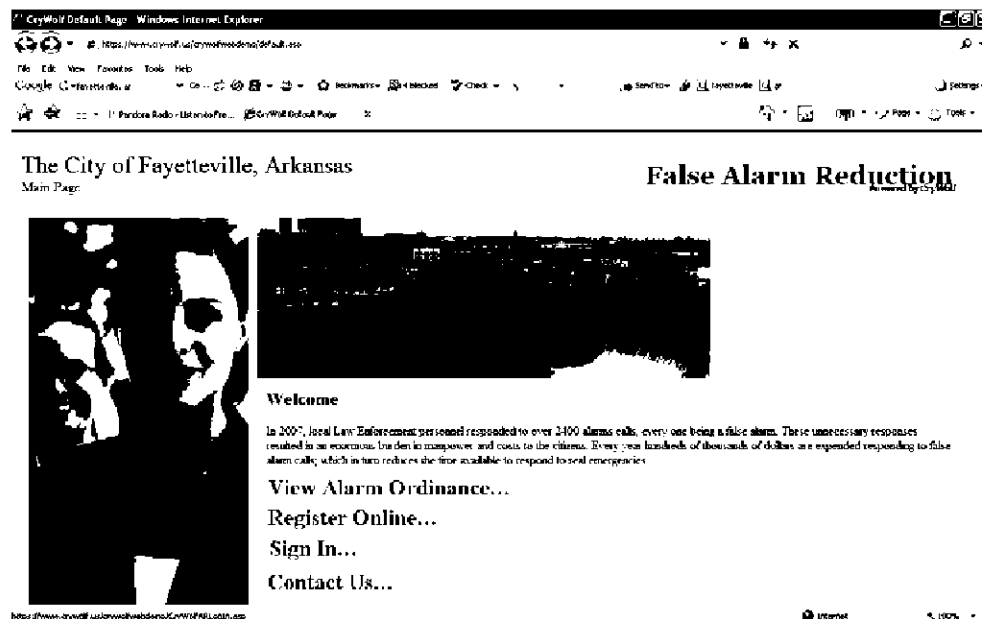


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- Provide online registration and status capabilities

As shown in the sample Screens below, PSC will provide fully interactive, secure online (web-based) alarm registration for alarm systems. This functionality also allows alarm users to review their registration status, update contact information and renew permits online. This web-based registration may be used by both alarm users and alarm companies (to register their alarm users) and is currently in use by numerous CryWolf® clients including a number of the references provided in Section 5.



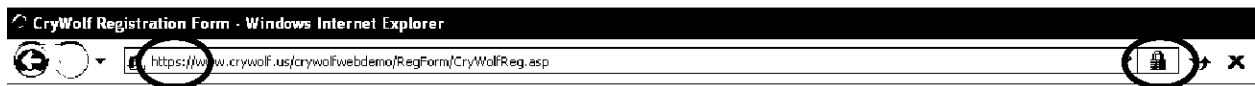
Sample Online Program Citizen Access Screen



Sample Online Registration Screen

Online registration and access offers important benefits such as citizen convenience, data accuracy, false alarm awareness, greater compliance and more timely information. It also increases the responsibility to ensure that very sensitive alarm permit data remain secure.

All web access to CryWolf maintained alarm information takes place over secure, 128-bit encrypted, secure socket layer (SSL) online connections. Few alarm administration systems offer this security level. As shown in the Screen View below, SSL security is easily seen on all CryWolf web pages by the "https://:" at the beginning of the website name ("url") and the Gold Lock icon shown on each webpage.



Enhanced Online Security

- Assign an adequate number of well qualified employees to the project.

As described earlier, the CryWolf customer support staff is mainly located in existing False Alarm Program support offices in Waldorf, MD. All of these staff are PSC employees and include no subcontract personnel. PSC employs a staff of 20 people including 12 experienced alarm program support personnel. In Section 3 of this Proposal we described the Fayetteville support team and we have included more detailed resumes of key personnel in the Proposal Appendix.

- Provide complete technical support to Fayetteville staff including a toll free customer support number for quality assurance testing.

The City of Fayetteville like all of our Administration Services clients will receive the same annual system maintenance, technical support including quality assurance testing as clients who operate our software internally. This includes all software upgrades (generally twice per year) and unlimited system help desk support. All clients receive maintenance and support at no additional cost.

Our technical support is available toll free 8am – 7pm CST, Monday through Friday, excluding National holidays. The technical help desk is reached at (877) 729-9653.

The protection of all Fayetteville alarm data maintained in our processing facility is tantamount. Among the measures in place to help ensure that Fayetteville alarm location data is secure from unauthorized access are the following:

- Sonicwall Firewall – a Stateful Inspection firewall with Deep Inspection technology



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- NAT (network address translation) – all internal IP addresses are private and non-routable over the public internet
- DMZ – a separate network segment where publicly accessible servers reside to keep them separate from internal servers and users. All DMZ servers are firewalled as well.
- Symantec Antivirus Enterprise – real-time scanning of all incoming and outgoing data
- File and Share permissions – by default all data is inaccessible to all internal users. Permissions are granted only on a need-to-know basis
- A complete data backup and recovery process including daily onsite and offsite backups.

This technical support offers processing strength, an efficient growth path, flexibility, easy maintenance and backup, fast upgrades using industry-standard components and exceptional data security.

- Provide authorized Fayetteville staff secure, web-based access to the alarm database and management reports

PSC proposes to host and manage the CryWolf System at our processing facilities in Waldorf, Maryland, a suburb of Washington DC. As shown in the sample Screen below, the system will be accessible 24/7 by authorized Fayetteville personnel via a Fayetteville-dedicated and secure (SSL) website. This approach is currently used in many jurisdictions where we provide Alarm Administration Services.

The series of screens below show first the secure (SSL) login for authorized City of Fayetteville personnel and three of the successive navigation bars once login is accepted. The Navigation bars that follow show various database search and report options available. The specific report list shown is also tailorable in order to provide City staff the most frequently needed reports online.

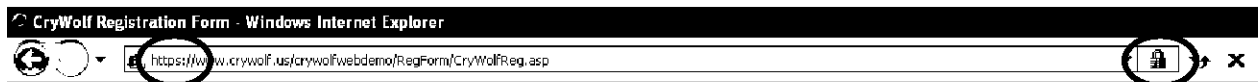


City of Fayetteville Online Program Login Screen



City of Fayetteville Online Program Navigation Screens

Similar to online citizen registration and account review, all City web access to CryWolf maintained alarm information takes place over secure, 128-bit encrypted, secure socket layer (SSL) online connections. Few alarm administration systems offer this security level. As shown in the Screen View below, SSL security is easily seen on all CryWolf web pages by the "https://" at the beginning of the website name ("url") and the Gold Lock icon shown on each webpage.



Enhanced Online Security

- Provide disclosure and supporting documentation, such as a "collection policy". That will be used by the agency when directing collection service personnel on dealing with accounts by the telephone or in writing. Provide sample letters and telephone scripts.

At the beginning of the Project, PSC will work with City Alarm Project and Financial managers to define appeal, collection, late fee, refund, response suspension, permit revocation, re-instatement and other Program policies and procedures. We will also provide sample letters, forms, e.g. Permit Registration form, and phone scripts for City review and edit. We maintain an inventory of nearly 40 letters, forms and scripts to speed the program startup process. A sample of letters, forms and scripts are included in Appendix A.

- Provide support for citizen / business Appeals in accordance with Section (J) of the City False Alarm Reduction Ordinance (No. 5083).



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PSC has extensive experience supporting appeals in numerous locations as part of our Alarm Administration services. We have provided these services in about a dozen locations.

Because PSC will already have a central database of false alarm dispatches and citizen inquiries with supporting information, we propose to support the appeals process at no additional cost to Fayetteville.

PSC fully supports hearings and appeals. If a citizen or business wants to file an appeal, PSC can email or fax the appeal form to them. The forms and appeal instructions will also be available for direct download from the City's website, if desired.

Our system can quickly assemble pertinent information and reports to document all billing, revocation and other decisions. CryWolf program staff will forward this documentation to City personnel evaluating the appeal or this documentation can be securely accessed online.

As shown below, the CryWolf® system includes a complete Hearing and Appeals module to apply the results of an appeal. This module is dedicated to tracking and accounting for the filing and adjudication of hearings and appeals, and allows for the reduction of fees, reassigning of alarm calls, and even the deletion of calls as required. All hearing results are tracked by registration and can be reviewed as needed. If required, this module can process a large volume of appeals as evidenced in Baltimore County MD, where 800 appeals are processed each month.

Sample Appeal Screen

Our system is also designed to automatically generate a notice of the appeal results for mailing to the resident or business. CryWolf staff will mail these results. These notices will be tailored to



Fayetteville needs and can include special appeal categories defined by Fayetteville, such as weather.

Our CryWolf system provides the ability to waive an alarm incident, change the alarm count and/or charge, and document the reason for the waiver. The waiver event and justification is automatically inserted in the account history for audit trail purposes and will *automatically modify any subsequent billing transactions* for false alarm incidents.

During the appeal period, delinquent notices on the appealed transaction are automatically suspended. Once an appeal decision is made, the results are entered and a decision letter can be automatically sent to the alarm user.

In the example "Hearing/Appeal Entry" screen below, a tenth alarm incident (#S032150014) is waived (Ignored) resulting in a subsequent alarm incident (eleventh alarm incident) being re-numbered as the new tenth incident with a corresponding reduction in fine from \$200.00 to \$150.00 based on the applicable fine schedule. A justification for the adjustment is entered and will be included in the account history for audit trail purposes.

Hearing and Appeal Screen

- Provide a reliable and secure process for collecting and transferring alarm related funds to the City including record keeping.

Normally PSC will arrange to have all payments remitted to a mutually-agreeable, dedicated, commercial bank lockbox for automatic deposit by the bank into a designated bank account established for the Alarm Program. At the beginning of the Project, we will work with Fayetteville to develop a payment processing plan that ensures collections are accurately and efficient-



ly processed, and financial transactions are well-documented in accordance with Fayetteville fiscal policies.

In order to facilitate the transfer of payment data, the CryWolf® system includes user-defined payment types, e.g. cash, check, charge, and account numbers allowing the City the ability to customize the payment types as required. CryWolf® tracks payment type, date paid, and user sign-on for every payment.

Sample Fayetteville-Specified Payment Accounts

A Tally sheet report allows users to print a list of all payments by payment type or user entry.



FALSE ALARM ADMINISTRATION SERVICES

Sample Tally Sheet Showing Payments

Payment Selection			
File Help			
File Information			
File Format	ProcessPay-1	Last File	
File Name			
Processing Options			
☒ Backfill Payments For Entries With Unspecified Invoice # ☒ Prepare Transaction Report ☐ Modify Amount Paid for Decimal (Example: 00005000 = 50.00) ☐ Strip preceding 0's from the AlarmNo value ☐ Pay SUMMARY Invoices, if found.		☒ Use File Date in ALL Transactions ☐ Use Below Date in ALL Transactions	
Use this date for each payment record, if the file processed does not contain a valid date			03/18/2008
Change Status:			
If Letter Paid Is	And Current Status Is	Change Status To	
[Custom Letter] ^	ACTIVE/ALIC HOLD ^	<N/A> v	
<No Letter> ^	AR Closed	And Send This Letter	
15/30 Days Delinquent	AR Expired	<N/A> v	
30/60 Days Outstanding	AR Expiring		
60/90 DAYS REFERRED T v			
☐ Update Issue/Expirn Dates If payment is made within 2 months (or later) of current Expiration Date			
Processing Status:			
Total	Read	Accepted	Skipped
			Process File
v 2.3.51 Payment Tracking Activated Undo Previously Processed File			

- CryWolf offers unique strategies for managing special initiatives, e.g. Enhanced Call Verification.

Our flexible CryWolf technology and services allow PSC to tailor our services to support special requirements of our alarm administration services clients.

As an example, we have defined a process to assess compliance with Enhanced Call Verification (ECV) provisions depending on the data that can be stored in CAD and passed to CryWolf through the CAD interface. This approach involves establishing special Dispatch Codes for ECV that City Call Takers would assign to specific calls based on the ECV evidence, i.e. persons and numbers called as reported by an alarm company before calling dispatch.

Once established, these codes would be entered by the Call Takers into CAD when dispatching for an alarm. These Dispatch Codes would in turn be transmitted to the CryWolf system as part of the incident data. In the example CryWolf incident Screen below (showing the CAD data received), the Call Taker had selected "NO ECV" for this incident. This Code and, if feasible, the Dispatcher Comments (also shown below) would be automatically stored in CryWolf as part of the incident data.

False Alarm Entry (Charges based on 'Location/Dispatch Code' values)

General Fields | Custom Fields

Case # * 1234567 Search Date 03/10/2008 ☐ Ignore Alarm ☐ Valid Alarm

Rcvd 20:06 Dispatch* 20:16 OnScn* 20:31 Cleared* 20:45

Alm # * 10397 AR Not Registered ☐ ☐ ☐ Cnt 1 Business

CAD Nm*

Name ABBY MANOR ASSISTED LIVING CAD#*

Location 123 MORRIS DR Apt # 25

Castle Rock CO 80104

NO ECV Cleared FA

Dispatcher 134 Call Taker* 567 AC Plt# 303-555-1616

Officer 1764 Call Type* Area*

Alarm Co SIMPLEX GRINNELL LP Co Registered

Dispatch Comments* ALARM CO HAD NO CALL INFO

Officer Remarks ALL ENTRIES CHK SECURE Charge* Ignore*

Options... Select File Start... Clear Total 0
Current 0
Mode ReadMe_02-22-2005.txt Skipped 0

False Alarm Processing Screen

Once the Dispatch Codes are stored in CryWolf, this data can be used to generate statistical reports showing ECV compliance.



4.4 Required Fayetteville Involvement to Support Alarm Administrative Services

We propose to provide Fayetteville with a complete, turn-key solution for administering the new false alarm ordinance. In our experience, we have found that cities and counties sometimes differ in the degree of involvement they wish to have in managing the administration services. We are prepared to work with the City to ensure that their expected level of involvement is met.

The following are Alarm Program responsibilities that Fayetteville may choose to retain. We are; of course, open to discussing other approaches to sharing these responsibilities with the City. The main City responsibilities might include:

- Informing the general public of the new alarm ordinance provisions via a broad-based, false alarm, public awareness program using major print (Newspapers) or electronic (TV, Radio, City Website) media. We would be pleased to consult with the City on message content and/or on what other communities are doing to raise public awareness;
- Overseeing program implementation and operations through a designated Program Manager. Specific duties can include:
 - a. Approving or obtaining City approval of policies, procedures and materials used by PSC in operating the Program, such as clarifications of Alarm Ordinance provisions, preferred responses to standard public telephone inquiries, and routine correspondence format and content;
 - b. Approving the content and format of a letter authorizing Alarm Businesses to provide their initial alarm user customer data electronically to the Program in MS Excel Spreadsheet format;
 - c. Monitoring program progress and performance, and establishing a process and procedure for doing this. This would include secure access over the Internet to Fayetteville False Alarm Processing data and reports, status meetings with PSC, generating management reports from the System, and keeping other City managers informed; and,
 - d. Working with PSC to resolve, on a timely basis, any program policy or procedural issue that adversely affects the Program, the Program's efficient and effective operation, or the City.
- Administering the Hearing and Appeals process. This should include:
 - a. Confirming hearing dates for written appeals submitted by alarm users to Crywolf Alarm Processing staff;
 - b. Participating as the Program's representative in the hearings; and
 - c. Documenting hearing results and ensuring that the results are provided to CryWolf Processing staff to update the database.



- Documenting false alarms, and deciding to suspend or revoke response, if necessary. This should include:
 - a. Responding to alarm service calls, determining whether calls are false alarms, providing any on-scene communications of alarm related information to alarm users, and for documenting alarm related information within the Fayetteville CAD/911 system (s);
 - b. Extracting false alarm data from the CAD/911 System (s) and transferring this data electronically to the CryWolf operated Program daily in a format, e.g. Microsoft Excel, agreed upon by both the City and PSC; and,
 - c. Working with PSC to develop a process to ensure that alarm user registration suspensions and revocations receive adequate City oversight and approval prior to City action, e.g. do not respond status.

4.5 Project Implementation Plan and Schedule

The following is an initial list of tasks to implement our proposed false alarm administration services. This list will be finalized, and a final schedule prepared following an initial Project Kickoff/Program Specification Meeting. As shown in the proposed Implementation Schedule on the next page, we believe that we can begin alarm system registration within 30 days of contract approval and be in substantially full operation within 60 days depending on the registration response time of the major alarm companies.



	<u>Contract Development and Approval</u> Prepare and distribute draft contract documents Review and approve final implementation plan <u>Interface, Correspondence and Process Specifications</u> Establish toll-free number & mailing address Review citizen & business web access plan Review CAD 911, financial system and City online report access Review approve correspondence format, content, process Review & document hearing appeal process <u>Registration Implementation</u> Import & validate historical alarm permit data Work with alarm businesses to obtain new permit information Establish database, configure alarm ordinance business rules <u>System Infrastructure and Interface Implementation</u> Install, tailor and test CAD 911 alarm interface Install, tailor and test financial payment interfaces (Lockbox) Install, tailor, & test City online data & report access interface <u>Program and City Staff Training</u> Train Program staff on forms, correspondence, processing procedures Train Program staff on telephone scripts Establish database & configure Ordinance business rules <u>False Alarm Notice and Billing Implementation</u> Print Forms, and order stamps envelopes, and paper Test all major system components <u>Operation</u> Add update registration information Process daily false alarm activations Print mail daily notices invoices Begin payment processing and management reporting <u>Implement Citizen and Business Web Access Plan</u> Implement Alarm Company limited web access Implement online citizen business registration update
--	---



This ambitious schedule is one we have successfully met many times before, including in all of the Alarm Administration Service jurisdictions listed in **Section 5 - Past Performance/References**.

The major tasks are as follows:

Contract Development and Approval

- Prepare and distribute draft contract documents
- Review and approve final implementation plan

Interface, Correspondence and Process Specifications

- Establish a dedicated Fayetteville toll-free telephone number and Alarm Program mailing address
- Review citizen and business web access plan, i.e. registration, registration renewal/update, limited alarm company access
- Review CAD/911, financial (new bank account, bank lockbox or City financial system) and City online report access interface specifications
- Review and approve correspondence format, content and process to include:
 - Alarm Ordinance specifications
 - Registration form headers and footers
 - Letters / notices
 - Invoice headers and footers
 - Telephone assistance phone scripts
 - Program information
- Review and document hearing and appeal process steps

Registration Implementation

- Identify and contact alarm companies
- Begin importing initial alarm registration data from alarm companies in MS Excel format
- Establish database and configure alarm ordinance business rules

System Infrastructure and Interface Implementation

- Install and test CAD/911 alarm incident interface (Microsoft Excel format)
- Install and test financial payment information interface
- Install and test City online data and report access interface



Program and City Staff Training

- Train CryWolf Program staff on Fayetteville forms, correspondence and processing procedures
- Train CryWolf Program staff in approved telephone “customer service” scripts
- Train authorized Fayetteville personnel to access alarm data and reports online

False Alarm Notice and Billing Implementation

- Print Registration Forms, and order stamps, window envelopes and paper
- Test all major system components, including interfaces, production, collection and customer service systems (see proposed System Test Plan below)

Operation

- Add/update registration information
- Process daily false alarm activations
- Print/mail daily notices/invoices
- Begin payment processing and management reporting

Implement Citizen and Business Web Functions

- Implement and test online citizen and business registration /update, as requested

A proposed schedule showing the major tasks and an implementation timeline is presented on the next page. As shown, we expect the Program to begin registering residences and businesses within 30 days of contract approval and be substantially operational within 60 days.

System Test Plan

PSC will work with City staff to develop a detailed testing plan based on the RFP requirements to ensure the successful implementation of the CryWolf® Program Administrative Services.

PSC will perform testing as follows:

- Process alarm information from a file extracted by Fayetteville CAD personnel from the City CAD/911 System. PSC will supply the required file specifications.
- Process false alarms using a sample alarm user database

PSC also proposes to perform additional tests to ensure full system requirements are met:



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PROJECT APPROACH and SCHEDULE

- Create required letter formats
- Enter all required location types
- Enter alarm count, letter selection and charge matrix
- Enter initial test alarm call information
- Generate test letters and invoices
- Review results with Fayetteville Alarm Program administrator(s)

Back-up System/Disaster Recovery

The proposed database for CryWolf® is Microsoft's SQL. PSC personnel will program the SQL Server database to perform automatic database backups during off-hours. PSC will employ a "grandfather-father-son" backup routine. This routine ensures that we always have a backup from the past five days, a weekly backup from the past 4 weeks, and a monthly backup.

The monthly backup tapes are stored off-site for catastrophe protection. The backup tapes are stored in a locked room with their respective file servers. Monthly backups are kept for at least two years. When project or corporate data is no longer need on a file server, it is archived and kept indefinitely.



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5. PAST PERFORMANCE (REFERENCES)

The following six (6) references are provided to support the alarm management technology and services described in this proposal. All of these references include our services and software, none include subcontracted or outsourced services, and none include sole use of a software product.

References Supporting Outsource Alarm Management Services

Concord, North Carolina (Population 58,000, December 2007)

Sergeant Lisa H. Linker
Customer Service Unit Supervisor
Concord Police Department
41 Cabarrus Ave W
Concord, North Carolina 28025
(704) 920-5002
Fax: (704) 786-3494
linkerl@ci.concord.nc.us

Greenville, North Carolina (Population 61,000, August 2007)

Major Kevin M. Smeltzer, Assistant Chief of Police
Greenville Police Department
PO Box 7207, Greenville, NC 27835-7207
Office: (252) 329-4332
Fax: (252) 329-4792
Email: ksmeltzer@greenvillenc.gov

Huntersville, North Carolina (Population 35,000, February 2007)

Captain Randy Pennington
Huntersville Police Department
102 Gilead Rd, PO Box 664, Huntersville, NC 28070
Office: (704) 875-6542
Fax: (704) 875-6546
Email: rpennington@huntersville.org

Larimer County, Colorado (Population 250,000, Apr 2006)

Major Bill Nelson
Larimer County Sheriff's Office
2501 Midpoint Dr, Fort Collins, CO 80525
Office: (970) 498-5105
Fax: (970) 498-9203
Email: nelson@larimer.org



SECTION 5
PAST PERFORMANCES (REFERENCES)

Louisville/Jefferson County, Kentucky (Pop 695,000, Jul 2004)

Pam Steiger
Louisville Metro Police Department
768 Barret Ave, Rm. 410, Louisville, KY 40204
Office: (502) 574-2309
Fax: (502) 574-2311
Email: pam.steiger@louisvilleky.gov

Spokane, Washington (Population 195,000, Feb 2006)

Lt. Glenn Winkey
Spokane Police Department
1620 N. Rebecca St., Spokane, WA 99217
Office: (509) 532-8922
Fax: (509) 625-4066
Email: gwinkey@spokanepolice.org



6. FEE PROPOSAL

6.1 Proposed Revenue Share

PSC has a track record of helping cities and counties increase their service levels, expand the use of current technologies, and increase revenue collections on a risk-free, "self-funded" basis.

For the provision of all services and technology outlined in this proposal, **PSC proposes to obtain payment exclusively from the collected revenues PSC helps generate.** There will be no upfront systems development, licensing, conversion, equipment, travel or other costs. PSC will purchase, configure, install, and customize everything PSC needs to provide the Alarm Response Services described in this proposal.

In order to provide a simple revenue sharing system to administer, PSC proposes to be compensated for its services by receiving **twenty-eight (28%) percent** of all Alarm Ordinance required collections after payment of any citizen refunds, bank fees and credit card charges.

Because refunds, bank fees and credit card charges will be paid from gross collections, they are automatically shared by PSC and the City, and require no out-of-pocket investment. Collections include at a minimum amounts received for non-registrations; false burglary and robbery activations; late fees and other charges established by the Alarm Ordinance.

This percentage is based on several assumptions:

- The Ordinance fee schedules remain in substantially the same form as currently proposed and provided to PSC by Fayetteville in the RFP;
- Fayetteville adopts a fair, but firm approach to appeals resulting in alarm fines generally being upheld on appeal;
- Fayetteville actively supports enforcement of the Ordinance, including support of the proactive collection of all fine amounts owed.

6.2 Mechanism for Revenue Collection and Transfer

PSC proposes the following collection and payment transfer procedure which we have used successfully in multiple jurisdictions.

1. All false alarm fee collections mailed to the Alarm Program will be directed to a dedicated commercial bank lockbox and deposited in a dedicated False Alarm Bank Account ("Alarm Account") to be established at a mutually agreeable Commercial Bank. Any on-line payments will also be directed to the Alarm Account;
2. At the beginning of each month, PSC will reconcile all amounts deposited in the Alarm Account during the previous month and provide Fayetteville with an invoice showing the revenue share calculation and supporting bank reconciliation. Once the invoice is approved by the City, the bank will be authorized to issue two ACH transfers, one to Fayetteville and one to PSC for the approved revenue share amounts.



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LESLIE BARRY GREENBERG, CORPORATE OVERSIGHT

Career Relevant Experience

***Chief Executive Officer, AOT Public Safety Corporation* 2000–Present**

- Developed and implemented project management efforts that resulted in leading false alarm billing system for Municipal and County governments.
- Presented numerous articles and interviews on false alarm management approaches and results.
- Developed and implemented efforts that produced leader in vehicle emergency response software technology for law enforcement, fire, and other first responders.

***Principal-Management Services, NCBSi* 1999–2000**

- Assisted companies in developing and implementing e-Commerce strategies.
- Developed a College-based Center for Entrepreneurship aimed at helping to start and grow technology-related ventures.
- Assisted organizations with external partnerships, internal operations and technology applications.

***President/Chief Executive Officer, Nationwide Computer Buying Services, Inc.* 1991–1999**

- Founded and developed several businesses in wholesale and retail sales of various computer technologies and services to a variety of private and public sector customers.
- Created and implemented numerous marketing and sales programs involving outbound sales, trade shows, warehouse, and e-commerce (Internet) channels.
- Negotiated and managed purchasing contracts with numerous computer manufacturers, distributors, and after-market product liquidation companies.

***President/Chief Executive Officer, Advanced Office Systems, Inc.* 1981–1991**

- Co-founded and managed all major areas of company in the business of financial system sales, consulting, installation, and maintenance services with 2,000 active customers and 150 employees.
- Identified, negotiated, and implemented division and subsidiary acquisitions.
- Designed and managed the implementation of financial, management, and reporting systems.

***Senior Manager, Touche Ross & Co. – “Big 8” Public Accounting Firm* 1974–1981**

- Sold, managed, and performed a large variety of private and public sector financial and operational consulting engagements.
- Managed up to 40 consultants on national and international projects. Major practice areas included financial and strategic planning, operations reviews, and systems implementation.

Training, Education, Degrees, Certificates

M.B.A., Wharton School of Finance, University of Pennsylvania, 1971
B.S. Electrical Engineering, University of Cincinnati, 1969

EDWARD LAWRENCE CHICCA **PROJECT AND TECHNICAL MANAGER**

Career Relevant Experience

Technical Director and Lead Programmer, Public Safety Corporation **2000 – Present**

- Led the design and development of the CryWolf® system, which was created specifically to assist local jurisdictions in their efforts to track false alarm incidents. The design and development process for CryWolf® extended over a 3-year period and resulted in the completion, initial testing, and implementation of the CryWolf® program at its first client site in February of 2000. The CryWolf® program has now been selected by over 100 jurisdictions across the United States and Canada including Chandler, AZ; Fairfax County, VA; Baltimore County and City, MD; Albuquerque, NM; Frederick County, MD; Greater Sudbury, ON; Greenville County and City, SC; Hamilton Police Service, ON; Indian River, FL; Toronto, ON; Lewisville, TX; Roswell, NM; Glendora, CA; Temple, TX; and Windsor, ON.
- Designed, developed and implemented online, web-based Crywolf® applications and interfaces for such functions as alarm registration, permit renewal, invoice payment, customer account history access, alarm school, alarm company access, alarm program staff access and software updating. Managed the implementation of these online functions for various clients including Charlotte-Mecklenburg NC and Cape Coral FL.

Senior Programmer/Analyst, Applied Ordnance Technology **1998-2002**

Designed and developed Internet-based applications for the US Navy related to the creation of a Virtual Fleet Support (VFS) system. Work included the development of multiple VFS modules using IIS, Active Server Pages, server-side VBScript, stored procedures, and client-side JavaScript routines accessing multiple SQL Server databases. The VFS program is currently in active use by the Navy.

Manager Client Server Applications, OAO Corporation **1995 – 1998**

- Managed a workforce of five programmers designing and creating Client Server systems for Prince George's County Government, as well as maintaining various stand-alone and networked programs PC programs written in Java, Visual Basic, C, HLLAPI, Clipper and dBase. This involved the system analysis, design, and development of functional system specifications and the creation, testing and distribution of programs.
- Led designing and testing technologies considered in the County.
- Other work included the development of custom Geographic Information System using 16 and 32-bit OCX technologies; designing, installing, implementing and testing an Intranet system for the County; development work in Java entry screens for proposed applications running on the Intranet, as well as the creation of various HTML home pages.
- Additional work included exposure to CGI programming in Perl 5, VBScript and ActiveX technologies.

Programmer Analyst, MAXIMA Corporation **1994 – 1995**

- Established service and system performance requirements for the Prince George's County Government's Novell network. This involved designing and developing PC-based programs and creating networked Windows programs in Visual Basic.
- Other responsibilities included the maintaining of various networked and stand-alone computer systems for the County written in C, Clipper, HLLAPI, Pascal, dBase, and Visual Basic.

**Commander, Information Systems, Prince George's County, MD,
Police Department**

1972 – 1994

- Directed all activities involved with the conceptualization and development of mainframe and PC based programs.
- Generated and implemented new approaches and methodologies to existing programs and created functional specifications for departmental mainframe applications.
- Other responsibilities involved achieving short-term and long-term goals for computer automation, meeting budget constraints, selecting and retaining a quality staff of over 35 persons, and overseeing the design, coding, and maintenance of several key PC programs in Clipper, C, HLLAPI, Pascal and Visual Basic.
- Developed regression models for crime trends, which related to projected population growth statistics throughout Prince George's County.
- Designed and implemented a software program that created and produced work-shift schedules for Officers.
- Other responsibilities involved researching criminal activities within the County and providing statistical information that was used by the County Executive, and other County officials to support policy changes.
- Developed functional specifications for mainframe and PC programs and designed and implemented PC applications in Pascal, Clipper and C.
- Coordinated all related activities between the Police Department and the County Government's contracted facility's management vendor.

Proposed Duties and Responsibilities Under This RFP

Project Manager and Technical Director

Relationship With Firm Bidding on RFP

Senior Manager; Full-time

Training, Education, Degrees, Certificates

M.S., Management Information Systems (MIS), University of Maryland, 1987

B.S., Computer Science, University of Maryland, 1992

B.S., Business Management, University of Maryland, 1981

VIRGINIA K. SHANNON, TECHNICAL SUPPORT AND TRAINING

Career Relevant Experience

Technical Program Support, AOT Public Safety Corporation

2000 – Present

- Installed CryWolf®, a false alarm tracking program, in various cities in the United States including, Madera, CA; Southfield, MI; Albany, Georgia; Cincinnati, OH; Durham, ON; City of Greenville, Greenville County, Travelers Rest, and Simpsonville, SC; Riverside, CA; Madera, CA; and Howard County, MD.
- Trained personnel using the system, in addition to the conversion of previous data for these jurisdictions.

System Programmer, AOT Applied Ordnance Technology

1992 – 2001

Developed Internet-based Virtual Fleet Support (VSF) modules for the United States Navy; specifically the Supply System Module for CAD/PAD, LAT/Ballistics, DDA, Production, and Registration modules or processes. All VFS programming work included modules using IIS, Active Server Pages (ASP), server-side VBScript, client-side JavaScript routines and store procedure. The VFS program is still being used by the Navy.

- Developed an inquiry system in Visual Basic, which documents information pertaining to the results and time expended on inquiries received by employees.
- Developed a weekly report program to document the details for charge numbers used on electronic timesheets. She was involved in the conversion of these programs to web based applications using Visual Studio.Net, in compliance with NMCI. Past OESO support includes the following: development of a database (using Microsoft Access) for the Navy to organize information pertaining to closed, transferred, transferring, inactive and active ranges; importing of data returned from Navy installations into a single database; manipulating data received to develop reports needed by customer
- Supervised the data entry personnel inputting data from Word copies of surveys
- Supported CNO inquiries
- Developed a CD for distribution to major claimants with their activities' data.
- Maintained the existing SQL Server and security as a Data Administrator.
- Developed a paper process to maintain a log of changes to software and hardware configuration and developed a web enabled system to replace the paper process.
- Developed the original corporate experience database in Access.
- Reprogrammed visual basic front-end programs for corporate experience and employee information - centralizing data on corporate SQL Server.
- Developed several internal management reports based on Costpoint data for use by program managers and management.
- Developed a CDRL tracking database for Windows in Omnis 7.
- Developed Access program to monitor royalty payments for PSC programs.
- Helped in the development of the company Intranet.

Training, Education, Degrees, Certificates

BA, Biology, Randolph-Macon Woman's College, 1968

SQL Server 2005 Database Administration Course (2006)

Programming Courses including Visual Basic.Net, Visual Basic 6, System Administration for SQL Server 7.0, DHTML & Javascript, Transact-SQL, Mastering Website Application Development

Using VI 6.0, XML: Extensible Markup Language. Courses varied from 2 through 5 days in length, 1998 through 2003.

Learning Tree, Oracle 7: A Comprehensive Hands-On Introduction; SQL Server 7 Database Administration; 1996 and 2001.

College of Southern Maryland, TOPS courses: Using Oracle 7 PL/SQL; Windows 98; and Access for Design and Development, 1997 through 1999.

College of Southern Maryland, Credited: Seven courses in data processing and one in accounting for self-improvement. Duration: Semester Courses, 1982 through 1992.

JILL MARIE WILLIAMS

CORPORATE FINANCIAL OVERSIGHT

Career Relevant Experience

Administrative Manager, AOT Public Safety Corporation **2007-Present**

- Manages administrative and financial processes which include maintaining all accounting, contracts and personnel records; operating financial systems; recommending and reviewing compliance with financial policies and practices; and preparing, analyzing and interpreting financial reports.

Medical Transcriptionist, Johnson and Warren **2000-2007**

- Part-time independent contractor with expertise in neurology, orthopedics, and rheumatology producing technically and grammatically correct medical records.

Supervisory Administrative Officer, National Imagery and Mapping Agency **1997-2000**

- Managed nine administrative assistants supporting 500 employees and 10 department chiefs. Managed daily operation of department including personnel administration, workflow management, travel and training budget development and management, liaison for facilities management, office automation equipment, space planning, credit card holder, and inventory reconciliation. Safety and security monitoring and inspections.

- Implemented of cross-training of administrative staff. Planned and executed team building events. Developed and designed the contract vehicle for the agency to recruit contractors for administrative positions.

Administrative Officer, National Imagery and Mapping Agency **1992-1997**

- Team leader for administrative staff. Managed daily operation of office including personnel and organization management, training coordinator, training and travel budget development and management, and associated support services for the department.
- Planned and implemented on-site training courses with independent contractors and Montgomery College. Coordinated training requirements, monitored budget, provided advice and assistance on course availability to employees and managers. Assisted management with personnel actions. As liaison between management, security, and personnel department, ensured timely recruitment of contractors.

Management Information Assistant, National Imagery and Mapping Agency **1991-1992**

- Input large volumes of data into production database system for cartographers and processed time and attendance for payroll. Assisted with inputting general mapping data.

Office Manager, ICF Severn **1991**

- Managed three administrative assistants and office operations of a computer systems integration company including recruiting, interviewing, hiring, training and development of administrative team, workflow, liaison for facilities personnel, purchasing office automation equipment, supplies and furniture. Collected outstanding accounts receivables. Managed renovations of newly acquired office space. Effectively planned, organized, and executed complete office relocation with little disruption.

Business Manager, Condor America, Inc. **1986-1990**

- Managed five administrative assistants and office operations of startup mechanical engineering firm. Maintained Solomon III accounting system with full responsibility for accounts payable, accounts receivable, and general ledger. Researched and formulated annual operating budget. Developed and produced all cash flow statements, budget reports, and income statements. Managed multiple bank accounts and reconciliations. Prepared biweekly payroll and tax filing documentation. Assisted accounting firm in the preparation of year-end tax filings and compilation. Served as insurance and pension fund administrator. Full responsibility for negotiating contracts with vendors for office automation equipment, supplies and furniture. Seminar coordinator for national seminars attended by private sector and Federal government.

Training, Education, Degrees, Certificates

B.S., Business Administration, University of Maryland, 1985
Leadership Development Program, Human Technology, 1995
Management Development I & II, USDA Graduate School, 1998

MARGARET ANN ALLEN
OPERATIONS SUPERVISOR

Career Relevant Experience

Operations Supervisor, Public Safety Corporation

2006 – Present

- Wrote and maintained standard operating procedures for each outsource jurisdiction.
- Developed and maintain training materials and manuals for use in house and for clients using software.
- Created and distributed client newsletter and internal newsletter.
- Recruited, hired, trained and supervised 10 employees in outsource services handling more than eight false alarm reduction programs.

Public Information Assistant, Charles County Sheriff's Office

2004-2006

- Wrote and sent daily incident reports and major incident press releases to media contacts.
- Created and distributed the agency's monthly newsletter.
- Photographed all major events. Formatted and edited all photographs.
- Received calls from citizens and media personnel.
- Wrote and sent letters for the Public Information Officer, Captain and Sheriff.
- Assisted in compiling information for the agency's annual report.

Station Clerk I, Charles County Sheriff's Office

2001-2004

- Answered multi line non-emergency telephone, obtained and input critical information in to the Computer Aided Dispatch System.
- Retrieved and forwarded warrants and criminal summons to appropriate officers and briefed oncoming shifts.
- Processed clerical paperwork.

Training, Education, Degrees, Certificates

B.S. Business Administration, University of Maryland, University College, 2005

ELIZABETH M. DONOVAN
LEAD OPERATOR

Career Relevant Experience

Lead Operator, Public Safety Corporation ***2006 – Present***

- Oversees training of new employees.
- Validates database by running reports for payments, alarm excel sheets and correspondence.
- Ensures all SOP and Manual procedures and revisions are accurate and up to date.

Program Manager, JLRC Incorporated ***2004-2006***

- Responsible for managing 20 employees.
- Production of payroll through Deltek and BizAccess
- Processing all edit, status/expenditure, payroll reports and journals.
- Entry of Government invoices for payment.
- Entry and edit employee timesheet.
- Processing accounts payable and processing company checks.
- Interacted with Government Contracting Consumers on a daily basis in Cherry Point, NC and Patuxent River, MD.

Program Management Assistant, AMEWAS Incorporated ***Temporary***

- Provided financial and management analysis to senior government personnel at ACETEF by monitoring, tracking and reporting on contractor labor, travel and material.
- Performed administrative duties including several vehicle contracts, procurement and billing.

Security Forces Member/ Operations Sections Liaison, United States Air Force ***2002-2003***

- Performed spot investigation and suspect/witness interviews.
- Performed customer service at installation gates and at the Law Enforcement desk.
- Performed checkpoint security, controlling access to military installations, ensuring all visitors had proper authorization and were properly briefed on policies pertaining to base access.
- Skilled in proper procedures for filing necessary documentation, such as evidence tags, witness statements, speeding tickets, base passes, etc.
- Sole military member in charge of maintenance of the Edwards Air Force Base Entry Authorization List, authorizing approximately 25,000 people on business days and 65,000 on weekends.

Training, Education, Degrees, Certificates

Security Forces Technical School, Lackland Air Force Base 2002



City of Greenville
North Carolina
P.O. Box 601717 - Charlotte, NC 28260-1717

May 28, 2008

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

#1234 - PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

To: PUBLIC SAFETY CORP

Date: May 28, 2008

Re: 30 Day Collection Policy

Invoices are due thirty (30) days from the date they are billed. Our records indicate you now have an outstanding invoice(s) thirty (30) days past due. The Alarm Ordinance requires the alarm user to pay the civil penalty within 30 days of the invoice date above. **A failure to pay within another 30 days will result in a \$50 delinquency charge for each 30-day period thereafter upon nonpayment until paid in full. This delinquency fee will be charged to your account in another 30 days.**

In addition, if this invoice is not paid your account information may be sent to a collection agency for non-payment.

To review your permit history and to ensure the accuracy of our records, please update your permit information by visiting the following web site:

<https://www.crywolf.us/greenvillenc/crywolfdefault.asp>

To access your account online you will need an account number and password, your account number is: 1234 and your password is: 12345678.

Please make your check payable to the Greenville False Alarm Reduction Program or FARP and mail your payment and application for an alarm permit, if required, using the enclosed envelope to **FARP**. Please include the bottom portion of your invoice with your payment.

If you have any questions please call the Greenville False Alarm Reduction Program, Monday through Friday from 9 a.m. to 5 p.m., at (866) 641-1065.

Enclosures: Invoice



City of Greenville
North Carolina
P.O. Box 601717 - Charlotte, NC 28260-1717

May 28, 2008

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

#1234 - PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

To: PUBLIC SAFETY CORP

Date: May 28, 2008

Re: 60 Day Collection Policy

Invoices are due thirty (30) days from the date they are billed. Our records indicate you now have one or more outstanding invoice(s) sixty (60) days past due. **Your account has now been charged the \$50 delinquency charge. Your account will continue to be charged the delinquency charge for each 30-day period until paid in full.**

If payment is not received in thirty (30) days response to your alarm location will be suspended. In addition, if this invoice is not paid your account information will be sent to a collection agency for non-payment.

To review your permit history and to ensure the accuracy of our records, please update your permit information by visiting the following web site:

<https://www.crywolf.us/greenvillenc/crywolfdefault.asp>

To access your account online you will need an account number and password, your account number is: 1234 and your password is: 12345678.

Please make your check payable to the Greenville False Alarm Reduction Program or FARP and mail your payment and application for an alarm permit, if required, using the enclosed envelope to **FARP**. Please include the bottom portion of your invoice with your payment.

If you have any questions please call the Greenville False Alarm Reduction Program, Monday through Friday from 9 a.m. to 5 p.m., at (866) 641-1065.

Enclosures: Invoice

City of Greenville
PO Box 601717
Charlotte, NC 28260-1717

Invoice # 00001

INVOICE

RESPONSIBLE PARTY

ALARMED LOCATION

PUBLIC SAFETY CORP 3261 OLD WASHINGTON RD # 2011 WALDORF, MD 20602	PUBLIC SAFETY CORP 3261 OLD WASHINGTON RD # 2011 WALDORF, MD 20602
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REGISTRATION #	INVOICE DATE	DUE DATE	BALANCE FORWARDED
1234	05/28/2008	06/27/2008	\$75.00

ALARM #	DESCRIPTION	DATE/TIME OCCURRED	DATE PROCESSED	CHARGE
	60 Day Collection		5/28/2008	\$50.00

INVOICE AMOUNT:	\$50.00
TOTAL OUTSTANDING:	\$125.00



Please return all payments within 30 days

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

DUE BY:	06/27/2008
Alarm #:	1234
Inv #:	00001
Charge:	\$50.00

Greenville False Alarm Reduction Program
PO Box 601717
Charlotte, NC 28260-1717

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City of Greenville
North Carolina
P.O. Box 601717 - Charlotte, NC 28260-1717

May 28, 2008

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

#1234 - PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

To: PUBLIC SAFETY CORP

Date: May 28, 2008

Re: 90 Day Collection Policy

Invoices are due thirty (30) days from the date they are billed. Our records indicate you now have one or more outstanding invoice(s) ninety (90) days past due. Your account has now been charged the \$50 delinquency charge. Your account will continue to be charged the delinquency charge for each 30-day period until paid in full. **Because of non-payment your account information has now been sent to a collection agency.**

To review your permit history and to ensure the accuracy of our records, please update your permit information by visiting the following web site:

<https://www.crywolf.us/greenvillenc/crywolfdefault.asp>

To access your account online you will need an account number and password, your account number is: 1234 and your password is:12345678.

Please make your check payable to the Greenville False Alarm Reduction Program or FARP and mail your payment and application for an alarm permit, if required, using the enclosed envelope to **FARP**. Please include the bottom portion of your invoice with your payment.

If you have any questions please call the Greenville False Alarm Reduction Program, Monday through Friday from 9 a.m. to 5 p.m., at (866) 641-1065.

Enclosures: Invoice

City of Greenville
PO Box 601717
Charlotte, NC 28260-1717

Invoice # 00001

INVOICE

RESPONSIBLE PARTY

ALARMED LOCATION

PUBLIC SAFETY CORP 3261 OLD WASHINGTON RD # 2011 WALDORF, MD 20602	PUBLIC SAFETY CORP 3261 OLD WASHINGTON RD # 2011 WALDORF, MD 20602
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REGISTRATION #	INVOICE DATE	DUE DATE	BALANCE FORWARDED
1234	05/28/2008	06/27/2008	\$125.00

ALARM #	DESCRIPTION	DATE/TIME OCCURRED	DATE PROCESSED	CHARGE
	90 Day Collection		5/28/2008	\$50.00

INVOICE AMOUNT:	\$50.00
TOTAL OUTSTANDING:	\$175.00



Please return all payments within 30 days

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

DUE BY: 06/27/2008
Alarm #: 1234
Inv #: 00001
Charge: \$50.00

Greenville False Alarm Reduction Program
PO Box 601717
Charlotte, NC 28260-1717

0000003&34000000010717000000005000

Huntersville False Alarm Reduction Program

Frequently Asked Questions

MAILING ADDRESS:

Huntersville False Alarm Reduction Program
PO Box 601908
Charlotte, North Carolina 28260-1908

PHONE: (866) 589-5666

APPLICABLE STATUTE: Ordinance Chapter 96, effective October 16, 2006

CONTACT AT SHERIFF'S OFFICE: Captain Randy Pennington at (704) 875-6542

ORDINANCE PURPOSE: The purpose of this ordinance is to establish reasonable expectations of alarm users and to ensure that alarm users are held responsible for their use of alarm systems.

ORDINANCE WEB SITE:

<http://www.huntersville.org> Located under the drop menu for Town Hall

FAILURE TO REGISTER: The failure to register alarm sites is a civil infraction. Users who do not register their alarm site can be charged a civil penalty in the amount of \$100 and have discontinuance of law enforcement response.

REGISTRATION PROCESS:

- Complete Application for Alarm Permit
 - Register online at: <https://www.crywolf.us/huntersville/crywolfdefault.asp>
- Pay registration fee (check or money order)
- W-9 forms are supplied by PSC
- Alarm companies can access their client's permit information and prepare reports at: <https://www.crywolf.us/huntersville/ac/CryWolfACLogIn.asp>
 - Alarm companies should send their excels to huntersville@publicsafetycorp.com

REGISTRATION TERMS:

- Annual
- Non-transferable
- Expires 364 days

FEES:*Registrations*

- Residential & Non-Residential \$10

False Alarms

- False Alarms 1 & 2 \$0
- False Alarms 3 to 5 \$50

■ False Alarms 6 & 7	\$100
■ False Alarms 8 & 9	\$250
■ False Alarms 10+	\$500

Late Fees

- None

Appeal Filing

■ Appeal Fee	\$0
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EXCEPTIONS:

- None

APPEALS:

- Must send written notice to the Alarm Appeals Officer requesting an appeal and specify the reasons for the appeal. The letter must be received within ten days after the date of the notification of the assessment of civil penalty(ies) or other enforcement decision.
- Appeals will be heard through the administrative process.
- The decision of the Alarm Appeals Officer is final.

SUSPENSION & REVOCATION:

- Any alarm user not paying fees or fines within 30 days from the date of issuance can be charged a civil penalty of \$100 and discontinuance of law enforcement response.

REINSTATEMENT:

- Pays, or otherwise resolves, all outstanding fees and fines.

City of Spokane False Alarm Reduction Program

Frequently Asked Questions

MAILING ADDRESS:

Spokane Police Department
Office of the Alarm Administrator
PO Box 2300
Spokane, Washington 99210-2300

PHONE: (509) 625-3501

APPLICABLE STATUTE: Ordinance No. 10.48, effective Jan. 1, 2006 and revised May 1, 2008

CONTACT AT POLICE DEPARTMENT: Lieutenant Glenn Winkey at (509) 532-8922

ORDINANCE PURPOSE: The City regulates security alarm business to assure that response to false alarms do not diminish the availability of police services to the general public. To encourage alarm businesses and alarm users to maintain the operational viability of security alarm systems and to significantly reduce or eliminate false alarm dispatch requests made to the police department.

ORDINANCE WEB SITE:

<http://www.spokanecity.org/services/documents/smc/?Chapter=10.48>

FAILURE TO REGISTER: The failure to register alarm sites is a class one civil infraction. Police response to private alarm sites in the City of Spokane is a privilege available only to those alarm users who have alarm systems registered with the City.

REGISTRATION PROCESS:

- Complete Application for Alarm Permit
 - Register online at: <https://www.crywolf.us/spokane/crywolfdefault.asp>
- Pay registration fee (check, money order, online only -credit card)
- W-9 forms supplied by PSC
- Alarm companies can access their client's permit information and prepare reports at: <https://www.crywolf.us/spokane/ac/CryWolfACLogIn.asp>
 - Alarm companies should send their excels to spokane@publicsafetycorp.com

REGISTRATION TERMS:

- Annual
- Non-transferable
- Expires 364 days

FEES:

Registrations

- Residential Fee \$25

- Renewal charge NO FALSE ALARMS \$15
- Non-Residential Fee \$35
- Renewal charge NO FALSE ALARMS \$25

False Alarms

- Residential Fee \$85 (First alarm waived within first 60 days of alarm installation; Citizen must provide contract from Installation Company with date of installation.)
- Non-Residential Fee \$165

Late Fees

- Fee for EACH invoice (assessed at 60 days) \$10

Appeal Filing

- Appeal Fee \$25

ELIGIBLE PERSON:

- All fees are reduced by 50% in the case of an eligible person.
- To be considered an eligible person the citizen must have an income below nineteen thousand one hundred dollars or a household income below twenty-one thousand eight hundred fifty dollars or be substantially disabled.
- If a citizen feels they meet one of the above requirements they need to call Lt. Glenn Winkey.

EXCEPTIONS:

- The provisions of this ordinance do not apply to temporary alarm systems used by the Department or other public law enforcement agencies for investigative or protective purposes.
- Federal Government and Government locations are not subject to the ordinance.
- Public Schools
 - Public schools are subject to annual registration rules if the following is true:
 - The site is located within the municipal boundaries of the City of Spokane
 - The site is a public school (or site) serving children in one or more grades K-12, owned and operated by Spokane School District 81
 - No false alarm fee is charged for the first false alarm in any calendar year.
- Public schools are exempt from registration suspension or revocation.

APPEALS:

- Must send written notice to the Alarm Appeals Officer requesting an appeal and specify the reasons for the appeal. Must submit the appeal fee. The fee and letter must be received within thirty working days after receipt of the service fee invoice.
- Decision will be made within 10 working days after receiving the appeal request.
- If the decision is approved the appeal fee is placed in their escrow if the appeal is denied the appeal fee is not refunded.
- The hearing will be scheduled within thirty days. A decision will be rendered and notification sent within twenty working days after the hearing.
- The decision of the Alarm Appeals Officer is final.

SUSPENSION & REVOCATION:

- Any alarm user having more than three false alarm responses in any calendar year shall, on the event of the fourth such incident, have their alarm registration suspended for ninety days or the balance of the year for which the registration is valid, whichever is greater.
- Any alarm user having annual registration and/or false alarm cost recovery fees past due in any year shall have their registration suspended until all outstanding fees have been paid in full.

REINSTATEMENT:

- Pays, or otherwise resolves, all outstanding fees & fines.



City of Greenville
North Carolina
P.O. Box 601717 - Charlotte, NC 28260-1717

May 28, 2008

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

#1234 - PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

Re: Notification of First Alarm Activation

On at , the Greenville Police Department responded to the permitted address shown above for your first (1) false alarm activation since the date of the issuance of your permit or last permit renewal. As per the City of Greenville Alarm Ordinance 12-1-9, this activation was determined to be a false alarm and no fine has been assessed. Civil penalties will be assessed starting with the second (2) false alarm within the 12 month registration period for alarms systems with a valid permit.

The Alarm Ordinance states that a false alarm is the activation of an alarm system for any reason other than a robbery or unauthorized entry, and a subsequent response by the Greenville Police Department to the alarm site.

If you feel this activation was not a false alarm, you may file a written appeal within twenty (20) days of this dated notification with the Greenville Police Department's False Alarm Reduction Unit at 500 South Greene Street, Greenville, NC 27835. You may also send your written appeal to alarms@greenvillenc.gov.

To prevent future false alarms, you may wish to contact your alarm company to receive additional instructions on the proper use of your alarm system, as well as maintain your system in working order. A guide to reducing false alarms can also be found on the Police Department's page on the City of Greenville website.

If you have any questions regarding this notification or the false alarm reduction program, please refer to our website at www.greenvillenc.gov or contact the False Alarm Reduction Unit at (866) 641-1065.

Enclosures: Appeal Guidelines



GREENVILLE
FALSE ALARM REDUCTION PROGRAM
PO BOX 601717 - CHARLOTTE, NC 28260-1717
(866) 641-1065

Guidelines to Appeals

The Greenville Alarm Ordinance defines a false alarm as: *"The activation of an alarm system for any reason other than a robbery or unauthorized entry, and a subsequent response by the Greenville Police Department to that alarm site."*

Appeal Process:

The Alarm User may appeal an assessment of a false alarm fee to the Alarm Administrator by setting forth in writing the reasons for the appeal within twenty (20) days after the date of the notification of the assessment of civil penalty(ies) or other enforcement decision. Appeals will be heard through the administrative process.

You can mail your appeal to the above or below address:

Greenville False Alarm Reduction Program
Greenville Police Department
PO Box 7207
Greenville, North Carolina 27835

You may also email your appeal to the following email address:
alarms@greenvillenc.gov

If the alarm user chooses to appeal the Alarm Administrator's decision to the Chief of Police; the appeal must be provided to the Chief of Police, on a form provided by the City, within twenty (20) days from the date of the alarm administrator's ruling.

The Chief of Police will conduct a hearing and consider evidence presented and make a decision within 30 days.

Continued on Back

Appeals will **not** be granted for false alarms that are the result of the following:

1. Faulty, defective or malfunctioning equipment supplied by an alarm business.
2. Improper installation or maintenance by an alarm business.
3. Improper monitoring by an alarm business.
4. Alarm activations that occur while alarm technicians are repairing or servicing the alarm system.
5. An occurrence where no evidence of criminal activity is present.
6. Mistakes made by private contractors, maids, cleaning crews, visitors, etc.
7. Items within the home or business that move causing motion detectors to activate (i.e. curtains, signs, balloons, etc.).
8. Glass break detectors which activate due to a noise or sound other than actual glass breakage.
9. Door and/or windows that become loose and cause a break in the contacts that activate the alarm system.
10. Caretakers who watch homes or businesses when owners are away and who activate the alarm in error or are not familiar with required codes or passwords.
11. Pets, rodents or wildlife movement in or near the home or business.
12. Alarms caused by Apartment Management Employees.

In the case of items 1 and 2 above, if you suspect the false alarm was due to faulty equipment or improper installation contact your alarm company. In such cases, the system should be inspected and repaired where necessary. If it can be determined that the cause of the alarm was the result of faulty equipment or installation, your alarm company may agree to reimburse you for the fine.

In the case of items 3 and 4 above, if you suspect that alarm company employees caused the alarm contact your alarm company to verify. If that can be verified contact the Greenville False Alarm Reduction Program.

*** This list is only intended as a guide to assist you in deciding whether to appeal a false alarm or contact your alarm company for discussion. This list is not intended to cover every situation where an appeal may be denied.**



City of Greenville
North Carolina
P.O. Box 601717 - Charlotte, NC 28260-1717

May 28, 2008

PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

#1234 - PUBLIC SAFETY CORP
3261 OLD WASHINGTON RD # 2011
WALDORF, MD 20602

To: PUBLIC SAFETY CORP

Date: May 28, 2008

Re: Alarm System Request - Registration

IF YOU DO NOT RESIDE OR YOUR BUSINESS IS NOT IN THE GREENVILLE CITY LIMITS, DO NOT PAY THE INVOICE ATTACHED TO THIS LETTER. SIMPLY RETURN THIS LETTER STATING YOU DO NOT RESIDE OR DO BUSINESS IN THE CITY LIMITS AND WE WILL TAKE YOU OFF OUR MAILING LIST. WE APOLOGIZE FOR ANY INCONVENIENCE.

False alarms are costly and dangerous because they divert law enforcement from proactive crime prevention efforts. They also delay response to other calls for service that may be true emergencies. In order to limit the number of false alarms in the city, the City Council passed an ordinance requiring the Police Department to track false alarms and to charge alarm users false alarm cost recovery fees.

In addition, the Alarm Ordinance requires every alarm system be registered with the City. This is MANDATORY and is completed through the False Alarm Reduction Unit of the Greenville Police Department. The initial registration fee is \$15. The renewal fee is \$5 annually. **If this invoice is not paid within 14 days, your account may be charged a \$200 fee for each false alarm incurred until payment is received.**

To comply with the ordinance, please complete the enclosed application for an alarm permit and remit with the \$15 fee using the enclosed envelope to the False Alarm Reduction Unit. To learn more about the Alarm Ordinance, please visit the City of Greenville's web-site at <http://www.greenvillenc.gov>.

If you have any questions please call the Greenville False Alarm Reduction Program, Monday through Friday from 9 a.m. to 5 p.m. at (866) 641-1065.

Enclosures: Application for Alarm Permit
Invoice
Envelope



City of Greenville

North Carolina

P. O. Box 601717 Charlotte, NC 28260-1717

A NON-REFUNDABLE PERMIT FEE MUST BE SUBMITTED WITH EACH FORM

A. Residential Alarm User Information: (Residential alarm users, please complete Sections A and C through G.)

Alarm User Name:

First Name

Last Name

Alarm Location:

Street Number

Street Prefix

Street Name

Street Suffix

Suite/Apt No.

City

State

Zip Code

Gate Code

Home Phone

Work Phone

Cell Phone or Pager

Email Address

Type of Alarm (check all that apply): Burglar / ___/ Panic / ___/ Medical / ___/ Robbery/Holdup / ___/

B. Commercial Alarm User Information: (Commercial alarm users, please complete Sections B through G.)

Name of Corporation, Sole Proprietor or Partners

Trade Name(s) Used by Business

Alarm Location:

Street Number

Street Prefix

Street Name

Street Suffix

Suite/Apt No.

City

State

Zip Code

Business Phone Number

Owner or President of Business:

First Name

Last Name

Home Phone

Work Phone

Cell Phone or Pager

Email Address

Local Manager:

First Name

Last Name

Home Phone

Work Phone

Cell Phone or Pager

Email Address

C. Mailing Address: (If different from Location of Alarm System)

D. Contact Information: (List two people, other than the owner, who can respond to an alarm activation.)

1st Contact Name:

First Name

Last Name

Home Phone

Work Phone

Cell Phone or Pager

Email Address

2nd Contact Name:

First Name

Last Name

Home Phone

Work Phone

Cell Phone or Pager

Email Address

E. Alarm Service/Install Company:

License No. _____ Contact Person _____ Phone _____

F. Alarm Monitoring Company:

License No. _____ Contact Person _____ Phone _____

G. Special Conditions: (List hazardous conditions/materials, guard dogs, security personnel, weapons, directions to alarm site, etc.)

I have read the completed application and know the same is true and correct and hereby agree that if a permit is issued, I will comply with all the provisions of the Code and with applicable State Laws. I accept responsibility for payment of all fines and fees that may result from the operation of the alarm system serving the above premise. I have read the information on the False Alarm Reduction Program. Permit/registration of an alarm system is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By permitting/registering an alarm system, the alarm user acknowledges that police response may be based on factors such as availability of police units, priority of calls, weather conditions, traffic conditions, emergency situations and staffing levels.

Signature

Date Signed

DEPARTMENT USE ONLY
CK# _____
MO# _____
EFT# _____
AMT\$ _____
DATE _____

Sample Phone Script

Answering the Phone

Answer the phone: False Alarm Reduction Program this is [name] how may I help you.

When you receive a call from a registrant you should verify the information in the database to ensure all is updated and that you are speaking with the appropriate person. Place all notes and a timestamp in the Admin notes section of the registration screen.

Common Questions

Registrant: Where is my permit number located on the letter you sent?

FARP: The number is located [upper right hand corner before the name and address, on the invoice in the account number section, etc.].

Jurisdiction's registrant: How do I pay the registration fee?

FARP: You can pay by [check, money order, credit card, etc.].

Registrant: What is the FARP?

FARP: A section of the Police Dept. [the ordinance was passed....]

Registrant: What is the purpose of the FARP?

FARP: False alarms divert deputies/officers from other law enforcement duties. The purpose of the FARP is to establish a reasonable expectation of alarm users and to ensure they are maintaining their alarm systems properly.

Registrant: Why do I have to register?

FARP: By registering with the FARP you are compliant with the law. If you do not register with the FARP [it is a civil infraction, you can receive a lien, you can be placed on no response, etc.].

Registrant: Don't police have to respond, isn't it their job?

FARP: Because alarm systems are for private purposes it is a privilege therefore police do not have to respond. Because it is a public law enforcement service for private purposes responding to an alarm call that is deemed false is subject to a cost recovery fee(s).

Registrant: Where does the money go?

FARP: **False alarms:** The money goes to the police dept. and is used as cost recovery for the time the responding officers used to respond to the false alarm. **Registration fees:** The money goes toward running the FARP and is an administrative fee.



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

RFP (REQUEST FOR PROPOSAL)

REQUEST FOR PROPOSAL: RFP, 08-03, False Alarm Administration Services
DEADLINE: Friday, May 30th, 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, May 9th, 2008

REQUEST FOR PROPOSAL RFP 08-03, FALSE ALARM ADMINISTRATION SERVICES

No late proposals will be accepted. RFP'S shall be submitted in sealed envelopes labeled "**RFP 08-03, False Alarm Administration Services**" with the name and address of the Proposer.

RFP's shall be submitted in accordance with the attached City of Fayetteville specifications and RFP documents attached hereto. Each Proposer is required to fill in every blank and shall supply all information requested; failure to do so may be used as basis of rejection.

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. **This form must be submitted with each proposal.**

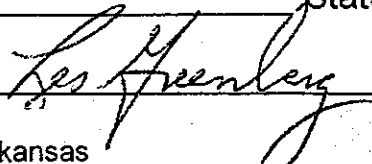
Name of Firm: AOT Public Safety Corporation

Contact Person: Les Greenberg Title: Chief Executive Officer

E-Mail: LGreenberg@publicsafetycorp.com Phone: (240) 607-1401

Business Address: 3261 Old Washington Rd., Suite 2011

City: Waldorf State: Maryland Zip: 20602

Signature:  Date: May 27, 2008

City of Fayetteville
RFP 08-03, False Alarm Administration Services
Statement of Disclosure

This page does not count towards page limitations set forth in this request for proposal. Proposer must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response. This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

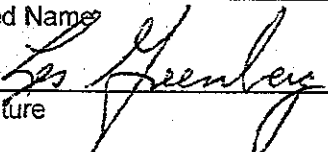
 X 1.) NO KNOWN RELATIONSHIP EXISTS

 2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR PROPOSAL:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Les Greenberg
Printed Name


Signature

May 27, 2008
Date

Franklinville

City of Fayetteville
Purchasing Division
113 W. Mountain
Fayetteville, AR 72701
Phone: (479) 575-8256
Fax: (479) 575-8257
www.accessfayetteville.org

CITY OF FAYETTEVILLE – OFFICE USE ONLY	
PURCHASING OFFICE ONLY VENDOR NUMBER DATE ENTERED / / DATE MAPPED / / Entered by: _____	REQUESTER INFORMATION Name of Requester: _____ Please check one ☐ New Vendor ☐ Vendor Change Request Date: _____ Requester Ext. _____ Requester Dpt. _____ P-Card Vendor? <u>circle one</u> YES NO

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

10/7/2008
City Council Meeting Date

Susan Thomas

Submitted By

Public Information

Division

General Government

Department

Action Required:

Resolution approving changes to the Fayetteville Government Channel policy as recommended by the Telecom Board.

\$

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

9/18/2008

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

9/19/08

Date

Finance and Internal Service Director

9-21-08

Date

Received in City Clerk's Office

9/18/08

ENTERED

Received in Mayor's Office

ENTERED
9/19/08

Mayor

9/22/08

Date

Comments:



City Council Memo

TO: Mayor Coody and City Council

FROM: Susan B. Thomas, Public Information and Policy Advisor *SBT*

DATE: September 18, 2008

SUBJECT: Fayetteville Government Channel Policy

Per the City Council's request, the Telecom Board has recommended changes to the Fayetteville Government Channel policy. You should have received these changes and a brief letter describing the changes via email on September 1, 2008. I have attached the letter and policy changes here for your convenience.

I believe the recommendations provide a thoughtful and effective compromise to the debate over issue debates/forums on the government channel. This recommendation removes discretion from Government Channel employees and places it in the hands of elected and appointed officials to be used only in situations of official and sanctioned City of Fayetteville meetings. If an issue reaches the agenda of any City meeting, the Government Channel will be there to film the meeting – just as we always are – and playback the meeting on the channel – just as we always do.

While there are still details to work out on the exact language of the policy and the Telecom Board continues to work on these changes, I think it is fair to conclude that in the future the Government Channel will only produce candidate and ballot issue debates and that we will do so with the assistance of a non-partisan group such as the League of Women Voters. The Government Channel will continue to cover any and all City of Fayetteville government meetings regardless of meeting format.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE RECOMMENDATIONS OF THE
TELECOMMUNICATIONS BOARD AND APPROVING CHANGES TO THE
CITY OF FAYETTEVILLE GOVERNMENT CHANNEL POLICY.**

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby adopts the
recommendations of the Telecommunications Board and approves changes to the City of
Fayetteville Government Channel Policy.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

DAN COODY, Mayor

SONDRA E. SMITH, City Clerk/Treasurer

September 18, 2008

To Mayor Dan Coody, Fayetteville City Council, City Attorney Kit Williams, Dr. Susan Thomas:

The Telecommunications Board finalized the recommendation with regard to the Government Channel Policy and Issues Forums in our August meeting. I have attached a marked up version of the policy; however, I am also including a description of the intended changes – as presented to the Telecommunications Board in June. No further changes were approved in the August meeting.

Summary of Recommended Changes:

1. Issue forums that were previously allowed by the policy are limited to ballot issues and candidate debates. No other issue forums are to be produced by the cable administration and aired on the government channel.
2. A committee should be formed to help oversee the production of the moderated ballot issue and candidate debates:
 - a. Review candidates to ensure all sides are represented
 - b. Review moderator selection to ensure that selected moderator is non-partisan.
 - c. Review content to ensure that topics and questions are presented without bias toward any of the represented sides.
 - d. Review format to ensure that the venue and configuration (seating, microphone placement, etc.) is such that each side has ample opportunity to express and communicate their point of view.
3. Specifically states that all government meetings are eligible to be televised, regardless of format.
 - a. Allows government meetings to be conducted in any format (round table, open for public comment, panel of experts, etc.) and still be shown on the government channel. The primary difference between a forum-style meeting and an issue forum is that the meeting must be organized and hosted entirely by the individual, committee, or government entity that calls the meeting. The cable administration plays no part in the production, balance, or participation of the meeting. The cable administration only tapes the meetings.

Thank you for your patience while we considered all sides of this issue.

Sincerely,

Shelli Bell
Chair
Telecommunications Board

RESOLUTION NO. 2746

A RESOLUTION APPROVING REVISIONS TO THE FAYETTEVILLE
GOVERNMENT CHANNEL USE AND PROGRAMMING POLICY. BE IT
RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE
ARKANSAS:

EXHIBIT "A"

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

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

I. TELECOMMUNICATIONS BOARD

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

POLICIES

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

A. FIRST LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL MEETINGS

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

B. SECOND LEVEL OF PRIORITY

1. CITY OF FAYETTEVILLE GOVERNMENTAL INFORMATIONAL PROGRAMS

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

C. THIRD LEVEL OF PRIORITY

1. MEETINGS OF OTHER GOVERNMENTAL ENTITIES THAT MEET FOIA CRITERIA

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

2. INFORMATIONAL PROGRAMS OF OTHER GOVERNMENT AGENCIES

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

3. PROGRAMS OF CITY OF FAYETTEVILLE CONTRACTORS AND GRANTEEES

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

4. LIMITED-MODERATED PUBLIC FORUMS

Third level priority will also be given to two types of limited-moderated public forums: candidate forums and ballot issue forums. Declared candidates for any public office, and persons advocating any cause, viewpoint or proposed policy that will be decided by ballot vote of a particular nature, will be eligible to appear only in a limited-moderated public forum venue. All candidates or sides of an issue are given an equal opportunity to appear in public moderated forums. If it becomes apparent that only one side of a moderated forum is willing to participate, the Cable Administrator may make a decision to conduct the forum with only one side participating. The City, through the Cable Administration Division, may conduct one candidate forum for each contested office before each election. The City, through the Cable Administration Division, may conduct one ballot issue forum before each election. No candidate forums will be held before the last filing deadline. All election forums and debates will be moderated by a non-partisan group (such as, but not limited to, the League of Women Voters) and will be overseen by a public forum committee, responsible for considering the issue representation with regard to participants, content and format.

D. BULLETIN BOARD MESSAGES

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

COVERAGE REQUESTS

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

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

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

EDITING AND OTHER CONTENT POLICIES

A. Except when (1) the intent is to use brief excerpts as part of a larger program or (2) when technical difficulties interfere, the public portions of any City Council meeting or other public meetings receiving coverage on the channel, including limited-moderated

public forums, will be cablecast in their entirety, without editing or subjective comment. All other programming is subject to editing by the Cable Administration as long as such editing does not alter the factual content or overall intent of the material being cablecast.

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

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

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

APPEALS OF COVERAGE OR PROCEDURAL ISSUES

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

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

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

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

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

10/7/2008

City Council Meeting Date

Ray M. Boudreaux

Submitted By

Aviation & Economic Development

Division

General Government

Department

Action Required:

Action Required: Approve Task Order #5 with McClelland Consulting Engineers, Inc. Contact: Wayne Jones, P.E., PO Box 1229, Fayetteville AR 72702-1229, 479-443-2377, Fax 479-443-9241, in the amount of \$177,600 for final plans & specs, bidding associated with the Runway 16 Safety Area Improvements project. Approve a Budget Adjustment.

\$ 177,600.00

Cost of this request

\$ 183,700.00

Budget

Correct RW16 RSA

Program Category / Project Name

5550.3960.5314.00

Account Number

\$ 157,900.00

Funds Used to Date

Avi/ED Imp

Program / Project Category Name

07039 2

Project Number

\$ 25,800.00

Remaining Balance

Airport

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒


Department Director

9/19/08
Date

Previous Ordinance or Resolution # 204-07, 94-08

Original Contract Date: 12/04/07


City Attorney

9/19/08
Date

Original Contract Number: 917

Paul A. Beuh
Finance and Internal Service Director

9-24-08
Date

Received in City Clerk's Office



Mayor

Date

Received in Mayor's Office



Comments: The project will be funded with DOT/FAA Airport Improvement Program and Arkansas Department of Aeronautics grant funding.

City Council Meeting of: October 7, 2008
Agenda Item Number:

CITY COUNCIL AGENDA MEMO/STAFF CONTRACT REVIEW MEMO

TO: Mayor and Members of the City Council
THRU: Staff/Contract Review Committee
FROM: Ray M. Boudreaux, Director, Aviation and Economic Development
DATE: September 19, 2008
SUBJECT: Approval of Task Order #5 with McClelland Consulting Engineers for final plans and specifications associated with the Runway 16 Runway Safety Area (RSA) Improvement Project and application and receipt of grant funding from the FAA and State of Arkansas (95/5).

RECOMMENDATION: Approve Task Order #5 with McClelland Consulting Engineers for \$177,600.00 for final plans and specifications, and bidding services associated with the Runway 16 RSA Improvement Project at Fayetteville Executive Airport, Drake Field. And, approve the application and receipt of FAA and State Aeronautics Grant Funding for the project.

BACKGROUND: The Runway RSA Improvement Project is well underway. We have completed a new Obstruction Survey of all conical surfaces and will present that information to revise the City Ordinance protecting the approaches to the airport. The Highway 71 Realignment Survey is complete and the Environmental Study is under FAA and AHTD review and should be complete in the very near future. The next phase to be funded by the FAA will include \$2.17 Million for earth work and property acquisition, final plans and specifications, bidding services, and project management. In order to ready to accept the grant in full, we must complete the final plans and specifications and have acceptable bids for the work prior to May 1, 2009. FAA has agreed to fund the initial plans and specifications and bidding services in order for the airport to meet the FAA schedule. We may have a slight delay in receiving the invitation to apply for funding as Congress has not yet passed a Bill nor have they passed a Continuing Resolution. The purpose of this action is to insure that we are ready to proceed when the grant funds become available. The Continuing Resolution is expected soon. We will not do any work until we receive the FAA Grant.

BUDGET IMPACT: The Runway 16 RSA Improvement Project is fully funded 95% FAA and 5% Arkansas Aeronautics.

Attachments: Staff Review Form
Contract

RESOLUTION NO. _____

A RESOLUTION APPROVING TASK ORDER #5 WITH MCCLELLAND CONSULTING ENGINEERS, INC. IN THE AMOUNT OF \$177,600.00 FOR FINAL PLANS & SPECS AND BIDDING ASSOCIATED WITH THE RUNWAY 16 SAFETY AREA IMPROVEMENTS AT DRAKE FIELD; AUTHORIZING THE AIRPORT STAFF TO APPLY FOR AND ACCEPT A GRANT FROM THE FAA WITH A MATCHING GRANT FROM THE ARKANSAS DEPARTMENT OF AERONAUTICS; AND APPROVING A BUDGET ADJUSTMENT.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas, hereby approves Task Order #5 with McClelland Consulting Engineers, Inc. in the amount of \$177,600.00 for final plans & specs, and bidding associated with the Runway 16 Safety Area Improvements at Drake Field, said approval being expressly contingent upon the receipt of grant funding.

Section 2. That the City Council of the City of Fayetteville, Arkansas, hereby authorizes the Airport Staff to apply for and accept a grant from the Federal Aviation Administration with a matching grant from the Arkansas Department of Aeronautics to cover the cost of said improvements.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a budget adjustment in the amount of \$177,600.00 to recognize the grant revenue.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

September 18, 2008

RECEIVED
SEP 18 2008
AIRPORT

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

Re: Task Order No 5
Runway 16 Safety Area Improvements
Fayetteville Municipal Airport

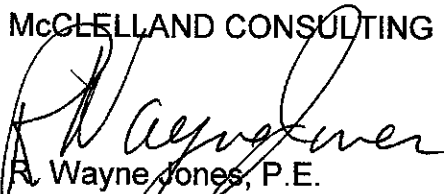
Dear Mr. Boudreaux:

In response to your request, please find three (3) copies of Task Order No 5 for the Design services for the Runway 16 Safety Area Improvements

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

Sincerely,

McCLELLAND CONSULTING ENGINEERS, INC.


R. Wayne Jones, P.E.
Vice President

Enclosure: Task Order No 5 (3 copies)

**TASK ORDER NO. 5
DESIGN ENGINEERING SERVICES
RUNWAY 16 SAFETY AREA & IMPROVEMENTS**

STATE OF ARKANSAS

COUNTY OF WASHINGTON

This Task Order is written pursuant to the basic agreement entitled CITY OF FAYETTEVILLE, AGREEMENT FOR ENGINEERING SERVICES, executed on June 6, 2006, as amended. The referenced basic agreement pertains to proposed improvements to Drake Field, Fayetteville's Municipal Airport. This Task Order entered into and executed on the date indicated below the signature block, by and between the City of Fayetteville and McClelland Consulting Engineers (MCE) sets forth the project description, project schedule, and engineering fees related to the Runway 16 Safety Area Improvements, Drake Field.

SECTION I - PROJECT DESCRIPTION

The project is to consist of the Runway 16 Safety Area Improvements, including relocation of US Hwy 71 from within the safety area, relocation of the northern portion of Ernest Lancaster Drive from within the safety area, the removal of the existing roadways and regrading of the Runway 16 Safety Area. The services to be performed include: Preparation of Right of Way Plans; Geotechnical Investigation; Wetland Permits & Relocation Plans as required; FEMA Permits and Flood Plain Revisions as required; Preliminary Design; Preliminary Cost Estimates; Detailed Design; Bidding Services; and review with State or Federal Agencies.

SECTION II - PROJECT SCHEDULE

From the time the City of Fayetteville issues the Notice To Proceed (NTP), McClelland Consulting Engineers, Inc. will endeavor to execute the project within the following time periods:

<u>Task</u>	<u>Completion After NTP</u>
A. Geotechnical Investigation:	70 calendar days
B. Wetland Permits & Plans:	100 calendar days
C. FEMA Permits & Flood Plain Plans:	110 calendar days
D. Preliminary Design & Cost Estimates:	110 calendar days
E. Right-of-Way Plans	150 calendar days
F. Final Design & Cost Estimates:	190 calendar days
G. Advertise for Bids:	220 calendar days

SECTION III - SCOPE OF SERVICES

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

- A. Right of Way Plans.
- B. Geotechnical Investigation.
- C. Prepare Wetland relocation plans, as required, and Permits.
- D. Prepare revised flood plain, floodway and channel relocation plans and submit plans and permits to FEMA and Corps of Engineers.
- E. Performing preliminary engineering design services for the Runway 16 Safety Area Improvements, formulating preliminary construction cost estimates, and meeting with the City to discuss the project.
- F. Performing the detailed design of the Runway 16 Safety Area Improvements, formulating final preliminary construction cost estimates, and meeting with the

City to discuss the project.

- G. Assist the City of Fayetteville advertising for competitive bids and recommending the award of a construction contract.

SECTION IV - FEES AND PAYMENTS

The following fees are to be paid to McClelland Consulting Engineers, Inc. as compensation for his services:

A. Geotechnical Investigation:	Estimated to be	\$ <u>7,500.</u>
B. Wetland Permit and Relocation Plans:	Estimated to be	\$ <u>11,800.</u>
C. FEMA Permits & Flood Plain Plans	Estimated to be	\$ <u>18,500.</u>
D. Preliminary Engineering Design & Cost Estimates:	a lump sum of	\$ <u>68,500.</u>
E. Right of Way Plans:	Estimated to be	\$ <u>6,850.</u>
F. Detailed Plans & Specs:	a lump sum of	\$ <u>56,500.</u>
G. Bidding Service:	Estimated to be	\$ <u>5,800.</u>
H. Reimbursement Expenses:	Estimated to be	\$ <u>2,150.</u>
Total Not to Exceed		\$ <u>177,600.</u>

Appendix A presents the basis of payments to the ENGINEER. Appendix B presents hourly rates for personnel anticipated to be assigned to this project by McClelland Consulting Engineers, Inc.

SECTION V - BASIC AGREEMENT IN EFFECT:

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

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

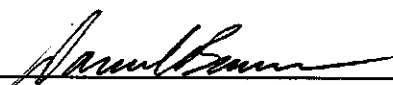
FOR THE CITY OF FAYETTEVILLE:

By: _____
Mayor

Attest: _____

Date: _____

FOR McCLELLAND CONSULTING ENGINEERS, INC.:

By: 
President

Attest: 
Vice President

Date: 9-18-08

APPENDIX B

Hourly Rates for Personnel Drake Field, Fayetteville Municipal Airport

<u>CATEGORY</u>	<u>BILLABLE HOURLY RATE RANGE</u>
Principal Engineer	\$ 155.00
Sr. Project Manager	\$ 143.00
Project Manager	\$ 132.00
Project Engineer II	\$ 105.00
Project Engineer I Design Engineer	\$ 84.00
Landscape Architect	\$ 109.00
Engineering Technician III	\$ 84.00
Engineering Technician II	\$ 65.00
Engineering Technician I	\$ 53.00
Construction Observer III	\$ 80.00
Construction Observer II	\$ 61.00
Construction Observer I	\$ 44.00
Chief Draftsman	\$ 70.00
Draftsman II	\$ 55.00
Draftsman I	\$ 50.00
Computer Technician	\$ 75.00
Survey Technician	\$ 77.00
Registered Land Surveyor	\$ 94.00
2-Man or Robotic Survey	\$ 143.00
Party Chief	\$ 66.00
Soils Lab Supervisor	\$ 60.00
Soils Lab Technician II	\$ 45.00
Soils Lab Technician I	\$ 40.00
Clerk/Typist	\$ 48.00
Mileage	\$ 0.50

* Subject to Annual Adjustment Mid-Year.

APPENDIX "A"
BASIS FOR PAYMENTS TO THE ENGINEER
TASK ORDER NO. 5
RUNWAY 16 SAFETY AREA IMPROVEMENTS
FAYETTEVILLE MUNICIPAL AIRPORT

LINE	TASK DESCRIPTION	PROJECT DIRECTOR	PROJECT MGR/ENGR	PROJECT ENGINEER	ENGINEERING TECHNICIAN	CADD OPER. 1	CADD OPER. 2	CADD OPER. 3	LICENSED SURVEYOR	SURVEY CREW	CLERK TYPIST	INSPECTOR	MILEAGE	DIRECT EXPENSE	EXTENDED TOTAL
		\$155.00	\$143.00	\$115.00	\$90.00	\$70.00	\$50.00	\$50.00	\$94.00	\$143.00	\$48.00	\$80.00	\$0.50		
A	GEOTECHNICAL INVESTIGATION	1		2										\$7,115.00	\$7,500.00
B	WETLAND PERMITS AND RELOCATION PLANS														
	WETLAND & RELOCATION AREA SURVEYS	4	4	4	4	4	16		2	8			40	\$2,100.00	\$4,844.00
	DEVELOP RELOCATION PLANS AND DETAILS	1	4	12							2		28	\$3,500.00	\$8,966.00
		1	8	16	4	4	16	0	2	3	2	0	55	\$5,600.00	\$11,800.00
C	FEMA PLANS & PERMITS														
	OBTAIN FEMA HYDROLOGIC DATA	1	2	2											\$971.00
	PERFORM HYDROLOGICAL CALCULATIONS	1	4	8	16	4	16				2			\$12,000.00	\$13,462.00
	PREPARE REVISED MAPPING	2	8	16	16	4	16	0	0	0	2	0	0	\$200.00	\$4,337.00
														\$12,200.00	\$19,500.00
D	PRELIMINARY DESIGN ENGINEERING														
	DRAWING ORGANIZATION	1	1	2	20										\$973.00
	QUANTITY SHEETS	1	1	4	6	8	20								\$2,403.00
	TYPICAL DETAIL SHEET	1	2	8	60										\$2,673.00
	PLAN & PROFILE PLAN SHEETS	1	2	8	60										\$6,761.00
	DETAILS SHEETS	1	2	8	10	6	20								\$3,881.00
	EROSION CONTROL PLAN SHEETS	1	1	8	10	8									\$2,678.00
	EROSION CONTROL DETAIL SHEET	1	1	2	4	10	20								\$2,633.00
	CONSTRUCTION PHASING PLAN SHEETS	1	4	16	20	40									\$9,387.00
	CROSS SECTION SHEETS	1	2	8	32	2	10								\$4,596.00
	DRAINAGE CALCULATIONS	1	4	10	40										\$5,477.00
	WATER AND SEWER PLAN & PROFILE SHEETS	1	2	12	20	10	30								\$7,843.00
	WATER AND SEWER DETAIL SHEETS	1	4	4	4	4	16								\$6,121.00
	QUANTITIES	1	4	20	60						80				\$6,427.00
	SPECIFICATIONS	1	2	20											\$6,581.00
	UPDATE COST ESTIMATE	1	2	10							3				\$1,735.00
	IN-HOUSE QA REVIEWS	4	12												\$2,336.00
	OWNER & AHTO REVIEWS	1	2	8	2	4	10							\$7.00	\$2,428.00
	MEETINGS WITH OWNER	1	4	4											\$1,187.00
	SUBTOTAL, PRELIMINARY DESIGN	15	48	144	264	72	166	0	0	0	83	0	0	\$7.00	\$65,590.00
E	RIGHT-OF-WAY PLANS SHEETS	1	1	2	10				42	10				\$44.00	\$8,850.00
F	FINAL DESIGN ENGINEERING														
	COVER SHEET	1	1	1	16		4								\$355.00
	QUANTITY SHEETS	1	1	2	6										\$1,813.00
	TYPICAL DETAIL SHEET	1	2	4	30	2									\$1,233.00
	PLAN & PROFILE PLAN SHEETS	1	2	4	30										\$3,681.00
	DETAILS SHEETS	1	2	4	8	4	20								\$3,101.00
	EROSION CONTROL PLAN SHEETS	1	1	2	4	4	10								\$1,768.00
	EROSION CONTROL DETAIL SHEET	1	1	2	2	2	8								\$1,056.00
	CONSTRUCTION PHASING PLAN SHEETS	1	2	6	12	4	12								\$3,211.00
	CROSS SECTION SHEETS	1	2	6	24	2	10								\$3,978.00
	DRAINAGE CALCULATIONS	1	4	4	20										\$2,403.00
	WATER AND SEWER PLAN & PROFILE SHEETS	1	2	4	6	6	16								\$2,821.00
	WATER AND SEWER DETAIL SHEETS	1	4	4	4	2	8								\$1,223.00
	QUANTITIES	1	4	12	60						40				\$7,507.00
	SPECIFICATIONS	1	2	20							4				\$4,661.00
	UPDATE COST ESTIMATE	1	2	10											\$2,933.00
	IN-HOUSE QA REVIEWS	4	12		10										\$3,226.00
	OWNER & AHTO REVIEWS	1	1	4	4	1	6							\$45.00	\$1,008.00
	MEETINGS WITH OWNER	1	4	8							2				\$1,588.00
	FINAL REVIEW CHANGES	1	2	4	16	4	20			2					\$3,917.00
	FINAL AHTO REVIEW AND CHANGES	1	4	4	20	4	12			2				\$41.00	\$3,540.00
	FINAL IN-HOUSE QA REVIEWS	1	4	8											\$1,847.00
	SUBTOTAL, DETAILED DESIGN	14	48	120	236	34	126	0	0	0	60	0	0	\$86.00	\$56,600.00
G	BIDDING SERVICES	0	8	30	8	0	0	0	0	0	10	0	12	\$0.00	\$5,800.00
H	REIMBURSEMENT EXPENSES														
	Art Dept of Health Review Fee													\$500.00	\$500.00
	Reproduction Costs													\$900.00	\$900.00
	Corps of Engineers Wetlands Fee													\$600.00	\$600.00
	ADSO SWPPP Plan Fee													\$350.00	\$350.00
	SUBTOTAL, REIMBURSEMENT EXPENSES													\$2,750.00	\$2,750.00
	GRAND TOTAL, ENGINEERING SERVICES	30	105	286	518	106	282	0	42	10	143	0	12	\$2,287.00	\$177,600.00

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

A. 5
McClelland Consulting Engineers
Inc. Task Order # 5
Page 11 of 12

Budget Year 2008	Department: General Government Division: Aviation & Economic Development Program: Airport Capital Expenditures	Date Requested 10/7/2008	Adjustment Number
--------------------------------	--	--	-------------------

Project or Item Added/Increased: \$177,600 in the Professional Services account	Project or Item Deleted/Reduced: Increase Use of Fund Balance revenue account \$177,600
--	--

Justification of this Increase: Will provide for final plans & specifications, bidding services, and grant coordination with the FAA for a project to correct the Runway 16 Safety Area deficiency.	Justification of this Decrease: Use of the airport's fund balance will be offset by future grant revenues from the DOT/FAA and Arkansas Department of Aeronautics. The project is 100% reimbursable under current grant programs.
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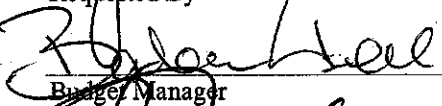
Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Professional services	5550	3960	5314	00	177,600	07039	2

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number				Amount	Project Number	
Use of fund balance AIP Grant 37	5550	0955	4900	00 37	177,600	07039	2

Approval Signatures

Requested By		9/19/08
		Date
Budget Manager		9/23/08
		Date
Department Director		9/15/08
		Date
Finance & Internal Services Director	Paul Behr	9-23-08
		Date
Mayor		Date

Budget Office Use Only

Type:	A	B	C	D	E
Posted to General Ledger	Initial	Date			
Posted to Project Accounting	Initial	Date			
Entered in Category Log	Initial	Date			

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

October 7, 2008
City Council Meeting Date

Ron Petrie Engineering Operations
Submitted By Division Department

Action Required:

A resolution adopting the Hazard Mitigation Plan for Washington County.

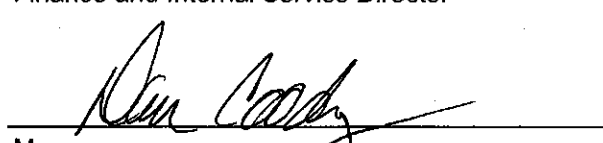
\$ -	\$ 708,731.00	Drainage/Phase 2 Stormwater Mgmt
Cost of this request	Category / Project Budget	Program Category / Project Name
4470-9470-5817	\$ 268,282.60	Bridge and Drainage Improvements
Account Number	Funds Used to Date	Program / Project Category Name
02097.1	\$ 440,428.40	Capital Improvement Const
Project Number	Remaining Balance	Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

 9-24-08 Previous Ordinance or Resolution # _____
Department Director Date Original Contract Date: _____

 9-24-08 Original Contract Number: _____
City Attorney Date

 9-24-08
Finance and Internal Service Director Date

 9/24/08
Mayor Date

Received in City Clerk's Office
9-24-08 

Received in Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

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

From: Sarah Wrede, Staff Engineer

Date: September 24, 2008

Subject: A resolution adopting the Hazard Mitigation Plan for Washington County.

RECOMMENDATION

Staff recommends approval of adopting the Hazard Mitigation Plan for Washington County.

BACKGROUND

Certain areas of Fayetteville are subject to periodic flooding and other natural and man-caused hazards with the potential to cause damages to people's properties within the area.

Under the Disaster Mitigation Act of 2000, the United States Federal Emergency Management Agency (FEMA) required that local jurisdictions have in place a FEMA-approved Hazard Mitigation Action Plan as a condition of receipt of certain future Federal mitigation funding after November 1, 2004.

To assist cities and counties in meeting this requirement, the County of Washington, with the assistance of Northwest Arkansas Economic Development District, has initiated development of a county wide, multi-jurisdiction Hazard Mitigation Plan for the county and all jurisdictions in the county, specifically the cities and school districts.

DISCUSSION:

Through this resolution, the City would adopt those portions of the Hazard Mitigation Plan relating to and protecting its jurisdictional area against all hazards, 2008-2010 and appoint the Washington County Emergency Management Director to assure that the Hazard Mitigation Plan be reviewed at least annually and that any needed adjustment to the Hazard Mitigation Plan be developed and presented to the governing board for consideration. The City would agree to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

BUDGET IMPACT

There is no budget impact for this item.

RESOLUTION NO. _____

**A RESOLUTION ADOPTING THE HAZARD MITIGATION PLAN FOR
WASHINGTON COUNTY**

WHEREAS, certain areas of Fayetteville, Arkansas, are subject to periodic flooding and other natural and man-caused hazards with the potential to cause damages to people's properties within the area; and

WHEREAS, the City of Fayetteville desires to prepare and mitigate for such circumstances; and

WHEREAS, under the Disaster Mitigation Act of 2000, the United States Federal Emergency Management Agency (FEMA) required that local jurisdictions have in place a FEMA- approved Hazard Mitigation Action Plan as a condition of receipt of certain future Federal mitigation funding after November 1, 2004; and

WHEREAS, to assist cities and counties in meeting this requirement, the County of Washington, with the assistance of Northwest Arkansas Economic Development District, has initiated development of a county wide, multi-jurisdiction Hazard Mitigation Plan the county and all jurisdictions in the county, specifically the cities and school districts;

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

That the City of Fayetteville, Arkansas hereby adopts those portions of the Plan relating to and protecting its jurisdictional area against all hazards, 2008-2010; and

Appoints the Washington County Emergency Management Director to assure that the Hazard Mitigation Plan be reviewed at least annually and that any needed adjustment to the Hazard Mitigation Plan be developed and presented to the governing board for consideration; and

Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.

APPROVED and ADOPTED on this ____ day of _____, 2008

APPROVED:

Dan Coody, Mayor

ATTEST:

Secretary/Clerk

RESOLUTION NO. 2008-17

BE IT RESOLVED BY THE QUORUM COURT
OF THE COUNTY OF WASHINGTON,
STATE OF ARKANSAS, A RESOLUTION
TO BE ENTITLED:

2008 SEP 12 PM 4:14
CLERK OF COURT
WASHINGTON CO ARK
FED

**A RESOLUTION ADOPTING THE HAZARD
MITIGATION PLAN FOR WASHINGTON
COUNTY, ARKANSAS.**

WHEREAS, certain areas of Washington County are subject to periodic flooding and other natural and man-caused hazards with the potential to cause damages to people's properties within the area; and,

WHEREAS, Washington County desires to prepare and mitigate for such circumstances; and,

WHEREAS, under the Disaster Mitigation Act of 2000, the United States Federal Emergency Management Agency (FEMA) required that local jurisdictions have in place a FEMA-approved Hazard Mitigation Action Plan as a condition of receipt of certain future Federal mitigation funding after November 1, 2004; and,

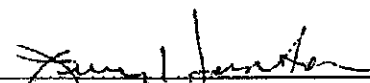
WHEREAS, to assist cities and counties in meeting this requirement, Washington County, with the assistance of Northwest Arkansas Economic Development District, has initiated development of a county-wide multi-jurisdiction Hazard Mitigation Plan for the County and all jurisdictions in the County, specifically the cities and school districts.

NOW, THEREFORE, BE IT RESOLVED BY THE QUORUM COURT OF WASHINGTON COUNTY, ARKANSAS:

ARTICLE 1. Washington County hereby adopts those portions of the Hazard Mitigation Plan relating to and protecting the jurisdictional area against all hazards, 2008-2013.

ARTICLE 2. Washington County appoints the Emergency Management Director to assure that the Hazard Mitigation Plan will be reviewed at least annually and that any needed adjustment to the Hazard Mitigation Plan be developed and presented to the Quorum Court for consideration.

ARTICLE 3. Washington County hereby agrees to take such other official action as may be reasonably necessary to carry out the objectives of the Hazard Mitigation Plan.


JERRY HUNT, County Judge

9-12-08
DATE


KAREN COMBS PRITCHARD, County Clerk

Sponsor: David Daniel
Date of Passage: September 11, 2008
Votes For: 12 Votes Against: 0
Abstention: 0 Absent: 1



MEMORANDUM

TO: Mayor Dan Coody & City Council Members
THRU: Greg Tabor, Police Chief
FROM: Jill Hatfield, Animal Services Superintendent 
DATE: September 19, 2008
RE: Animal Services Officer Position

The Animal Services Division currently has a vacancy in the Animal Services Officer position. The position is necessary to ensure the safety of citizens, the humane treatment of animals, and enforcement of ordinances and state laws within the city. The vacant position is one of five officers. The vacancy was created due to the employee needing to relocate to care for a family member.

The open position will create additional overtime hours for two senior officers as they will be rotating into the emergency on-call duty more often.

Please see the Animal Services Officer position description attached for more information. Thank you for your consideration.

cc: Sondra Smith, City Clerk



CITY OF FAYETTEVILLE
Position Description

POSITION TITLE: Animal Services Officer

EXEMPT (Y/N): No	DEPARTMENT: Police
SUPERVISOR: Animal Services Coordinator	DIVISION: Animal Services
CITY/EOC/JG CODES: 139/4/12	DATE REVISED: April 2007
Job Grade: 109	

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

1. Enforce state and local laws, issue citations pertaining to animals to violators and handle hostile individuals as needed.
2. Euthanasia – handle animal safely, euthanize humanely and track the use of controlled substances. Euthanize multiple animals per session. High level of stress due to rescue and euthanasia rates.
3. Trap and impound loose animals to include dogs and cats as well as livestock and wildlife.
4. Investigate animal cruelty and bite cases.
5. Testify in municipal and district court as necessary.
6. Work with animal shelter software and answer phone calls. Greet and assist the public visiting the shelter.
7. Prepare and present educational programs for youth groups, schools and civic organizations and interact with the public at community events.
8. Respond to emergency calls involving animal attacks or injured animals. Administer first aid to injured animals. Respond to after hour's emergency calls.
9. Assist public in a friendly and professional manner.
10. Transport animals and supplies.
11. Pick up deceased animals struck by vehicles or in neighborhoods.
12. Load and operate incinerator.
13. Perform chemical capture of animals utilizing dart rifle and other trapping devices.
14. Process adoptions, applications and redemptions. Collect necessary fees.
15. Prepare rabies specimens for shipment to health department.

16. Perform other duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Acquire and pick up donations.
2. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. High school diploma or GED required. 6-12 months of animal handling experience preferred.
2. Valid Arkansas Driver's License.
3. Must obtain Level I, II & III Animal Control Training, Euthanasia Certification, Chemical Capture and Bite Stick Certification, within two years.
4. Ability to be on call 24 hours a day, 7 days a week.
5. Effectively communicate with others orally and in writing.
6. Ability to respond to common inquiries or complaints from citizens, regulatory agencies, or members of the business community.
7. Must be proficient in the use of a personal computer and other related software programs. Must be able to effectively operate standard office equipment.
8. While performing the functions of this job, the employee is regularly required to talk and hear. The employee regularly is required to stand, walk, and sit; use hands to finger, handle, or feel; reach with hands and arms; climb or balance; stoop, kneel, crouch, or crawl. The employee must regularly lift and/or move up to 100 pounds. Specific vision abilities required by this job include close vision.
9. While performing the functions of this job, the employee is regularly exposed to wet/and or humid conditions, moving mechanical parts; fumes or airborne particles; toxic or caustic chemicals and outside weather conditions.



MEMORANDUM

TO: Mayor Dan Coody & City Council Members
THRU: Greg Tabor, Police Chief
FROM: Jill Hatfield, Animal Services Superintendent 
DATE: September 19, 2008
RE: Part-time Animal Services Caregiver Position

The Animal Services Division currently has one part-time Animal Services Caregiver position vacant. The vacancy was created when the part-time employee could not work the scheduled hours needed.

Replacing the part-time caregiver position is necessary to provide adequate staffing on Saturdays, the busiest day for adoptions, and additional assistance during the week. The division also relies on the part-time position to assist when full-time staff is on vacation or sick for essential duties to be completed. The wage for this position is \$9.53 per hour.

Please see the Animal Services Caregiver position description attached for more information. Thank you for your consideration.

cc: Sondra Smith, City Clerk



CITY OF FAYETTEVILLE

Position Description

POSITION TITLE: Animal Caregiver

EXEMPT (Y/N): No

SUPERVISOR: Animal Service Coordinator

CITY CLOCK CODES: 193/38

DEPARTMENT: Police

DIVISION: Animal Services

Job Grade: 103

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

1. Clean, disinfect and maintain facility including; cages, walls and floors. Launder and disinfect bedding, toys, and towels in an efficient manner.
2. Feed and socialize animals; provide toys, beds and comforts of home.
3. Perform first view examinations of eyes, ears, paws, teeth, coat, weight and overall health, administer dog and cat vaccinations, flea and tick control and administer medications as directed by staff veterinarian.
4. Scan for and implant microchips.
5. Assist and hold animal during euthanasia.
6. Assist the public with adoptions and counsel potential adopters on training, behavior and pet care.
7. Educate the public about spaying and neutering and disease and illness prevention.
8. Handle feral cats and aggressive dogs.
9. Utilize safe handling practices and use of chemicals (bleach and disinfectant).
10. Ensure proper use and disposal of needles and syringes and safety equipment.
11. Properly restrain animals and assist in taking blood work.
12. Knowledge and use of computer in order to enter information on persons and animals, document behavior, medications and vaccines given.
13. Perform other duties as assigned.

SECONDARY DUTIES AND RESPONSIBILITIES include the following:

1. Perform office duties by answering phone, dispatching officers to calls, intaking animals, processing applications and adoptions, issuing city licenses and rabies tags, when officers are unavailable.
2. Secondary duties as assigned.

MINIMUM QUALIFICATIONS

1. High school diploma or GED.
2. Must be 18 years of age or older.
3. Ability to obtain animal caregiver certification within one year of hire date.
4. Effectively communicate with others orally and in writing.
5. Must be proficient in the use of a personal computer and other related software programs. Must be able to effectively operate standard office equipment.
6. Must be proficient in the use of a washer/dryer, safety gloves, cat capture tools, tongs, needles/syringes, micro chip scanner, hoses and disinfectant sprayers.
7. While performing the functions of this job, the employee is regularly required to talk and hear. The employee regularly is required to stand, walk, and sit; use hands to finger, handle, or feel; reach with hands and arms; climb or balance; stoop, kneel, crouch, or crawl. The employee must regularly lift and/or move up to 50 pounds
8. While performing the functions of this job, the employee is regularly exposed to wet/and or humid conditions, moving mechanical parts; fumes or airborne particles; toxic or caustic chemicals and outside weather conditions.

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

2-Sep-08
City Council Meeting Date

David Jurgens
Submitted By

Wastewater System Improv Proj
Division

Water/Wastewater
Department

Action Required:

Fayetteville City Administration recommends approval of a resolution authorizing the City Attorney to seek condemnation and possession of certain lands owned by Daniel & Reba Epperly, husband and wife; located at Parcel No. 765-14983-000, located within SE-21-16-30. Location 4 on attached list and map.

\$ 1,165.00
Cost of this request

\$ 46,262,358
Category / Project Budget

Wastewater System Imp Project
Program Category / Project Name

4520.9520.5308.02
Account Number

\$ 27,801,066
Funds Used to Date

Water and Wastewater
Program / Project Category Name

02133-0305
Project Number

\$ 18,461,292
Remaining Balance

Water/Sewer
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐

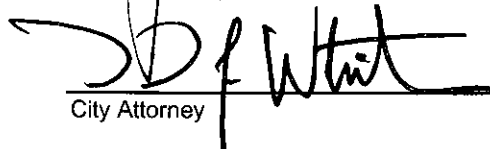

Department Director

15 Aug 08
Date

Previous Ordinance or Resolution # _____

Original Contract Date: _____

Original Contract Number: _____

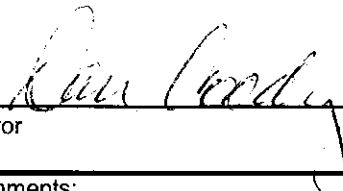

City Attorney

8/20/08
Date

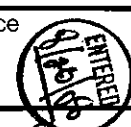
Paul A. Beuh
Finance and Internal Service Director

8-20-08
Date

Received in City Clerk's Office



Mayor

8/20/08
Date

Received in Mayor's Office



Comments:

Filed 8/20/08 mtg 9/2/08



City Council Meeting of 2 September 2008

CITY COUNCIL AGENDA MEMO

To: Mayor Dan Coody

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

A handwritten signature in black ink, appearing to read "D. Jurgens".

Date: August 15, 2008

Subject: Approval of Three Resolutions Authorizing The City Attorney to Seek Condemnation and Possession of Certain Lands Required for WSIP EL-3

RECOMMENDATION

Staff recommends approval of Three resolutions authorizing the city attorney to seek condemnation and possession of certain lands required for WSIP EL-3 owned by the individuals and/or organizations listed on the attached pages.

BACKGROUND

The City of Fayetteville has been negotiating with land owners for easements in which to install the sewer lines that will carry wastewater flows to the new West Side Wastewater Treatment Plant. 18 were required; 13 have been acquired and 1 was eliminated. The owners of the remaining tracts have all been contacted via mail, telephone, and in person, except for the Parker estate, from which we have had no contact and are not sure of a correct address. Owners of the remaining tracts are aware of the City's intent to turn any unresolved easement purchases over to the City Attorney to initiate the condemnation process in August.

DISCUSSION

Negotiations are still underway with several of the owners, but the timing is such that we must proceed with the condemnation process in the event the negotiations do not succeed. Details of each parcel are below.

- (1) Parker Estate. No contact, previous owner deceased.
- (2) Epperly. One owner (Epperly) disputes the easement for the existing 80 year old sewer line and wants more money than staff feels is reasonable and appropriate. The City is paying full fee simple prices for permanent WSIP easements, based on appraisals. In this case, we are only obtaining a temporary construction easement, as we are replacing the existing line in place.
- (3) Littlefield Oil. Aaron Littlefield stated he would send easement prior to 22 August.
- (4) Ed Hurley (not included in packet) will drop off signed document prior to 18 August.

BUDGET IMPACT

Any condemnations filed will cost a filing fee of \$140 each. Costs for the actual easements are shown on each individual Staff Review Form. Funds are available in the WSIP budget.

Attachments: List of Potential Condemnations
Location Map

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SEEK CONDEMNATION AND POSSESSION OF CERTAIN
LANDS OWNED BY DANIEL AND REBA EPPERLY.

WHEREAS, the City of Fayetteville and Daniel and Reba Epperly, have been unable to agree on a fair price for the property owned by Daniel and Reba Epperly, husband and wife, that is needed for a temporary construction easement across Parcel No. 765-14983-000; and

WHEREAS, the City of Fayetteville needs to gain possession of this property promptly to begin the installation of the EL-3 WSIP sewer line.

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 City Attorney to file suit to seek court ordered possession of property located on Parcel No. 765-14983-000 and owned by Daniel and Reba Epperly, husband and wife, that is needed for the installation of the EL-3 WSIP sewer line, and to pay into the Registry of the Circuit Court just compensation therefor.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

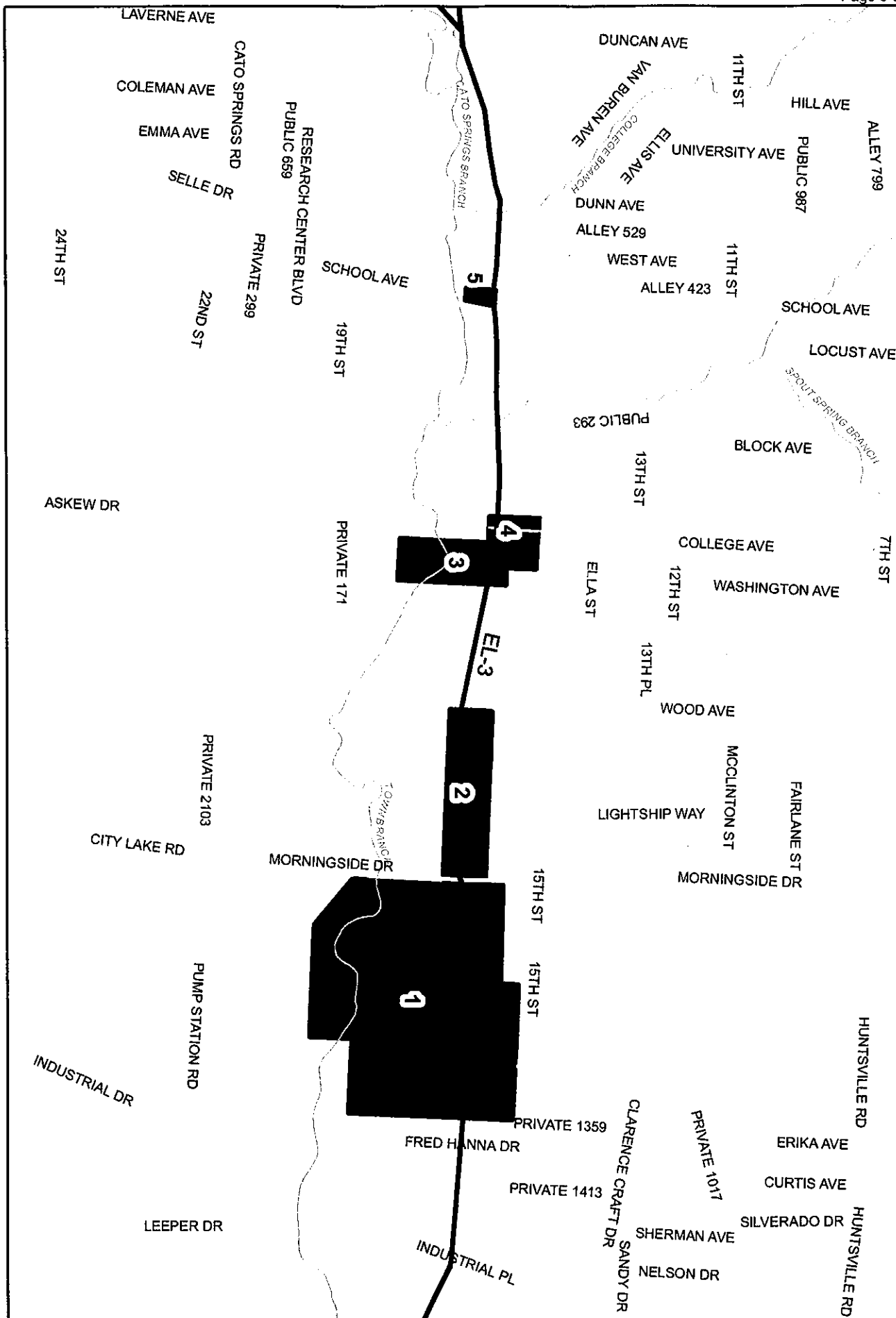
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

WSIP East Line Easement Condemnation List

Map Reference	Description
2.	EL3 – Tract 3 Owner: Herbert G. Parker, being an heir at law of Otis J. Parker, deceased Temporary Construction Easement across: Parcel No. 765-15165-000 Located within NE-SW-22-16-30 Offer Amount: \$260.00 (TCE only: 2812 sq. ft.)
4.	EL3 – Tract 5 Owner: Daniel L. Epperly and Reba W. Epperly, husband and wife Temporary Construction Easements across: Parcel No. 765-14983-000 Located within NE-SE-21-16-30 Offer Amount: \$1,025.00 (TCE north: 2006 sq. ft., TCE south: 2092 sq. ft.; total: 4098 sq. ft.)
5.	EL3 – Tract 7 Owner: Littlefield Investment Co. Permanent Easement across: Parcel No. 765-14998-000 Located within NW-SE-21-16-30 Offer Amount: \$5,400.00 (PE only: 2160 sq. ft.)



**WSIP East Line Work
EL-3 Condemnation Map**



CASE HISTORY

Daniel L and Reba W. Epperly
EL3 (Line 4) – Tract 5

12/9/2006	Date of appraisal by Mark Risk, the Real Estate Consultants for an appraisal of the Littlefield Oil property. Used that land value (\$2.50/sq. ft.) x 10% to calculate rental value of TCE. 4,098 square feet of Temporary Construction Easement at \$0.25/sq. ft. for a total offer of \$1,025.00.
1/8/2007	Date of offer letter. Packet containing letter, easement document, drawing, and vendor form mailed on 1/12/2007. Offer amount as calculated above.
Feb. 2007	Copy of packet given to Ron Petrie to hand-deliver to Mr. Epperly at civic club meeting.
Mar. 2007	Mr. Epperly called and talked with Holly Jones, land agent. Due to inclement weather, Mr. Epperly was requested to call back to arrange a meeting time convenient to him. He never called back.
1/14/2008	Notification letter mailed urging a response.
2/7/2008	Letter from Mr. Epperly outlining conditions to be met for him to sign TCE, including a total counter offer amount of \$20,600 (which includes damages for moving trailers located within existing easement).
6/18/2008	Notification letter mailed acknowledging letter of 2/7/2008. Urging contact with Lynn Hyke or David Jurgens.
7/1/2008	As of this date, no further contact with the Land Agents' office. Turned over to the City Attorney's office for potential condemnation.
7/1/2008	Per Lynn Hyke: Met with Mr. Epperly. We located the PUE & TCE that Garver had staked out. It appears that trailers 10 & 11 & 15 are on the PUE for the 21" clay pipe. Lynn planned to have a figure for him on the 14th or 15th.
7/11/2008	Mr. Epperly told Lynn Hyke that his previous offer to the City in his letter is now void. He had researched prescriptive easements, and in his opinion the city doesn't have an easement where the 21" clay pipe is. The City will need to purchase the easement in this area. Lynn told him that he would talk to David Jurgens about this issue.



WATER AND WASTEWATER DEPARTMENT

June 18, 2008

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
 Wastewater Improvements Project
 EL-3 (Line 4) – Town Branch to Happy Hollow
 Tract 5
 Notification Letter

Dear Mr. and Mrs. Epperly:

As you are aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town, renovating the Noland Wastewater Treatment Plant on the east side of town, and constructing new and replacement gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

The City of Fayetteville needs to move forward with the next portion of this project, replacing the sewer line parallel to and south of 15th Street. In order to do this, we need to finalize easement acquisition along this line.

We are in receipt of your letter dated February 7, 2008. As requested, surveyors from Garver Engineers, the Engineer designing the project, will come to your property and stake the existing and proposed easements within the next few weeks. In order to comply with laws pertaining to easements, and for their own safety, the trailers will not be allowed to be placed back into the easement after construction is completed. One of the major purposes of the easement is to protect above ground assets from the potential damages that may be caused if a problem occurs within the line, as well as to protect the line and allow maintenance to be performed on and in it. Please contact Lynn Hyke, construction manager, at (479) 718-7670, or myself at (479) 575-8330 at your earliest convenience so that the issue of mobile home placement following construction and the possibility of moving cost/lost revenue reimbursement can be resolved.

Sincerely,

A handwritten signature in dark ink, appearing to read "D. Jurgens", written over the printed name.

David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg

RECEIVED

FEB 08 2008

CITY OF FAYETTEVILLE
MAYOR'S OFFICE

DANIEL L. and REBA W. EPPERLY
2525 W. MT. COMFORT RD.
FAYETTEVILLE, AR. 72704

February 7, 2008

Mr. David Jurgens, P E
Water and Wastewater Director
113 West Mountain
Fayetteville, AR. 72701

RE: Your letter dated January 8, 2007
Your letter dated January 14, 2008

Dear Mr. Jurgens,

This is in answer to your above referenced letters, the second which I very strongly resent.

I have been a citizen of the City of Fayetteville, Arkansas for soon to be 79 years. I have always been a very strong supporter of the City and it's future. Over the years, I have served more than 30 years on various committees of the City of Fayetteville. I find your letter of January 14, 2008 to be very threatening. Even your own Engineer could only guess where the sewer line and easement is located

When I received your letter dated January 8, 2007, I contacted your office seeking some answers as to where the Sewer lines and Easements crossed my property. The weather was cold and rainy and the lady I talked to told me she "was a Weenie and would not get out into the cold". I asked her to call me when it was warm enough and we would meet at the property and locate the existing easement so that I would know what was needed to be done. I never heard anything else. Sometime later Mr. Ron Petrie handed me some drawings at a social function and insinuated that someone from your office would contact me in the near future. That is the last I heard from your office until this letter dated January 14, 2008. Surely even you would not sign an easement across your property without knowing exactly where it would be.

This week I placed 3 calls to Mr. Lynn Hyke and left messages, which were never returned. Finally one day at noon, Mr. Hyke met me at the Mobile Park and showed me where he thought the sewer and easement was. This decision was made by observing a slight swag in the driveway. I remind you that this sewer has been buried for some 65 years and the drive was put down in 1962. Also when Razorback Mobile Park was built in 1962, there was literally hundreds of feet of ditch dug to bury the various utilities.

I will not sign any documents until the sewer and easement as well as temporary easement is positively located and marked by a licensed surveyor.

If Mr. Hyke is correct with his assumptions, then we must move 3 Mobile Homes. 1 is setting on the assumed sewer and the other 2 are in the temporary area. I have contacted a professional mover and the moving expenses for these 2 Mobile Homes are \$3,500.00 each. We have 4 vacant spaces in Razorback. We were in the process of purchasing Mobile Homes for rental to put in these vacancies. We have since canceled the purchase of 2 of them so that we will have room to move these two until construction is complete. This price includes disconnecting and reconnecting all utilities, as these tenants want to move back to their space. The other will need to be moved to another Mobile Park as the remaining 2 spaces are not large enough.

The fact that we have had to cancel the purchase of the 2 rental units leaves us with lost revenue of \$210.00 per month per space for a total monthly rental of 420.00 per month. We will expect to be reimbursed for this lost revenue beginning March 1, 2008 and continuing until the Mobile Homes can be moved back to their original space and these spaces become available again.

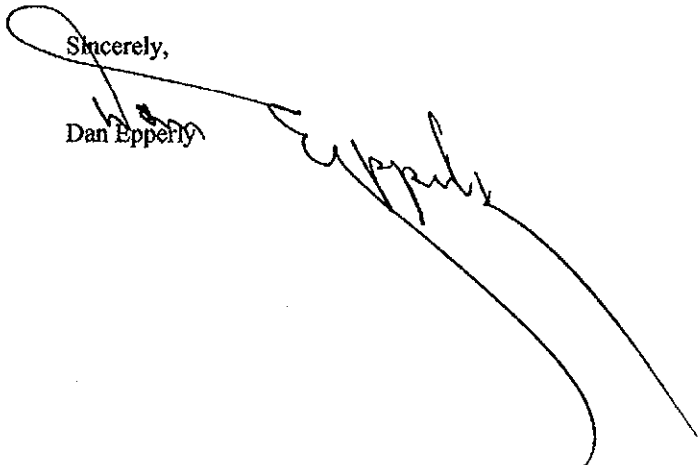
We feel that the tenants that must be moved should be reimbursed for their inconvenience. At least \$1,000.00 each.

After considering the conditions described above, and before we can give a temporary easement, the following is required:

- 1 We must be treated fairly and with respect.
- 2 Exact location of easements must be located and staked by a licensed surveyor
- 3 When this project is completed, the area affected will be left in the same condition as it was before construction started, including concrete pads and sidewalks.
- 4 There will be no interruption of utilities to any tenants
- 5 Tenants will always have access to parking their vehicles in their own parking spaces
- 6 The street will be resurfaced immediately upon completion of sewer line construction across Razorback Mobile Park
- 7 All equipment and supplies as well as employee's vehicles must be kept within the temporary easement
- 8 Relocating 3 tenants at \$1,000.00 each for their inconvenience \$3,000.00
- 9 Moving Mobile Home from space # 10 to space #14 and back \$3,500.00
- 10 Moving Mobile Home from space # 11 to space #13 and back \$3,500.00
- 11 Moving Mobile Home from space # 15 to another Mobile Park \$2,500.00
- 12 Loss of revenue from spaces #13, #14 and #15 @ \$210.00 each month for 10 months, (March 1 to December 31, 2008). Should project not be completed by year end, space rent will continue until project is finished) \$6,100.00
- 13 Rent for temporary easement \$2,000.00
- 14 City of Fayetteville will issue a letter addressed to the Epperly accepting the above-described conditions signed by authorized authority.
- 15 A check from City of Fayetteville, Arkansas in the amount of \$20,600.00 will be delivered to Epperly at time of signing.

This proposal will expire 30 days from the date of this letter.

Sincerely,


Dan Epperly



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 14, 2008

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 5 (Parcel No. 765-14983-000)
Notification Letter

Dear Mr. and Mrs. Epperly:

As you are now aware, the City of Fayetteville is constructing a new wastewater treatment plant on the west side of town as well as new gravity sewer lines, pump stations, and force mains associated with both the new plant and the existing east side treatment plant.

The City of Fayetteville needs to move forward with this project; the primary obstacle to final approval of the project, enabling bidding of the work, is the finalization of easement acquisition.

On January 12, 2007, a packet of information was mailed to you regarding the acquisition of easement across your property. A second copy was hand-delivered by Ron Petrie to a mutual meeting. The City of Fayetteville has yet to receive a response.

In the absence of further negotiations and receipt of signed documents, a deadline for closure of these acquisitions has been established. If we have not heard from you nor received a signed easement document and vendor form by February 15, 2008, the file will be turned over to the City Attorney's office and procedures will be started to obtain possession through the courts, as based on the original offer.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,

A handwritten signature in black ink, appearing to read "David Jurgens", written over the word "Sincerely,".

David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg



THE CITY OF FAYETTEVILLE, ARKANSAS

ENGINEERING DIVISION

January 8, 2007

Daniel L. and Reba W. Epperly
2525 Mt. Comfort Road
Fayetteville, AR 72704

RE: Project No. 02133
Wastewater Improvements Project
EL3 (Line 4) – Town Branch to Happy Hollow
Tract 5
Offer Letter

Dear Mr. and Mrs. Epperly:

The City of Fayetteville is currently in the process of replacing and expanding the wastewater treatment facility on the east side of Fayetteville, as well as constructing a new treatment facility on the west side of town. These activities are anticipated to meet the requirements of our growing city over the next twenty to twenty-five years. As part of this improvement, the water and wastewater collection and transmission facilities must be modified and expanded at the same time. The City needs to install a 42" gravity flow sewer line within a 58" steel encasement across your property to accomplish these much needed improvements. This new line will be located within the existing easement. As noted on the attached diagram, our consulting engineers are asking for a 10 foot wide temporary construction easement, on either side of the existing easement, for a little extra working room. The temporary construction and grading easement shall terminate when the project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

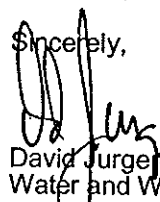
The City of Fayetteville hereby offers **\$1,025.00** for the rental of the area within the temporary construction easement (4,098 square feet). This amount is based on 10% of fee simple land value (or 10% x \$2.50/sq.ft.). Included is a general map of the subject area, as well as a drawing of your specific property depicting the anticipated area required for the proposed easement.

Should you elect to accept this offer, the *Temporary Construction Easement* contained herein should be executed by all parties with current ownership interest in the particular property. The document should be notarized and returned to the City of Fayetteville. A City Land Agent will be pleased to witness and notarize the execution of the document if you will advise our office accordingly. Upon receipt of the easement, a check will be requested and you will be paid the amount indicated in this offer letter.

A copy of the *Temporary Construction Easement* is included for your records. Please provide us with a Social Security Number or a Tax Identification Number (Corporation) so that a check can be written. A Vendor Form is provided for this purpose.

A City Land Agent will be glad to meet with you at your convenience and discuss all phases of this project and the associated easements and acquisitions. Please contact Jill Goddard at (479) 444-3407, Holly Jones at (479) 444-3414, or I can be reached at (479) 575-8330.

Sincerely,



David Jurgens, P.E.
Water and Wastewater Director

DJ/jsg
Enclosures

Parcel #765-14983-000
WSIP-EL 4 Tract #E-4-5

TEMPORARY CONSTRUCTION AND GRADING EASEMENT

BE IT KNOWN BY THESE PRESENTS:

THAT **Daniel L. Epperly and Reba W. Epperly, husband and wife**, hereinafter called GRANTORS, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby GRANT, SELL and CONVEY unto the **City of Fayetteville, Arkansas, a municipal corporation**, hereinafter called GRANTEE, and unto Grantee's successors and assigns, a temporary construction and grading easement on, over, and through the following described land situated in the County of Washington, State of Arkansas, for the sole purposes necessary for construction of a water line, to-wit:

PROPERTY DESCRIPTION: (Deed Book 697 at Page156)

A part of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section 21, in Township 16 North, Range 30 West, and being more particularly described as follows: Beginning at the Northeast corner of said Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) and running thence South (420) feet; thence West (210) feet; thence North (410) feet; thence East along the North line of said forty acre tract to the place of beginning, containing Two Acres, more or less, LESS & EXCEPT: Thirty (30) feet of equal and uniform width off of the North end of said two (2) acre tract conveyed to the City of Fayetteville, Arkansas, for street purposes.

TEMPORARY CONSTRUCTION AND GRADING EASEMENT DESCRIPTION:

Temporary Construction Easement North Description: A temporary construction easement, being 10 feet of equal and uniform width, running parallel with and adjacent to the North line of the 20-foot utility easement for the existing 21" clay sewer line, containing 2,006 square feet (0.046 acres), more or less, as shown on Exhibit A. The sidelines of said easement shall be lengthened or shortened to terminate on the deed line of the above described property on the East side and the existing easement line on the West side.

Temporary Construction Easement South Description: A temporary construction easement, being 10 feet of equal and uniform width, running parallel with and adjacent to the South line of the 20-foot utility easement for the existing 21" clay sewer line, containing 2,092 square feet (0.048 acres), more or less, as shown on Exhibit A. The sidelines of said easement shall be lengthened or shortened to terminate on the deed line of the above described property.

Together with the rights, easements, and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary construction and grading easement as conditioned above, shall terminate when the hereinabove referenced project has been completed by the contractor and accepted by the City of Fayetteville, Arkansas.

It is expressly understood that the above temporary construction and grading easement shall exclude any permanent structure(s) which may be located or under construction within said temporary construction easement area during the construction of this project.

TO HAVE AND TO HOLD the same unto the said Grantee, its successors and assigns, together with free ingress to and egress from the real estate first herein above described for the uses and purposes herein above set forth.

The consideration first above recited as being paid to the Grantor by Grantee is in full satisfaction of every right hereby granted. All covenants and agreements herein contained shall extend to and be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto.

It is hereby understood and agreed that the party securing this easement on behalf of the Grantee is without authority to make any covenant or agreement not herein expressed.

WITNESS the execution hereof on this _____ day of _____, 2006.

Daniel L. Epperly

Reba W. Epperly

TEMPORARY CONSTRUCTION EASEMENT
Daniel L. and Reba W. Epperly
Page 2 of 2

ACKNOWLEDGMENT

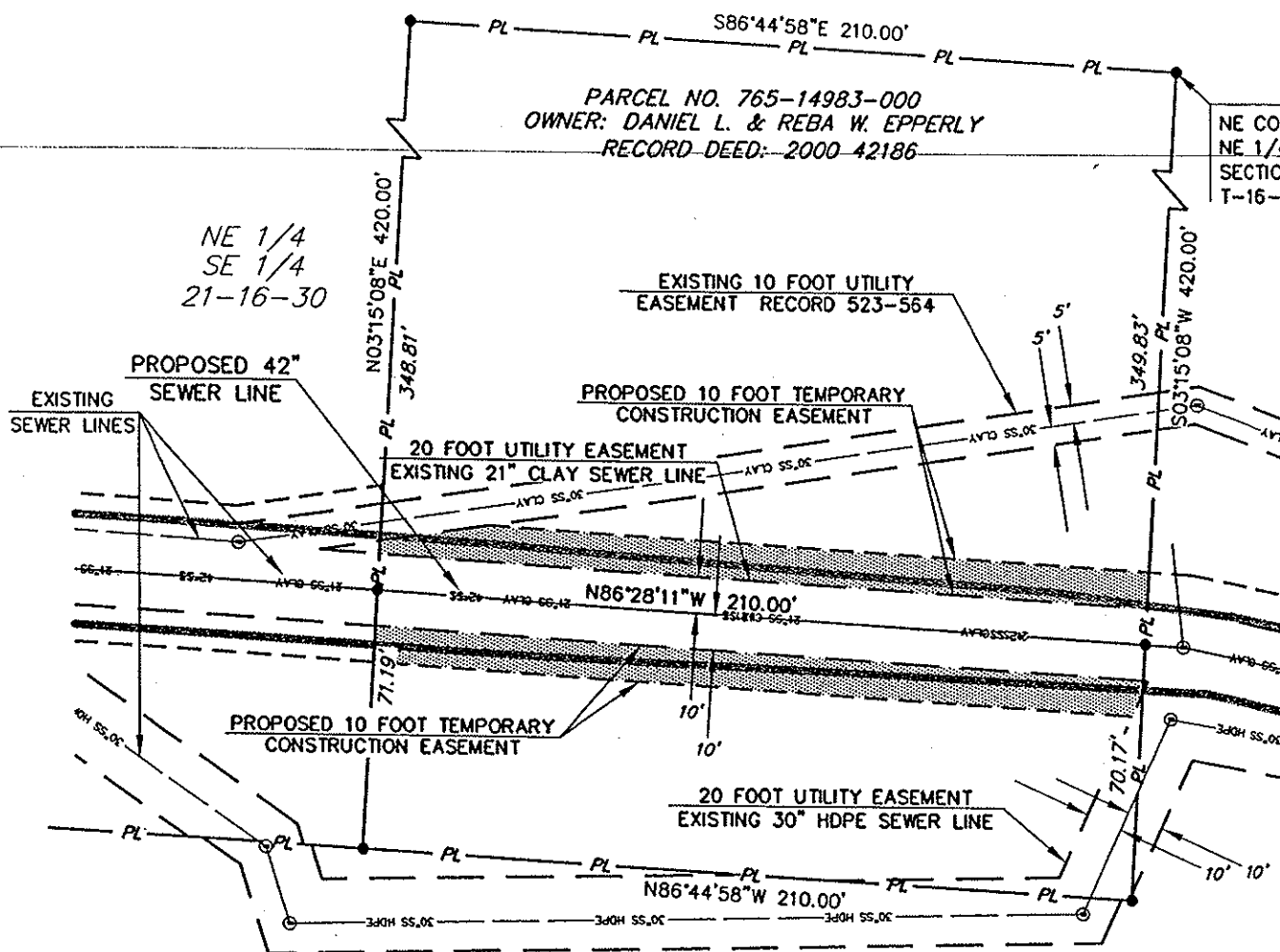
STATE OF ARKANSAS)
)
COUNTY OF _____) ss.

BE IT REMEMBERED, that on this date, before the undersigned, a duly commissioned and acting Notary Public within and for said County and State, personally appeared **Daniel L. Epperly and Reba W. Epperly, husband and wife**, to me well known as the persons who executed the foregoing document, and who stated and acknowledged that **they** had so signed, executed and delivered said instrument for the consideration, uses and purposes therein mentioned and set forth.

WITNESS my hand and seal on this _____ day of _____, 2006.

Notary Public

MY COMMISSION EXPIRES:



GRAPHIC SCALE



BEARINGS BASED ON
CITY MONUMENTS 1-21 & F-11

(IN FEET)

1 inch = 50 ft.

THIS EXHIBIT A IS A SKETCH DESCRIPTIVE ONLY OF THE SIZE, SHAPE AND LOCATION OF THE PROPOSED EASEMENTS AND DOES NOT CONSTITUTE A PLAT OR SURVEY OF THE GRANTOR'S PROPERTY.

AREA CALCULATIONS	SQ. FT.	ACRES
PROPOSED TEMPORARY CONSTRUCTION EASEMENT	4,098	0.09

LEGEND

— PL — PL —	APPROXIMATE TRENCH LIMITS
— — —	EXISTING PROPERTY LINE
— — —	EXISTING EASEMENT LINE
— — —	PROPOSED T.C.E. LINE

J:\Projects\2002\0296-3000 FAY WW - Design\Design\Drawings\Phase 3\Acquisition\FWVVRW4-5.dwg

GARVER ENGINEERS

"Engineers Since 1919"

3810 FRONT STREET- SUITE 10, FAYETTEVILLE, ARKANSAS 72703

PHONE: (479) 527-9100 FAX: (479) 527-9101
www.garverengineers.com

FAYETTEVILLE
THE CITY OF FAYETTEVILLE, ARKANSAS



LINE 4 - TRACT#5
EXHIBIT A

GARVER PROJECT 0296-3000 CONTRACT EL-3

DATE DECEMBER 23, 2004 REV.

City Council Agenda Items
and
Contracts, Leases or Agreements

9/16/2008

City Council Meeting Date
Agenda Items OnlyJeremy Pate *JP*
Submitted ByPlanning
DivisionOperations
Department

Action Required:

ADM 08-3093: (Hill Place Culvert Removal): Submitted by Appian Centre for Design, requesting modification and replanting of a portion of the Tree Preservation Area associated with Hill Place PZD, in order to remove an existing culvert located within College Branch Creek to reduce flood levels and to install the required vehicular bridge spanning the creek.

Cost of this request

\$

Category / Project Budget

Program Category / Project Name

Account Number

\$

Funds Used to Date

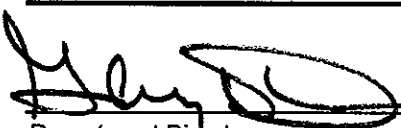
Program / Project Category Name

Project Number

\$

Remaining Balance

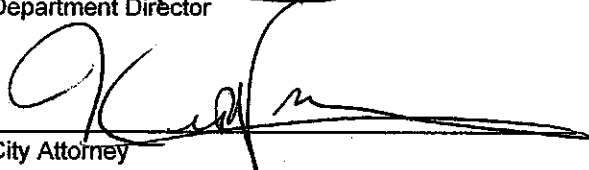
Fund Name

Budgeted Item ☐Budget Adjustment Attached ☐

Department Director

Date

8-29-08

Previous Ordinance or Resolution #


City Attorney

Date

8-29-08

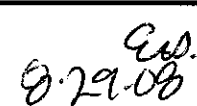
Original Contract Date:

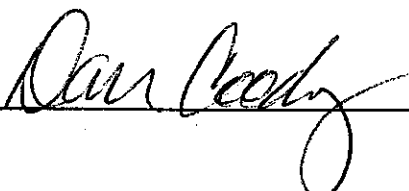
Original Contract Number:


Finance and Internal Service Director

Date

8-29-08

Received in City
Clerk's Office

8-29-08


Mayor

Date

9/12/08

Received in
Mayor's Office


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: August 26, 2008

Subject: Hill Place Culvert Removal from College Branch Creek (ADM 08-3093)

RECOMMENDATION

In accordance with the recommendations by the Engineering Staff and the City's Urban Forester (see attached memos), staff recommends approval of a resolution to permit the removal an existing, unpermitted 10-foot diameter culvert from College Branch Creek within the limits of the Hill Place project. This action will also permit the property owner to remove unhealthy and invasive species of shrubs and trees within the identified construction area, restore the health of several trees in decline, replant this area with new trees, and add erosion control measures to prevent future and continued erosion in conjunction with the culvert removal and vehicular bridge installation.

BACKGROUND

A 10-foot diameter culvert was placed within College Branch Creek in the late 1980s, near the railroad. In discussions with Engineering staff and the Urban Forester, the applicant has proposed to remove this culvert, at the developer's cost, in order to reduce the current flood levels along the creek. The culvert removal is not required by the City, yet will aid in reducing erosion potential and flood levels along the creek. The culvert currently creates "headwater flooding" due to a lack of capacity in size for storm events larger than a five-year flood. According to the Engineering Division, the culvert is a restriction to the existing creek and could not be permitted in accordance with today's Corps of Engineers regulations. A HEC-RAS hydraulic model was provided to staff, which indicates that removal of the 10 ft culvert and embankment will reduce the depth of flooding upstream, and will have no detrimental impact downstream. Rather, as the attached photos indicate, the existing culvert is beginning to structurally fail, as it was not designed for its intended use. In the event the culvert fails, or is overtopped, the embankment will be eroded and washed downstream which could cause detrimental environmental impact to property owners. Removal with the development of Hill Place PZD, by the developer, will eliminate this potential altogether. In addition, as required with the Hill Place PZD, a vehicular bridge will cross the creek in place of the existing pedestrian bridge, to provide a second means of access. As anticipated when the PZD was submitted and approved, this bridge will span the creek's floodplain, but will also likely result in the removal of some small trees in this area that are required to be mitigated.

Because the culvert and bridge crossing are within the established Tree Preservation Area, and a small amount of clearing will need to occur to access and remove the culvert and install the bridge, City Council approval is required. The Tree Preservation and Protection Code, Chapter 167(L)(2) of the UDC states: *The geographic extent and location of tree preservation areas, once recorded, may only be modified, or abolished with the express approval of the City Council. Applicants requesting such action shall bear the burden of proving to the City Council's satisfaction that such modification or abolition is in the best interest of the City of Fayetteville. Such requests shall be submitted to the landscape administrator [urban forester], who shall ask the city clerk to place it on the agenda of the next regularly scheduled City Council meeting.*

While the request will not modify or abolish the extent and location of the tree preservation area, some tree removal will be required to accomplish the two objectives stated herein. A property owner is permitted to remove dead or diseased trees within a Tree Preservation Area without Council approval, but not live or healthy trees.

The Urban Forester has reviewed the request and a proposed mitigation plan. Approximately 13,634 ft² of canopy within the Tree Preservation Area will be affected by the culvert removal and re-grading of the bank, and 2,100 ft² with the installation of the vehicular bridge. The trees in this area are mostly volunteers which germinated at some point after the culvert was installed. No significant trees and only one larger tree will be removed, with an additional large invasive tree that will be removed. This area also has less desirable species, vines and underbrush. Staff recommends City Council approval of this modification of an existing Tree Preservation Area to accommodate the bridge enlargement and the culvert removal as no net loss of Tree Preservation Area will occur once mitigation trees are planted. This is due to the higher replacement rate used to calculate tree mitigation. Based on this calculation, the applicant will be required to replant 55 2-inch caliper trees within the riparian corridor. In addition, staff has recommended conditions, based on the applicant's request, to plant back native species in this area and to re-establish a healthy riparian corridor.

DISCUSSION

This request would result in the removal and mitigation for 15,734 sq. ft. of canopy removed. All mitigation trees are required to be bonded for a three-year period.

BUDGET IMPACT

None.

RESOLUTION NO. _____

A RESOLUTION TO APPROVE A REQUEST TO MODIFY AND REPLANT A PORTION OF THE TREE PRESERVATION AREA ASSOCIATED WITH HILL PLACE PZD, IN ORDER TO REMOVE A CULVERT WITHIN COLLEGE BRANCH CREEK AND TO INSTALL A VEHICULAR BRIDGE, AS DESCRIBED HEREIN.

WHEREAS, the applicant has studied an existing, un-permitted 10-foot diameter culvert located within College Branch Creek, which contributes to erosion and increased flooding; and

WHEREAS, removal of the structurally failing culvert would reduce flooding potential upstream and reduce the likelihood of detrimental erosion impacts downstream; and

WHEREAS, as required with the approved Hill Place Planned Zoning District, a vehicular bridge is to be constructed across the creek and established Tree Preservation Area; and

WHEREAS, to accomplish the described culvert removal and bridge installation, a portion of the Tree Preservation Area will be impacted and subsequently the riparian corridor replanted;

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, pursuant to UDC Chapter 167 (L)(2), hereby approves a resolution to permit the described construction within the Tree Preservation Area associated with the bridge installation and culvert removal, with the following conditions:

- 1) All construction activities, including installation of erosion control and tree protection fencing, shall be permitted and inspected by both the City Engineering office and the Urban Forester prior to commencement.
- 2) Where feasible, native species that are to be removed shall be tree spaded, healed in and watered, and transplanted back to the site after construction.
- 3) On-site mitigation will be required to replace the 15,734 square feet of canopy lost. Mitigation will require 55 (2) inch caliper large species trees to be located in the reclamation area.
- 4) All mitigation trees shall be native and represent species currently established and appropriate within the creek riparian area. The exact species will be determined at the time of planting and approved by the Urban Forester.

- 5) Planting shall occur with completion of the culvert removal and bridge installation, and bank grading to assist in erosion control and re-establishing the creek bank.
- 6) All mitigation trees shall be guaranteed by bond, letter of credit or cash deposit with the City for three years. The bond shall cover plant material, installation and three years of maintenance.

PASSED and APPROVED this ____ day of _____, 2008.

APPROVED:



THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

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

To: Mayor Dan Coody and City Council

From: Greg Howe, Urban Forester

Date: August 28, 2008

Subject: Modification and Replanting of the Tree Preservation Area for
Hill Place

STAFF REPORT

DEVELOPMENT REQUEST/BACKGROUND

The engineering agent, Appian Center for Design (ACD) for the Hill Place Development has presented information to the City's Engineering Department which indicates that an un-permitted culvert in College Branch Creek is undersized and raises the flooding potential along 6th St. The City Engineering Department agrees that removing this culvert could improve flow in the creek during periods of heavy rainfall or snow melt. ACD has requested to remove this culvert as part of the Hill Place Development construction. The culvert, creek and it's riparian buffer are within an area already established as a Tree Presevation Area. To accomplish the culvert removal small trees and brush in the Tree Preservation Area will need to be removed and the bank graded back to the natural grade of the creek.

In addition to the culvert removal, to meet transportation and engineering requirements, ACD proposes to enlarge the vehicular bridge spanning the creek and the Tree Protection Area. They also will have to install a drainage spillway from the bridge into the creek.

In order to gain approval of this request, ACD, on behalf of the developers, has agreed to mitigate the tree loss at a higher rate than required based on the condition of trees being removed.

FINDINGS

-The Tree Preservation Area (TPA) encompasses 162,478.8 ft² and is located on either side of College Branch Creek for the entire length of this development.

Approximately 13,634 ft² or 8.4% of the TPA will be affected by the culvert removal and re-grading of the bank. The trees in this area are mostly volunteers which germinated at some point after the culvert was installed. No significant trees and only one larger tree will be removed. This area also has some less desirable species, vines and underbrush.

-The Tree Preservation Area to be affected by the expansion of the vehicular bridge and drainage spillway is 2,100 ft² or 1.3% of the TPA. Only a few smaller trees and one large invasive species tree will need to be removed.

RECOMMENDATION

Staff recommends City Council approval of this modification of an existing Tree Preservation Area to accommodate the bridge enlargement, drainage spillway and the culvert removal as no net loss of Tree Preservation Area will occur once mitigation trees are planted. This is due to the higher replacement rate used to calculate tree mitigation.

The following conditions must be met:

1. The Urban Forester encourages where economically feasible to tree spade existing trees, especially some of the cedars, heal in and water, then transplant back to the site after construction
2. On-site mitigation will be required to replace the 15,734 square feet of canopy lost. Mitigation will require 55 (2) inch caliper large species trees be located in the culvert reclamation area.
3. All mitigation trees shall be native and represent species currently established within the creek riparian area. The exact species will be determined at time of planting and approved by the Urban Forester.
4. Planting shall occur with completion of the culvert removal and bank grading to assist in erosion control and re-establishing the creek bank. Supplemental irrigation shall be provided as needed to guarantee survival.
5. All mitigation trees shall be guaranteed by bond, letter of credit or cash deposit with the City for 3 years. The bond shall cover plant material and 3 years of maintenance.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

113 W. Mountain St.

Fayetteville, AR 72701

Telephone: 479-575-8206

ENGINEERING DIVISION CORRESPONDENCE

TO: City Council Members
FROM: Glenn E. Newman, Jr., P.E., Staff Engineer
DATE: August 27, 2008
SUBJECT: Hill Place – Culvert Removal from College Branch Creek

Place Properties has proposed the removal of the existing 10 ft diameter culvert and embankment crossing College Branch Creek within the limits of the Hill Place project.

The existing culvert is a restriction to the natural creek and, if placed today, would not meet the Corp of Engineers "No Rise" requirement. The 100 yr storm event water surface elevation increase due to the existing culvert is over 11 ft.

The existing culvert is not required for the proposed development, nor was it included in the design. A pedestrian bridge as part of the Tsa-La-Gi Trail System will be constructed by the City (at a later date) and a two way vehicular bridge with a sidewalk one side is proposed by the development.

Based on the HEC-RAS hydraulic model provided, removal of the existing 10 ft culvert and embankment has no adverse affect on the downstream property owners and will reduce the depth of flooding upstream.(Approximately 9 inches at 6th street) See the attached spreadsheet for specifics.

Photographs provided also indicate the culvert is beginning to structurally fail. In the event the culvert fails, or is overtopped, the embankment will be eroded and washed downstream which could cause adverse environmental affects.

The Engineering Department recommends approving the removal of the existing culvert and associated embankment for the reasons stated above.

Hill Place – Final Drainage Report (Rev-3)

COMPARISON OF HILL PLACE PROJECT WITH AND WITHOUT 10' CULVERT

		BRIDGE, NO CULVERT	BRIDGE, CULVERT	
	STATION	100-YEAR WSE	100-YEAR WSE	CHANGE
6TH ST	2819	1256.71	1257.48	0.77
	1900	1243.11	1250	6.89
	1800	1240.29	1249.94	9.65
	1700	1238.64	1249.95	11.31
10' CULVERT	1600	1236.2	1236.2	0
	1550	1236.66	1236.66	0
	1500	1236.26	1236.26	0
	1450	1235.65	1235.65	0
	1400	1235.72	1235.72	0
	1300	1235.52	1235.52	0
	1250	1234.92	1234.92	0
	1200	1235.92	1234.92	-1
	1150	1234.49	1234.49	0
	1100	1234.05	1234.05	0
	1061	1234.32	1234.32	0
NEW BRIDGE	1028	1233.31	1233.31	0
	1000	1233.34	1233.34	0
	950	1233.45	1233.45	0
	900	1232.12	1232.12	0
	850	1232.05	1232.05	0
	800	1232.12	1232.12	0
DS PROP. LINE	750	1230.74	1230.74	0
	700	1230.17	1230.17	0
	650	1230.18	1230.18	0
	600	1230.27	1230.27	0
	500	1229.06	1229.06	0
	400	1228.48	1228.48	0
	300	1228.18	1228.18	0
11TH ST	256	1228.1	1228.1	0
	200	1226.2	1226.2	0
	100	1225.99	1225.99	0

upstream

Downstream

DESIGN CONCEPT

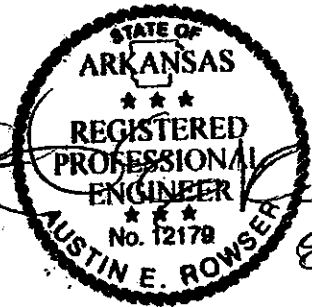
LID techniques will be utilized to disconnect impervious surfaces and slow the velocity of urban runoff from the project by utilizing small-scale features such as bioswales, raingardens, and depressed parking lot islands to maximize capture of stormwater runoff and impede flow. Existing retention ponds will be utilized with some modifications.

	GN 08
	GN 09
	GN 10
	GN 11
	GN 12
	GN 13
	GN 14
	GN 15
	GN 16
	GN 17
	GN 18
	GN 19
	GN 20
	GN 21
	GN 22
	GN 23
	GN 24
	GN 25
	GN 26
	GN 27
	GN 28
	GN 29
	GN 30

GRADING

- GN 70 CONVERT CURB INLET TO SECTION; POUR NEW TOP ELEVATION SHOWN.
- GN 71 CONVERT GRATE INLET TO GRATE; POUR NEW TOP W SHOWN.
- GN 73 CUT 6" X 24" OPENING IN
- GN 74 EXISTING INLET IS PARTIAL NOT YET BEEN CONSTRUCTED
- GN 75 EXISTING INLET IS PARTIAL NOT YET BEEN CONSTRUCTED

1" = 30'
Scale



ACD

APPIAN CENT

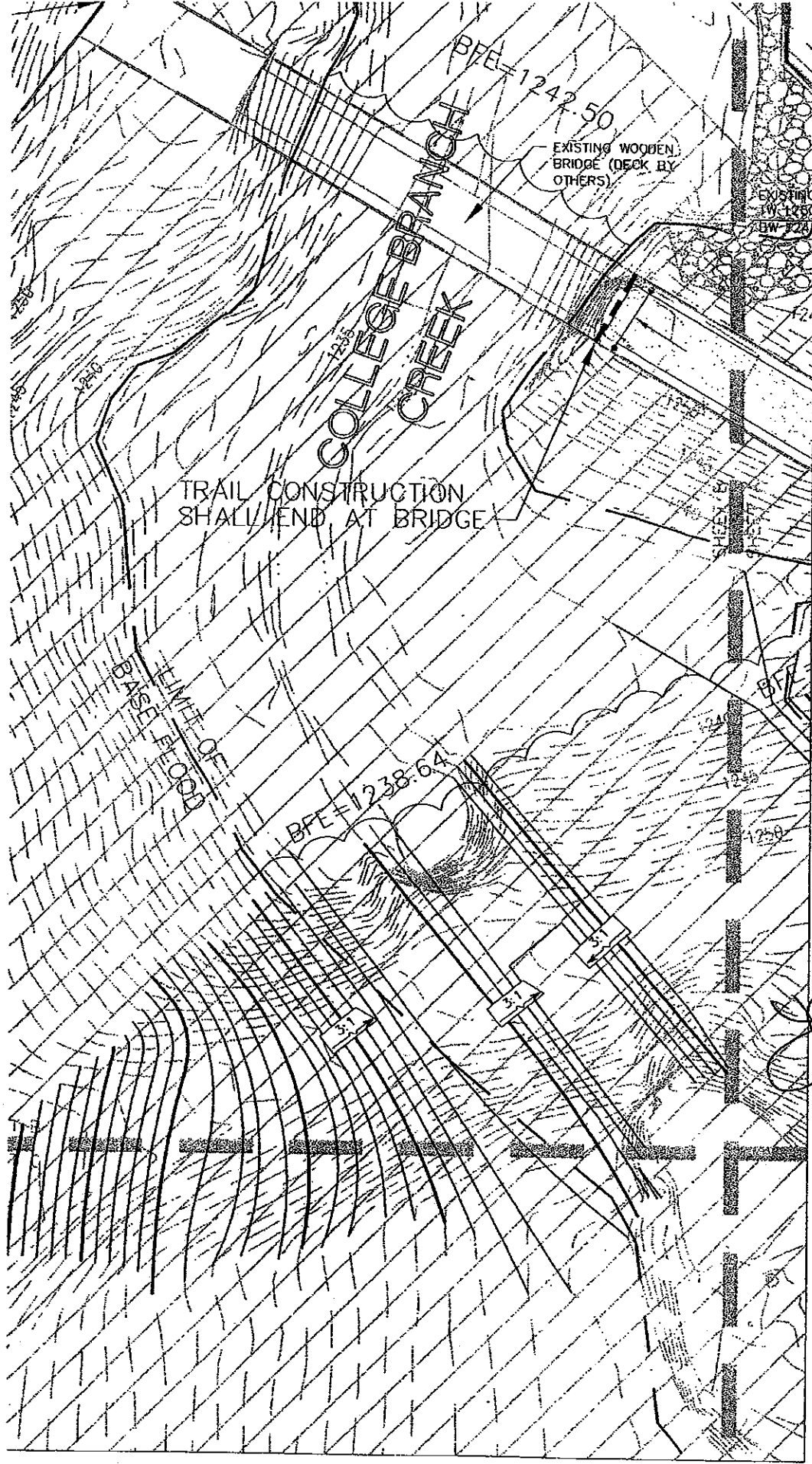
217 E. DICKSON ST. SUITE 1

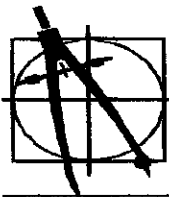
PH# (479) 442-144

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C

DATE: 8/25/08	CONSTRUCTION DOCUMENTS
GRADING PLAN SHEET B	
SCALE: 1" = 30'	
PAGE 19 OF 63	
CD REVISION 5	

FA





JORGENSEN & ASSOCIATES

CIVIL ENGINEERS • SURVEYORS

B. 4
Amberwood Place Appeal
Page 1 of 46

124 WEST SUNBRIDGE, SUITE 5 • FAYETTEVILLE, ARKANSAS 72703 • (479) 442-9127 • FAX (479) 582-4807
DAVID L. JORGENSEN, P.E., P.L.S.

July 17, 2008

City of Fayetteville – City Council
113 W. Mountain Street
Fayetteville, AR 72701

RECEIVED

JUL 17 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

RE: AMBERWOOD PLACE PZD

Dear Council Members,

On behalf of our client, JRJBCS, LLC, we would like to appeal the July 14, 2008 Planning Commission decision to deny R-PZD 08-2965. We are requesting that this item be put on the August 5, 2008 City Council Agenda.

Amberwood Place is being presented as a land use and zoning conceptual PZD. This project is located just south of Dot Tipton Road, east of Double Springs and west of 54th Street. This property was annexed into the city of Fayetteville last year, by the developer, with the encouragement of some the ward alderman who also had concerns and showed strong interest in the need for affordable housing in this area. This project has three planning areas as follows;

Planning Area #1: Single family, 102 units, 19.87 acres, 5.13 units/acre,
Planning Area #2: Single family, 41 units, 9.12 acres, 4.50 units/ acre
Planning Area #3: Single family, 39 units, 10.99 acres, 3.55 units/ acre
Total single family = 182 units on 39.98 acres; 4.55 units/acre

The current zoning is R-A and the surrounding zoning is RSF-1 and RSF-2 to the south with RSF-4 and RMF-6 due north..

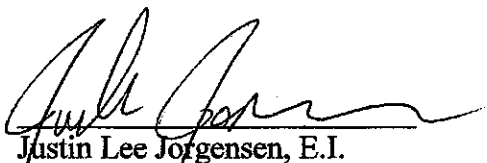
This project was presented at the July 14, 2008 Planning Commission meeting and denied with only one vote for it. It seemed the Planning Commission in general liked the project layout and idea but were a little uneasy about the density and timing of the project. The general comments from the surrounding property owners that spoke at the meeting were about the side setbacks in planning area 3, which was simply a misprint in the PZD booklet, and the size of some of the homes in planning area 3. The developers are more than willing to work with the property owners on these issues and plan to be in contact with them before the August 5th meeting. The planning staff recommended denial of this project sighting that it doesn't meet all the goals of the City 2025 Plan. We however, feel that it does meet many of the goals and could be a very desirable and valuable project for this area now and in the future. We would like to stress that the developers build out date for this project could be up to 8 years with the first Planning Area being completed in the next 2-3 years. The driving force behind this project is creating attainable housing

*Tabled to Oct. 7, 2008 meeting 9/16/08
Tabled to Sept. 16, 2008 mtg 9/2/08*

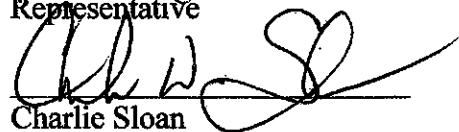
without losing focus on the City 2025 Plan and creating an isolated pocket of smaller homes.

Please contact us if you have any questions or would like more information regarding this project.

Sincerely,



Justin Lee Jorgensen, E.I.
Representative



Charlie Sloan
Developer/Owner

City Council Meeting of August 5, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: July 16, 2008

Subject: Residential Planned Zoning District for Amberwood Place (R-PZD 08-2965)

RECOMMENDATION

Planning Staff and Planning Commission recommend denial of an ordinance creating a Residential Planned Zoning District (R-PZD) for Amberwood Place, based on the findings that the proposed zoning is not consistent with the land use planning objectives, principles, and policies established by the City Council with the adoption of City Plan 2025 to make infill and revitalization our highest priority, and to discourage suburban sprawl; and finding that the proposed zoning is not compatible with surrounding existing agricultural and rural residential land uses and zoning.

BACKGROUND

The subject property, zoned R-A, Residential Agricultural, is located south and east of Double Springs Road on the south side of Dot Tipton Road. If City Council overturns the Planning Commission decision to deny, this action will establish a unique zoning district for a single-use project on approximately 39.98 acres. The proposal consists of 182 single family dwelling units and an overall density of 4.55 units/acre. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission.

DISCUSSION

The Planning Commission voted 6-1-0 (Commissioner Kennedy voting 'No') to deny this request on July 14, 2008. The Planning Commission stated agreement with staff findings that the project does not comply with main goals and policies of City Plan 2025 to discourage suburban sprawl, and that the relatively high density proposed is not compatible with surrounding rural residential and agricultural land uses.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 08-2965, AMBERWOOD PLACE, LOCATED SOUTH AND EAST OF DOUBLE SPRINGS AND DOT TIPTON ROAD; CONTAINING APPROXIMATELY 39.98 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From R-A, Residential Agricultural to R-PZD 08-2965 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

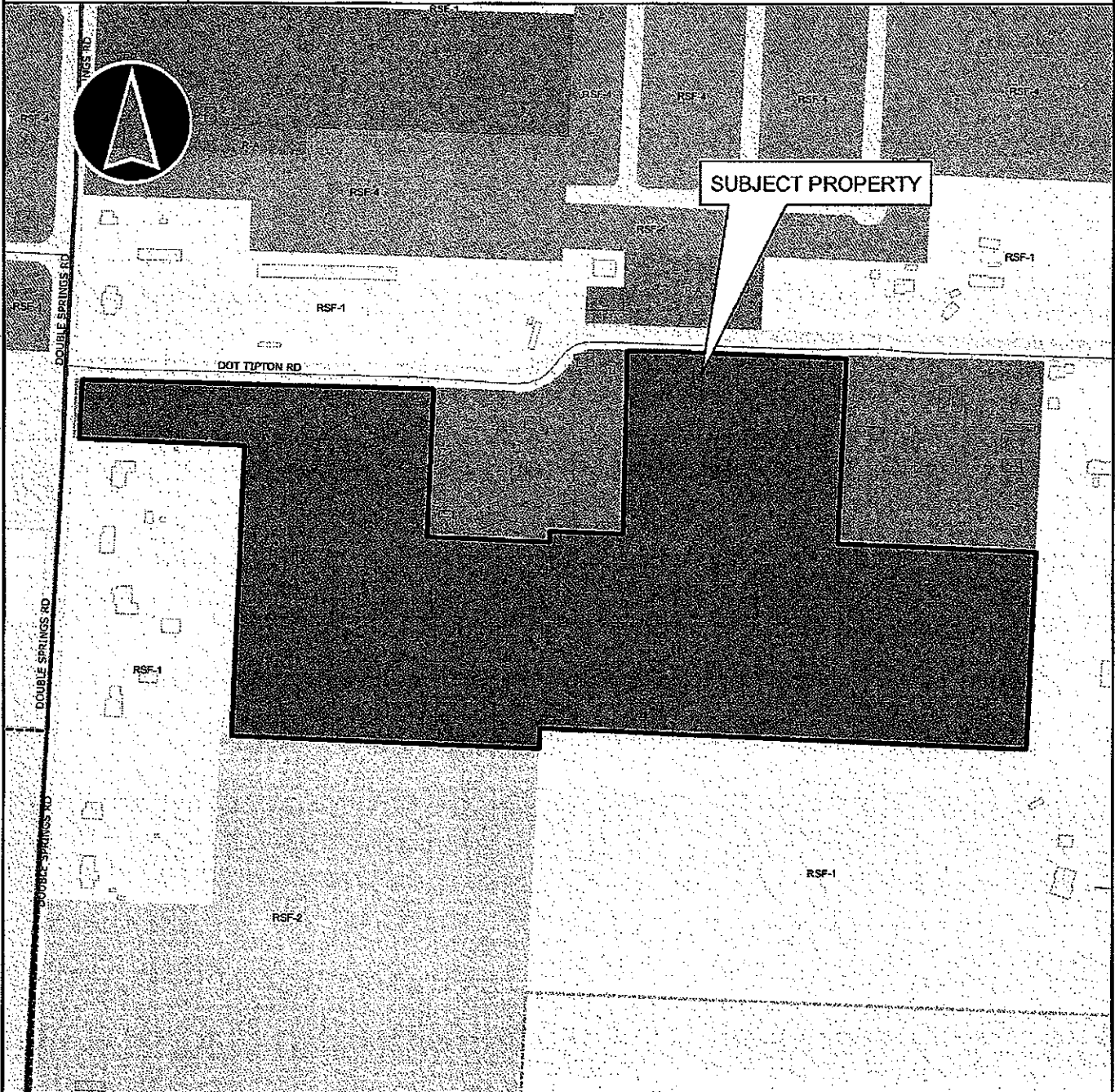
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD08-2965

AMBERWOOD PLACE

Close Up View



Overview

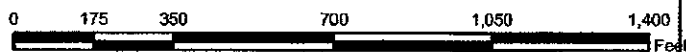


EXHIBIT "B"
R-PZD 08-2965

PART OF THE SE1/4 OF THE NE1/4 OF SECTION 15 AND PART OF THE SW1/4 OF THE NW1/4 OF SECTION 14 ALL IN T16N, R31W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE1/4, NE1/4 THENCE S89°46'03"W 825.57 FEET, THENCE N00°01'18"W 788.63 FEET, THENCE S89°52'44"W 448.54 FEET, THENCE N00°29'58"E 159.86 FEET, THENCE N88°55'29"E 947.20 FEET, THENCE S00°02'16"E 401.26 FEET, THENCE N89°57'44"E 328.25 FEET, THENCE N00°15'06"E 30.31 FEET, THENCE N89°56'37"E 196.61 FEET, THENCE N01°15'52"W 496.68 FEET, THENCE N87°12'01"E 84.38 FEET, THENCE N89°42'27"E 514.78 FEET, THENCE S00°07'57"W 502.35 FEET, THENCE N89°53'47"E 537.01 FEET, THENCE S00°11'49"W 536.03 FEET, THENCE S89°54'10"W 1320.92 FEET, THENCE S00°28'05"W 55.08 FEET TO THE P.O.B.; CONTAINING 39.98 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 1 of 4

Conditions of Approval for R-PZD 08-2965 (Amberwood Place)

1. The applicant shall be responsible for the following street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*
 - a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

Page 2 of 4

Project Phasing Amberwood Place R-PZD

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. 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.
13. This development shall be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development, with a percent minimum canopy of 25%.
14. Street trees shall be provided along public streets pursuant to city codes at the time of development.
15. As indicated in the PZD plats and booklets all lot owners will be required to plant two trees on their lot along the perimeter of the property.
16. The pedestrian trails and dedicated greenspace indicated in the PZD plats and booklets shall be constructed and landscaped by the developer and inspected prior to Final Plat approval for the lots surrounding the greenspace.
17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
- b. Pg. 9. Section D and E. Reduce to 7,000 sq. ft.
- c. Planning Areas 1-3. Staff recommends consistent maximum building area of 30% for all planning areas.
- d. Pg. 21. Item 17. PA #2. Change '100 SF' to '1,700 SF'

19. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:

- A full tree inventory of all significant trees;
- Canopy calculations including existing canopy, preserved canopy and removed canopy;
- A site analysis report; and
- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

21. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

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

Standard Conditions of Approval:

23. 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).

24. 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.

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

26. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.

CONDITIONS OF APPROVAL:

R-PZD 08-2965

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27. Impact fees for fire, police, water, and sewer shall be paid in accordance with City ordinance.
28. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area.
 - d. Project Disk with all final revisions
 - e. 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 7, 2008 Updated July 16, 2008

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.
Planner: Andrew Garner

Findings:

Property: The subject property contains 39.98 acres, located southeast of the intersection of Double Springs/Dot Tipton Roads. The property is undeveloped agricultural pasture land, surrounded by rural residential and agricultural land uses. Dot Tipton Road, currently a partially paved/gravel road, provides access to the residences in this area, from Double Springs Road to 54th Avenue. Some infrastructure for the now-abandoned Windsor/Dunnerstock subdivision adjacent to the south has been installed, although this development has been abandoned for some time and the application is considered voided. Rezoning applications for this adjacent site to RSF-4 have been previously denied by the Planning Commission. The immediately adjacent surrounding land use and zoning are listed in *Table 1*.

Table 1
Surrounding Land Use and Zoning

Direction	Land Use	Zoning
North	Agricultural/rural residential	RSF-1; R-A
South	Agricultural/Dunnerstock Windsor Subdivision (not developed)	RSF-1; RSF-2
East	Agricultural/rural residential	RSF-1
West	Single family residential	Washington County Planning Area (1 unit/acre)

Proposal: The request is for rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 182 detached single family dwellings in three planning areas. Planning Area 1 is on the east side of the property and has 102 lots that are approximately 45' x 100' with a density of 5.13 units/acre. Planning Area 2 is in the middle of the property and has 41 lots that are approximately 60' x 100' with a density of 4.50 units/acre.

Planning Area 3 is on the west side of the property and will have 39 lots that are approximately 70' wide with a density of 3.55 units/acre. The development proposes 3.5 acres of public pedestrian trails and greenspace throughout the development to be built by the developer. The overall proposed density for the project is 4.55 units/acre.

If the PZD is approved as proposed the project would be required to go through subdivision/preliminary plat approval prior to development.

Access: Three access points to the site are provided from Dot Tipton Road to the north. Two street stub-outs are provided to the south and a street stub-out is also provided to the east. Vehicular access to the 182 single family residences is provided as follows:

- 84 lots - front loaded individual curb cuts
- 54 lots - front loaded shared driveways
- 44 lots - rear loaded off of alleys

Adjacent Master Street Plan Streets: Double Springs Road (Minor Arterial), Dot Tipton Road (Local).

Right-of-way to be dedicated: 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.

Connectivity: Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is proposed to the existing rural residential lots to the west. These lots are approximately two acre in size. The project proposes internal pedestrian connectivity with sidewalks on both sides of the streets and pedestrian trails in approximately 3.5 acres of dedicated greenspace. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line. *A potential improvement for future pedestrian connectivity would be to extend the greenbelt all the way to the southern property line to provide the opportunity for a greenbelt linkage to the south. Potential improvements to street connectivity include additional street stub-outs to the west in the vicinity of lots 12-14, to break up the block length between the north and south property lines and allow connectivity for future infill to the west, and to the 'out-parcel' along Dot Tipton Road that is surrounded on three sides by the proposed development, near lots 78/79.*

Parking: Parking is provided in attached and detached garages for all of the single family homes. 138 homes will have front-loaded garages, and 44 of the homes will have alley-loaded garages. 98 homes will have garages in the rear of the homes, and 84 homes will have garages in the front of the homes.

Phasing: Four phases are planned for Amberwood Place over the next several years as listed below and provided in the PZD Booklet. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. A one-year extension may be permitted, subject to Planning Commission approval.

**Project Phasing
Amberwood Place R-PZD**

Phase	Planning Area	Milestone	Deadline
1	Planning Area 1 (first half)	Preliminary Plat Approval	within 1 year from CC approval
2	Planning Area 1 (second half)	Preliminary Plat Approval	within 3 years from CC approval
3	Planning Area 2	Preliminary Plat Approval	within 4 years from CC approval
4	Planning Area 3	Preliminary Plat Approval	within 6 years from CC approval

Construction permits shall be obtained within 1 year of preliminary plat approval, and construction shall be completed with a final plat recorded within 3 years of permit issuance, in accordance with City ordinance.

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

Parks: The developer has met with City Parks staff and anticipates donating off-site land in lieu of payment of parks fees. This project will be required to go through Park Recreation Advisory Board prior to preliminary plat submittal.

Solid Waste Service: Solid waste service will be provided with standard curbside carts for each home as typical of single family residential development.

Tree Preservation: This development will be required to comply with the Tree Preservation requirements as set forth in the Unified Development Code at the time of development. Tree canopy minimum of 25% shall be required.

Public Comment: City staff has received a phone call from an adjacent property owner opposed to the project citing concerns that the proposed density is too high and is not compatible with surrounding farms and rural-residential uses. He also discussed concerns with runoff issues. Staff also received several public comments opposed to other RSF-4 rezoning in this immediate vicinity. The applicant has also presented the project at a Street Committee and Ward 4 meeting to area residents, most specifically to discuss cost-sharing the improvements to Dot Tipton Road.

Recommendation: Finding that the proposed rezoning and development approval does not meet most of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, and primarily based on the compatibility/density of the development pattern in an area under-served by adequate infrastructure and service to support such a density, staff recommends denial of **R-PZD 08-2965**.

Should the Planning Commission forward this project to the City Council with a recommendation for approval, staff recommends the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Street improvements at the time of development shall include those determined necessary by the Planning Commission, based upon the development proposed. Staff will recommend street

improvements warranted with development of the subject property. *Based on an initial review of the conceptual development plan, staff will likely recommend, at a minimum, the following street improvements:*

- a. *Pavement, curb and gutter, storm drainage, and sidewalks to be constructed along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton Road.*
 - b. *Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement plus the appropriate shoulders from the project boundary east approximately 0.34 mile to 54th Street.*
2. Planning Commission determination of adequate connectivity. Three points of access are provided to the north on Dot Tipton Road. Street stub-outs are provided in the southwest corner, the south-central, and the eastern borders of the site. No street connection is currently being provided to the existing rural residential land uses to the west that border Double Springs Road. The project proposes internal pedestrian connectivity in approximately 3.5 acres of dedicated greenspace with several pedestrian trails to be constructed by the developer. This project also proposes a north-south greenbelt from the northern property line connecting south across the two major internal east-west streets and roundabouts, but ends one lot south of the southern property line.
 - a. *To improve pedestrian connectivity and provide a more meaningful linkage of greenspace, staff recommends that the greenbelt be extended all the way to the southern property line to provide the opportunity for the greenbelt to be connected to the south.*
 - b. *Staff recommends an additional street stub-out be provided to the west in the vicinity of lots 12/13, to break up the approximately 1,000-foot block length between the north and south property lines on the westernmost street and another in the vicinity of lots 78/79 to provide a neighborhood connection to the tract or Dot Tipton Road surrounded on three sides by the proposed development.*
3. This project is required to go through preliminary plat review and approval prior to construction.
4. The applicant shall dedicate right-of-way a minimum of 42.5' from centerline right-of-way along the project's Double Springs Road frontage and 25' from centerline along the project's Dot Tipton Road frontage. Dedication of 50' right-of-way width for interior streets and stub-outs.
5. The project is subject to the project phasing noted below. Final plat approval is required to be obtained for the various Planning Areas in this project within the specified timeframe. Extensions may be permitted, pursuant to City ordinance.

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Amberwood Place R-PZD**

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6. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
7. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of building permit.
8. The project will be required to go through the Parks and Recreation Advisory Board prior to preliminary plat submittal.
11. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for single family subdivisions.
12. 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.
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17. A landscape plan showing street tree plantings (including plantings in the traffic circles), the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

18. Plat/booklet revisions:

- a. Pg. 9. Remove reference to Lot 16 from (D).
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- A survey of the location of significant trees and those directly affected by the development.

20. The site has little existing tree canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.

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separation of no greater than 300 feet.

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- a. Grading and drainage permits
- b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
- c. Separate easement plat for this project that shall include the tree preservation area.
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- e. 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: Graves

Vote: 6-1-0 (Kennedy voting 'No')

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 08-2965 (Amberwood Place at Fayetteville)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

The following criteria shall be considered by the Planning Commission and City Council in the review of a planned zoning district application based on the proposed master development plan:

- (1) Whether the application is in compliance with the requirements of the UDC and the City Plan 2025;

FINDING: Staff finds that much of this application is in conflict with the criterion and policies established in City Plan 2025. The applicant conducted pre-application meetings with City Planning staff, who advised the applicant against a development of this type of density in this area at this time. Some of the issues discussed with the applicant in pre-application and at the technical plat review meetings included concerns that this development with a density 4.55 units/acre is not compatible with surrounding rural-residential/low density land uses. Staff also advised the applicant of the relatively recent zoning denial by the Planning Commission of adjacent property, to RSF-4. Staff has also discussed that this type of subdivision encourages suburban sprawl in an area without adequate infrastructure or non-residential services or employment centers in the vicinity. Traffic concerns already being discussed on surrounding roads, particularly Wedington, will likely be exacerbated, and the attainable housing element of the project is jeopardized due to the requirement of every resident to drive miles for any good or service.

Staff has concerns that this development does not meet several of the primary Goals of City Plan 2025, is incompatible with surrounding land uses as a re-zoning request, and is not served by adequate public services as discussed in the bulleted points below:

- **Goal 1: Infill and revitalization highest priority:** This site is a green field development on the west side of Fayetteville, surrounded by large rural residential lots and agricultural land. The project is not considered infill or revitalization.
- **Goal 2: Discourage suburban sprawl:** As discussed in City Plan 2025, sprawl makes people solely dependent upon the automobile to get from here to there, increasing traffic congestion. Based on the input from the community throughout the planning process, it is apparent Fayetteville residents want to maintain a high quality of life and support increased growth in the center of the city, or assess where services are provided, and limit growth on the edges of the city. The proposed development, while using a higher density development pattern, is not near urban service centers, and is solely auto-dependent, thereby placing a greater burden on not only adjacent streets, but others in the area. Development at the proposed density in this area may be appropriate at a later date; however, at this time, it is not supported by adequate levels of infrastructure or services. Examples of density and lot size of this nature currently in the city are the Washington/Willow, Wilson Park, and Ruppel Row neighborhoods, which contain high levels of connectivity and close proximity to

high-capacity streets, commercial services and goods.

- **Goal 3: Make traditional town form the standard:** This goal encourages a variety of uses, not just houses, to make a neighborhood. This goal encourages development with the provision of places to live and work in the same area with less daily vehicle trips on surrounding streets. While this development varies the size of lot/house, it does not contribute to or gain from a surrounding neighborhood of mixed uses at this time.
- **Goal 6: Creating attainable housing:** This plan aspires to this goal, which is a very positive aspect of this plan. However, attainable houses should not exist in isolation. Traditional, mixed-income neighborhoods should result in pedestrian-friendly environments, enabling households to save on transportation costs, which can affect their ability to obtain housing. By locating this project far from goods and services and the potential for jobs, additional burden, time, and expense is created for a future homebuyer to supply travel to and from the development for daily needs. Many case studies have proved that a mixed-use environment with these amenities is the only desirable and successful way to create attainable housing, as opposed to many failed projects that aspired to do so in single-use areas.
- **This area is planned for Residential Neighborhood Areas on City Plan 2025.** These areas are predominantly residential in land use, which is consistent with the uses proposed with Amberwood Place. This zone encourages traditional neighborhood development; developments should have a strong sense of connectivity where appropriate. New residential areas should be sited where they are accessible to roadways, alternative transportation nodes, community amenities, schools and infrastructure and retail goods and services. Staff has concerns that this development, while attempting to meet one of the City's goals to provide "attainable housing", is being located in an area that severely lacks infrastructure and services at a sufficient level to serve the future residents. There are no nearby services that can serve the planned neighborhood, thus requiring a greater density of residents to drive for common, daily needs.
- **Harmonious relationship/degree of compatibility with adjacent land uses.** Staff finds the surrounding land uses to be large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place with the surrounding rural character of the area.
- **Demands on public facilities.** The proposed density, at this time, will create a greater burden on existing infrastructure in the area; currently the site is accessed by way of gravel roads or recently paved county roads. Future residents will likely demand improvement of streets in the area by the City, at a level that is not viable at this time.
- **Permitted/Conditional Uses.** Staff finds the proposed single family residential land use is appropriate.

In summary, staff finds the proposal does not meet the goals of the City's adopted Future Land Use Plan to a degree that is appropriate for a rezoning approval as proposed.

- (2) Whether the application is in compliance with all applicable statutory provisions;

FINDING: As discussed in Finding No. 1 above, the application has been reviewed and found to be inconsistent with several of the applicable City policies. The application has been submitted in accordance with all 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, in order to function at acceptable levels. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. The Fayetteville Police Department has stated that the development could increase traffic danger and congestion and would place an undesirable load on police services. As discussed in Finding No. 1 this site is accessed by way of gravel roads or recently paved county roads. This development proposes to contribute \$150,000 for the City to pave Dot Tipton Road. In order for staff to find that the project would not adversely impact public facilities in the area, many more improvements than are recommended here would have to occur. However, staff does not find that this particular developer should bear the burden of all of those expenses, based on typical rational nexus calculations. This is ultimately one reason why staff has recommended denial of the application, finding that at this time, the project is not appropriate for the area.

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

FINDING: As discussed in Finding No. 1, the surrounding land uses are large, rural lots and agricultural land, at very low densities. The density and land development pattern proposed in this location, while perhaps desirable nearer to higher density areas with services and adequate infrastructure, is very much out of place and thus incompatible with the surrounding rural character of the area.

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

FINDING: The 39.98-acre property is a generally level, undeveloped pasture with minimum tree canopy. The intended land use, while incompatible with surrounding land uses, could be suitable on the subject property at some time in the future, when adequate services have been extended and are available to this area.

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

FINDING: The proposed development, which will allow for the construction of 182

dwelling units, will have a significant impact on surrounding infrastructure, all of which is substandard. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that while the surrounding roads would likely still be congested and inconvenient, the proposed development would not create a traffic danger. Staff does find that due to the number of units proposed in a low density agricultural/rural residential area, a burden on the existing road network would be created.

- (7) Whether the planned development provides for unified development control under a unified plan;

FINDING: The booklet and master development plans submitted provide for said unified development control.

- (8) Whether any other recognized zoning consideration would be violated in this PZD.

FINDING: No other zoning considerations are proposed to be violated.

(B) Development standards, conditions and review guidelines

- (1) *Generally.* The Planning Commission shall consider a proposed PZD in light of the purpose and intent as set forth in Chapter 161 Zoning Regulations, and the development standards and review guidelines set forth herein. Primary emphasis shall be placed upon achieving compatibility between the proposed development and surrounding areas so as to preserve and enhance the neighborhood. Proper planning shall involve a consideration of tree preservation, water conservation, preservation of natural site amenities, and the protection of watercourses from erosion and siltation. The Planning Commission shall determine that specific development features, including project density, building locations, common usable open space, the vehicular circulation system, parking areas, screening and landscaping, and perimeter treatment shall be combined in such a way as to further the health, safety, amenity and welfare of the community. To these ends, all applications filed pursuant to this ordinance shall be reviewed in accordance with the same general review guidelines as those utilized for zoning and subdivision applications.

FINDING: The proposed Planned Zoning District has been reviewed in light of all applicable development and zoning ordinances. The Master Development Plan sets out the basic guidelines, development and zoning criteria, commitments and design standards offered by the applicant. As discussed under Findings No. 1 and No. 4, staff finds that the proposal will not achieve a high level of compatibility with adjacent properties. Staff finds that the overall density of 4.55 units/acre is not appropriate when surrounded by rural-residential/agricultural land uses. Density within a project under a PZD is to be determined on the basis of the density of surrounding development, urban development goals, and the impact of a given density on the site and adjacent property. The City's urban development goals encourage a variety and mixture of densities within neighborhoods. However, the density of development must be supported with adequate infrastructure and services in order to create a viable, functioning neighborhood that contributes to the City as opposed to a separate "island" of development that is auto-

dependent for all goods and services. Staff finds this proposal to be located well away from supporting goods and services, and may adversely impact the character of surrounding low density residential and agricultural uses.

The site does not have any significant natural features to be incorporated into the subdivision, although approximately 3.5 acres of greenspace and pedestrian trails are provided. The developer also proposes to have all perimeter lots plant two trees in the backyard to help provide some vegetative screening around this subdivision.

- (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: No screening is proposed or required for this single family subdivision. Approximately 54% of the proposed lots (98 out of 182 lots) have garages at the rear of the homes to help create a pedestrian oriented streetscape and an attractive public realm. This development proposes 3.5 acres of landscaped greenspace and pedestrian trails and two trees planted in the backyard of each perimeter lot. A landscape plan showing street tree plantings, the proposed perimeter plantings, landscaped greenspace and pedestrian trails will be required at the time of preliminary plat.

- (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 main public streets leading into the central portion of the project where the streets are slowed down by traffic circles and a north-south greenbelt crossing the streets. The lots in Planning Area 1 are accessed off of alleys or shared driveways with the garages in the rear of the homes. The lots in Planning Areas 2 and 3 are accessed directly off of the street with individual curb cuts and garages in the front of the homes. The street system provides a hierarchy of circulation that encourages an efficient flow of traffic. The external street system consists of two access roads, Double Springs Road, a minor arterial, and Dot Tipton Road, a local street, that is substandard and in need of improvements.

- (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: Standard parking ratios for the single family residential uses shall apply. Two garage parking spaces are provided for each home.

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

FINDING: The applicant proposes that each lot on the perimeter of the project plant two trees in the backyard of the homes. The project will comply with all open space requirements.

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

FINDING: Sidewalks and other pedestrian connections will be evaluated at the time of preliminary plat to ensure compliance. In general the Master Development Plan provides for sidewalks along public streets, and interior pedestrian trails in the designated greenspace lots.

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

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

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

FINDING: Public water will be provided to the project site, pursuant to city code.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for

such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: The proposed project proposes public streets and alleys that comply with the adopted development standards.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: A tree preservation plan shall be submitted at the time of development to comply with Chapter 167 of the UDC. The site has little existing tree canopy which should be incorporated into the design as much as possible.

- (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: Not applicable. All proposed structures are single-family residential.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any

additional final plans if preceding phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

- (1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.
- (2) *Common areas.* If the common open space is decided 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 does not meet some of the primary goals of the City Plan 2025, and the overall urban development goals of the City as discussed in Staff Finding No. 1. The proposed PZD provides a mix of lot and house sizes, rather than the typical RSF-4 single family lot size. The proposed development pattern is consistent with several of the goals of the PZD ordinance, Chapter 161, including providing a variety of housing types and providing usable and suitably located open space areas. However, an average density of 4.5 units/acre is not compatible with the surrounding rural residential/agricultural properties, with the lack of goods and services, schools or other amenities typically associated with urban development form. Development of surrounding properties, which could provide a higher level of compatibility with the Amberwood Place PZD, may require several years or even decades to occur. Furthermore, core public services, including schools, jobs and commercial services are not readily available to this area and are at least two miles away. Ultimately, the residents of the development will continue to be auto-dependent due to the current isolated location of the property.

(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 subject described real property is proposed to be rezoned to R-PZD 08-2965, with three (3) unique Planning Areas. The development standards, statement of commitments and Master Development Plan approved shall be adopted with the rezoning.

(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 denial of this application, finding the proposed PZD does not meet the intent of the PZD ordinance and City Plan 2025 as noted above. Staff finds that the higher density single family land uses within the development do not consider abutting parcels of land. A harmonious relationship with surrounding properties does not exist, and will result in land use incompatibility, traffic congestion and inconvenience for existing and future residents, and encourage suburban sprawl and leap-frog development.

- (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: The subject property is adjacent to large undeveloped agricultural lands with sparsely located single-family homes. The property is zoned R-A, Residential Agricultural, which would permit one dwelling unit per two acres, resulting in a maximum of 20 dwelling units on 39.98 acres. The applicants are requesting 182 dwelling units, a density of approximately 4.5 units per acre. While this is not a normally high density in much of the developed City, and in general the City's development goals and policies do support the development pattern proposed by Amberwood Place in a designated Residential Neighborhood Area, the density of the development is not appropriate in the rural landscape that it is proposed. Staff has communicated to the applicant that this project may be appropriate in other Residential Neighborhood Areas that have an adequate level of services and infrastructure for development.

- (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 vary from 4,500 – 7,700 square feet, a little smaller than standard single family zoning districts; setbacks are not varied and are consistent with the RSF-8 zoning district setbacks. This project would provide for some variety in the size and mass of residential homes over this 39.98 acre subdivision with homes varying from 1,000 – 1,700 square feet. The structures are generally oriented to the street with 15-foot front setbacks, with the smaller lots in Planning Area 1 accessed off of either shared drives or alleys.

- (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 a maximum of 45-feet, consistent with the height requirements of the surrounding zoning.

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

FINDING: The proposed lot coverage varies from 25-30% compared with 40-50% lot coverage allowed under typical single family zoning. This indicates more greenspace on the lots than in a typical subdivision.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Please reference findings under compliance with Planned Zoning District ordinance and Future Land Use Plan. As discussed in these previous findings, this project can be characterized as suburban sprawl as it: 1) is located on the fringe of an urbanized area; 2) "leap frogs" over large, undeveloped properties; 3) is auto-dependent due to isolation from core public services; 4) and is developed before necessary infrastructure improvements are made. Ultimately, the development is inconsistent with land use planning principles and policies to a degree that would not support the rezoning.

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

Finding: The subject property is just within the limits of the City and is adjacent to large agricultural and rural residential properties. Rezoning the property for 182 residential dwellings is not justifiable or needed at this time. The development will "leap frog" over and around many acres of undeveloped farmland and low density rural residential land uses, and will exacerbate the traffic congestion in the area. Improvements to Dot Tipton and Double Springs roads will facilitate future development in the area, including agricultural and rural residential land in the vicinity. Currently though, the development is too early based on existing infrastructure and inconsistent with the goals and policies adopted by the City Council for rezoning applications.

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

Finding: Staff finds this proposal will likely increase traffic congestion and inconvenience, without several improvements to surrounding infrastructure. The Fayetteville

Police Department has commented that this project may create an appreciable increase in traffic danger and congestion, although a traffic study has not been completed. Overall, the area has a lack of infrastructure or services to serve a high density suburban development pattern, as proposed. With the minimum of improvements recommended by staff, an appreciable increase in traffic danger would not likely occur. This project is several miles away from public services and employment centers, and would therefore contribute to congestion on main arterials, particularly to Wedington Drive.

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

Finding: Staff finds that in evaluating this proposal, the population density would undoubtedly increase from that which currently exists to a great extent, and that the 182 residential units proposed would create additional demand on public services. The applicants have noted in the project booklet that water and sewer services are being constructed to serve the subject development. Therefore, an undesirable load on water and sewer services is not expected.

Engineering: Public water is located adjacent to the site. There is an 8-inch water main along Double Springs Road and one located through this site.

Sanitary sewer is available to the site. There is an 8-inch sewer main through the site as well as a newly installed lift station. 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 Dot Tipton Road and Double Springs Road. Dot Tipton is an unimproved two lane gravel city street, with pavement near the intersection of Double Springs Road. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20-foot wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this R-PZD would substantially alter the population density, and would 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.

Fire: This property will be covered by Engine 7 located at 835 North Ruppel Road. It is 2.3 miles from the station with an anticipated response time of 7 minutes. The Fire Department anticipates 32 (20 EMS-12 Fire/other) calls for service each year once the development is completed and maximum build out has occurred. The Fire Department does not feel this development will affect calls for service or response time.

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: As discussed in the findings throughout this report, staff recommends denial of the requested R-PZD 08-2965, finding the proposal inconsistent with several adopted goals and policies of the City Plan 2025; finding the project encourages suburban sprawl in an area without adequate public services and infrastructure and incompatible with surrounding agricultural and rural residential land uses.



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
Thru: Chief Tony Johnson
Assistant Chief Bud Thompson
From: Captain Dale Riggins
Date: June 3, 2008
Re: April 9, 2008 Zoning Review

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

It is 2.3 miles from the station with an anticipated response time of 6.0 minutes to the beginning of the development and 7.0 minutes to the western edge.

The Fire Department anticipates 32 (20 EMS – 12 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.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial.

It is 1.3 miles from the station with an anticipated response time of 4.0 minutes to the beginning of the development. We do not figure calls for service on this type of development but typically this will not affect our response times.

RZN 08-2971: Rezoning (WALKER PARK NEIGHBORHOOD): Submitted by THE CITY OF FAYETTEVILLE. THE SUBJECT PROPERTIES ARE ROUGHLY BOUNDED BY ARCHIBALD YELL BLVD., HUNTSVILLE RD., 15TH STREET AND S. SCHOOL AVE. The properties are zoned RMF-24, MULTI FAMILY - 24 UNITS/ACRE, C-2, THOROUGHFARE COMMERCIAL AND P-1, INSTITUTIONAL and contain approximately 303.45 acres. The request is to rezone the various properties within the boundaries of the Walker Park Neighborhood to NC, Neighborhood Commercial (128.19 acres), DG, Downtown General (107.41 acres), MSC, Main Street Center (19.94 acres) and P-1, Institutional (47.91 acres).

The fire department does not anticipate any additional calls for service or reduced response times on rezoning these properties to the proposed re-zonings.

If you have any questions please feel free to contact me.

ENGINEERING COMMENTS

PZD 08-2965: Planned Zoning District (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located at S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units. Planner: Andrew Garner

Public water is available to the property. There is an 8" water main along Double Springs Rd; and one located running through this site.

Sanitary sewer is available to the site. There is an 8" sewer main through the site as well as a newly installed lift station. 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 Dot Tipton Rd. and Double Springs Rd.. Dot Tipton is currently an unimproved two lane gravel city street. Double Springs Rd. is currently an unimproved two lane paved city street. Street improvements including pavement, curb and gutter, storm sewer and sidewalks will be required along the project frontage for Double Springs Road and Dot Tipton Road including the gap of project frontage in the middle of the project along Dot Tipton. Off-site street improvements will be required along Dot Tipton Road to pave the roadway to a minimum of 20' wide pavement width plus the appropriate shoulders from the project boundary east to 54th Street.

Standard improvements and requirements for drainage will be required for the development. This property is not affected by the 100-year floodplain.

RZN 08-2968: Rezoning (LAZENBY, 557): Submitted by DAVE JORGENSEN for property located at 3390 W. 6TH ST., NE CORNER OF HWY 62W & OLD FARMINGTON RD. The property is zoned R-O, RESIDENTIAL OFFICE and contains approximately 0.49 acres. The request is to rezone the subject property to C-1, Neighborhood Commercial. Planner: Dara Sanders

Public water is available to the property. There is an 8" water main along across Old Farmington Road on the west side of this property.

Sanitary sewer is available to the site. There is an 8" sewer main along the north property line of this parcel. 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 Old Farmington Rd. and Sixth Street. Sixth Street is currently an improved five lane paved state highway. Old Farmington Rd. is an unimproved two lane city street. Street improvements will be evaluated with the proposed development.

Standard improvements and requirements for drainage will be required for the development. This property is affected by the 100-year floodplain.

Date 4/7/08

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 **PZD 08-2965: (Amberwood Place 474 / 475):** Submitted by **Dave Jorgensen** for property located at **S & E of Double Springs Road and Dot Tipton Road**, 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 39.98 acres.

It is the opinion of the Fayetteville Police Department that this PZD will substantially alter the population density, and will possibly create an appreciable or undesirable increase in the load on police services. This PZD will possibly create an appreciable increase in traffic danger and congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department



PC Meeting of June 9, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: June 3, 2008

ITEM #: C-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

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



PC Meeting of July 14, 2008

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

THE CITY OF FAYETTEVILLE, ARKANSAS

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: Fayetteville Planning Commission

From: Carole Jones, Interim Urban Forester

Date: July 8, 2008

ITEM #: R-PZD 08-2965-: Planned Zoning District (Amberwood Place)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required when the development comes through the planning process. This should include but will not be limited to:
 - A full tree inventory of all significant trees;
 - Canopy calculations including existing canopy, preserved canopy and removed canopy;
 - A site analysis report; and
 - A survey of the location of significant trees and those directly affected by the development.
2. The site has little existing canopy. The development should be designed to work around as many existing trees as possible, particularly trees that are not located in existing or proposed utility easements. Mitigation will not likely be supported by staff without detailed supportive information such as an arborist report.
3. Significant trees and canopy found within floodway are a high priority for preservation. Groupings of quality trees are also a high priority for preservation.

LANDSCAPE REGULATIONS

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

**PLANNING COMMISSION MEETING MINUTES
JULY 14, 2008**

AMBERWOOD PLACE R-PZD 08-2965

R-PZD 08-2965: (AMBERWOOD PLACE, 474/475): Submitted by DAVE JORGENSEN for property located S & E OF DOUBLE SPRINGS RD. AND DOT TIPTON RD. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 39.98 acres. The request is for Zoning and Land Use approval for a Residential Planned Zoning District with 182 single-family dwelling units.

Andrew Garner, Senior Planner, gave the staff report, describing surrounding properties, which is surrounded by rural, residential, and agricultural land uses. Dot Tipton along northern border of site is a partially paved and gravel road. Infrastructure for a now-abandoned subdivision to the south has been installed, but the development has been abandoned for some time. There have been rezoning applications for an adjacent site to RSF-4, which have been previously denied by the Planning Commission. The applicant is proposing rezoning and land use approval for a RPZD with 182 SF dwellings, overall density is 4.55 du/acre, 3 planning areas consist of different densities. PA 1 on east side with 102 lots that are 45'x100', PA 2 in the middle with 60'x100' ft lots, PA 3 has 39 lots, 79 feet wide. Access proposed is at three points from Dot Tipton to the north, two street stub-outs are provided to the south, and a street stub-out is provided to the east. Staff recommends additional connectivity to the west. Staff has received public comment from adjacent property owners opposed to the project, citing concerns with density and property not being compatible with surrounding rural residential uses. Staff finds that much of the application is in conflict with the goals and policies established with City Plan 2025. In addition, staff finds that the proposed density of 4.55 units/acre is not compatible with surrounding rural residential and low-density zoning. Staff has concern that this subdivision encourages suburban sprawl in an area without adequate infrastructure. City Plan 2025 discourages growth on the edges of the City. Development may be appropriate at a later date, when infrastructure is available. Staff does not recommend the rezoning as proposed, but instead recommends denial of the application.

Justin Jorgensen, applicant, described project. In 2006, when this was annexed, developer Charlie Sloan was encouraged by City Council to build attainable housing in the area. The applicant has worked with Water and Sewer Department to install a new pump station west of the detention pond, along with new water line, so there is already water and sewer within the subdivision. Goal of project was attainable housing. The applicant also wanted to create a traditional town form by focusing on goals of City Plan 2025. He cannot say this is the best example of infill, but it is within 1.6 miles of school and Boys and Girls Club, ½ mile from RSF-4. In time, the development will fit in to where it is at. Probably is not the ideal project for City Plan 2025, but in time it will fit in.

Public Comment:

Dave Yeomans, neighbor, stated he lives in corner house, affected in two sides by the subdivision. Built home in 1991. Many nearby homeowners, including owners of two-acre tracts adjacent to Double Springs Rd., are frustrated by the notification procedures. There is a lot of opposition to this. Homeowners will not accept anything less than what is built in Silverthorne Subdivision – 100x100' lots, big houses. Have worked hard for a nice home, find

Planning Commission

July 14, 2008

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myself fighting for that value. He does not have a problem with attainable housing, but this is not the area for it. He discussed concerns adjacent to property and a more ideal land-use arrangement for the area.

Maurice Rankin, neighbor, lives at 105 N. Double Springs Rd, directly across road from proposed development. She is concerned with Planning Area 3 on the property (west side). Cherishes the area for its view, but the proposal for 5' side setback allowances will destroy view of area – they will be looking at nothing but roofs and walls. City has received a number of awards, don't think any of them had to do with looking at roofs and houses, but instead involved the presence of greenspace.

No more public comment was received.

Commissioner Myres stated that a lot of what she likes about the site is the way it is laid out, but this density is not appropriate at this time and place. Stretching it a bit to consider it infill. Do not agree with this development and therefore will not support approval.

Commissioner Graves stated he will have to agree with Commissioner Myres. Typically he is supportive of development, voted in support of a number of the projects these developers have done on this side of the town, but I don't think I've seen any of them where it was proposed to drop something so dense in the middle of agricultural, one-acre, and two-acre property. May just be a matter of time when this is a typical zoning request, but it is not infill at this time since it is at the edge of the City, and surrounded by lower density property. Cannot support.

Commissioner Kennedy asked about building minimum differences throughout the phases of the development.

Jorgensen stated that PA 1 will be a 1200-1300 SF home, then moving up into PA 3 into 1700 SF homes

Commissioner Kennedy asked if 2400-2500 SF homes were completely out of the question.

Jorgensen stated that they were.

Commissioner Trumbo stated that the Planning Commission is seeing dense developments come through on the outskirts of town and are bringing up the word "sprawl" quite a bit, certainly wouldn't consider this project infill, but if we let it develop as RSF-4 or RSF-2, it will in turn down the road be all sprawl. I agree that at this time it is possibly too soon for this project, but I'm getting to the point where I need a better definition of sprawl just to clarify, if we are going to approve RSF-4 in 25 years it will be sprawl. Another issue is the traffic coming back east and west, other than Wedington, you're going to have to go to Farmington. There is Persimmon, but it is not developed all the way, it's a very small street. To have a lot more traffic on that road going to the school and the Boys and Girls club might be considered dangerous, and it might be too much traffic, so I would imagine most of these folks are going to come down Persimmon instead of going to Wedington. If Persimmon were built out to a wider degree I

Planning Commission

July 14, 2008

Page 11 of 12

might be more in support of this project.

Commissioner Winston stated he would encourage more mixed use. One of the problems we're seeing is that it's all housing, with no infrastructure to support daily needs. There is a lot of potential for the site, and something creative can happen. Would like to see something with more mixed use.

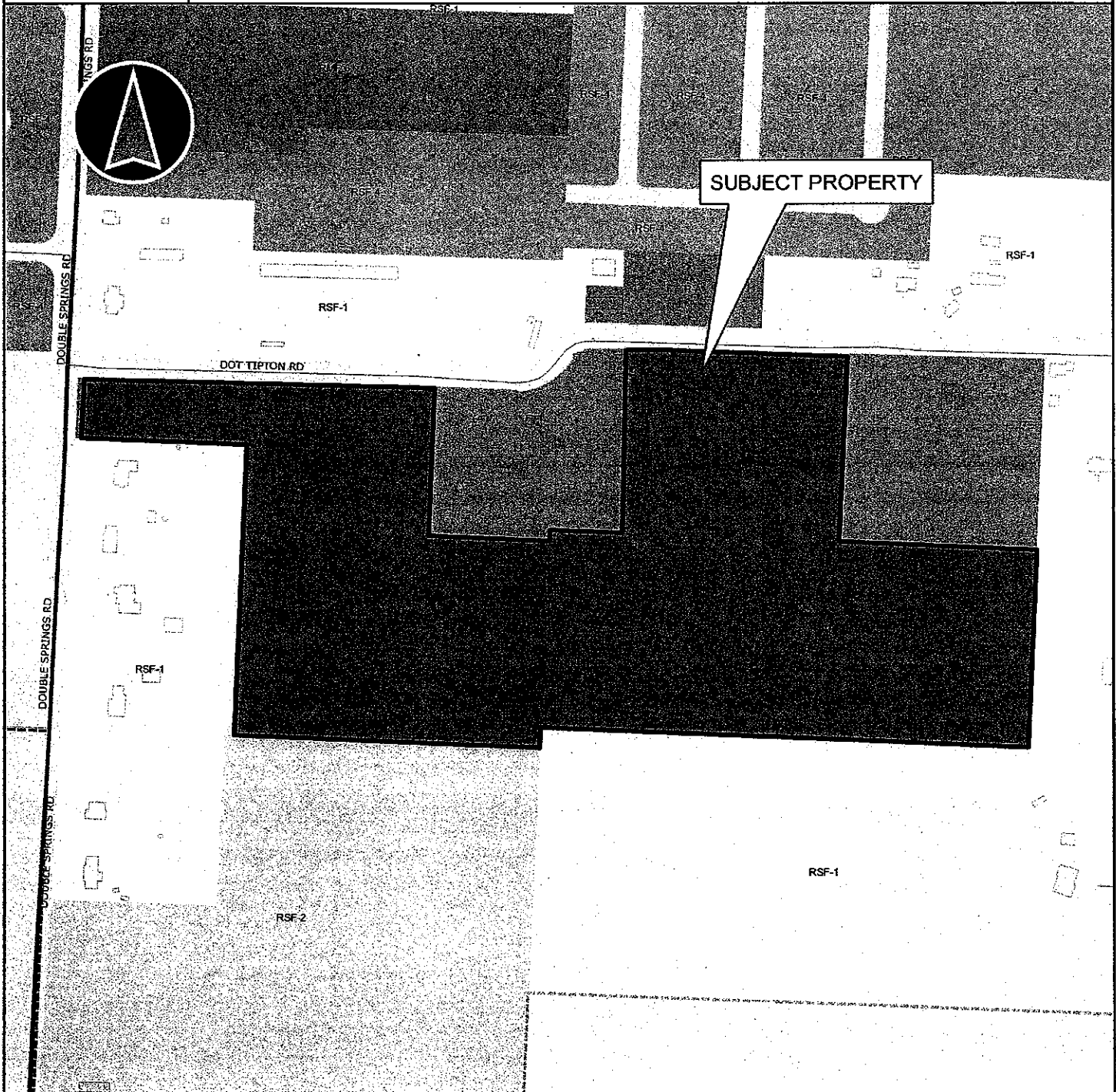
Motion:

Commissioner Myres made a motion to deny the request. **Commissioner Graves** seconded the motion. **Upon roll call the motion passed with a vote of 6-1-0, with Commissioner Kennedy voting no.**

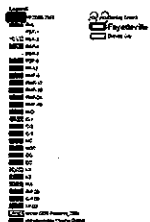
RPZD08-2965

AMBERWOOD PLACE

Close Up View



Overview

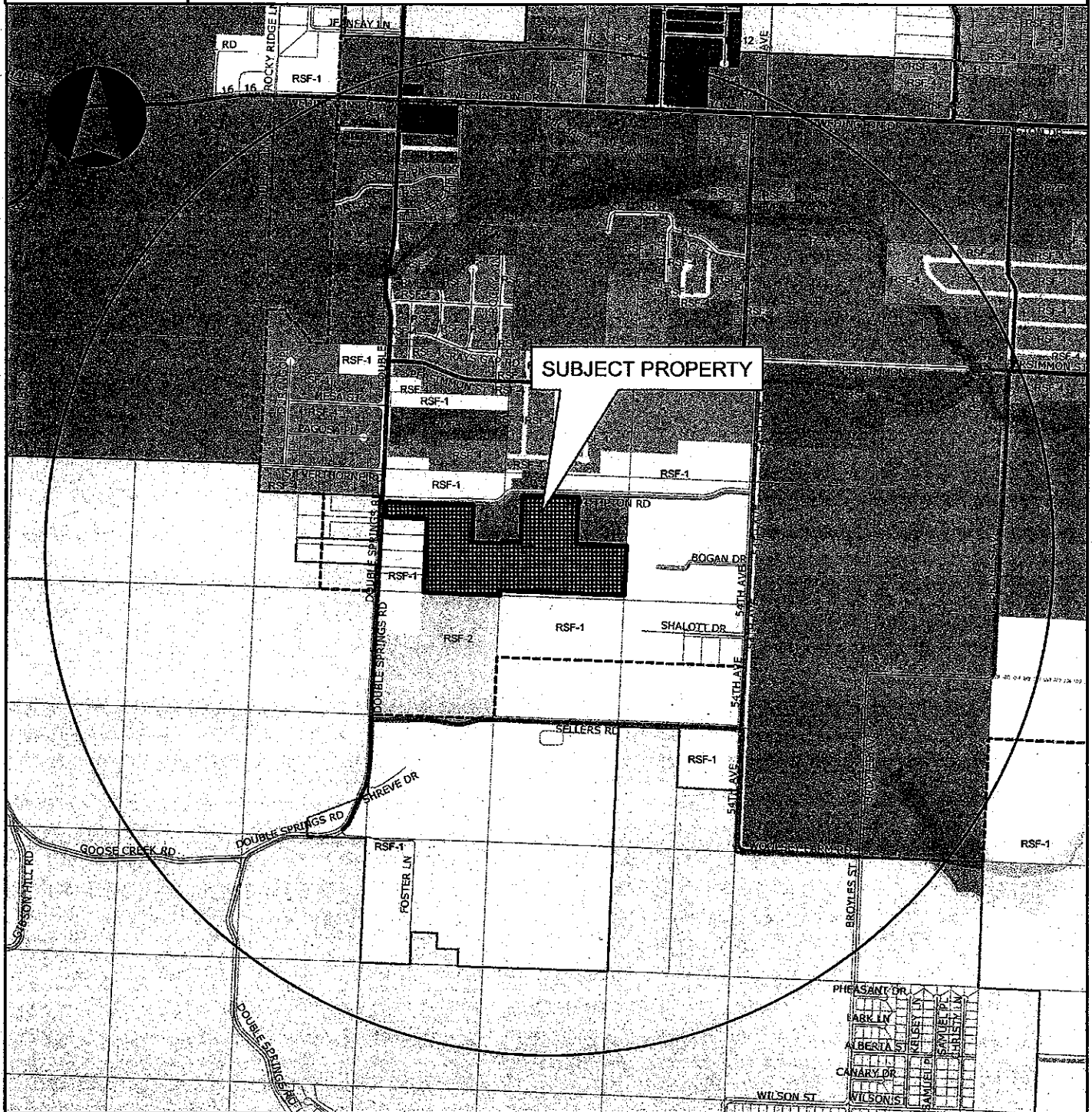


0 175 350 700 1,050 1,400 Feet

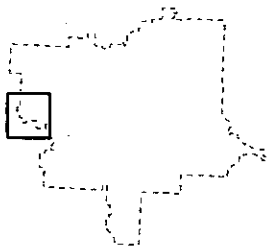
RPZD08-2965

AMBERWOOD PLACE

One Mile View



Overview



Legend

Subject Property

RPZD08-2965

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

From: Karen Minkel
To: Smith, Sondra
CC: melissamccarville@cityoffarmington-ar.gov
Date: 9/15/2008 9:35 AM
Subject: Farmington Fayetteville Land Swap
Attachments: Farmington 20080912154123.pdf; Farmington 20080912154143.pdf

Sondra,

The Farmington City Council passed Ordinance 54123 on September 8, 2008, detaching approximately 8.035 acres from Fayetteville and annexing the property into Farmington. By state statute Fayetteville must hold a public hearing on this proposed detachment. Please add this public hearing to the City Council agenda for October 7, 2008. The meeting will be held at 6:00 p.m. in Room 219 in the City Administration Building located at 113 W. Mountain Street.

Let me know if you need additional information.

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

Doc ID: 012486200004 Type: REL
Recorded: 09/16/2008 at 11:35:19 AM
Fee Amt: \$30.00 Page 1 of 4
Washington County, AR
Bette Stamps Circuit Clerk
File **2008-00030445**

FILED

2008 SEP -4 AM 11:37

KAREN COMBS PRITCHARD
CO. 2 PROBATE CLERK
WASHINGTON CO. ARK

ORDINANCE NO. 5172

**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 A and shown on Exhibit B (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. 5172

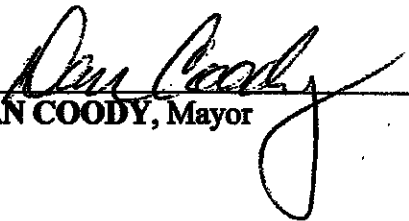
Exhibit A and shown on Exhibit B, the City Council of the City of Fayetteville, Arkansas, hereby annexes said land into Fayetteville, amends the official map of Fayetteville, and assigns the land to Ward 4.

PASSED and APPROVED this 2nd day of September, 2008.

APPROVED:

ATTEST:

By:


DAN COODY, Mayor

By:

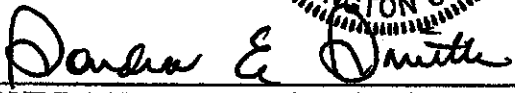

SONDRA E. SMITH, City Clerk/Treasurer



EXHIBIT "A"

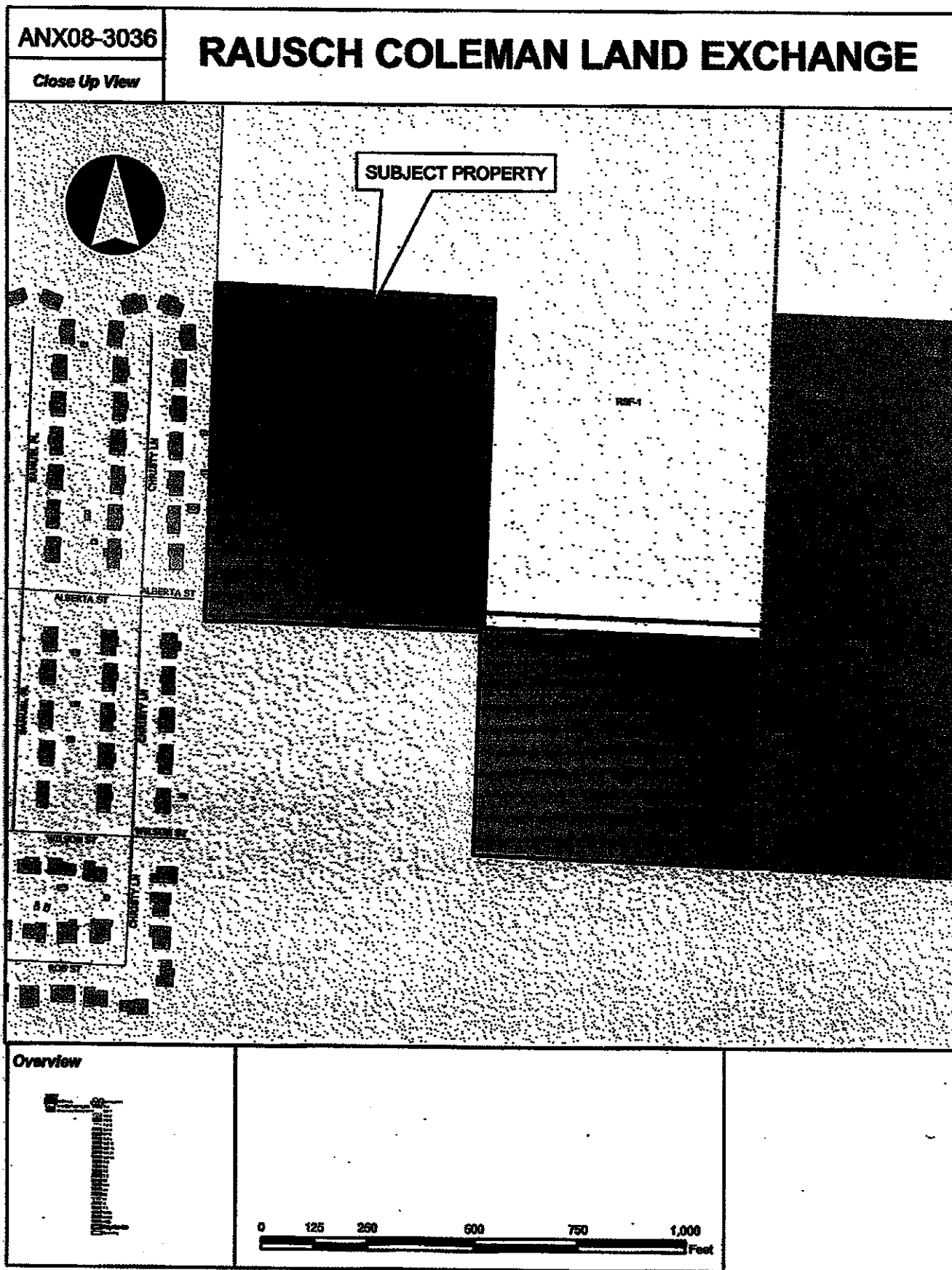


EXHIBIT "B"
ANX 08-3036

DESCRIPTION OF PARCEL TO CONVEY FROM FARMINGTON TO FAYETTEVILLE:

A PART OF THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) 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 1/2" REBAR MARKING THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) 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.

Washington County, AR
I certify this instrument was filed on
09/16/2008 11:35:19 AM
and recorded in Real Estate
File Number 2008-00030445
Bette Stamps - Circuit Clerk

hv

From: Kit Williams
To: Minkel, Karen; Smith, Sondra
Date: 9/23/2008 1:14 PM
Subject: Re: Fwd: Public Notice

This notice looks proper to me.

Kit Williams, Fayetteville City Attorney
(479) 575-8313
FAX (479) 575-8315
113 West Mountain
Fayetteville, AR 72701

>>> Sondra Smith 09/23/08 11:36 AM >>>
Sondra E. Smith, CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Sondra Smith 9/23/2008 11:34 AM >>>
Hi Karen

Attached is the revised Public Notice regarding the land swap. Please review and let me know if any changes need to be made.

We plan on sending the notice to the paper tomorrow for publication.

Thanks!

Sondra E. Smith, CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

From: Karen Minkel
To: Smith, Sondra
CC: Williams, Kit
Date: 9/23/2008 1:52 PM
Subject: Re: Fwd: Public Notice

Looks good to me too.

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> Sondra Smith 9/23/2008 11:36 AM >>>
Sondra E. Smith, CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
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City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

PUBLIC HEARING NOTICE

Notice is hereby given that Ordinance No. 5172 has been adopted by the Fayetteville City Council on September 2, 2008 calling for the simultaneous detachment of 11.86 acres more or less, as described below, from the City of Farmington and annexation of said territory into the City of Fayetteville in accordance with Arkansas Code Annotated 14-40-2101. The property is described as:

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.

A public hearing will be held regarding this matter at 6:00 p.m. on October 13, 2008 in the **City Council Chambers at Farmington City Hall, 354 West Main** in Farmington, Arkansas. The public and property owners within the area proposed to be annexed are advised of their right to appear at the public hearing to present their views on the proposed annexation.

Dan Coody, Mayor

From: Karen Minkel
To: Smith, Sondra
Date: 9/14/2008 12:56 PM
Subject: Re: Detaching Territory
Attachments: Farmington 20080912154123.pdf; Farmington 20080912154143.pdf

Please see attached. I'm not sure why the second document is included, but this is what Melissa sent to me.

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> Sondra Smith 9/12/2008 5:52 PM >>>
Hi Karen

Can you please forward me a copy of the ordinance passed by the City of Farmington. Thanks!

Sondra E. Smith, CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Karen Minkel 9/12/2008 4:38 PM >>>
Melissa,
Could you verify your public hearing date, time and location for our notification purposes?

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> "Melissa McCarville" <melissamccarville@cityoffarmington-ar.gov> 9/12/2008 3:45 PM >>>
Here is the ordinance we passed at our council meeting last Monday. Please let me know the details of your public hearing so that we can get an advertisement in the paper 15 days prior. Thanks for your cooperation with this! If you need anything else let me know.

FILED

2008 SEP 12 AM 10:22

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.



Doc ID: 012480170003 Type: REL
Recorded: 09/12/2008 at 10:19:45 AM
Fee Amt: \$25.00 Page 1 of 3
Washington County, AR
Bette Stamps Circuit Clerk

File **2008-00030026**

ORDINANCE NO. 2008-15

AN ORDINANCE SIMULTANEOUSLY DETACHING TERRITORY FROM THE CITY OF FAYETTEVILLE AND ANNEXING SAID TERRITORY INTO THE CITY OF FARMINGTON, 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 swapping parcels of substantially equal size from Fayetteville into Farmington, and from Farmington into Fayetteville.

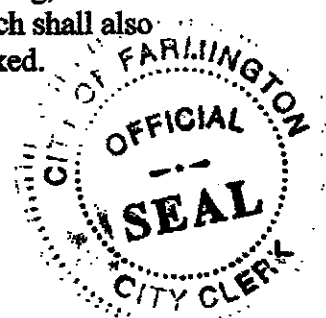
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON, ARKANSAS:

SECTION 1. That certain territory presently within the corporate limits of the City of Fayetteville is contiguous to and adjoins the City of Farmington. The City of Farmington hereby calls for the simultaneous detachment and annexation of the lands that are described in Exhibit A, which is attached hereto and incorporated herein by reference.

SECTION 2. That the proposed detachment and annexation of lands described in Exhibit A was requested by the owners of the subject property.

SECTION 3. That a copy of this ordinance shall be sent to the governing body of the City of Fayetteville. Within sixty (60) days of the effective date of this ordinance, the governing body of the City of Fayetteville shall conduct a public hearing on the proposed detachment and annexation.

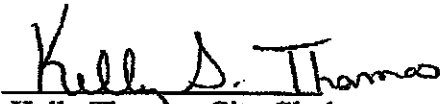
SECTION 4. That at least fifteen (15) days prior to the date of the public hearing, the Farmington City Clerk shall publish a legal notice of said public hearing, which shall also set out the legal description of the territory proposed to be detached and annexed.



SECTION 5. That at said public hearing, officials of both municipalities, as well as property owners within the area proposed to be detached and annexed, may appear and present their views on the proposal.

SECTION 6. That at the next regularly scheduled meeting of the Fayetteville City Council following the public hearing, said City Council may bring the proposed ordinance up for a vote to concur in the detachment and annexation. If approved, a prima facie case for detachment and annexation shall be established, and the City of Farmington shall proceed to render services to the newly annexed area.

PASSED AND APPROVED THIS 8TH DAY OF SEPTEMBER, 2008.


Kelly Thomas, City Clerk


Ernie Penn, Mayor



EXHIBIT A

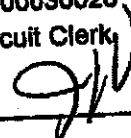
Description of Parcel to Convey from Fayetteville to Farmington:

A part of the Southeast Quarter (SE ¼) 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 Northeast Corner of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW 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 Limit line of Farmington and Fayetteville, Arkansas; thence with said City Limit line N 87°36'42" W 654.19 feet to a Point; thence also with said City Limit line N 01°53'47" E 533.61 feet to a Point on the Southern Right-of-Way of Alberta Street; thence leaving said City Limit line and following the southern Right-of-Way of Alberta Street S 87°59'22" E 279.09 feet to a Point; thence along said Right-of-Way in a easterly direction with a tangent curve turning to the right with a radius of 4955.00 feet, having a chord bearing of S 87°47'43" E and a chord distance of 33.60, having an interior angle of 00°23'19" and an arc length of 33.60 to a Point; thence along said Right-of-Way S 87°36'03" E 264.82 feet to a Point; thence along said Right-of-Way in a easterly direction with a tangent curve turning to the left with a radius of 5045.00 feet, having a chord bearing of S 87°48'09" E and a chord distance of 35.48, having an interior angle of 00°24'11" and an arc length of 35.48 to a Point; thence along said Right-of-Way S 88°00'14" E 40.99 feet to a Point on the Western line of Walnut Crossing subdivision; thence leaving said Right-of-Way and following the Western line of Walnut Crossing subdivision S 01°52'36" W 535.91 feet to the point of beginning; containing 8.035 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.

Washington County, AR
I certify this instrument was filed on
09/12/2008 10:19:45 AM
and recorded in Real Estate
File Number 2008-00030026
Bette Stamps - Circuit Clerk

by  _____

From: Karen Minkel
To: Smith, Sondra
Date: 9/12/2008 4:46 PM
Subject: Fwd: RE: Detaching Territory

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> "Melissa McCarville" <melissamccarville@cityoffarmington-ar.gov> 9/12/2008 4:46 PM >>>
It will be October 13, 2008 at Farmington City Hall, 354 W. Main Street at
6:00 p.m.

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

From: Karen Minkel [<mailto:kminkel@ci.fayetteville.ar.us>]
Sent: Friday, September 12, 2008 4:39 PM
To: Melissa McCarville
Cc: Sondra Smith
Subject: Re: Detaching Territory

Melissa,
Could you verify your public hearing date, time and location for our
notification purposes?

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> "Melissa McCarville" <melissamccarville@cityoffarmington-ar.gov>
9/12/2008 3:45 PM >>>
Here is the ordinance we passed at our council meeting last Monday. Please
let me know the details of your public hearing so that we can get an
advertisement in the paper 15 days prior. Thanks for your cooperation with
this! If you need anything else let me know.

From: Karen Minkel
To: Smith, Sondra
Date: 9/8/2008 1:05 PM
Subject: Re: Public Hearing notice for Fay_Farming Land Swap

We are providing public notification for the public hearing Farmington is holding on the ordinance that Fayetteville passed, which is for the annexation of approx. 11.86 acres into Fayetteville from Farmington. I included the date (Oct. 13) of Farmington's hearing in the public notification draft, which will be confirmed by their City Council tonight. I know this must sound somewhat convoluted, but we're trying our best to follow the state statute. Farmington will pass its ordinance tonight, and then we'll set a public hearing date, but Farmington will provide the public notification. Give me a call if this is still confusing.

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

>>> Sondra Smith 9/8/2008 12:19 PM >>>
Hi Karen

Has Farmington passed the ordinance? Are we to notify 15 days in advance of the City of Farmington's Public Hearing?. If so I will need the exact day of the City of Farmington's Public Hearing before I can publish the notice. Thanks!

Sondra E. Smith, CAMC, CMC
City Clerk/Treasurer
City of Fayetteville
113 West Mountain
Fayetteville, AR 72701
(479) 575-8323
ssmith@ci.fayetteville.ar.us

>>> Karen Minkel 9/8/2008 10:52 AM >>>

Sondra,
Attached is a sample public hearing notice prepared by Jeff Hawkins at Regional Planning. Farmington will set the public hearing for Fayetteville's ordinance tonight. Melissa McCarville anticipates that the hearing will be set for October 13, 2008 at 6:00 p.m. According to the state statute, we must notify at least 15 days in advance. Please let me know if you have any questions.

Thanks,
Karen

Karen Minkel
Interim Director of Long Range Planning
City of Fayetteville
(479) 575-8271

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

D. 1
Illinois River Watershed Partnership
Page 1 of 6

10/7/2008
City Council Meeting Date

Gary Dumas
Submitted By

Division

Operations
Department

Action Required:

An ordinance to waive quotation bidding for services costing less than \$20,000 and to approve a contract for \$10,000 with the Illinois River Watershed Partnership to assist in the improvement of water quality in the Illinois River Watershed.

\$ 10,000.00
Cost of this request

\$ 708,731.00
Category / Project Budget

Sales Tax Capital Improvements
Program Category / Project Name

4470-9470-5314-00
Account Number

\$ 268,302.60
Funds Used to Date

Bridge & Drainage Improvements
Program / Project Category Name

02097.1
Project Number

\$ 440,428.40
Remaining Balance

Drainage Study/Phase II Storm
Fund Name

Budgeted Item ☒

Budget Adjustment Attached ☐


Department Director 9/18/2008
Date

Previous Ordinance or Resolution # _____

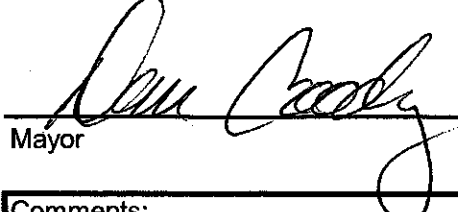
Original Contract Date: _____


City Attorney 9/19/08
Date

Original Contract Number: _____

Paul A. Bush
Finance and Internal Service Director 9-21-08
Date

Received in City Clerk's Office
ENTERED 9/18/08 CVO


Mayor 9/22/08
Date

Received in Mayor's Office
ENTERED 9/19/08

Comments:

City Council Memo

TO: Mayor Coody and City Council

FROM: Gary Dumas, Director of Operations 

DATE: September 18, 2008

SUBJECT: Illinois River Watershed Partnership Contract for Services

RECOMMENDATION

An ordinance to waive quotation bidding for services costing less than \$20,000 and to approve a contract for \$10,000 with the Illinois River Watershed Partnership to assist in the improvement of water quality in the Illinois River Watershed.

BACKGROUND

According to their website, the Illinois River Watershed Partnership (IRWP) formed when "a diverse group of Northwest Arkansas leaders organized an Upper Illinois River Summit in September 2005 with 65 watershed stakeholders committing to personal action and agreeing that public education is the number one priority to improve and protect water quality in the Illinois River."

The IRWP officially formed in December 2005 as a non-profit organization with a board that is representative of the various stakeholders in the watershed including government, business, agriculture, conservation, construction/development, and academia.

The organization has a number of objectives including:

- Increase public awareness of the Illinois River as a water resource
- Cooperate with the scientific community to identify water quality impacts, causes and sources
- Educate the public about their contribution to these sources
- Collaboratively identify environmentally viable and economically feasible practices to effectively control those sources
- Work with the membership and the general public to implement water quality improvement and watershed restoration projects that will reduce these identified sources

The Board has also established a number of goals that will enable them to achieve their long-

term vision which is, "the Illinois River and its tributaries will be a fully functioning ecosystem, where ecological protection, conservation and economically productive uses support diverse aquatic and riparian communities, meet all state and federal water quality standards, promote economic sustainability and provide recreational opportunities." The group's stated goals include:

- Develop a comprehensive educational program that will increase public awareness of the Illinois River as a water resource and a general membership
- The Illinois River Watershed Partnership's ultimate goal is to develop, implement and complement a watershed management plan for the entire Illinois River Basin
- The goal of watershed management is to plan and work toward an environmentally and economically healthy watershed that benefits all stakeholders
- Engages stakeholders in activities to implement water quality improvement and watershed restoration in projects that will reduce identified sources

DISCUSSION

Over the last year the IRWP has implemented and is currently maintaining an ongoing education campaign in the watershed which has spillover effects for other watersheds in the media market. The Partnership completed Phase I of the Upper Illinois River Watershed Management plan with TetraTech, Inc. The partnership is currently negotiating a contract with the Arkansas Water Resources Center (U of A) for completing the last two phases of the watershed management plan.

A large portion of the City of Fayetteville contributes stormwater flows into the Illinois River Watershed including Clear Creek, Hamestring Creek, and Owl Creek. The new wastewater treatment plant discharges treated effluent into Goose Creek which also flows into the Illinois River. The City of Fayetteville continues to receive great benefit from the watershed education campaign and the watershed management planning process, and the watershed management plan should dovetail nicely with the City of Fayetteville nutrient reduction plan developed by Geosyntec, Inc.

This will be the third year the City has contracted with the IRWP for these services. The last contract was also for \$10,000 for watershed education and planning services. Dr. Delia Haak will provide a summary of accomplishments for 2008 and plans for 2009 at the agenda session meeting on September 30.

BUDGET IMPACT

The City of Fayetteville currently has \$440,428 remaining that has been allocated for the phase II Storm Water Management Program for these types of projects. This contract would be funded from that account.

ORDINANCE NO. _____

AN ORDINANCE WAIVING THE REQUIREMENTS OF §34.23, (PURCHASES AND CONTRACTS NOT IN EXCESS OF \$20,000.00), OF THE FAYETTEVILLE CODE OF ORDINANCES AND APPROVING A CONTRACT WITH THE ILLINOIS RIVER WATERSHED PARTNERSHIP (IRWP) IN THE AMOUNT OF \$10,000.00 FOR WATERSHED EDUCATION AND PLANNING SERVICES.

WHEREAS, the Illinois River Watershed Partnership (IRWP) possesses unique expertise and resources ideally suited to meet the City of Fayetteville's need for Watershed Education and Planning Services as part of the Stormwater Management Program, Phase II; and

WHEREAS, the Illinois River Watershed Partnership (IRWP) can perform this work at a significant savings to the citizens of Fayetteville.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby waives the requirements of §34.23, (Purchases and Contracts Not in Excess of \$20,000.00), of the Fayetteville Code of Ordinances and approves a Contract with the Illinois River Watershed Partnership (IRWP) in the amount of \$10,000.00 for watershed education and planning services, and authorizes Mayor Coody to execute this Contract. A copy of the Contract, marked Exhibit A, is attached hereto and made a part hereof.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

CONTRACT

The Illinois River Watershed Partnership, Inc. and the City of Fayetteville, Arkansas agree to enter into the following contract on this 7th day of October, 2008.

WHEREAS, The Illinois River Watershed Partnership, Inc. is a non-profit corporation whose mission is to improve the health of the Illinois River through the implementation of best management practices, water quality monitoring, public education, community outreach and ecosystem restoration; and

WHEREAS, The City of Fayetteville has responsibilities to educate its citizens about these water quality and restoration issues through mandates of the Clean Water Act and has budgeted funds for such education activities.

NOW, THEREFORE, the Illinois River Watershed Partnership and the City of Fayetteville agree as follows:

1. The City of Fayetteville agrees to purchase educational, ecosystem monitoring and restoration, and community outreach services for its citizens from the Illinois River Watershed Partnership, Inc. for the sum of Ten Thousand Dollars (\$10,000.00).

2. The Illinois River Watershed Partnership agrees to furnish a year long, extensive community outreach and educational services program to Fayetteville's citizens during the period of October 7, 2008 through October 6, 2009, and further to provide implementation of and education about best management practices for stormwater management and ecosystem restoration in the Illinois River watershed.

3. The Illinois River Watershed Partnership agrees to provide an annual written report about its programs and activities to the Fayetteville City Council due on September 30, 2008.

**ILLINOIS RIVER
WATERSHED PARTNERSHIP, INC.**

By: 
Susan B. Thomas, President
Illinois River Watershed Partnership, Inc.

**CITY OF FAYETTEVILLE,
ARKANSAS**

By: _____
Dan Coody, Mayor

ATTEST:

By: _____
Sondra Smith, City Clerk

AGENDA REQUEST

FOR: COUNCIL MEETING OF OCTOBER 7, 2008

FROM:

KIT WILLIAMS, City Attorney

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact Article Xi **Operation Of Vehicles And Use Of City Trails** In Chapter
71 **Traffic Rules** Of The Fayetteville City Code

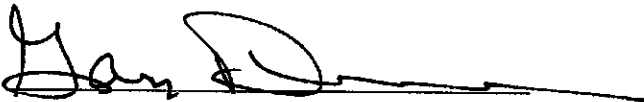
APPROVED FOR AGENDA:



Matt Mihalevich

9-24-08

Date



Gary Dumas

9.24.08

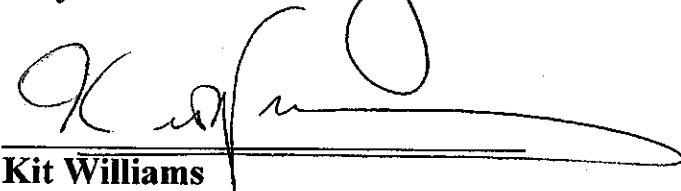
Date



Mayor

9/24/08

Date



Kit Williams

City Attorney

9-24-08

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
Matt Mihalevich, Trails Coordinator

FROM: **Kit Williams**, City Attorney

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

DATE: **September 24, 2008**

RE: **Operation of Vehicles and use of City Trails**

Scull Creek Trail's Grand Opening will be in October. With this opening of Fayetteville's major North/South trail connecting 6th Street all the way to the Mall area (and the Mud Creek Trail), our citizen's use of city trails will likely accelerate greatly. The growing utilization of our trails for transportation as opposed to only recreation requires that we enact some "Rules of the Road" to improve safety and accommodate the growing numbers of citizens desiring to bike our trails.

Enclosed is a proposed ordinance that would enact some basic Rules of the Road for our city trails. The first provision continues our current policy of no internal combustion powered vehicles (except city maintenance or emergency vehicles), but now strengthens the ban by placing it in our Fayetteville Code which carries a penalty for a violation. The last time I was at Wilson Park I saw an adult (with a tot on board) riding a gas powered mini-scooter around the grass and a short distance on a trail. Last Sunday a gas powered moped and a gas powered scooter passed me on the Lake Fayetteville Trail. The City Council needs to act promptly to prohibit these noise and air polluting machines from our trails.

I am not proposing to ban electrically powered wheelchairs, scooters, bikes, and segways. These do not pollute either the air or the quiet of the trails. The A.D.A. would probably prohibit banning wheelchairs and elderly electric scooters. Segways and electrically assisted or powered bicycles are a closer policy question that needs to be decided by the City Council. I left them in "only when their use does not create a safety hazard to pedestrians, wheelchairs or human powered bicycles." I did propose banning even powered golf carts and similarly sized

vehicles which are too large for our city trails and are not legally permitted to be driven on city street (to access the trails).

My reasons for allowing electrically powered bicycles, scooters, and segways are:

- (1) Compatibility – I believe if they are ridden prudently in compliance with the rest of this ordinance, they will not cause a safety problem.
- (2) Quiet operation – These are about as quiet as a human powered bike, and so will not disturb others using the trail.
- (3) No smoke or fumes – This helps make electric powered or assisted bikes more compatible and less intrusive.
- (4) Need – I believe a growing number of trail riders will be older citizens like me who would like to leave their cars in the garage and ride their bikes to the Mall or to work, but would appreciate a little help going up hilly streets to get to the Scull Creek Trail or even along it. We would likely utilize the City Trails much more for regular transportation if we did not have to sweat too much going to work or to shop.

Younger, more in shape runners or cyclists might well want a more pure – human powered vehicle only – requirement for our trails. This is your decision and could be your policy with exceptions for wheelchairs and the small elderly scooters that A.D.A. would mandate.

The proposed Rules of the Road are pretty basic and self explanatory. Slower traffic to the right, pass on the left only when it can be done safely, and avoid crossing the center yellow line.

The first section under Speed limit is taken directly from §71.065 (A) **General Speed Restrictions**, substituting bikes for cars and trails for streets.

The second section establishes an all the time top speed limit of 15 m.p.h. I realize many bicyclists will want to ride faster (especially when no oncoming traffic is visible), but our trail is much narrower than a city street and does not have the same sight distance lengths so curves can conceal oncoming traffic until its

pretty close. 15 m.p.h. equates to a mile every four minutes so the entire length of Scull Creek can be ridden pretty quickly at 15 m.p.h. Of course, this is only my suggestion, and the decision is yours. Please keep in mind that our current Traffic Rules limit cars on unmarked streets to 20 m.p.h. in a business district and 25 m.p.h. in residential districts. (§71.065)

I suggested lowering the top speed to 10 m.p.h. when oncoming traffic approaches (passing each other at a combined 20 m.p.h.) and when passing traffic going in your direction. I felt both of these situations were more dangerous than if no other traffic was being passed and so a slower speed was warranted.

Finally, I have incorporated the language from the Reckless Driving provisions from our current code and suggested a possible one year suspension of the right to ride upon our trails for a biker, skater or skateboarder convicted of demonstrating a "reckless disregard for the safety of others"

I think these are fairly straight forward and basic regulations for our growing trail network. I believe we need some regulations soon to ensure our trails remain safe with increasing use. No regulations will be perfect, and these will probably need amendments, additions, or deletions as we gain experience and knowledge about our citizens' use and enjoyment of our trail network.

ORDINANCE NO. _____

**AN ORDINANCE TO ENACT ARTICLE XI OPERATION OF
VEHICLES AND USE OF CITY TRAILS IN CHAPTER 71
TRAFFIC RULES OF THE FAYETTEVILLE CITY CODE**

WHEREAS, the City of Fayetteville has now constructed the backbone of the City Master Trails Plan, Scull Creek Trail as well as Mud Creek Trail, Lake Fayetteville Trail, and others; and

WHEREAS, Scull Creek Trail and other City trails are experiencing unprecedented growth in use and accessibility by the citizens of Fayetteville; and

WHEREAS, the increased use requires basic "rules of the road" to be established to promote safety and beneficial utilization for our citizens.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends **Title VII Traffic Code** and **Chapter 71 Traffic Rules** of the Fayetteville City Code by enacting a new **Article XI Operation of Vehicles and Use of City Trails** as follows:

"ARTICLE XI *Operation of Vehicles and Use of City Trails*

"§71.170 Restriction of Type of Vehicles Allowed on City Trails.

"A. No golf carts or comparably sized vehicles nor any gas powered vehicles (except city maintenance or emergency vehicles) shall be driven or operated on Scull Creek Trail, Mud Creek Trail, Lake Fayetteville Trail or any other city trail.

"B. Skates, skateboards, and electrically powered scooters, bicycles, segways, etc. may be used on city trails only when their use does not create a safety hazard for pedestrians, wheelchairs or human powered bicycles.

"§71.170 Rules of the Road For Fayetteville Trails.

"A. *Pedestrians and joggers.*

"Pedestrians, skaters and joggers should walk, skate or jog near the right side of the trail to accommodate faster runners, skaters, bicyclists, and faster traffic to pass on the left side of the lane.

"B. *Bicyclists, skaters, runners and others.*

"Persons should ride their bicycles, segways, skateboards and scooters on the right side of the lane unless passing. Persons skating, riding bicycles, segways, skateboards, scooters and runners shall give an audible warning prior to passing slower traffic. Passers shall not cross the solid yellow line. Passers shall not cross the dashed yellow line if oncoming traffic is close enough that the passer cannot return to his/her lane before reaching oncoming traffic or if crossing the dashed yellow line causes any safety hazard.

"C. *Speed limit.*

"(1) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle on a city trail at a speed greater than is reasonable and prudent under the conditions then existing.

"(2) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle at a speed greater than 15 m.p.h. on a city trail.

"(3) No person shall skate or ride his bicycle, segway, skateboard, scooter or other vehicle at a speed greater than 10 m.p.h. on a city trail when oncoming traffic is present or when passing traffic going the same direction.

"(4) Persons skating or riding bicycles, segways, skateboards, scooters, or other vehicles on a city trail in such a manner as to indicate a reckless disregard for the safety of others shall not only be subject to punishment set forth in §10.99, but may have their right to skate or ride their vehicle upon the city trails suspended for up to one year. Any person violating a suspension period shall be guilty of a separate violation of this subsection.

PASSED and APPROVED this the 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville Staff Review Form

D. 3
Amend Chapter 157, ADM 08-3021
(UDC Chapter 157 Notification)
Page 1 of 18City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items OnlyJeremy Pate *JP*
Submitted ByPlanning
DivisionOperations
Department

Action Required:

ADM 08-3021 (UDC Ch. 157 Notification): An ordinance repealing and replacing Ch. 157 of the Unified Development Code to consolidate and more clearly delineate required notification for items being considered at certain public meetings.

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 ☐*Hayden*
Department Director9-19-08
Date

Previous Ordinance or Resolution #

K. W. Smith
City Attorney9-19-08
Date

Original Contract Date:

Original Contract Number:

Paul A. Beckman
Finance and Internal Service Director9-21-08
DateReceived in City
Clerk's Office9-19-08 *UMP*Received in
Mayor's Office*Don Coody*
Mayor9/21/08
Date

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning &

Date: September 19, 2008

Subject: UDC Ch. 157 Notification (ADM 08-3021)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance to repeal and replace Ch. 157, Notification, of the Unified Development Code, in order to clarify and streamline the process for notification for public meetings.

BACKGROUND

For several months, planning staff has been working to redraft, in its entirety, Ch. 157: Notification, of the Unified Development Code. The purpose of this chapter is to establish the standards and criteria by which applicants and the City are to notify the public for specific development, land use and variance/appeal requests that require a public hearing. Notification types include:

- 1) Written notification: involves a project description, date and time of the meeting, contact information, etc. sent to adjacent land owners;
- 2) Posted Notice: involves a sign erected on the site in question, for public view and information
- 3) Published notification: involves date, time and location of meeting, use and location of project – the City is responsible for this type of notice

In the existing code, there are a variety of notification requirements, differing between the multiple types of applications. The City often hears complaints from citizens about notification, which staff believes in large part are due to the lack of consistency between types of notification required for every application. Notices vary between all three types listed above.

Staff has proposed a new draft of Ch. 157, incorporating all of the existing code requirements, but streamlining the code so that there is much more consistency between projects. All projects going before the Subdivision Committee will now require a 7-day notification; Planning Commission will require a 14-day notification. Projects currently range from no notification to 7, 10, 14 and 15 days prior to the meeting. In addition, the types of notification have been broken into very clear explanations, and what is expected for each type in order to proceed forward in the review process. This is to combat the complaints staff and the Planning Commission receive that written notices sometimes are not at all informative. In perhaps the biggest change to the ordinance, staff is recommending that applicants post their own notification signs on their sites. Planning Staff would still prepare the signs for posting, after receiving the application, and notify the applicant when the signs are ready to be posted. Applicants would post the sign on the site, take a photo, and provide a signed Certificate of Sign Posting to the Planning office in the time specified. Staff

can still investigate missing or downed signs as necessary, but this would reduce the amount of City staff time in the field, driving to each site to erect the sign, and place the responsibility back on the property owner/applicant for whom the application is being processed. Staff has researched multiple cities which utilize a similar system, and it typically operates very smoothly.

Ch. 164.11 Exceptions to Height Regulations and Side Setbacks

In a previous re-codification of the entire Unified Development Code (2003), a code section regarding side setbacks for townhome development was inadvertently placed in the Notification Chapter. In adopting an entirely new chapter, this section, which is still utilized, must be placed elsewhere. Staff recommends the amended language be placed under Ch. 164.11, which gives similar exceptions to code restrictions, as appropriate. Some of the language contained within this section has been removed, as it is superfluous.

Staff finds the re-adoption of the Notification chapter will hopefully result in more consistency of notifying the public, a stream-lined approach for applicants, and reduced staff time and resources dedicated to in-the-field operations for an applicant's proposal.

DISCUSSION

The Planning Commission voted 8-0-0 in favor of this request on September 22, 2008. Staff finds the re-adoption of the Notification chapter will hopefully result in more consistency of notifying the public, a stream-lined approach for applicants, and reduced staff time and resources dedicated to in-the-field operations for an applicant's proposal.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE BY REPEALING AND REPLACING CHAPTER 157: NOTIFICATION, TO CONSOLIDATE AND CLARIFY REQUIRED NOTIFICATION FOR ITEMS BEING CONSIDERED AT CERTAIN PUBLIC MEETINGS.

WHEREAS, the City of Fayetteville encourages an informed public citizenry regarding actions being taken by various boards and committees throughout municipal government; and

WHEREAS, Chapter 157 of the Unified Development Code outlines the manner in which notification is required for certain public meetings such as the Planning Commission, Subdivision Committee and Board of Adjustment; and

WHEREAS, the existing code can be greatly improved by consolidating the various and different timeframes and methods of notification to achieve a more efficient, effective and consistent means of notification; and

WHEREAS, the improvements will streamline and clarify the requirements for applicants while ensuring appropriate interested citizens are notified with ample time and information of pending decisions;

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 Unified Development Code Chapter 157: Notification, as shown as "Exhibit A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 157 NOTIFICATION AND PUBLIC HEARINGS**

157.01 GENERAL REQUIREMENTS/ INFORMATION	3
157.02 DEVELOPMENT	4
157.03 ANNEXATION AND ZONING MAP AMENDMENTS	5
157.04 PLANNED ZONING DISTRICT	5
157.05 CONDITIONAL USE PERMIT	6
157.06 VACATIONS OF RIGHTS-OF-WAY AND EASEMENTS	6
157.07 BOARD OF ADJUSTMENT	6
157.08 UNIFIED DEVELOPMENT CODE	7
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DRAFT

CHAPTER 157: NOTIFICATION AND PUBLIC HEARINGS

157.01 General Requirements/ Information

(A) *Purpose.* Notification is to be provided for public hearings in accordance with the requirements herein. The purpose of providing notification of public hearings is to ensure that all applications comply with state statutes and that affected or interested property owners are notified of the action being considered.

(1) The applicant shall be responsible for public notification as required herein. In calculating the time period for public notification the day of publishing, posting, or mailing shall be counted toward the total number of days required. The day of the hearing shall not be counted toward this total.

(2) The degree of accuracy required for the information contained in these public notices shall be that of substantial compliance with the provisions of this section. Substantial compliance for these public notices shall be determined by the Zoning and Development Administrator.

(3) In the event the applicant does not provide notice as required herein, the requested application may not be considered until all notification requirements are met.

(B) *Written Notice.* Notice shall include the following information, unless specific requirements herein provide otherwise:

(1) The applicant shall mail a written notice of the hearing by first-class mail to the address of each adjacent landowner as such address is shown in the records of the Washington County Assessor's Office. Adjacent landowners include those across street rights-of-way, excluding interstates.

(2) Notice shall include the following information, unless specific requirements herein provide otherwise:

(a) *Project description.* Brief written description of the project or request, project type, and location.

(b) *Use.* The proposed use of the property.

(c) *Zoning.* Current zoning.

(d) *Size.* Acreage of project.

(e) *Density/Intensity.* Include number of residential units and/or square feet of nonresidential use(s), as applicable.

(f) *Public hearing.* Time, date, place, and location of public hearing.

(g) *Name.* The property owner's and/or the developer's name.

(h) *Review location.* City of Fayetteville Planning Division, 479-575-8267, 125 W. Mountain Street, Fayetteville, AR 72701 Monday-Friday 8AM-5PM.

(3) By the revision submittal prior to the hearing, the applicant shall provide the following to the Planning Division:

(a) alphabetical list of the landowners receiving notification;

(b) map showing the landowners' relationship to the site;

(c) copy of the notice sent to the landowners; and

(d) certificates of mailing.

(4) The person completing the mailing of the written notice shall provide a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20____, and addressed as follows:

(list of addresses)

(signature of person completing the mailing)

(5) In the event that the applicant fails to mail a notice to an adjacent landowner or otherwise fails to comply with the written notice required in this section, the adjacent landowner may waive such notice by submitting a written waiver to the Planning Division prior to the hearing or by appearing at the hearing.

(C) *Posted Notice.* The applicant shall post a notice on the land for which the use is requested.

(1) The notice shall consist of at least one (1) sign adjacent to the street, unless otherwise

Fayetteville Code of Ordinances

determined by the Planning Division. The sign shall be placed in a visibly prominent location no more than ten (10) feet from the street, and shall not impede the vision of drivers or pedestrians.

- (2) In the event the staff planner determines a sign cannot be placed adjacent to such street and be visible to the public or that there is no adjacent public or private street open for travel, the staff planner may require an alternate location for a sign.
- (3) Additional signs may be required by the staff planner, especially in the case of properties with multiple street frontages, to ensure nearby property owners are well-informed.
- (4) Signs shall be made available to the applicant by the Planning Division. A \$5 fee per sign shall be remitted by the applicant.
- (5) By the revision submittal prior to the hearing, the applicant shall submit a certificate of sign posting to the Planning Division. The sign(s) shall be photographed by the applicant and attached to the certificate as follows:

CERTIFICATE OF SIGN POSTING
(attach photo here)
(sign lettering must be legible in photo)
I, (applicant/representative/person posting sign), attest that the above sign was posted on (date) adjacent to (name of street). _____ (signature)
File No./Name: _____
(signature of person completing the sign posting)

- (6) The Planning Division will be responsible for retrieval of signs after the hearing; if a hearing is postponed, the applicant will be notified when a new sign has been created. The applicant shall then be responsible for posting the new date of the hearing in accordance with the criteria herein.
- (D) *Who may be heard.* Any person desiring to be heard at a public hearing may appear in person, by agent, or by attorney.
- (E) *Additional notification required.* In the event a project is tabled and a date for the new public hearing is not set at a public meeting, all

notification requirements shall again be required pursuant to Chapter 157.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

157.02 Development

Notification of public hearings for development applications shall occur as follows:

- (A) *Public hearing required.* A public hearing shall be held at the meeting of the Subdivision Committee and/or Planning Commission, in accordance with the Unified Development Code the established bylaws of the Planning Commission.

- (B) *Applicability:* Development applications include, for the purpose of notification, lot splits, preliminary plats, final plats, concurrent plats, and large scale developments. If an application does not require a public hearing, notification is not required.

- (C) *Notice of public hearing.* The applicant shall provide the following notice:

- (1) *Who gets notice.* Notice of the proposed development shall be given to all adjacent landowners.

- (2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

- (a) *Written notice.* Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

- (b) *Posted Notice.* The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(Code 1965, App. C., Art. IV, §1; App. A., Arts. 5, 5(IIA), 8(12), 12(1); App. C., Art. V, §F; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 1903, 3-6-73; Ord. No. 2379, 9-20-77; Ord. No. 2538, 7-3-79; Ord. No. 2582, 12-4-79; Ord. No. 2603, 2-19-80; Ord. No. 2633, 5-20-80; Ord. No. 2710, 3-24-81; Ord. No. 2779, 11-17-81; Ord. No. 2980, 2-7-84; Ord. No. 3128, 10-1-85; Ord. No. 1747, 6-29-70; Code 1991, §§159.54, 159.68, 160.032, 160.035, 160.121(L), (M), 160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §§6, 7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

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157.03 Annexation and Zoning Map Amendments

Notification of public hearings for annexation petitions and zoning map amendments shall occur as follows:

(A) *Public hearing required.* Upon receipt of a petition for an annexation or an amendment to the zoning map, the Planning Commission shall hold a public hearing on the proposed amendment.

(B) *Notice of public hearing.* The applicant shall provide the following notice:

(1) *Who gets notice.* Notice of the proposed annexation or zoning map amendment shall be given to all adjacent landowners.

(2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

(a) *Written notice.* Written notice shall be provided at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(b) *Posted Notice.* The applicant shall post notice at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(c) *Published Notice.* Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time at least fourteen (14) days prior to Planning Commission.

157.04 Planned Zoning District

Notification of public hearings for planned zoning district applications shall occur as follows:

(A) *Public hearing required.* A public hearing shall be held at the meeting of the Subdivision Committee and the Planning Commission at which the Planned Zoning District is to be considered, or as set forth in the procedures of the Planned Zoning District ordinance.

(B) *Notice of public hearing.* The applicant shall provide the following notice:

(1) *Who gets notice.* Notice of the proposed PZD shall be given by the applicant to all landowners within 100 feet of the perimeter of a PZD.

(2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

(a) *Written notice.* Written notice shall be provided at least seven (7) days prior to Subdivision Committee and at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(b) *Posted Notice.* The applicant shall post notice at least seven (7) days prior to Subdivision Committee and at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(c) *Published Notice.* Notice of public hearing shall be given by the city by publishing a notice in a newspaper of general circulation in the city, at least one time, at least fourteen (14) days prior to Planning Commission.

(C) *Planned Zoning District applications that are not considered at the Subdivision Committee are not required to provide notice for that meeting.*

157.05 Conditional Use Permit

Notification of public hearings for conditional use permits shall occur as follows:

(A) *Public hearing required.* A public hearing shall be held by the Planning Commission for consideration of a conditional use permit.

(B) *Notice of public hearing.* The applicant shall provide the following notice:

(1) *Who gets notice.* Notice of the proposed conditional use permit shall be given to all adjacent landowners.

(2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

(a) *Written notice.* Written notice shall be provided at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(b) *Posted Notice.* The applicant shall post notice at least fourteen (14) days prior to the Planning Commission meeting. Proof of notice shall be provided as required by this chapter.

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(C) *Special Uses.* The following conditional use permits require more stringent notification. Applicants applying for consideration of the following uses must meet the following additional notification criteria:

(1) *Dance halls; Facilities emitting odors and facilities handling explosives; wireless communication facilities; carnival, circus, amusement park or similar temporary open-air enterprise; manufactured and mobile homes; outdoor music establishments; sexually oriented business;*

(a) *Who gets notice.* All landowners within 500 feet of the boundary line of the property on which the use is proposed.

(Code 1965, App. A., Art. 7(10), (20); Ord. No. 1747, 6-29-70; Ord. No. 1880, 8-15-72; Ord. No. 2486, 11-21-78; Ord. No. 2605, 2-19-80; Code 1991, §§160.085, 160.090, 160.095, 160.096; Ord. No. 3716, §3, 6-15-93; Ord. No. 3780, §1, 4-19-94; Ord. No. 4100, § 2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

157.06 Vacations of Rights-Of-Way And Easements

(A) *Public hearing required.* The City Council shall hold a public hearing, after receiving a recommendation by the Planning Commission on applications requesting vacation of rights-of-way or easements.

(B) *Notice of public hearing.* The applicant shall provide the following notice:

(1) *Who gets notice.* Notice of the proposed vacation shall be given by the applicant to all persons owning property adjacent to a utility easement and all property owners adjacent to or within the same block as a public right-of-way. Adjoining property notification forms with responses shall be submitted to the Planning Division with the vacation application.

(2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

(a) *Written notice.* Written notice shall be provided at least fourteen (14) days prior to the Planning Commission meeting. Proof of notice shall be provided as required by this chapter.

(b) *Posted Notice.* The applicant shall post notice at least fourteen (14) days prior to Planning Commission. Proof of notice shall be provided as required by this chapter.

(c) *Published Notice.* Notice of the City Council hearing shall be published, by the City Clerk, in a newspaper of general circulation in the city prior to the City Council hearing.

(Code 1965, § 18-15; Ord. No. 1685, 7-7-69; Ord. No. 1898, 1-16-73; Code 1991, §98.13; Ord. No. 3925, §1, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No 1779, 2-01-71)

Cross reference(s)—Streets and Sidewalks, Ch. 171.

157.07 Board of Adjustment

Notification of public hearings for zoning variances and appeals shall occur as follows:

(A) *Public hearing required.* Upon receipt of a petition for a variance or appeal of staff decisions/interpretations concerning Zoning, Chapters 160 through 165, the Board of Adjustment shall hold a public hearing.

(B) *Notice of public hearing.* The applicant shall provide the following notice:

(1) *Who gets notice.* Notice of the proposed variance or appeal shall be given to all adjacent landowners.

(2) *Methods of notice.* Notice shall be provided by the following methods, as required by this chapter:

(a) *Written notice.* Written notice shall be provided at least seven (7) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.

(b) *Posted Notice.* The applicant shall post notice at least seven (7) days prior to the meeting of the Board of Adjustment. Proof of notice shall be provided as required by this chapter.

(3) *Airport zone.* The City shall publish the variance or appeal request in a local newspaper of general circulation in the city at least 15 days prior to the public hearing.

(Code 1965, App. A., Art. 10(2); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §§160.172, 162.03; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Ex. A.), 6-16-98.

Cross reference(s)—Appeals, Ch. 155.

157.08 Unified Development Code

Amendments. Amendments to the Unified Development Code shall follow the procedures established by Ch. 154: Amendments, of the Unified

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Development Code, and require a public meeting by the City Council. All notification shall follow applicable state statutes and city ordinances.

157.11-157.99 Reserved

**157.09 Manufactured Homes And
Manufactured Home Parks**

- (A) Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provision of Chapter 175, or any regulation adopted pursuant thereto, he/she shall give notice of such alleged violation to the owner of the park and to the person to whom the operator's permit was issued, as hereinafter provided.
- (B) Such notice shall:
- (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time for the performance of any act it required;
 - (4) Be served upon the owner and the operator provided, that such notice or order shall be deemed to have been properly served upon such owner or operator when a copy thereof has been sent by certified mail to their last known address, or when they have been served with such notice by any other method authorized or required by the laws of the state; and,
 - (5) Contain an outline of remedial action which if taken will effect compliance with the provisions of Chapter 175 and with regulation adopted pursuant thereto.

(Code 1965, §13B-13; Ord. No. 859, 3-20-72; Code 1991, §156.07; Ord. No. 4100, §2 (Ex. A), 6-16-98)

Cross reference(s)—Manufactured homes and Manufactured home Parks, Ch. 175, §163.22.

157.10 Fire Prevention Code

Blasting. In addition to the requirements and regulations provided in the Fire Prevention Code, the applicant for a blasting permit shall notify all residential property owners located within 200 yards of a blasting site. Notification may be personal contact, or by written notice left at the residence and shall contain the dates of any blasting activity.

(Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4125, 11-17-98)

Cross reference(s)—Fire Prevention Code/Building Code, § 173.02.

TITLE XV UNIFIED DEVELOPMENT CODE
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EXISTING

TITLE XV UNIFIED DEVELOPMENT CODE

CHAPTER 157: NOTIFICATION AND PUBLIC HEARINGS

157.01 General Requirements/ Information

(A) *Notice.* Notice shall include the following information, unless specific requirements herein provide otherwise:

- (1) *Project description.* Description of the project or request.
- (2) *Use.* The use of the property.
- (3) *Zoning.* Current zoning.
- (4) *Acreage.* Acreage of project.
- (5) *Public hearing.* Time, date, place, and location of public hearing.
- (6) *Name.* The property owner's and/or the developer's name.
- (7) *Review location.* Phone number, address, project name and information on where the file may be reviewed.

(B) *Assessment records.* Property owners shall be identified from the assessment records available at the Washington County Assessor's office on the date an application is submitted for processing.

(C) *Who may be heard.* Any person desiring to be heard at a public hearing may appear in person, by agent, or by attorney.

(Ord. No. 4100, §2 (Ex. A), 6-16-98)

157.02 Development

(A) *Large Scale Development (LSD)/Subdivision.* The following requirements shall apply to large scale developments and subdivisions.

(1) *Public hearing required.* A public hearing shall be held at the meeting of the Subdivision Committee at which the development plan is to be considered.

(2) *Notice of public hearing - developer.* Prior to a public hearing being held, the developer shall provide the following notice:

- (a) *Who gets notice.* Notice of the proposed development shall be given to owners of any property having a common boundary with, and a different zoning classification than the property proposed for development, no later than

seven (7) calendar days prior to the public hearing.

(b) *Methods of notice.* Notice shall be by one of the following methods:

(i) *Mail.* Certified mail, return receipt requested, to at least one of the recorded owners of a property;

(ii) *Publish.* Publish notice in the legal notice section of a newspaper of general circulation within the city.

(iii) *Signatures.* Obtaining signatures of at least one of the record owners of a property on a copy of the proposed large scale development plan.

(3) *Proof of notice.* At least seven (7) days prior to the Subdivision Committee meeting at which approval of the large scale development plans will be considered, the applicant shall file one of the following with the Planning Division.

(a) *Receipts.* Return receipts from the mailing and copy of the notice.

(b) *Proof of publication.* Proof of publication.

(c) *Plan or plat.* Signed and dated large scale development plan or subdivision plat.

(B) *Planned Zoning Districts.* The following requirements shall apply to planned zoning districts:

(1) *Public hearing required.* A public hearing shall be held at the meeting of the Subdivision Committee and the Planning Commission at which the Planned Zoning District will be considered.

(2) *Notice of public hearing - developer.*

(a) *Who gets notice.* Notice of the proposed PZD shall be given by the developer to all persons owning property within 100 feet of the perimeter of a PZD at least 10 days prior to the meeting at which the Subdivision Committee and Planning Commission are to review the development plan.

(b) *Methods of notice.* Notice shall be by one of the following methods:

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- (i) *Personal.* Personal contact, or
 - (ii) *Mail.* Certified mail, return receipt requested.
- (3) *Notice of public hearing - city.* Notice of public hearing shall be given by the city in both of the following manners:
- (a) *Publish.* Publish notice in a newspaper of general circulation in the city at least one time;
 - (b) *Signs.* Posting a sign or signs, each 18 inches high by 24 inches wide, at conspicuous places in the area involved, 15 days prior to the date of the public hearing.
- (4) *Proof of notice.* On or before the day the Subdivision Committee and Planning Commission reviews the development plan, the applicant shall file one of the following with the planning office:
- (a) *Receipts.* Return receipts from the mailing and copy of the notice;
 - (b) *Contact.* Proof showing personal contact.
- (C) *Subdivision regulations.* The following requirements shall apply to the subdivisions:
- (1) *Public hearing required.* On any proposed amendments to the subdivision regulations, the Planning Commission shall hold a public hearing.
- (D) *Side setbacks.*
- (1) Internal side setbacks may be varied on one side to permit zero lot line development, provided the side setback opposite the zero lot line is at least 15 feet. On the periphery of the development no structure shall be placed closer than eight (8) feet to the side property line. The intent is to allow freedom of design within development, but not to affect future structure placement on adjoining property.
 - (2) Side setbacks may be varied to permit common walls between townhouses. There shall be no specific requirements as to minimum lot width, lot area, or minimum area per dwelling unit for townhouses or condominiums; but townhouses and condominiums shall conform to the district densities, setback requirements, height regulations, parking and access

requirements, and all other applicable city ordinances.

Cross reference(s)—Amended by majority of City Council without first going to the Planning Commission, §154.01.

- (3) *Notice of public hearing - city.* Prior to public hearing being held, the city shall provide the following notice:

- (a) *When.* Notice of the public hearing shall be given 15 days in advance of the public hearing.
- (b) *Method of notice.* Notice shall be by publishing in a local newspaper of general distribution.

(Code 1965, App. C., Art. IV, §1, App. A., Arts. 5, 5(IIA), 8(12), 12(1); App. C., Art. V, §F; Ord. No. 1747, 6-29-70; Ord. No. 1750, 7-6-70; Ord. No. 1903, 3-6-73; Ord. No. 2379, 9-20-77; Ord. No. 2538, 7-3-79; Ord. No. 2582, 12-4-79; Ord. No. 2603, 2-19-80; Ord. No. 2633, 5-20-80; Ord. No. 2710, 3-24-81; Ord. No. 2779, 11-17-81; Ord. No. 2980, 2-7-84; Ord. No. 3128, 10-1-85; Ord. No. 1747, 6-29-70; Code 991, §§159.54, 159.68, 160.032, 160.035, 160.121(L), (M), 160.156; Ord. No. 2716, §1, 6-15-93; Ord. No. 3925, §§6, 7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

157.03 Zoning

- (A) *Zoning map amendments (rezoning) / Planning Commission.*

- (1) *Public hearing.* Upon receipt of a petition for an amendment to the zoning map, the Planning Commission shall hold a public hearing on the proposed amendment.
- (2) *Notice of public hearing - city.* Notice of public hearing shall be given by the city in both of the following manners:

- (a) *Publish.* Publish notice in a newspaper of general circulation in the city at least one time 15 days prior to the public hearing.
- (b) *Sign.* Posting a sign or signs, each 18 inches high by 24 inches wide, at conspicuous places in the area involved, 15 days prior to the date of the public hearing.

- (B) *Variances/Board of Adjustment.*

- (1) *Public Hearing.* Upon receipt of a petition for a variance, the Board of Adjustment shall hold a public hearing on the requested variance.

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(2) *Notice of public hearing - city.* Notice of public hearing shall be given by the city using the following methods:

- (a) *Sign.* A sign 18 inches high and 24 inches wide shall be placed upon the property seven days before the date of the public hearing.
- (b) *Other notice.* The Board of Adjustment shall also give notice of such hearing to interested persons and organizations as it deems feasible and practicable.

(Code 1965, App. A., Art. 12(1); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §160.156; Ord. No. 3716, §1, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98)

157.04 Conditional Uses

(A) *Public hearing.* A public hearing shall be held by the Planning Commission for consideration of a conditional use.

(B) *Notice of public hearing - city.* Prior to a public hearing, the city shall give notice as follows:

Sign. Upon receipt of the application, a sign, at least 18 inches high and 24 inches wide, shall be posted in a conspicuous place and shall state the date, time, and conditional use to be considered.

(C) *Notice of public hearing - applicant.* Prior to a public hearing, the applicant for a conditional use shall give notice as follows:

(1) *Dance halls.*

(a) *Who gets notice.* All owners of properties within 500 feet of the boundary line of the property on which the dance hall facility is proposed.

(b) *When.* At least 10 days before the public hearing.

(c) *Methods of notice.* Method of notice shall be in one of the following manners:

(i) *Mail.* Certified mail, return receipt requested; and/or,

(ii) *Signatures.* Site plan drawing showing the property lines, structures on the property, driveways and parking spaces, together with a brief written explanation of the proposed use, circulated among the property owners and signed by each property owner.

(2) *Bed and breakfasts.*

(a) *Who gets notice.* All owners of property within 500 feet of the boundary of the property on which the bed and breakfast facility is proposed.

(b) *When.* At least 10 days before the public hearing.

(c) *Methods of notice.* Method of notice shall be in one of the following manners:

(i) *Mail.* Certified mail, return receipt requested; and/or,

(ii) *Signatures.* Site plan drawing showing the property lines, structures on the property, driveways and parking spaces, together with a brief written explanation of the proposed use, circulated among and sign by each property owner.

(3) *Home occupations.*

(a) *Who gets notice.* The owners of any dwelling unit located in an RSF-4 District within 500 feet of any boundary line of the property on which the home occupation is proposed.

(b) *When.* At least seven (7) days prior to the public hearing.

(c) *Methods of notice.* Method of notice shall be in one of the following manners:

(i) *Mail.* Certified mail, return receipt requested.

(ii) *Publish.* Publication in a newspaper of general circulation with the city. Notice shall not be published in the legal notice section and shall not be less than two (2) columns wide by three (3) inches high.

(iii) *Signatures.* Obtaining the signature of at least one owner of each dwelling unit on a written notice.

(4) *Duplex uses in RSF-4, Residential Districts.*

(a) *Who gets notice.* The adjoining property owners.

(b) *When.* At least 10 days prior to the public hearing.

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- (c) *Method of notice.* Method of notice shall be certified mail, return receipt requested, to the property owner's last known address.
- (5) *Facilities emitting odors and facilities handling explosives.*
- (a) *Who gets notice.* All owners of property within 500 feet of boundary line of the property intended to contain the use.
- (b) *When.* At least 10 days prior to the public hearing.
- (c) *Methods of notice.*
- (i) *Mail.* Certified mail, return receipt requested, to the property owner's last known address.
- (ii) *Publish.* Publication in a newspaper of general circulation within the city.
- (6) *Wireless communications facilities.*

- (a) *Who gets notice.* Applicants requesting permits for new towers shall notify property owners within 500 feet radius from the center of the tower; applicants requesting permits for co-location shall not require notification.
- (b) *Method of notice.* Notification shall be certified mail for adjoining property owners, including across streets and regular mail for the remaining property owners within the notification area.

- (C) *Proof of notice.* Prior to the public hearing, the following, if required, shall be filed with the Planning Division:

- (1) *Receipts.* Return receipts.
- (2) *Plan.* Site plan/drawings.
- (3) *Proof of publication.* Proof of publication.
- (4) *Notices.* Signed notices.

(Code 1965, App. A., Art. 7(10), (20); Ord. No. 1747, 6-29-70; Ord. No. 1880, 8-15-72; Ord. No. 2486, 11-21-78; Ord. No. 2605, 2-19-80; Code 1991, §§160.085, 160.090, 160.095, 160.096; Ord. No. 3716, §3, 6-15-93; Ord. No. 3780, §1, 4-19-94; Ord. No. 4100, § 2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

157.05 Vacations Of Streets, Alleys, Rights-Of-Way, And Easements

- (A) *Public hearing required.* The City Council shall hold a public hearing, after receiving a recommendation by the Planning Commission, on applications requesting vacation of streets, alleys, rights-of-way, and easements.
- (B) *Notice of public hearing.* Notice of public hearing shall be published, by the City Clerk, in a newspaper of general circulation in the city prior to the public hearing.
- (C) *Exception.* No recommendation from the Planning Commission nor publication before the City Council's public hearing shall be required if the City Council finds the following by a vote of at least two-thirds of its members and the Mayor:
- (1) The street, alley, or right-of-way to be vacated has not been constructed or has not been used by the public for at least five years or the easement does not contain any utilities within the area to be vacated; and
- (2) Special circumstances exist which require prompt consideration of the vacation request and justify the bypass of the Planning Commission and special publication of the notice for the public hearing.

(Code 1965, § 18-15; Ord. No. 1685, 7-7-69; Ord. No. 1898, 1-16-73; Code 1991, §98.13; Ord. No. 3925, §1, 10-3-95; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 1779, 2-01-71; Ord. 5127, 4-1-08)

Cross reference(s)—Streets and Sidewalks, Ch. 171.

157.06 Appeals Of Staff Decisions/ Interpretations—Board Of Adjustment

- (A) *Public hearing required.* The Board of Adjustments shall hold a public hearing on appeals of staff decisions/interpretations concerning Zoning, Chapters 160 through 165.
- (B) *Notice of public hearing.*
- (1) *Zoning regulations.* The Board of Adjustment shall give the following notice of appeals of zoning regulations.
- (a) *Who gets notice.* Due notice to the parties in interest.
- (b) *When.* Seven (7) day's public notice.
- (2) *Airport zone.* The Board of Adjustment shall publish in a local newspaper of general circulation in the city at least 15 days prior to the public hearing.

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- (C) *Sign.* A sign 18 inches high and 24 inches wide shall be placed upon property seven (7) days before the date of the public hearing.
- (D) *City Council.* The City Council shall also give notice of such hearing to interested persons and organizations as it deems feasible and practical.

(Code 1965, App. A., Art. 10(2); Ord. No. 1747, 6-29-70; Ord. No. 2538, 7-3-79; Code 1991, §§160.172, 162.03; Ord. No. 3699, §3, 4-20-93; Ord. No. 3716, §2, 6-15-93; Ord. No. 3925, §7, 10-3-95; Ord. No. 3901, §1, 7-5-95; Ord. No. 3963, §9, 4-16-96; Ord. No. 4100, §2 (Ex. A.), 6-16-98.

Cross reference(s)—Appeals, Ch. 155.

157.07 Manufactured Homes And Manufactured Home Parks

- (A) Whenever the enforcement officer determines that there are reasonable grounds to believe that there has been a violation of any provision of Chapter 175, or any regulation adopted pursuant thereto, he/she shall give notice of such alleged violation to the owner of the park and to the person to whom the operator's permit was issued, as hereinafter provided.
- (B) Such notice shall:
- (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time for the performance of any act it required;
 - (4) Be served upon the owner and the operator; provided, that such notice or order shall be deemed to have been properly served upon such owner or operator when a copy thereof has been sent by certified mail to their last known address, or when they have been served with such notice by any other method authorized or required by the laws of the state; and
 - (5) Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of Chapter 175 and with regulation adopted pursuant thereto.

(Code 1965, §13B-13; Ord. No. 1859, 3-20-72; Code 1991, §156.077; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

Cross reference(s)—Manufactured homes and Manufactured home Parks, Ch. 175, §163.22.

157.08 Fire Prevention Code

Blasting. In addition to the requirements and regulations provided in the Fire Prevention Code, the

applicant for a blasting permit shall notify all residential property owners located within 200 yards of a blasting site. Notification may be personal contact, or by written notice left at the residence and shall contain the dates of any blasting activity.

(Ord. No. 4100, §2 (Ex. A.), 6-16-98; Ord. No. 4125, 11-17-98)

Cross reference(s)—Fire Prevention Code/Building Code, § 173.02.

157.09 Sign Appeal

- (3) *Public Hearing.* Upon receipt of a petition for a sign appeal, the Board of Sign Appeals shall hold a public hearing on the requested appeal.
- (4) *Notice of public hearing—city.* Notice of public hearing shall be given by the city using the following methods:
- (a) *Sign.* A sign 18 inches high and 24 inches wide shall be placed upon the property seven days before the date of the public hearing.
 - (b) *Other notice.* The Board of Sign Appeals shall also give notice of such hearing to interested persons and organizations as it deems feasible and practicable.

157.10-157.99 Reserved

ADM 08-3021: (UDC CHAPTER 157, NOTIFICATIONS): Submitted by Planning Staff, an amendment to the Unified Development Code, Chapter 157, Notification, to create consistency in City and applicant notification requirements for all projects, and proposing several amendments.

Jeremy Pate, Director of Current Planning, gave the staff report. Planning Commission meetings require public notification for certain development items. For subdivision committee (SC) and planning commission (PC) meetings, some items require 7 days, some 10, some 15, etc. We are trying to simplify this and create the same time frame, 7 days prior to SC, 14 days prior to PC, which is the minimum timeframe. Three types of notification are required in the current ordinance: (1) written notification (project description, date and time of the meeting, contact info); (2) posted notification (red sign placed near the project), and (3) published notification (only the City publishes in the newspaper). The goal is to make notification requirements more consistent. The biggest change in the ordinance is that staff is proposing the applicant post their own signs instead of city staff. This change will save the city time and money. The applicant will pick up the sign with their revision submittal, post it on site, take a photograph, and sign a certificate of posting. Staff may perform spot checks. Another thing we have done is in the UDC chapter for Notifications, there was a section about side setbacks that had no place there; it has been removed and added to chapter 164 as appropriate.

Commissioner Trumbo invited public comment.

No public comment was received.

Commissioner Anthes asked about 157.10, Fire Protection Code, about notifications for blasting. The Code currently requires applicants to notify residential property owners located within 200 yards of the site when for applying for a blasting permit, but does this mean they are not required to notify commercial property owners?

Pate stated that since Planning does not use the Fire Prevention Code, they have not proposed to alter it.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation for approval. **Commissioner Winston** seconded the motion.

Upon roll call the motion passed with a vote of 8-0-0.

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

10/7/2008

City Council Meeting Date

Ron Petrie

Submitted By

Engineering

Division

Operations

Department

Action Required:

An ordinance amending Chapter 158: Bonds and Guarantees of the City Unified Development Code (Title XV) in order to in order to accept a guarantee to satisfy the maintenance requirements for public improvements.

N/A

Cost of this request

N/A

Category / Project Budget

N/A

Program Category / Project Name

N/A

Account Number

N/A

Funds Used to Date

N/A

Program / Project Category Name

N/A

Project Number

N/A

Remaining Balance

N/A

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

Harry D. [Signature]
Department Director

9.19.08
Date

[Signature]
City Attorney

9/23/08
Date

Paul A. Baker
Finance and Internal Service Director

9-23-08
Date

[Signature]
Mayor

9/23/08
Date

Received in City Clerk's Office

9-19-08 [Signature]

ENTERED

Received in Mayor's Office

ENTERED

9/23/08
[Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Ron Petrie, City Engineer *RP*

Date: September 17, 2008

Subject: An ordinance amending Chapter 158: Bonds and Guarantees of the City Unified Development Code (Title XV) in order to accept a guarantee to satisfy the maintenance requirements for public improvements.

RECOMMENDATION:

The staff recommends approval of this ordinance to amend Chapter 158 of the City Unified Development Code in order to in order to accept a guarantee to satisfy the maintenance requirements for public improvements.

BACKGROUND:

The City code currently requires all developers that install public improvements (water, sewer, streets, and drainage) to provide a maintenance bond for a period of two (2) years in the amount 25% of the cost of the installation upon acceptance by the City.

DISCUSSION:

Currently the UDC allows for a developer of a subdivision to guarantee installation of final pavement, sidewalks and tree replacements if all other required improvements are substantially completed. These guarantees are accepted as a cash deposit, a bond or an irrevocable letter of credit. In addition, for a Large Scale Development, a developer is allowed to guarantee all required improvements in order to have the building permits issued for the development. Again, these guarantees are accepted as a cash deposit, a bond or an irrevocable letter of credit.

After all improvements are complete and approved, the UDC currently requires a maintenance bond to be provided for all public improvements. This bond is for a period of two (2) years in the amount 25% of the cost of the installation. In order to be more consistent city staff recommends that the code be changed to allow additional methods for guaranteeing the public improvements during the warranty period. It is recommended that the language of Section 158.03(A) be changed to replace the words maintenance bond with guarantee. By making this change, it will allow the City to accept a cash

deposit, a bond or an irrevocable letter of credit as a guarantee for the two year warranty period.

BUDGET IMPACT:

This City Council item will have no impact on the budget.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 158: BONDS AND GUARANTEES, OF THE UNIFIED DEVELOPMENT CODE, TO ACCEPT A GUARANTEE TO SATISFY THE MAINTENANCE REQUIREMENTS FOR PUBLIC IMPROVEMENTS.

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

Section 1. That §158.03 of the Unified Development Code is hereby repealed, and the language found in Exhibit "A," attached hereto and made a part hereof, is inserted in its stead.

PASSED and APPROVED this 7th day of October, 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

EXHIBIT "A"

158.03 Maintenance

- (A) *Installed improvements.* An acceptable guarantee shall be provided in the amount of 25% of the total contract price of the public improvements including water, sewer, streets, and the stormwater management drainage system against defects in workmanship and materials for a period of two years from the date of acceptance of such improvements. The guarantee shall be filed with the City Engineer prior to the acceptance of the improvements by the City. A walk-through shall be performed at the end of the two-year period and all deficiencies corrected prior to the release of the bond.
- (B) *Erosion and sediment control.* For developments in excess of five (5) acres, an acceptable guarantee shall be provided at the time of the issuance of the drainage permit in the amount of 100% of the total cost to install the approved erosion & sediment control plan to insure the continuation of the proper maintenance of the plan. The guarantee shall remain in place until permanent stabilization has been achieved for the development site.

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning ✂

Date: September 19, 2008

Subject: UDC Ch. 16.04 Animals & Fowl (ADM 08-3094)

RECOMMENDATION

Staff and the Planning Commission recommend approval of an ordinance amendment to Ch. 164 of the Unified Development Code, Animals and Fowl, to permit a property owner to keep a maximum of four chickens (hens) within residential districts of the City, subject to the restrictions listed.

BACKGROUND

The City of Fayetteville's zoning regulations do not currently permit typical barnyard, livestock or farm animals to be kept within the municipal limits, unless the property is zoned R-A, Residential Agricultural. The reason for this regulation is typically associated with nuisances that come about from often intense farming or livestock operations: odor, noise, sanitary conditions, etc. Staff has investigated numerous violations regarding various animals within the City over the years, including horses, cows, chickens, ducks, pigs, rabbits and other such animals. Staff recently discussed with a City Council member a violation of a citizen who was raising hens in her back yard. After explaining the ordinance requirement, we were asked to draft an ordinance to present to the Planning Commission and City Council to permit chickens within the city limits, subject to certain restrictions. After some research into various other municipalities across the country, it became apparent that this was an issue that has been raised in hundreds of cities in the nation, with many ordinances being re-drafted to allow the raising of chickens, which can be a low-impact, sustainable source of income or food. Presented to the Council is a draft of an ordinance that pulls information from several of these cities, and adapted to fit Fayetteville.

The proposal is to amend the current Ch. 164.04, Animals and Fowl, of the Unified Development Code, to permit up to four hens to be raised in all residential districts of the City, provided the use on the property is a single family residence. Other stipulations include:

- None allowed in 2F, 3F or MF complexes (issues of sanitary conditions, density, etc.)
- No more than four hens (cities vary from 3 to 25, or sometimes base it on lot size; staff chose to keep it at a low number, to allow both large and small lots this use)
- No roosters (to reduce noise issues)
- No slaughtering of animals outside
- All hens must be kept in a secure enclosure; when the owner is present, they may be let out of the enclosure, as long as the yard is fenced
- Must be kept in side or rear yard – no front yard use
- The enclosure must be kept 40 feet from any residential structure on adjacent lots and must meet building setbacks

- Must be kept neat and sanitary at all times
- Not applicable to R-A districts

A list of cities with similar ordinances includes:

- Portland, OR
- Spokane, WA
- Little Rock AR
- Seattle, WA
- Round Rock, TX
- Burlington, VT
- San Antonio, TX
- Anaheim, CA
- Madison, WI
- St. Louis, MO
- Louisville, KY
- Boise, ID

DISCUSSION

The Planning Commission voted 6-2-0 (Kennedy and Graves voting 'No') in favor of this request on September 22, 2008. An amendment was made to increase the distance from the enclosure and adjacent residential structures from 25 feet to 40 feet. Staff finds the permission of a maximum of four hens within the city limits in residential districts, with the provisions suggested in the ordinance, will contribute to a more sustainable and local lifestyle and will not detract from nor reduce the comfortable enjoyment of life or property by other members of the city.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE BY REPEALING AND REPLACING CHAPTER 164.04: ANIMALS AND FOWL, TO PERMIT A PROPERTY OWNER TO KEEP A MAXIMUM OF FOUR CHICKENS (HENS) WITHIN RESIDENTIAL DISTRICTS OF THE CITY, SUBJECT TO THE RESTRICTIONS HEREIN.

WHEREAS, the City of Fayetteville encourages a sustainable and local economy that may include local produce or small-scale use of certain fowl, such as chickens; and

WHEREAS, chickens are identified as agricultural or barn-yard animals and are thus currently not permitted within residential zones of the City; and

WHEREAS, the use of a home-owner's property to keep hens, along with specific restrictions regarding cleanliness, enclosures, separation from adjacent structures, noise, and a limited number permitted on each property, is a compatible and reasonable request,

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 Unified Development Code Chapter 164.04: Animals and Fowl, as shown as "Exhibit A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

CHAPTER 164: SUPPLEMENTARY ZONING REGULATIONS

164.04 Animals And Fowl

- (A) It shall be unlawful for any person to permit or allow any domesticated animal or fowl to run at large within the corporate limits of the city.
- (B) Animals traditionally associated with the practice of livestock raising or farm animals, such as horses, goats, swine, chickens, cows and other such animals are not considered pets and are not permitted within any zoning district in the city limits, with the exception of R-A, Residential Agricultural, unless otherwise stated herein.
- (C) It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all Residential zones under the following terms and conditions:
- (1) The principal use of the property shall be a single family dwelling. No fowl shall be allowed in multi-family complexes, including two-family and three-family dwellings.
 - (2) No more than four (4) hens shall be allowed for each single-family dwelling.
 - (3) No roosters shall be allowed.
 - (4) There shall be no outside slaughtering of hens.
 - (5) All hens must be kept in a secure enclosure constructed at least two feet above the surface of the ground when the owner is not present. When the owner is present all hens must be kept in the covered enclosure or a fenced enclosure at all times. All hens shall be kept in the side or rear yard, and may not be permitted in the front yard area.
 - (6) No enclosure shall be located closer than forty (40) feet to any residential structure on an adjacent lot, and shall meet building setbacks.
 - (7) Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors, attraction of flies or vermin, the creation of an environment otherwise injurious to the public health and safety, or that would obstruct the free use of property so as to interfere with the comfortable enjoyment of life or property by members of the neighborhood, city, or other persons.

(8) Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance.

(9) The City may further restrict the use of fowl within residential districts if it causes a public nuisance or public health issue as defined in City Codes.

(10) All regulations administered by the Animal Services Division shall be enforceable by law and this ordinance shall not supersede or replace any regulation thereof.

(D) The above Section C is not intended to apply to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to fowl kept in areas of the City which are zoned R-A, Residential Agricultural.

(E) *Separation of use.* The following uses, where permitted, shall be conducted no nearer than the following stated number of feet to the boundary of an R District, or to a dwelling on the same premises.

40 FEET

Fowl Enclosure in Residential districts (from residential dwelling on adjacent lot)

50 FEET

Animal hospital; serving household pets and similar small animals
Commercial breeding, raising
Boarding; breeding, raising, or boarding of household pets or similar small animals for commercial purposes
Kennel
Egg farm

100 FEET

Animal hospital; serving livestock and similar animals
Boarding or training of horses
Dairy farm
Poultry farm
Farm: for raising cattle, goats, horses, sheep, rabbits and poultry

200 FEET

Hog raising
Livestock: assembly, breeding, feeding, sales or shipment

(Code 1965, App. A., Art. 7 (3); Ord. No. 1747, 6-29-70;
Code 1991, §160.078; Ord. No. 4100, §2 (Ex. A.), 6-16-98)

ADM 08-3094: (UDC CHAPTER 164.04, ANIMALS & FOWL): Submitted by Planning Staff, a request to amend Chapter 164 of the UDC, Unified Development Code, Animals & Fowl. The proposed amendment would permit 4 hens to be kept within residential districts, subject to several restrictions to achieve compatibility with adjacent land uses.

Jeremy Pate, Director of Current Planning, gave the staff report. The proposed amendment for consideration was requested by a City Council member, to address a citizen's request. Currently the City's zoning regulations do not permit any type of barnyard/agricultural animals within residential districts. These determinations have occasionally been tested, and interpreted consistently. The reason for the regulation is most likely associated with nuisances that come about from intensive farm uses: odor, noise, and sanitary issues. Staff has discussed potential issues with Jill Hatfield from the Animal Services Division and also did research with other cities with regard to allowing chickens within their city limits. There are many across-the-board requirements that other cities have that we are proposing: no roosters; a maximum number of hens, which is often based on lot area; we have decided on four hens maximum. In addition most cities have requirements for enclosures, which we have decided must be above the ground, kept sanitary, and that Animal Services could inspect. Another concern was that we wanted to limit this to single-family residences, despite the zoning. This will potentially allow chickens to be kept in multi-family zoning districts, as long as it is single family home that occupies the property. Another stipulation we are proposing is that the hens must be kept in the enclosure if the owner is not present, but they may be allowed out so long as they are kept within a fenced back or side yard area. The enclosure must be kept 25 feet from any residential structure. This ordinance would not be applicable to R-A districts, where it is a use by right. Staff recommended approval of the request.

Commissioner Trumbo opened the floor to public comment.

Steve Nolan, 2154 Manor Dr., I have lived in Fayetteville since 1951. Three items I would like to consider tonight. First, everyone in Fayetteville has the potential of residing downwind or downhill from these birds. Twenty-five feet in new neighborhoods will place them directly on the property line. Second issue is health. Poultry have diseases that may be transmitted to humans. We would not be able to control these chickens like we control our dogs with vaccinations for rabies, etc. Third, due to the diversity of Fayetteville we feel that some might interpret this to mean that other domesticated animals could be raised on their property. I encourage you to vote no on this ordinance.

No additional public comment was received.

Commissioner Graves stated that one of his concerns was the selection of one species of animal and allowing that but not others. I can think of people who have pot bellied pigs as a pet kept in the house. Under this ordinance, it would not be allowed while chickens would be. Mr. Nolan is correct in the commercial farming aspect; there are a lot of commonly transmitted diseases, and nothing here that would include disease control for these types of animals within municipal limits. Why are we carving out an allowance for this one type of animal when it seems to be more appropriate as an agricultural use and left well enough alone?

Pate stated that the first reason they were raising the issue was because it was brought to their attention by a City Council member. Keeping chickens on residential property is also associated with the sustainability movement by allowing more direct access to food and resources. Many subdivision covenants would prohibit them. In my time with the city we have processed at least five or six violations for chickens, and the outcome is that they have always had to be removed. This ordinance wouldn't necessarily prohibit any other animal than we already do.

Commissioner Graves stated that although he understands why the ordinance amendment is being proposed, he doesn't understand why we would make an exception for chickens and not ducks, pigs, or rabbits, which might also contribute to sustainable agriculture.

Commissioner Trumbo stated he personally knows some current violators who use the chickens specifically for their eggs. He recognizes that it is catching on, it is grassroots, done cleanly, and there are only 3 or 4 birds at these places. He understands why people would want this passed.

Commissioner Winston asked if the chickens are penned and somebody builds a house within 25 feet of the chicken pen, would the pen or the house need to be moved?

Pate stated that the enclosure would be required to be moved.

Commissioner Anthes asked whether it was the secure enclosure, or the fenced area the chickens could be let out to that would be the area that must be 25 feet from a structure.

Pate stated it was the enclosure.

Commissioner Anthes asked if staff would be amenable to a distance greater than 25 feet.

Pate stated it was certainly up to the Commission for consideration.

Kit Williams, City Attorney, stated that we might also look at the property line as opposed to the next structure to avoid what Mr. Nolan was talking about, where you could put it on the edge of the property as long as the house was 25 feet away. It might be that you would want to look at the property line as opposed to the residential structure, as it would ensure that it would be further away, because of the setbacks also.

Commissioner Pate stated that the reason we did not go with the 25 feet from adjacent property lines is that on a 50-foot wide lot it would essentially not be permitted, because you could not be 25 feet away from each property line.

Commissioner Anthes stated she was thinking that the minimum distance from a property line should be five feet, which would keep it so you're not putting your coop directly on a property line.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation for approval, changing line 3 on pg. 2 to read "the enclosure must be kept 40 feet from any residential structure, and must be contained within the building setback line."

Commissioner Myres seconded the motion.

Commissioner Anthes stated the language needs to be placed in the chapter under #5, so in addition to altering the staff report, it would need to be rewritten in the language.

Commissioner Kennedy stated he agrees with Commissioner Graves in that he does not understand why the amendment allows only chickens and not any other barnyard animals, and that he will vote no.

Pate stated that the Planning Commission requires five votes to forward the amendment.

Upon roll call the motion to forward the request passed with a vote of 6-2-0, with Commissioners Graves and Kennedy voting no.

From: <jkrees@cox.net>
To: <webmaster@ci.fayetteville.ar.us>
Date: 9/8/2008 7:25 PM
Subject: [Form mail from AccessFayetteville] - Chicken ordinance
CC: <planning@ci.fayetteville.ar.us>

From: Kriste Rees
Email: jkrees@cox.net
To: planning@ci.fayetteville.ar.us
Subject: Chicken ordinance

Message:

I support the chicken ordinance. I see no difference in having a chicken in my backyard and having a dog in my backyard--except that dogs bark and keep my awake.

Thanks,
Kriste Rees
1644 E. Susan
Fayetteville, AR 72703

City of Fayetteville Staff Review Form

D. 6
Amend Chapter 178, ADM 08-3054
Sidewalk Café and Vendor Ordinance)
Page 1 of 22

City Council Agenda Items
and
Contracts, Leases or Agreements

10/7/2008

City Council Meeting Date
Agenda Items Only

Leif Olson
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 08-3054: (Sidewalk Café and Vendor Ordinance): Planning staff recommends approval of an ordinance amending Chapter 178: Sidewalk Cafes to add location and operational standards for sidewalk vendors and outdoor mobile vendors.

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 ☐

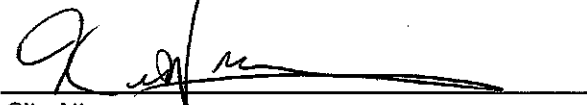
Budget Adjustment Attached ☐


Department Director

9-19-08
Date

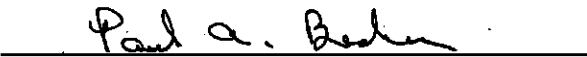
Previous Ordinance or Resolution #

Original Contract Date:


City Attorney

9-19-08
Date

Original Contract Number:

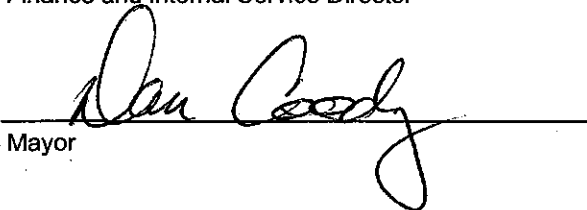

Finance and Internal Service Director

9-21-08
Date

Received in City
Clerk's Office

9-19-08

ENTERED


Mayor

9/22/08
Date

Received in
Mayor's Office

9/19/08

ENTERED

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations
Karen Minkel, Interim Director of Long Range Planning

From: Leif Olson, Long Range Planner

Date: September 18, 2008

Subject: ADM 08-3054 (Sidewalk Café and Vendor Ordinance) Approval of an ordinance to re-adopt Chapter 178: Sidewalk Cafes of the Unified Development Code to include provisions for sidewalk pushcart vendors and outdoor mobile vendors. Chapter 178 will be retitled Outdoor Vendors.

RECOMMENDATION

Staff recommends approval of an ordinance amending Chapter 178: Sidewalk Cafes to include outdoor mobile vendors and sidewalk pushcarts.

BACKGROUND

The City Council adopted Unified Development Code Chapter 178: Sidewalk Cafes in 2006 after the adoption of the Downtown Master Plan. The purpose was to allow for sidewalk dining opportunities in locations throughout the city where sidewalk width and site conditions were sufficient. Unfortunately, Planning has yet to process a Conditional Use Permit for a sidewalk café. However, Planning has received numerous requests from individuals wanting to develop sidewalk vendor businesses in the downtown area. This amendment to the Sidewalk Café chapter includes operational standards and location requirements for sidewalk vendors, and it will codify the transient merchant license process that the Planning Department currently administers.

Planning Staff worked with a variety of city divisions in order to address the numerous issues that invariably come up in this type of complicated ordinance. Staff is proposing an ordinance that allows street vendors to operate, within designated areas, subject to administrative approval and permitting by the Zoning and Development Administrator. The two designated areas are the sidewalks on the north and west side of the Walton Arts Center and the sidewalk along the inside of the downtown square. A conditional use permit is required for a sidewalk vendor to locate in other areas of the city.

BUDGET IMPACT

None

ORDINANCE NO.

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE BY REPEALING CHAPTER 178: SIDEWALK CAFES AND REPLACING IT WITH CHAPTER 178: OUTDOOR VENDORS.

WHEREAS, the City of Fayetteville recognizes that the downtown area is unique and urban in its development form, and

WHEREAS, the City of Fayetteville recognizes that the downtown's urban form generates substantial pedestrian foot traffic, and

WHEREAS, the City of Fayetteville recognizes that appropriate sidewalk areas exist that have sufficient foot traffic, sidewalk width and accessibility to support sidewalk vendors, and

WHEREAS, the City of Fayetteville encourages opportunities for small business development, and

WHEREAS, the City of Fayetteville recognizes that sidewalk activity is critical to creating a lively, safe, and inviting downtown experience.

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 Unified Development Code Chapter 178: Sidewalk Cafes and replaces it with Chapter 178: Outdoor Vendors shown as "Exhibit A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2008.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

**TITLE XV UNIFIED DEVELOPMENT CODE
CHAPTER 178: OUTDOOR VENDORS**

178.01 PURPOSE	3
178.02 SIDEWALK CAFES	3
178.03 SIDEWALK VENDORS.....	4
178.04 OUTDOOR MOBILE VENDORS LOCATED ON PRIVATE PROPERTY.....	6
178.05 TRANSIENT MERCHANTS	7
178.06 – 99 RESERVED.....	7

DRAFT

Exhibit "A"
ADM 08-3054
Page 3 of 7

178.01 Purpose

It is the purpose of this chapter to promote and encourage open air retail environments, while preserving and protecting the health, safety and welfare of citizens by promoting opportunities and regulations for the creation of said exceptions within the City.

178.02 Sidewalk Cafes

(A) Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain developed and developing areas in a traditional town form are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to encourage pedestrian activity and make the urban environment more attractive.

(B) *Sidewalk Café Authorization.* The Planning Commission may issue a conditional use permit allowing a sidewalk café on part of a specified sidewalk after the applicant has notified adjoining property owners. In addition to the general conditional use requirements, the Planning Commission shall ensure that no conditional use permit is granted, unless:

- (1) The proposed sidewalk café will not unduly impact or impede the public's ability to travel upon or use the sidewalk and any other affected public right-of-way, including public utility easements.
- (2) Any necessary costs to relocate a utility or widen the existing sidewalk to accommodate the proposed sidewalk café must be paid by the sidewalk café applicant.
- (3) The sidewalk café applicant may be required to post a surety bond or letter of credit sufficient to cover the cost of removing the sidewalk café if necessary for the city or utility company to access pipes, lines, or other facilities.
- (4) The sidewalk café applicant must consent that the city or utility company may remove, without liability or compensation, part or all of the sidewalk café, if necessary, to get access to a

utility facility or improvement.

(C) *Requirements:* Sidewalk cafés shall meet the following requirements in order to be approved:

- (1) Applicants requesting a license must provide a detailed site plan and written description illustrating the type, location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafes may not be enclosed by fixed walls or other permanent structures.
- (2) Sidewalk cafes must be open to the air, except that an awning or canopy conforming to requirements established by the Unified Development Code and Building Code may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.
- (3) Property shall be kept clean and free of refuse with no permanent trash containers placed on the premises.
- (4) All furnishings and fixtures must be of a temporary nature and shall be removed from the public right-of-way and stored inside during non-operational times.
- (5) For sidewalk cafes using City right-of-way for operation, there shall be a minimum of five feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement.
- (6) If at any time the sidewalk café is determined to impede travel or interfere with the public safety, as determined by the Planning Division, the sidewalk cafe shall be removed.
- (7) One A-frame sandwich/menu board is permitted within the sidewalk cafes' border during hours of operation, subject to the applicable regulations in Ch. 174: Signs for the same.

178.03 Sidewalk Vendors

Exhibit "A"
ADM 08-3054
Page 4 of 7

- (A) *Purpose.* Public rights-of-way are designed for free and unobstructed travel. However, the City of Fayetteville recognizes that certain development patterns with wide sidewalks are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to regulate open air vending of goods on public rights-of-way.
- (B) *Sidewalk Vendor Authorization.* The Zoning and Development Administrator may issue a permit for a sidewalk vendor to use a specific sidewalk or plaza location for specified hours to sell specified goods for up to a one year period. In addition to the general use requirements, the Zoning and Development Administrator shall ensure that no permit is granted unless:
- (1) The applicant has obtained all necessary permits from State or County authorities, including any Transient Merchant permit requirements.
 - (2) The applicant has submitted a sales and use tax number, sales tax remittance forms and an affidavit that the applicant has fully paid all sales and use taxes during the previous twelve months, if applicable.
 - (3) The applicant has filed a HMR tax remittance form with the City of Fayetteville, when applicable.
 - (4) The applicant has notified all adjacent property owners, by certified mail, of the application.
- (C) *Permit Application.* Each application for a permit to conduct business on a sidewalk shall be accompanied by a \$100 application and permit fee. Permits issued after July 1st shall be accompanied by a \$50 application and permit fee. Each permit will expire at 3 a.m. on January 1st following the year issued. The permit fee shall be collected prior to issuance of the permit.
- (1) Application for a sidewalk vendor permit shall include the following items in a format acceptable to the Zoning and Development Administrator:
 - (a) Name, address and contact information.
 - (b) Type of items sold or services rendered.
 - (c) A valid copy of all necessary permits required by State and County health authorities.
 - (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
 - (e) Means to be used in conducting business, including but not limited to a description of any mobile container or device to be used for transport or to display approved items or services.
 - (f) A site plan indicating the location and dimensions of the proposed use and device or pushcart.
 - (g) A detailed scale drawing, picture or diagram and material specifications of the device or pushcart to be used.
 - (2) The permit issued shall not be transferable in any manner.
 - (3) The permit is valid for one sidewalk vending location only.
- (D) *Permitted Vending Products and Goods.*
- (1) The City of Fayetteville permits the following types of goods for street vending in approved locations:
 - (a) Cut Flowers.
 - (b) Food and Beverage
 - (2) All goods being sold from sidewalk vendors shall:
 - (a) Be located within the permitted area and be attended at all times. Sidewalk vendors shall not conduct transactions with vehicular traffic located in the right-of-way.
 - (b) Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk.
 - (c) Involve a short transaction period to complete the sale or render the service.

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(d) Not cause undue noise or offensive odors.

(e) Be easily carried by pedestrians.

(E) *Location Requirements.* Sidewalk vendors are permitted in specific locations in Fayetteville as a use by right. These locations have been determined by the City Council to have adequate sidewalk width, pedestrian traffic flow, and they minimize potential conflicts with existing businesses. Sidewalk vendors are not permitted to operate on days / times associated with special events, unless they have been approved and granted a Special Events Permit from the organization coordinating the special event. Maps of approved locations are available in the Planning Division. The locations where street vending is allowed as a permitted use are:

(1) *North and West sidewalks in front of the Walton Arts Center.* Sidewalk vendors may locate along West Avenue and Dickson St. in front of the Walton Arts Center

(2) *Inside of the Fayetteville Square.* Sidewalk vendors may locate along sidewalks on all sides of the interior of the downtown Fayetteville Square. On days / times that the Farmers' Market or other special events operate, sidewalk vendors shall only be permitted if approved through the Farmers' Market or Special Event Permit process.

(F) *Conditional Use Permit.* If an applicant wishes to operate as a sidewalk vendor in a location other than those specifically approved by the City Council, a conditional use permit must be obtained. Upon receipt of a conditional use permit application, the Planning Commission shall review the proposed permit operating area to determine if the said area is suitable for street vending in accordance with this chapter. In making this determination, the Planning Commission shall consider the following criteria:

(1) The application meets all other criteria established herein for a sidewalk vendor.

(2) The number of permits issued for the street vending location shall not exceed the capacity of the area in terms of maintaining the use of the sidewalk as a

public right-of-way. The Planning Commission shall consider the width of sidewalk, the proximity and location of existing street furniture, including, but not limited to: signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as the presence of bus stops, truck loading zones, or taxi stands to determine whether the proposed use would result in pedestrian or street congestion

(G) *Requirements.* Sidewalk vendors conducting business on the sidewalks of the City of Fayetteville with a valid permit issued under this Chapter may transport and/or display approved goods upon the approved mobile device or pushcart, under or subject to the following conditions:

(1) The operating area shall not exceed 40 square feet of sidewalk, which shall include the area of the mobile device, operator and trash receptacle. The Planning Division will provide a map of approved vendor locations.

(2) The length of the mobile device or pushcart shall not exceed 6 feet and the width shall not exceed 3 feet.

(3) The height of the mobile device or pushcart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.

(4) No permanent hardware shall be affixed to the sidewalk or adjacent buildings.

(5) Mobile generators are prohibited.

(6) No sidewalk vendor may conduct business on a sidewalk in any of the following places:

(a) Within 10 feet of the intersection of the sidewalk with any other sidewalk. Sidewalk intersections shall be kept clear for pedestrian safety.

(b) Within 10 feet of any handicapped parking space, or access ramp.

(c) Within 15 feet of a fire hydrant.

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- (d) Within 15 ft. of an entrance to a building.
- (7) Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 5 a.m. and 3 a.m. All carts shall be removed from the public right-of-way during non-operational hours.
- (8) Sidewalk vendors shall display in a prominent and visible manner the permit issued by the Planning Division.
- (9) The Fire Marshal shall inspect and approve any food and beverage pushcart to assure the conformance of all cooking or heating apparatus with the provisions of the City Fire Code.
- (10) Sidewalk vendors who sell food and beverage are required to be permitted, and receive approval, through the Arkansas Department of Health, and Human Services for food related establishments. A copy of the permit issued by the State, and inspected and approved by the Washington County Health Department, shall be supplied to the Planning Division prior to Planning Division approval.
- (11) All sidewalk vendors must pick up and properly dispose of all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) within the sidewalk area assigned to the vendor within thirty minutes of the end of daily operations. Failure to completely remove all such litter from the authorized sidewalk location shall constitute a violation of the permit approval.
- (9) No sidewalk vendor shall solicit, berate or make any noise of any kind by vocalization or otherwise, for the purpose of advertising or attracting attention to his wares. No audible amplified music shall be permitted.
- (H) *Signage.* Sidewalk vendors shall obtain a sign permit from the Planning Division prior to the issuance of a permit to operate. Sidewalk vendors are permitted a total of one (1) A-frame sandwich/menu board subject to Ch. 174 Signs regulating these type of signs. The menu board shall list the

products and prices for the items being vended. Only products or services available at the vending location shall be displayed.

- (I) *Revocation of the Sidewalk Vendor Permit.* The Zoning and Development Administrator is authorized to revoke a sidewalk vendor's permit if it is determined that a violation of the requirements of the Unified Development Code has occurred.

**178.04 Outdoor Mobile Vendors
Located on Private Property**

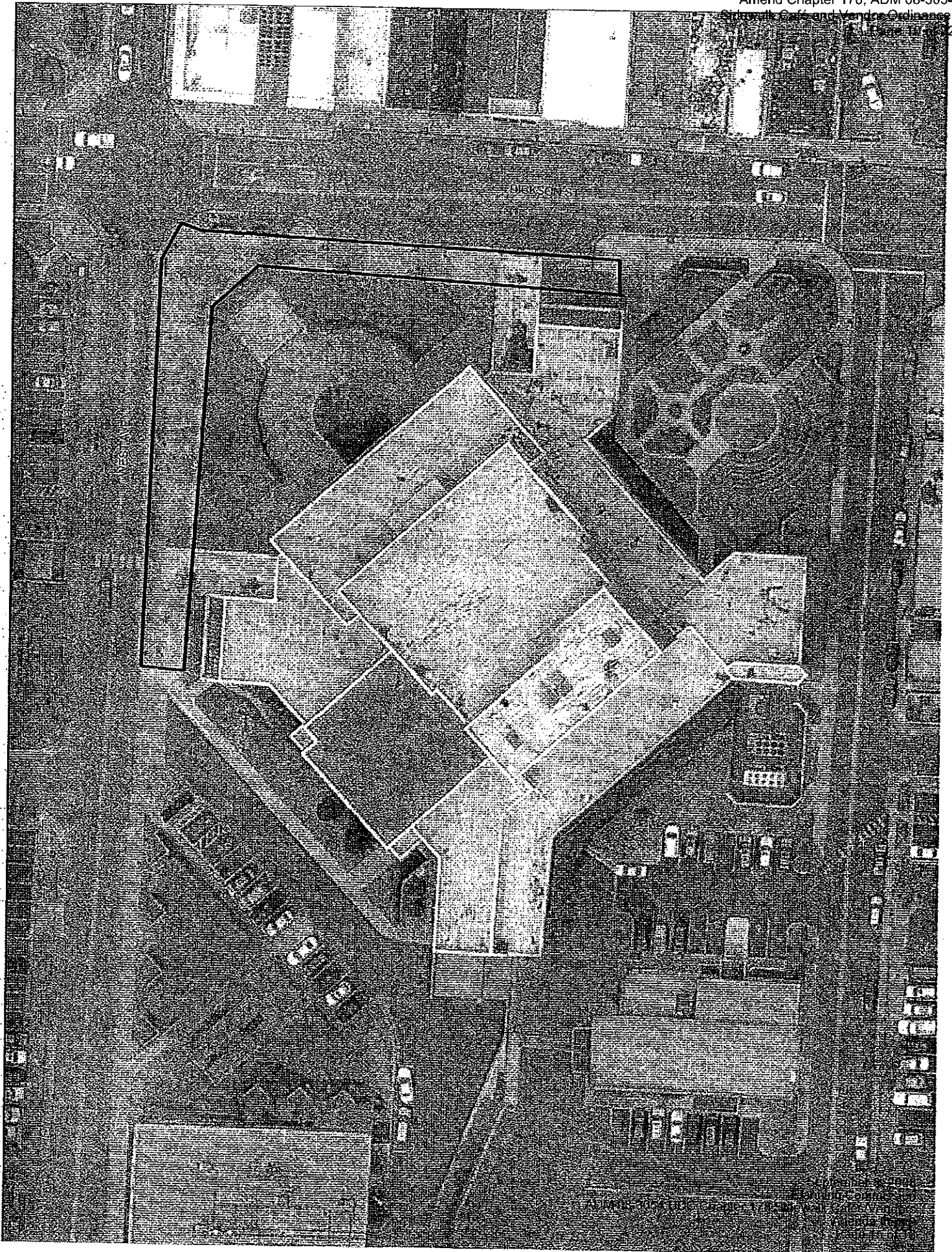
- (A) *Purpose.* To permit outdoor mobile vendors, also known as transient merchants, to operate on private property while preserving and protecting the health, safety and welfare of citizens.
- (B) *Requirements.* Transient merchants located on private property shall meet the following requirements and submittals prior to approval:
- (1) *Permit Application.* Each application for a permit to conduct a transient merchant business shall be accompanied by a \$50 permit review and processing fee.
- (2) Application for a permit to conduct a transient merchant business shall include the following items in a format acceptable to the Zoning and Development Administrator:
- (a) Name, address and contact information.
- (b) Type of items sold or services rendered. A change in product or service will require a new permit to be issued.
- (c) A valid copy of all necessary permits required by State and County health authorities.
- (d) Proof of application for remittance of HMR tax to the City of Fayetteville.
- (e) Means to be used in conducting business including but not limited to a description of any mobile device to be used for transport or to display approved items or services.

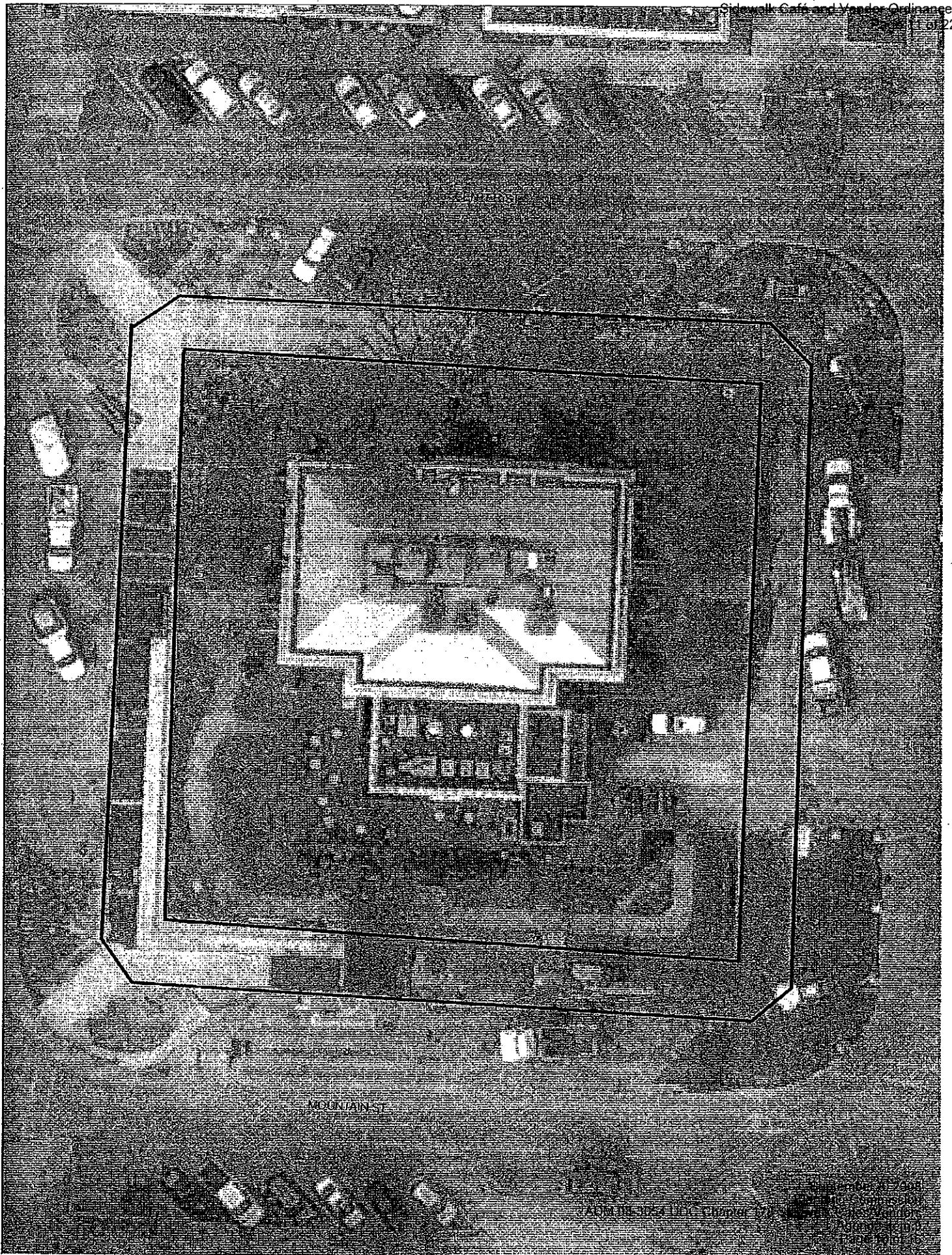
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- (f) A detailed site plan and written description illustrating the type, location, and dimensions of the mobile vendor business including parking.
- (g) Written authorization, signed by the property owner or legal representative of record, stating that the transient merchant business is permitted to operate on the subject property.
- (3) The permit issued shall not be transferable in any manner.
- (4) The permit is valid for one mobile vendor location only.
- (5) The proposed use shall be a permitted use-by-right within the underlying zoning district in order to be permitted.
- (6) A Temporary Certificate of Zoning Compliance (90 days) shall be approved by the Planning Division.
- (7) Outdoor mobile vendors are allowed on a temporary basis (90 days), by nature of their temporary occupancy, in one location over a one-year (twelve month) timeframe. Outdoor mobile vendors may move to a different location after this 90-day period has expired. However, a new Outdoor Mobile Vendor Application will have to be reviewed and approved by the Planning Division for a new location.
- (8) Outdoor mobile vendors shall be in compliance with parking lot requirements for any existing and the proposed business. The number of required parking spaces is determined by the use and size of the proposed transient merchant business, and by the use and size of the existing business. Parking spaces on the property where the outdoor mobile vendor is located shall be paved and striped in order to be utilized. The use of parking for an outdoor mobile vendor may not reduce the number of spaces necessary for other uses occurring on the property. An adequate number of parking spaces for the existing businesses and the outdoor mobile vendor must be provided onsite. The location of the outdoor mobile vendor shall not impede traffic flow or create a dangerous traffic condition, as determined by Planning Division upon review of the site plan.

178.05 Transient Merchants

All transient merchants are subject to regulations and registration under Arkansas state statutes. Any criteria established herein shall not relieve the applicant from meeting applicable criteria relative to transient merchants. "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services.







PC Meeting of September 8, 2008

THE CITY OF FAYETTEVILLE, ARKANSAS

PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Leif Olson, Long Range Planner
THRU: Karen Minkel, Interim Director of Current Planning
DATE: September 3, 2008

ADM 08-3054: Administrative Item (Amendment to Chapter 178: Sidewalk Cafes)
Submitted by Planning Staff to add to add two new sections to this chapter in order to regulate and allow street vendors and transient merchants in appropriate locations.

Planner: Leif Olson

BACKGROUND

The City Council adopted Unified Development Code Chapter 178: Sidewalk Cafes in 2006 after the adoption of the Downtown Master Plan. The purpose was to allow for sidewalk dining opportunities in locations throughout the city where sidewalk width and site conditions were sufficient. Unfortunately, Planning has yet to process a Conditional Use Permit for a sidewalk café. However, Planning has received numerous requests from individuals wanting to develop sidewalk vendor businesses in the downtown area. This amendment to the Sidewalk Café chapter includes regulations and locational requirements for sidewalk vendors, and it will codify the transient merchant license process that the Planning Department currently administers.

Planning Staff worked with a variety of city divisions in order to address the numerous issues that invariably come up in this type of complicated ordinance. Staff is proposing an ordinance that allows street vendors to operate, within designated areas, subject to administrative approval and permitting by the Zoning and Development Administrator. The two designated areas are the sidewalks on the north and west side of the Walton Arts Center and the sidewalk along the inside of the downtown square. A conditional use permit is required for a sidewalk vendor to locate in other areas of the city.

RECOMMENDATION

Planning Staff recommends approval of ADM 08-3054 allowing administrative approval of sidewalk vendors. Because this ordinance is comprehensive and the fact that there are no subjective decisions to be determined, Staff feels that administrative approval is appropriate.

Planning Commission Action:☐ Approved☐ Denied ☐ Tabled

Motion: _____

Second: _____

Vote: _____

Meeting Date: September 8, 2008

Comments: _____

ADM 08-3054: (UDC CHAPTER 178, SIDEWALK CAFES AND VENDORS): Submitted by Planning Staff, a request to amend Chapter 178 of the UDC, Unified Development Code, Sidewalk Cafes. The proposed amendment would adopt sidewalk vendor and outdoor mobile vendor regulations.

Jeremy Pate, Director of Current Planning, gave the staff report. The request is to amend an ordinance governing Sidewalk Cafes. The existing ordinance, passed in 2006, was to encourage restaurants to feature sidewalk cafes, but unfortunately there have been no applications for that use. What we are doing to this ordinance is adding a section on sidewalk vendors, to be located on public property, and mobile vendors, to be located on private property. Outdoor mobile vendors on private property are already something we permit, but it is not yet in the Code. This would help establish a procedure for those applicants, pursuant to state law. §178.03 Sidewalk Vendors is a proposal to allow an applicant to submit application materials to allow them to set up a cart or mobile device on a public sidewalk. There are specific regulations established so every applicant knows where they can be located, signage, etc. The permit would be required to be renewed each year. This way, if a vendor does not do business anymore it would open up the space for other vendors. There are several things listed in the ordinance that would be required for mobile vendors: proof of application of HMR tax to the City of Fayetteville, means to be conducting the business including site plan, drawing/specification of cart. Two specific locations in the City will be allowed by right: north and west sidewalks in front of the Walton Arts Center, and interior sidewalks in the downtown square area. Where there is a special events permit already established at any time in the future, that will supercede any permits established for these uses. Two products will be allowed to be sold: cut flowers and food/beverages. The sidewalk must leave at least 5' clear for pedestrians, has to be located in a permitted area at all times, be attended to at all times, cannot lead to or cause congestion of pedestrian traffic, cause undue noise or odors, cannot allow vocal hawking of wares, and must be a specific distance from a street intersection or adjacent businesses. This ordinance allows the use of public property for private use and so it is critical that whatever the Council adopts is very clear and can be upheld.

Commissioner Trumbo opened the floor to public comment.

James Schumate, Arkansas Department of Health, discussed four type of permits they issue: permit for food service for a fixed location, mobile food service permit that can operate anywhere the cities will allow them. They also have a pushcart permit limited to hotdogs and drinks, and a temporary permit where we allow a temporary 90-day special event or celebration, and we work with the City on that one, the only place we allow it is on Dickson Street. We have a problem in Fayetteville with people opening restaurants and we don't know about it.

Joseph Price, stated he was very much in favor of the proposal, but has concerns. He would like to have a mobile kitchen which would be larger than is allowable to fall under the part of the policy that would allow it to be on public property, so I would have to be on private property to have the business. However, the way it is stated, it has to be renewed every 90 days, and I can't understand the usefulness of forcing that type of business to move to a new location every 3 months whereas a pushcart vendor could be in the same spot for an entire year. These types of businesses often run

with the idea that their clientele expects them to be in a specific location. It seems crazy to make someone move; if my kitchen would be smaller than I would not have to move. I understand part of it has to do with compliance with State laws, and that the transient laws ask for a renewal of the permit every 90 days.

Cody Yancey, stated he would want to operate a hot dog cart on Dickson Street and encourages changing the cut-off for hours of operation from 2AM to 3AM to allow for serving bartenders, etc. He would encourage the City to guide the applicant through the process since it is a lot to remember, in order to avoid future citations.

No additional public comment was received.

Pate discussed Price's questions. Mobile vendors on the street remove their business every day, and it is likely they will not be there every day, but it is not a permanent establishment. A lot of the contention to these types of ordinances across the country is from the business community, because of the costs involved with running a brick and mortar business and the potentially unfair advantage this gives to mobile businesses without these costs that offer a competitive product. Pate discussed the fact that permanent businesses must meet design standards, must install public improvements (landscaping, sidewalks, water/sewer), while a temporary business does not.

Commissioner Trumbo asked about the designated areas in the city. Is there something that regulates the number of vendors who can be in these spaces?

Pate stated that the space would be designated by staff, a site plan and spaces would be drawn and vendors could choose from those spaces. This would be based on how much sidewalk is available, plus the 40 sq. ft. for a space. There will be a limited number of spaces. Anywhere else in the city besides the two designated spaces would be a conditional use permit request. We felt these new permits would be appropriate for administrative approval, since there is nothing subjective about it. We would rather not need to make a judgment call about the placement of businesses based on use, type of sales by adjoining businesses, etc.

Commissioner Graves asked about the definition of special events.

Pate stated that special events such as the Gulley Park summer concert series has not traditionally come under our transient merchant licenses, and this past year was the first time someone has been out there selling food, to his knowledge. We are working with the Parks department on that for future years.

Commissioner Anthes asked about the Conditional Use Permit for sidewalk vendor/pushcarts. Would it be prudent to add bus stops, truck loading zones, taxi stands, or competing businesses as a way to evaluate a potential Conditional Use Permit?

Pate encouraged the discussion of that and believes it will be discussed at City Council as well. The reason we did not include that is we did not want to give the impression that there could be a favorable recommendation for one business over another. Our position in this recommendation was

that we would like to see this ordinance passed and see what happens.

Commissioner Anthes stated she feels the sidewalk pushcarts are fantastic. She feels this can be an amenity to the Cultural Arts District. It is a tremendous economic opportunity for potential business ventures. She is concerned about somebody locating within a certain proximity to a competing business. She questioned item #7, the 90-day occupancy, and wondered if there was something that would allow a mobile kitchen owner that would probably only operate 2-3 days a week to not have to come back and renew the permit every 90 days. Maybe outdoor mobile kitchen could be a separate section that could be developed outside the standard transient merchant license. She asked to hear more from other commissioners about the possibility of mobile kitchens being a separate section.

Commissioner Trumbo stated he does not see a problem, as long as there are no complaints, why a person should have to come back every 90 days and renew the permit.

Commissioner Anthes stated there were two points she wanted to make that could blend the cart ordinance with the outdoor mobile vendor ordinance. Mobile kitchens are mobile, so that business could be removed nightly, eliminating that objection. She sees them as an opportunity for an existing brick and mortar business to operate while they are closed.

Commissioner Graves agreed that mobile vendors should not be required to move every 90 days, but at the same time feels that vendors should not be able to set up camp with a semi-permanent structure competing with an adjoining brick and mortar business. He has difficulties with attempting to determine what a vendor's primary product is and whether or not they would be defined as competition to an established brick and mortar business.

Commissioner Winston asked if the annual permit expiration date could be changed from January 1st at 12 AM to 3 AM.

Pate stated that could be changed.

Commissioner Winston asked if the business fails, but has a permit, what is the process for someone else coming in and getting a permit for that space? Is the permit transferred from the failed business? How do we know the business is no longer there and the space is again available?

Pate stated that was one of the reasons for establishing the limited time frame. What we've stated in the ordinance is that they are non-transferable. However, if a permit owner decided the business was not working, we could rescind the permit and work something out with another potential vendor.

Motion:

Commissioner Anthes made a motion to forward the request to City Council with a recommendation for approval, with the following conditions: removal of item (B) under 178.01 Purpose, altering 178.03(C) Permit Application to read: "each permit will expire at 3AM January 1st following the year issued," and altering #7(G) hours of operation from 5AM to 3AM. Commissioner Myres seconded.

Commissioner Graves asked if it is better to forward the request with a recommendation of approval if we think we are going to change condition #7? He doesn't want to leave it open where it's not regulated, but he doesn't know how long it will take staff to come up with a draft that addresses some of the issues discussed with regard to a mobile kitchen.

Commissioner Anthes stated that her motion would be that the transient merchant language under 178.04 remain as-is and what we would be doing is developing a special section for mobile kitchens that would be in addition to this language, so this language with #7 intact would remain for all those other uses that we already regulate under the county enforcement agency.

Commissioner Graves stated that he understands that is the motion, but is instead asking Mr. Pate if that's the way we should do it to pass something, and then come back and supplement/amend it.

Pate stated it would be okay to move forward, and staff can evaluate the effectiveness of the ordinance and any potential amendments, if it is adopted.

Upon roll call the motion passed with a vote of 8-0-0.

All business being completed, the meeting was adjourned at 8:34 PM.

Transient Merchant – Arkansas State Statute

17-49-101. Title.

This subchapter shall be known and may be cited as the "Transient Merchant Licensing Act of 1983".

History. Acts 1983, No. 587, § 1; A.S.A. 1947, § 71-5601.

17-49-102. Purpose.

(a) The General Assembly finds that because of the temporary nature of the business conducted by **transient merchants**, consumers in the State of Arkansas are not likely to be able to obtain proper contact information to resolve disputes with, serve legal process upon, or satisfy monetary judgments against **transient merchants** doing business in the State of Arkansas.

(b) It is the purpose and intent of this subchapter to:

(1) Provide the consumers of the State of Arkansas with contact information regarding potential monetary recourse against **transient merchants**; and

(2) Provide that the registration fees and bonding requirements in this subchapter for **transient merchants** shall be minimum registration fees and bonding requirements and shall not be construed to limit or restrict the authority of counties, cities, and towns in the state to levy additional license fees and to require additional bonding for **transient merchants** engaged in business in counties, cities, and towns.

History. Acts 1983, No. 587, § 2; A.S.A. 1947, § 71-5602; Acts 2007, No. 1603, § 1.

17-49-103. Definitions.

As used in this subchapter:

(1) "Person" means any individual, corporation, partnership, association, or other entity;

(2) "Temporary or transient business" means any business conducted for the sale or offer for sale of goods, wares, or merchandise that is carried on in any building, structure, motor vehicle, railroad car, or real estate for a period of less than six (6) months in each year without written evidence of a right to occupy the premises on which a person is conducting business; and

(3) "Transient merchant" means any person, firm, corporation, partnership, or other entity that engages in, does, or transacts any temporary or transient business in the state, either in one (1) locality or in traveling from place to place in the state, offering for sale or selling goods, wares, merchandise, or services.

History. Acts 1983, No. 587, § 3; A.S.A. 1947, § 71-5603; Acts 2007, No. 1603, § 2.

17-49-104. Exemptions.

(a) The provisions of this subchapter shall not apply to:

(1) Sales at wholesale to retail **merchants** by commercial travelers or selling agents in the usual course of business;

- (2) Wholesale trade shows or conventions;
 - (3) Sales of goods, wares, or merchandise by sample catalogue or brochure for future delivery;
 - (4) Fairs and convention center activities conducted primarily for amusement or entertainment;
 - (5) Any general sale, fair, auction, or bazaar sponsored by any church or religious organization;
 - (6) Garage sales held on the premises devoted to residential use;
 - (7) Sales of crafts or items made by hand and sold or offered for sale by the person making the crafts or handmade items;
 - (8) Sales of agricultural products, except nursery products and foliage plants;
 - (9) Sales made by a seller at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises; or
 - (10) School-sponsored bazaars and sales, concessions at school athletic and other events, and sales of paraphernalia used in the celebration of any nationally recognized holiday or used in connection with any public school, university, or college-related activities, flea markets, retail fireworks establishments, gun shows, sales by charitable organizations, sales of coins, and expositions sponsored by government entities or by nonprofit trade associations.
- (b) A **transient** merchant not otherwise exempted from the provisions of this subchapter shall not be relieved or exempted from the provisions of this subchapter by reason of associating himself or herself temporarily with any local dealer, auctioneer, trader, contractor, or merchant or by conducting such temporary or **transient** business in connection with or in the name of any local dealer, auctioneer, trader, contractor, or merchant.

History. Acts 1983, No. 587, § 4; 1983 (Ex. Sess.), No. 113, § 1; A.S.A. 1947, § 71-5604.

17-49-105. Enforcement.

It is the duty of the county sheriff and other law enforcement officers in each county and the prosecuting attorney for each county to enforce the provisions of this subchapter.

History. Acts 1983, No. 587, § 12; A.S.A. 1947, § 71-5612.

17-49-106. Registration required — Penalty for violation.

(a) It is unlawful for any transient merchant to transact business in any county in this state unless the merchant and the owners of any goods, wares, or merchandise to be offered for sale or sold, if such are not owned by the merchant, shall have first secured a registration certificate and shall have otherwise complied with the requirements of this subchapter.

(b) Any person or entity that transacts a transient business as defined in § 17-49-103 without having first registered in accordance with the provisions of this subchapter, or who knowingly advertises, offers for sale, or sells any goods, wares, merchandise, or services in violation of the provisions of this subchapter, shall be guilty of a Class A misdemeanor.

(c) The penalty prescribed in this section shall be in addition to any other penalties prescribed by law for any criminal offense committed by the licensee.

History. Acts 1983, No. 587, §§ 5, 11; A.S.A. 1947, §§ 71-5605, 71-5611; Acts 2007, No. 1603, § 3.

17-49-107. Registration for business.

(a) Any transient merchant desiring to transact business in any county in this state shall register in each county in which the merchant desires to transact business.

(b) The registration shall be filed with the county clerk and shall include the following information:

(1) The name and permanent address of the transient merchant making the application and, if the applicant is a firm or corporation, the name and address of the members of the firm or the officers of the corporation, as the case may be;

(2) If the applicant is a corporation, there shall be stated on the application form the date of incorporation, the state of incorporation, and, if the applicant is a corporation formed in a state other than the State of Arkansas, the date on which the corporation qualified to transact business as a foreign corporation in the State of Arkansas;

(3) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of the proposed place of business;

(4) The name and permanent address of the transient merchant's registered agent or office;

(5) Proof that the applicant has acquired all other required city, county, and state permits and licenses; and

(6) There shall be attached to the application a receipt or statement showing that any personal property taxes due on goods, wares, or merchandise to be offered for sale have been paid.

(c) The county clerk in each county shall design and cause to be printed appropriate forms for applications for registration and for the registration certificates to be issued to applicants under this subchapter.

History. Acts 1983, No. 587, §§ 6, 7; A.S.A. 1947, §§ 71-5606, 71-5607; Acts 2007, No. 1603, § 4.

17-49-108. Service of process, notice, or demand.

(a) Each registered agent designated by a transient merchant shall be a resident of the county and shall be agent of the transient merchant upon whom any process, notice, or demand required or permitted by law to be served upon the transient merchant may be served.

(b) The registered agent shall agree in writing to act as such agent, and a copy of the agreement to so act shall be filed by the transient merchant with the registration.

(c) The county clerk of each county shall maintain an alphabetical list of all **transient merchants** in the county and the names and addresses of their registered agents.

(d) If any **transient** merchant doing business or having done business in any county within the state shall fail to have or maintain a registered agent in the county or if the registered agent cannot be found at his or her permanent address, the county clerk shall be an agent of the **transient** merchant for service of all process, notices, or demands.

(e) Service on the county clerk shall be made by delivering to and leaving with him or her, or any person designated by the clerk to receive the service, duplicate copies of the process, notice, or demand.

(f) When any process, notice, or demand is served on the clerk, he or she shall immediately cause one (1) copy to be forwarded by registered or certified mail to the permanent address of the **transient** merchant.

(g) The provisions of this section shall not limit or otherwise affect the right of any person to serve any process, notice, or demand in any other manner now or hereafter authorized by law.

History. Acts 1983, No. 587, § 8; A.S.A. 1947, § 71-5608; Acts 2007, No. 1603, § 5.

17-49-109. Registration fee and bond.

(a) Each application for a transient merchant registration certificate shall be accompanied by a registration fee of fifty dollars (\$50.00) and by a cash bond or a surety bond issued by a corporate surety authorized to do business in the state in the amount of two thousand dollars (\$2,000) or five percent (5%) of the wholesale value of any goods, wares, merchandise, or services to be offered for sale, whichever sum is lesser.

(b) The surety bond shall be in favor of the State of Arkansas and shall assure the payment by the applicant of all taxes that may be due from the applicant to the state or any political subdivision of the state, the payment of any fines that may be assessed against the applicant or its agents or employees for violation of the provisions of this subchapter, and for the satisfaction of all judgments that may be rendered against the transient merchant or its agents or employees in any cause of action commenced by any purchaser of goods, wares, merchandise, or services within one (1) year from the date of the sale by the transient merchant.

(c) The bonds shall be maintained so long as the transient merchant conducts business in the county and for a period of one (1) year after the termination of the business. The bonds shall be released only when the transient merchant furnishes satisfactory proof to the county clerk that it has satisfied all claims of purchasers of goods, wares, merchandise, or services from the merchant and that all state and local sales taxes and other taxes have been paid.

History. Acts 1983, No. 587, § 9; A.S.A. 1947, § 71-5609; Acts 2007, No. 1603, § 6

17-49-110. Issuance and terms of registration certificate.

(a) A transient business registration certificate shall be issued under this section only when all requirements of this subchapter have been met.

(b) The registration certificate shall:

(1) Not be transferable;

(2) Be valid only within the territorial limits of the issuing county;

(3) Be valid only for a period of ninety (90) days; and

(4) Be valid only for the business stated in the application.

(c) A registration certificate so issued shall be valid for only one (1) person, unless the person is a member of a partnership or employee of a firm or corporation obtaining the registration certificate.

History. Acts 1983, No. 587, § 10; A.S.A. 1947, § 71-5610; Acts 2007, No. 1603, § 7.

ALDERMAN APPEAL REQUEST FORM

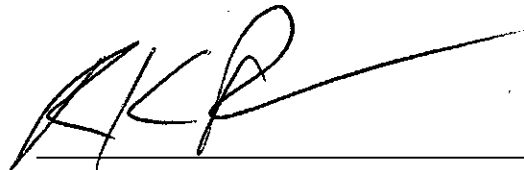
COUNCIL MEETING OF: October 7, 2008

FROM: Smith Two-Way Radio, Inc.

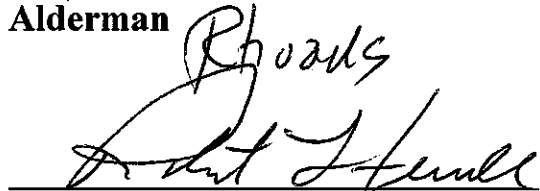
APPEAL TITLE AND SUBJECT:

Smith Communications/Township Tower CUP 08-3050:

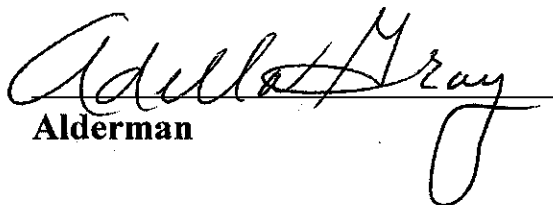
We wish to appeal the conditions of approval for the conditional use for Smith Communications/Township Tower CUP 08-3050 as shown in the attached letter.


Alderman *Rhoads*

9/5/08
Date


Alderman *Forrell*

9/5/08
Date


Alderman *Gray*

9/5/08
Date



Smith Two-Way Radio, Inc.

"In Radio Since 1929"

520 N. College Ave.
Fayetteville, AR 72701
Ph: 479-443-2222
Fax: 479-443-5677

800 S. 45th Street
Rogers, AR 72758
Ph: 479-636-6747
Fax: 479-631-8910

D. 7
Smith Two Way Radio Appeal
Page 2 of 28

RECEIVED

SEP 04 2008

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

September 4, 2008

Re: CUP for Cell Tower at Township Water Tower

To: City of Fayetteville
City Clerks Office

Smith Communications, LLC. wishes to appeal the Planning Commissions placement of conditions of approval requiring this structure be limited to the flagpole type tower and that is be allowed that this tower Be permitted as a painted monopole.

We have contacted the three required Aldermen who have agree to bring this item to the City Council:

Adella Gray
Robert Rhoads
Bobby Ferrell

Thank you,

David W. Reynolds
Project Manager
Smith Communications



City Council Meeting of October 07, 2008
Agenda Item Number

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning

Date: September 22, 2008

Subject: Appeal for Smith Communications/Township Street Tower (CUP 08-3050)

RECOMMENDATION

The Planning Commission approved a conditional use permit request to grant the installation of a 150' stealth flagpole tower (with internal antenna) on property located at 1060 E. Township Street. The applicant, Smith Communications, proposed a 150' monopole tower (with external antenna) at this location. Three alderman, in accordance with the appeal process set forth in the Unified Development Code, have appealed the Planning Commission approval.

BACKGROUND

The subject property is located at 1060 E. Township Street and contains approximately 1.22 acres. The property is owned by the City of Fayetteville and contains an existing 122' water storage tank, constructed in 1959, and an existing 150' monopole tower with associated ground equipment, constructed in 1999. Alltel and Cricket are currently located on the water tower and Verizon, Sprint and AT&T are located on the existing monopole tower, which is owned by AT&T.

The applicant (Smith Communications), proposed to construct a new 150' cellular tower to accommodate T-Mobile's expanded service in this area, in addition to the existing 150' tall tower and 122' tall water tank. During the initial review for co-location at this site, as opposed to a new tower, the Water and Wastewater Director for the City of Fayetteville indicated to staff that it would be beneficial to have the two current carriers on the water tower relocated at some point to another structure, and that no additional antennas would be allowed. This is due to the fact that construction maintenance to the antennas has caused damage to the water tower structure and that the tower was not designed for the additional wind load created by the antennas.

Correspondence between the applicant and AT&T for co-location on the existing tower indicates that there is no further room on the premises to accommodate equipment for an additional carrier. However, it appears that these statements are referring to the amount of ground space available and not the amount of space available on the cell tower, given that there are only three carriers on the tower today. Given that the amount of ground space is determined by a lease agreement between AT&T and the City of Fayetteville, it may be feasible to expand this area to allow for an additional carrier to utilize the existing facilities.

City Council Meeting of October 07, 2008
Agenda Item Number

The applicant, instead of pursuing this option further, has proposed to construct a new tower on the site. Based on the coverage maps and other materials submitted as part of the application, staff agrees that it is appropriate and needed to construct an additional tower on the property, to accommodate T-Mobile and future carriers. Staff has recommended, and the Planning Commission approved, a flagpole style design, which is a 150' pole with internal antennas, like the one constructed near the VA Hospital on College Avenue. This design is far more appealing visually to the current practice of installing antenna external to the pole. These externally mounted antennas often protrude 5'-10' from the pole itself, which creates additional visual clutter within the community. The applicant has stated they can not construct this type of tower, make it financially profitable, and have additional carriers on the antenna. This is in contrast to the information staff and the Planning Commission has received from other applicants and industry professionals when asked the same question. Staff would prefer even additional towers to be constructed, if designed in this flagpole manner, as they are relatively unobtrusive and have a low visual impact on the community and its aesthetic character.

DISCUSSION

On August 25, 2008, the Planning Commission voted 6-2-0 on a motion to approve staff's recommendation for a stealth flagpole tower with Commissioners Trumbo and Winston voting 'No', Commissioners Lack, Anthes, Bryant, Graves, Kennedy and Myres voting 'Yes', and Commissioner Cabe absent. The applicant has appealed the decision to require a stealth flagpole design to the City Council.

BUDGET IMPACT

None.

CONDITIONS OF APPROVAL:

CUP 08-3050

Page 1 of 3

Conditions of Approval for CUP 08-3050 (Smith Communications/Township Street)

1. Planning Commission determination of stealth technology: *Staff recommends the tower be camouflaged as a white flagpole with internal antenna. This technology would reduce the cumulative visual and community character impact of multiple towers in one location. Additionally, pursuant to Chapter 164.13(B)(4), new towers are to be camouflaged to the greatest extent possible when co-location is not feasible. A flagpole design is in keeping with this ordinance requirement, and prior construction of this type of tower has proven to be effective in reducing visual clutter (see supplementary comparison photos).*

At least three different cellular carriers shall be provided space on the flagpole tower. Alltel and Crickett are currently located on the water tower at elevations of approximately 120' and 90' respectively. Therefore, staff recommends that space be made available on the flagpole for two additional carriers at heights equal to or greater than provided on the water tower.
2. ~~Should the Planning Commission determine in favor of a standard monopole with external antennas, staff recommends that the tower be no higher than 135', which would allow sufficient space for T-Mobile, and for Alltel and Crickett to collocate at a height that is equal to or greater than currently provided on the City's water tower. Additionally, staff recommends the use of slim-line T-type mount antennas (no platform mounts) with a maximum standoff of 5' and a maximum antenna length of 10', to reduce the visual clutter of the tower that extends above the surrounding tree line.~~
3. If the height of the tower is reduced and consequently the number of carriers, staff recommends that the applicants decrease the size of the compound to allow for greater preservation of existing tree canopy. Specifically, staff would recommend decreasing the size of the compound north to south, to allow a greater separation from the adjacent house to the south.
4. If necessary to allow co-location by all three carriers, the coax cables may be directly attached to the outside of the flagpole, but shall be painted to match the flagpole. No other equipment shall be located on the outside of the flagpole.
5. The applicant shall submit a copy of the proposed cellular tower to the Fayetteville Municipal Airport (Drake Field) administration for review and approval with Fayetteville Airport Zoning law. Written verification from airport administration is required prior to issuance of a building permit. Should the proposal not comply with the Airport Zoning, the Conditional Use Permit shall be null and void.
6. Due to the location of the tower on a heavily wooded site it is expected that some amount of tree removal will occur. Accordingly, the applicant shall coordinate the location of the tower facility with the Urban Forester prior to building permit approval and prior to any land disturbance. The tower and associated equipment shall be located within the general area as shown on the attached site plans. Construction of the tower shall comply with Chapter 167, Tree Preservation and Protection.
7. Given the location of the tower facility within a heavily wooded area, staff recommends reviewing the site after construction to determine if additional landscaping/screening is

CONDITIONS OF APPROVAL:

CUP 08-3050

Page 2 of 3

necessary to fulfill the requirements of Chapter 163.14. Should additional screening be required, it shall be installed prior to installation of any antenna for individual cellular service providers.

8. If additional landscaping is required after construction some method of irrigation shall be required in landscaped areas. An automated irrigation system is encouraged to ensure adequate moisture to plant material. In landscaped areas without an automated irrigation system the installation of hose bibs (water spigots), installed one for every 100 foot radius, will be required.
9. The applicant shall comply with all applicable federal regulations.
10. Equipment used in conjunction with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14 (A)(1).
11. Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motion-activated lighting may be used around the base of the tower provided that the lighting is compliant with Chapter 176 Outdoor Lighting of the Unified Development Code. No lighting shall be installed at a height greater than 6' above surrounding grade.
12. The tower shall be no taller than 150' (including all antennas, arrays, or other appurtenances), unless the height is reduced further by the Planning Commission.
13. The utility equipment at the base of the tower shall be surrounded by an 8' tall wooden security fence.
14. Any connection to existing utilities to provide power to this site shall be located underground. If additional electric lines are required to be extended to provide service to this development, they shall be extended and shall be placed underground at the cost of the applicant.
15. The minimum distance from the base of the tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of the tower, pursuant to UDC Section 163.14(B)(3).
16. Only warning, site identification and FCC signs shall be permitted on the screening fence as provided by Chapter 163.14 (A)(3) and in no case shall any sign exceed 4 square feet. No signs shall be located adjacent to Township Street, or adjacent to the private drive.
17. Co-location shall be permitted on the subject tower by multiple carriers in compliance with Chapter 163.14 (C).
18. When technology becomes available and economically viable to allow the height of cell tower to be reduced by 50 percent or more or to allow the site to be eliminated altogether, such facilities shall be upgraded or eliminated within 24 months of a request by the City.
19. At such time that the licensed carrier(s) abandons or discontinues operation of a wireless facility, the carrier(s) shall physically remove the wireless facility and all associated

CONDITIONS OF APPROVAL:

CUP 08-3050

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equipment within 90 days from the date of abandonment or discontinuation, pursuant to Chapter 163.13(G).

20. Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the Planning Department, pursuant to Chapter 163.13(H).
21. The tower and supporting equipment shelter shall be located outside of the required building setbacks for the RSF-4 zoning district: 25' front, 8' side, 20' rear.



THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of August 25, 2008

PLANNING DIVISION CORRESPONDENCE

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

TO: Planning Commission Members
FROM: Jesse Fulcher, Current Planner
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 19, 2008~~ Updated August 27, 2008

CUP 08-3050: (SMITH COMMUNICATIONS / TOWNSHIP STREET TOWER, 291):
Submitted by MIKE SMITH for property located at 1060 E. TOWNSHIP STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.22 acres. The request is for construction of a new 150' telecommunications tower.

Planner: Jesse Fulcher

Background: The subject property is located at 1060 E. Township Street and contains approximately 1.22 acres. The property is owned by the City of Fayetteville and contains an existing 122' water storage tank, constructed in 1959, and an existing 150' monopole tower with associated ground equipment, constructed in 1999. Alltel and Cricket are currently located on the water tower and Verizon, Sprint and AT&T are located on the existing monopole tower, which is owned by AT&T.

The Water and Wastewater Director for the City of Fayetteville has indicated to staff that it would be beneficial to have the two current carriers on the water tower relocated at some point to another structure. This is due to the fact that construction maintenance to the antennas has caused damage to the water tower structure and that the tower was not designed for the additional wind load created by the antennas.

Correspondence between the applicant and AT&T indicates that there is no further room on the premises to accommodate equipment for an additional carrier. However, it appears that these statements are referring to the amount of ground space available and not the amount of space available on the cell tower. Given that the amount of ground space is determined by a lease agreement between AT&T and the City of Fayetteville, it may be feasible to expand this area to allow for an additional carrier to utilize the existing facilities.

The subject request was tabled by the Planning Commission on August 11, 2008 to allow the applicant additional time to obtain information regarding the feasibility to collocate T-Mobile antennas on the existing AT&T tower, which is also located on the subject property. As of August 21, staff has not received any additional correspondence.

Proposal: The applicant is proposing to erect a 150-foot tall monopole tower with an area at the base for equipment shelters and wireless equipment. The proposed lease site area is approximately 5,368 sq. ft. and is located on City owned property, immediately south of the existing tower lease area operated by AT&T.

Following ordinance requirements, notification was provided to all property owners within a 500 foot radius of the center of the proposed tower. The type and height of the proposed tower is in accordance with Chapter 163.14(B) (1 & 2). The tower is not located within 150 feet of a residential structure. The applicant provided all documentation required by Chapter 163.14 to process a conditional use request.

Surrounding Land Use:

Direction	Land Use	Zoning
North, South, East, and West	Single-family Residential	RSF-4

Public Comment: Staff has not received any public comment.

RECOMMENDATION: Although staff has not been provided sufficient information regarding the status of the existing tower and lease area operated by AT&T, it is highly unlikely that the existing AT&T tower could support T-Mobile's antennas and all of the existing antennas on the City's water tower, which demonstrates a need for an additional tower in the area. Therefore, staff recommends approval of the subject request with the following conditions:

1. Planning Commission determination of stealth technology: *Staff recommends the tower be camouflaged as a white flagpole with internal antenna. This technology would reduce the cumulative visual and community character impact of multiple towers in one location. Additionally, pursuant to Chapter 164.13(B)(4), new towers are to be camouflaged to the greatest extent possible when c-olocation is not feasible. A flagpole design is in keeping with this ordinance requirement, and prior construction of this type of tower has proven to be effective in reducing visual clutter (see supplementary comparison photos).*

At least three different cellular carriers shall be provided space on the flagpole tower. Alltel and Cricket are currently located on the water tower at elevations of approximately 120' and 90' respectively. Therefore, staff recommends that space be made available on the flagpole for two additional carriers at heights equal to or greater than provided on the water tower.

2. ~~Should the Planning Commission determine in favor of a standard monopole with external antennas, staff recommends that the tower be no higher than 135', which would allow sufficient space for T Mobile, and for Alltel and Cricket to collocate at a height that is equal to or greater than currently provided on the City's water tower. Additionally, staff recommends the use of slim-line T-type mount antennas (no platform mounts) with a maximum standoff of 5' and a maximum antenna length of 10', to reduce the visual clutter of the tower that extends above the surrounding tree line.~~

8/25/08: PLANNING COMMISSION FOUND IN FAVOR OF FLAGPOLE DESIGN.

3. If the height of the tower is reduced and consequently the number of carriers, staff recommends that the applicants decrease the size of the compound to allow for greater preservation of existing tree canopy. Specifically, staff would recommend decreasing the size of the compound north to south, to allow a greater separation from the adjacent house to the south.

4. If necessary to allow co-location by all three carriers, the coax cables may be directly attached to the outside of the flagpole, but shall be painted to match the flagpole. No other equipment shall be located on the outside of the flagpole.
5. The applicant shall submit a copy of the proposed cellular tower to the Fayetteville Municipal Airport (Drake Field) administration for review and approval with Fayetteville Airport Zoning law. Written verification from airport administration is required prior to issuance of a building permit. Should the proposal not comply with the Airport Zoning, the Conditional Use Permit shall be null and void.
6. Due to the location of the tower on a heavily wooded site it is expected that some amount of tree removal will occur. Accordingly, the applicant shall coordinate the location of the tower facility with the Urban Forester prior to building permit approval and prior to any land disturbance. The tower and associated equipment shall be located within the general area as shown on the attached site plans. Construction of the tower shall comply with Chapter 167, Tree Preservation and Protection.
7. Given the location of the tower facility within a heavily wooded area, staff recommends reviewing the site after construction to determine if additional landscaping/screening is necessary to fulfill the requirements of Chapter 163.14. Should additional screening be required, it shall be installed prior to installation of any antenna for individual cellular service providers.
8. If additional landscaping is required after construction some method of irrigation shall be required in landscaped areas. An automated irrigation system is encouraged to ensure adequate moisture to plant material. In landscaped areas without an automated irrigation system the installation of hose bibs (water spigots), installed one for every 100 foot radius, will be required.
9. The applicant shall comply with all applicable federal regulations.
10. Equipment used in conjunction with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14 (A)(1).
11. Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motion-activated lighting may be used around the base of the tower provided that that the lighting is compliant with Chapter 176 Outdoor Lighting of the Unified Development Code. No lighting shall be installed at a height greater than 6' above surrounding grade.
12. The tower shall be no taller than 150' (including all antennas, arrays, or other appurtenances), unless the height is reduced further by the Planning Commission.
13. The utility equipment at the base of the tower shall be surrounded by an 8' tall wooden security fence.
14. Any connection to existing utilities to provide power to this site shall be located underground. If additional electric lines are required to be extended to provide service to this development, they shall be extended and shall be placed underground at the cost of

the applicant.

15. The minimum distance from the base of the tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residence or the land on which said residences are located consent in writing to the construction of the tower, pursuant to UDC Section 163.14(B)(3).
16. Only warning, site identification and FCC signs shall be permitted on the screening fence as provided by Chapter 163.14 (A)(3) and in no case shall any sign exceed 4 square feet. No signs shall be located adjacent to Township Street, or adjacent to the private drive.
17. Co-location shall be permitted on the subject tower by multiple carriers in compliance with Chapter 163.14 (C).
18. When technology becomes available and economically viable to allow the height of cell tower to be reduced by 50 percent or more or to allow the site to be eliminated altogether, such facilities shall be upgraded or eliminated within 24 months of a request by the City.
19. At such time that the licensed carrier(s) abandons or discontinues operation of a wireless facility, the carrier(s) shall physically remove the wireless facility and all associated equipment within 90 days from the date of abandonment or discontinuation, pursuant to Chapter 163.13(G).
20. Upon assignment or transfer of a conditional use permit, or any of the rights thereunder to a new wireless telecommunications operator, the owner or operator shall provide written notice within 30 days to the Planning Department, pursuant to Chapter 163.13(H).
21. The tower and supporting equipment shelter shall be located outside of the required building setbacks for the RSF-4 zoning district: 25' front, 8' side, 20' rear.

PLANNING COMMISSION ACTION: **Required** **YES**
 ☒ **Approved** ☐ **Tabled** ☐ **Denied**

Motion: Lack

Second: Myres

Vote: 6-2-0 (Trumbo and Winston voted no)

Meeting Date: August 25, 2008

Comments:

FUTURE LAND USE PLAN DESIGNATION: *Residential Neighborhood Area.*

Section 163.02. AUTHORITY; CONDITIONS; PROCEDURES.

B. Authority; Conditions. The Planning Commission shall:

1. Hear and decide only such special exemptions as it is specifically authorized to pass on by the terms of this chapter.
2. Decide such questions as are involved in determining whether a conditional use should be granted; and,
3. Grant a conditional use with such conditions and safeguards as are appropriate under this chapter; or
4. Deny a conditional use when not in harmony with the purpose and intent of this chapter.

C. A conditional use shall not be granted by the Planning Commission unless and until:

1. A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.

Finding: The applicant has submitted a written application requesting a conditional use permit for a Wireless Communications Facility on property zoned RSF-4, Residential Single-family – 4 Units per Acre.

2. The applicant shall pay a filing fee as required under Chapter 159 to cover the cost of expenses incurred in connection with processing such application.

Finding: The applicant has paid the required filing fee.

3. The Planning Commission shall make the following written findings before a conditional use shall be issued:
 - (a.) That it is empowered under the section of this chapter described in the application to grant the conditional use; and

Finding: The Planning Commission is empowered under § 163.14 (see attached) to grant the requested conditional use permit.

- (b.) That the granting of the conditional use will not adversely affect the public interest.

Finding: Granting the requested conditional use for a 150' cell tower on a property that contains a 122' water storage tank and an existing 150' cell tower, would not introduce a new land use into the predominantly residential area. However, constructing another 150' cell tower with large platforms for antenna installation may begin to adversely affect the public interest; specifically, several residential properties immediately adjacent to the subject property. Pursuant to Chapter 164.13(B)(4), where an applicant demonstrates that it is not feasible to collocate on an existing structure, a new tower should be camouflaged to the greatest extent possible, or stealth technology should be utilized.

Considering the existing number of highly visible structures on the subject property, the residential land use of all surrounding properties and the requirement to utilize camouflaging, or stealth technology for new towers, staff would recommend that the proposed cellular tower be camouflaged as a white flagpole with all antennas internal to the pole. New technologies in cellular telecommunications provide much greater opportunity for camouflaging these structures than were present when the existing tower was constructed, and staff strives to recommend the best available camouflaging techniques possible.

There is a thick tree canopy that would effectively screen much of the lower portion of the proposed tower and ground-mounted equipment from the surrounding residents. And by designing the tower as a flagpole with internal antenna, the visual obstructions of multiple antennas protruding from a standard monopole would be eliminated. The flagpole design would allow the carrier to provide required service to their customers, while also maintaining the residential nature of the area and the overall the scenic quality of the city.

- (c.) The Planning Commission shall certify:
 - (1.) Compliance with the specific rules governing individual conditional uses; and

Finding: The applicant has complied with specific rules governing this individual conditional use request.

- (2.) That satisfactory provisions and arrangements have been made concerning the following, where applicable:
 - (a.) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe;

Finding: The existing paved driveway for the water storage tank and cell tower will be utilized to access and service the facility off of Township Street. Traffic and pedestrian access will not be adversely impacted.

- (b.) Off-street parking and loading areas where required, with particular attention to ingress and egress, economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

Finding: No parking or loading areas are required for this use, however additional paved or gravel area may be required for maintenance vehicles servicing the facility. The details of any additional parking and loading areas will be reviewed in detail at the time of development.

- (c.) Refuse and service areas, with particular reference to ingress and egress, and off-street parking and loading,

Finding: No refuse areas are required for this use.

- (d.) Utilities, with reference to locations, availability, and compatibility;

Finding: Utilities shall be located underground or screened from the public view with the exception of the proposed cellular tower and the ground-mounted equipment. Any electric lines that must be extended or provided to the site shall be done so at the cost of the applicant, and all lines shall be located underground, at the cost of the applicant.

- (e.) Screening and buffering with reference to type, dimensions, and character;

Finding: If approved, screening shall be provided as required by Chapter 163.14; see ordinance section included as part of this report. Trees and vegetation may be utilized as screening if existing on the subject property or shall be installed as part of the proposed facility or a combination of both.

- (f.) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

Finding: Only warning, site identification and FCC signs would be permitted on the subject facility. No signs shall be located along Township Street.

- (g.) Required setbacks and other open space; and

Finding: The location of the proposed ground equipment is outside of the required setbacks for the RSF-4 zoning district.

- (h.) General compatibility with adjacent properties and other property in the district.

Finding: Compatibility with adjacent properties is difficult to achieve when erecting any type of tower structure. However, due to the existing 122' water storage tank on the property and the adjacent 150' cellular tower, introduction of another cellular tower would not be incompatible to this area. However, as discussed in Finding No. 3.b., staff recommends the tower be designed and camouflaged as a white flagpole with internal antenna to reduce the cumulative visual and community character impacts from a second cellular tower with external antenna in this predominantly residential area.

Staff finds that the color of the tower and location of the tower mentioned above, in combination with vegetative and fence screening around the utility equipment at the base of the tower, would result in minimal visual impacts resulting in general compatibility.

CHAPTER 163: USE CONDITIONS

163.14 Wireless Communications Facilities.

(A) The following general requirements shall apply to all new wireless communications facilities.

(1) **Noise Requirements.** Equipment used in connection with a tower or antenna array shall not generate noise that can be heard beyond the site. This prohibition does not apply to air condition units no noisier than ordinary residential units or generator used in emergency situations where regular power supply for a facility is temporarily interrupted; provided that any permanently installed generator shall be equipped with a functional residential muffler.

Finding: Equipment used in connection with the tower shall not generate noise which can be heard beyond the site per Chapter 163.14.

(2) **Compliance with Federal Regulations.** Applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided upon request of the City Planner.

Finding: The applicant shall comply with all applicable federal regulations. Proof of compliance shall be provided prior to issuance of a building permit.

(3) **Lighting and Signage.**

(a) Wireless communications facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Security lighting or motion-activated lighting may be used around the base of a tower and within the wireless communications facility, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or right-of-way.

(b) Signs shall be limited to those needed to identify the property and tower and warn of any danger. No signs, symbols, identifying emblems, flags, or banners shall be allowed on towers.

Finding: Lighting on the tower shall only be installed if mandated by the FAA. Security lighting or motion-activated lighting may be used around the base of the tower, provided that the lighting is shielded in such a way that no light is directed towards adjacent properties or rights-of-way. All outdoor lighting shall meet lighting ordinance requirements and shall not be located higher than 6' above surrounding grade.

(B) **New Towers.** New wireless communications towers shall meet the following requirements:

(1) **Type of Towers Allowed.** New towers shall be limited to monopole type structures or alternative tower structures.

Finding: The applicant is proposing a monopole structure.

- (2) **Tower or antenna height limitations.** Towers or alternative tower structures are permitted to a maximum height of 150 feet.

Finding: The maximum tower height (including antenna, lighting rod, and all other appurtenances) permitted by the Unified Development Code is 150', and is proposed by the applicant.

- (3) **Fall Zone.** The minimum distance from the base of any tower to any residential dwelling unit shall be the tower height or required setback, whichever is greater, unless all persons owning said residences or the land on which said residences are located consent in a sign writing to the construction of said tower. This setback is considered a "fall zone." In the event that an existing structure is proposed as a mount for a wireless communication facility, a fall zone shall not be required.

Finding: There are no residential dwelling units located within a 150' of the base of the tower.

- (4) **Camouflaging or Stealth Technology for New Towers.** If the applicant demonstrates that it is not feasible to locate on an existing structure, towers shall be designated to be camouflaged to the greatest extent possible, including but not limited to: use of a compatible building materials and colors, screening, landscaping and placement within trees.

Finding: As discussed earlier in this report, there is an adjacent 122' high water tower and a 150' high cell tower. However, co-location on the water storage tank is not permitted and the City of Fayetteville is looking for new space to transfer the two existing cellular antennas currently on the water tower. Based on conversations with the applicant and correspondence received between the applicant and AT&T, the existing tower owner states there is no further room on the premises to accommodate equipment for additional carriers. Consequently, the applicant has proposed a new 150' tower, which will allow T-Mobile to install their antennas, and potentially allow collocation space for additional carriers.

Although staff has not been provided sufficient information regarding the status of the existing tower and lease area operated by AT&T, it is highly unlikely that the existing AT&T tower could support T-Mobile's antennas and all of the existing antennas on the City's water tower. Therefore, construction of a new tower on the property at this time is appropriate, though staff's recommendation is for a flagpole design, which will provide adequate space for T-Mobile and additional wireless carriers. Staff finds the utilization of the flagpole design camouflages to a far greater extent than other towers utilizing external antenna constructed by the applicant in previous applications (see attached photographs provided by staff). Additionally, the stealth design will limit the potentially adverse impacts of an additional tower in this area.

Without designing the tower as a flagpole with internal antenna, the proposed tower would not be camouflaged to the greatest extent possible at this particular site.

- (5) **Color of Towers.** To the extent that any antenna extends above the height of the vegetation immediately surrounding it, they shall be a neutral color, painted or unpainted, unless the FAA requires otherwise.

Finding: Staff recommends a white flagpole to minimize visual impact to the area.

(6) **Information Required to Process New Tower Requests.**

- (a) Provide a map of the geographic area that your project will serve.
(b) Provide a map that show other existing or planned facilities that will be used by the wireless communication service provider who is making the application.

Finding: Item (a) and item (b) are reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (c) Provide a map that shows other potential stand-alone locations for your facility that have been explored.

Finding: Chapter 163.14 (F) of the Unified Development Code states that the City of Fayetteville should actively market its own property and existing structures as suitable co-location sites. This proposal has complied with the ordinance criteria by proposing a tower on the city-owned water tank site. However, AT&T has not provided information to City staff regarding the feasibility for additional carriers to collocate on their existing tower.

- (d) Provide a scaled site plan containing information showing the property boundaries, proposed tower, existing land use, surrounding land uses and zoning, access road(s) location and surface material, existing and proposed structures and topography. The plan shall indicate proposed landscaping, fencing, parking areas, location of any signage and specification on proposed lighting of the facility

Finding Item (d) is reflected within the report, as provided by the applicant and distributed with this agenda to the Commissioners.

- (e) Describe why the proposed location is superior, from a community perspective, to other potential locations. Factors to consider in the community perspective should include: visual aspects, setbacks and proximity to single family residences.

Finding: Co-locating new carriers on existing cellular towers or existing structures is the first and best option available from a community perspective. Although staff has not been provided sufficient information regarding the status of the existing

tower and lease area operated by AT&T, it is highly unlikely that the existing AT&T tower could support T-Mobile's antennas and all of the existing antennas on the City's water tower.

In the cases where collocation is not feasible, new towers should be camouflaged to the greatest extent possible through design and location. The proposed site is superior to other locations because a new tower would not introduce a new land use to the neighborhood. With a flagpole design, the visual impacts to the immediate and surrounding area would be minimized, and the tower and ground-mounted equipment would be well screened from public and private views. Additionally, sufficient space should be provided to allow for at least three carriers to locate antennas. The site is also superior from a coverage standpoint. The applicants RF coverage map indicates that the tower will serve areas as far away as Joyce and College and Mission and Crossover, two highly traveled intersections.

(f) Describe your efforts to co-locate your facility on one of the poles or towers that currently exists, or is under construction. The applicant should demonstrate a good faith effort to co-locate with other carriers. The Planning Commission may deny a permit to an applicant that has not demonstrated a good faith effort to provide for co-location. Such good faith effort includes:

- (1) A survey of all existing structures that may be feasible sites for co-locating wireless communications facilities;
- (2) Contact with all the other wireless communications licensed carriers operating in the City and Washington County; and
- (3) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- (4) Letter from tower owner stating why co-location is not feasible.

Finding:

The applicant considered co-location on the existing City water storage tank, the existing AT&T cellular tower, and several other cellular towers within an approximately 1 mile radius. Although sufficient information has not been provided to staff regarding the feasibility to co-locate additional antennas on the AT&T tower, it is highly unlikely that the existing tower could support antennas from three additional wireless carriers. Collocation on the existing water tower is not permitted due to structural and security issues. Other existing towers within 1 mile of the site simply do not provide the coverage required by the applicant. Staff is recommending approval of a new wireless communication facility to support T-Mobiles antennas and the antennas for the existing carriers currently located on the City's water tower.

- (g) Describe how you will accommodate other antenna arrays that could co-locate on your facility. Describe how this accommodation will impact both your pole or tower, and your ground mounted facilities. Provide documentation of your provider's willingness to accommodate other providers who may be able to co-locate on your facility.

Finding: This facility will allow co-location for at least two additional wireless carriers as stated within the applicant's request.

(7) Required (after condition) and Balloon Test or Crane Test Photographs. The proposed tower shall be photographed from four locations taken 90 degrees apart and 300' from the center of the tower. The proposed tower shall be superimposed on the photographs. A balloon or crane test shall be performed to illustrate the height of the tower and photographed from the same four locations. The time period, not to exceed one week, within which the test will be performed, shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test. The four locations shall be approved by the City Planner.

Finding: The applicant has provided this information.

(8) Sight Line Representation. A sight line representation shall be drawn from four points 90 degrees apart and 100 degrees from the proposed tower. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings.

Finding: The applicant has provided this information.

(9) Structural Integrity and Inspection of Towers.

- (a) The applicant shall provide a certification letter that states the tower meets or exceeds design criteria and all local, state, and federal requirements regarding the construction, maintenance, and operation of the tower.
- (b) If a tower fails to comply with the requirements and criteria above and constitutes a danger to person or property, then upon written notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance within thirty (30) days, the City may terminate that owner's conditional use permit and/or cause the removal of such tower (at the owner's expense).
- (c) By making an application hereunder, the applicant agrees to regularly maintain and keep in a reasonably safe and workmanlike manner all towers, antenna arrays, fences and outbuildings owned by the applicant which are located in the City. The applicant further agrees to conduct inspections of all such facilities not less frequently than every 12 months. The applicant agrees that said inspections shall be conducted by one or more designated persons holding a combination of education and experience so that they are reasonably capable of identifying functional problems with the facilities.

Finding: The applicant has provided this information.

(10) Security Fencing and Anti-climbing Device. Through the use of security fencing, towers and equipment shall be enclosed by wood board fencing not less than six (6) feet in height. The tower shall also be equipped with an appropriate anti-climbing device. The facility shall place signs indicating "No Trespassing", "High Voltage" or other pertinent information on the outside of the fence, unless it is

decided that the goals of this ordinance would be better served by waiving this provision in a particular instance. Barbed wire fencing or razor wire shall be prohibited.

Finding: The applicant shall construct an 8' wood privacy fence around the equipment at the base of the tower. The applicant has indicated in their application that they will install a "No Trespassing" sign and a sign indicating that the facility is owned and operated by Smith Two-Way Radio Inc.

(11) Vegetative Screening Requirements. Wireless communications facilities shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or combination of both.

Finding: The location of the facility is within a heavily wooded area and therefore additional screening may not be required. At the time of Certificate of Occupancy, staff shall investigate the site to determine if additional screening is required as determined by the Urban Forester. The species and location shall be approved by the Urban Forester.

(12) Setback from Property Lines. Wireless communications facilities shall meet current setbacks as required by zoning.

Finding: The proposed facility and accessory structures shall comply with RSF-4 setback requirements.



WATER AND WASTEWATER DEPARTMENT
DEPARTMENTAL CORRESPONDENCE

TO: Jeremy Pate, Planning
Glenn Newman, Engineering

FROM: David Jurgens, Water and Wastewater Director

DATE: 1 August 2008

SUBJECT: Water and Wastewater Input to Cell Tower- Markham Hill Water Tank Site

The Water and Wastewater Department submits the following comments regarding the proposed cellular antenna on the Markham Hill water tower site.

We cannot have any additional antennas on the Markham Hill water tower. There have been several instances in the City where these antennas have created water safety problems, structural problems, and maintenance problems with other tanks. The Markham tank was constructed in 1959. While it is still well within its service life (it has been well maintained), anything which might reduce the service life is very undesirable.

The following apply to any new antenna located on the Markham water tank site:

1. The Water and Wastewater Department prefers the cellular antenna be located slightly centered from the northeast corner of the lot, for several reasons:
 - At some future time, the utility will need to add another water transmission line, probably 24", to this tank. The probable route for this pipe is to the south to connect to the existing 24" water line on Sang. The water line that currently serves the tank is over 50 years old, has experienced several major failures (almost draining the tank), and is undersized for current requirements.
 - This location allows the two cellular ground facilities, as well as water utility personnel, to share one common driveway, and significantly reduces the total length and area of driveway required.
 - This location reduces the potential conflicts with the City's SCADA radio system, which monitors and is thus mounted on the Markham Tank.
 - This location reduces the number of trees that must be removed at this time.
2. We have no specific plans to remove trees from the tank site at the current time. There is, however, the probability that mandated physical security requirements of water tank sites (water is one of the nation's nine critical infrastructures as determined by federal homeland security laws), that all trees will have to be removed, and additional site security may have to be installed. This would likely include double fencing, a clear space around the perimeter so no one could use a tree as a point of entry, camera surveillance, motion detectors, etc. As a result, while not taking down any existing trees at this time, the Department strongly requests no additional trees be added on the site.

3. The facilities need to remain at least 30' away from the outside vertical edge of the tank.

Cc: Tom Hubbard, Water/Sewer Operations
OMI

From: David Jurgens
To: Fulcher, Jesse
CC: Hubbard, Tom
Date: 8/1/2008 3:20 PM
Subject: Re: cellular antennas on water towers

Jesse,

I'm not sure of all of the carriers. I could get the info, but it would take a few days.

I was aware of the Township tower as well, which was one of the reasons I went into so much detail.

The carrier owning the antenna that has (apparently) caused the most problems and who certainly causes the greatest concern is Alltel. In talking to Smith 2-Way, Alltel is willing to move to the tower, if it is built. The contract between the City and Alltel for leasing the space on our tank has expired, but I don't have it in hand. Again, I could get that in a few days- I believe Tom Hubbard has it. I think the separation of assets would be amicable for both parties. I would not ask for removal until there was a viable alternative; I figured it would become part of the new cell tower construction agreement in some way.

Thanks,

David

>>> Jesse Fulcher 8/1/2008 1:45:45 pm >>>

Do you know who is located on the tank and when they will have to be removed? Thanks for all of the good information. We are evaluating a second tower at the Township site.

Jesse

>>> David Jurgens 8/1/2008 10:23 AM >>>

Jesse,

I am just completing a memo regarding the new antenna proposed on the Markham Hill tank. We are reviewing to ensure we have adequate line of sight for our own radio network from that tank to our other facilities.

In general, I would like to see cellular antennas removed from water tanks. There are a variety of reasons. There have been several instances in the City where these antennas have created water safety problems, structural problems, and maintenance problems with other tanks.

As for the Township tank, it has experienced several structural problems that are being evaluated by the University of Arkansas. It was never designed for the additional wind load created by the antennas that have been added. Also, the bowl at the top was not intended to be welded on, and the welding and repairs they have made caused paint failure inside the tank, further causing the melted paint and metal residue to contaminate the water inside the tank. Thus, yes, I am going to request that the antenna on the top of the Township tank be removed.

Each antenna mounting has to be evaluated on a case by case basis. While each has an impact on our operations and/or maintenance, some of these are acceptable and some are not. As new water towers are constructed, there are more ways to design them for cell tower application. With the exception of the Gulley Road tank build in the '90's, cellular telephones did not exist when all of our others were constructed. Both the Mt. Sequoyah and Markham Hill tanks were built in 1959; Township was built in 1976.

I suspect this was more of an answer than you expected, but I do hope it at least answers the basic questions.

Keep smiling,

David

>>> Jesse Fulcher 8/1/2008 10:11:16 am >>>

I need some information regarding the use of City water towers, specifically regarding cellular antennas. What is the City's current policy? Will we require the removal of existing antennas in the near future? Township water tower?

Thanks for your help,

- email between AT&T and T-Mobile -

t;font-size:12.0pt;font-family:'Times New Roman';}

.ExternalClass span.EC_emailstyle183

{font-family:Arial;color:windowtext;}

.ExternalClass span.EC_EmailStyle62

{font-family:Arial;color:navy;}

@page Section1

{size:8.5in 11.0in;}

.ExternalClass div.EC_Section1

{page:Section1;}

Per paragraph 2 Premises of the Site Lease Agreement,
ground space not to exceed 50' x 50'. I have attached this document.

Carole Jones

Co-Location Specialist ~ W.PA/KS/MO/OK/AR

The Lyle Company - Representing AT&T Towers

6015 Atlantic Blvd., Suite A

Norcross, GA 30071

Desk: 916-868-6718

cjones@lyleco.com

- Email between AT&T and T-Mobile -

version?***

***AT&T has a new application. Are you using the current

10095001 USID 37839

From: Kayla Kramer [mailto:kayla.kramer@hotmail.com]
Sent: Friday, May 30, 2008 2:46 PM
To: Carole Jones
Cc: Harshbarger, Jonathan; lowell.jones@att.com
Subject: RE: T-Mobile AR01427A @ Common Drive / AR / FA

What about expanding the compound. Is that an option?

Figuring the 2 new pads in the compound, is there any room to accommodate T-Mobile equipment. We are open to suggestion and welcome any input.

Kayla Kramer
Project Manager
CLS Group
918.851.9102

-Email between AT&T and T-Mobile - Page 25 of 28

10095001 USID 37839

Subject: T-Mobile AR01427A @ Common Drive / AR / FA

Date: Fri, 30 May 2008 08:49:47 -0700
From: cjones@lyleco.com
To: kayla.kramer@hotmail.com
CC: jh9751@att.com; cjones@lyleco.com;

lowell.jones@att.com

Kayla,

The attached site sketch places T-Mobile's equipment in the driveway belonging to the water company. Local AT&T market has gone to the site and will be pouring a pad for two new shelters. There is no room for a new co-locator on the premises.

Lowell Jones is the local construction manager and is available to discuss viable options at this site. Lowell is copied on this e-mail.

Regards,

Carole Jones

CUP08-3050

SMITH COMMUNICATIONS/TOWNSHIP TOWER

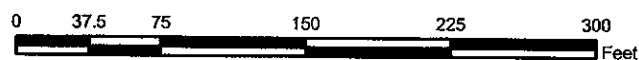
Close Up View



SUBJECT PROPERTY



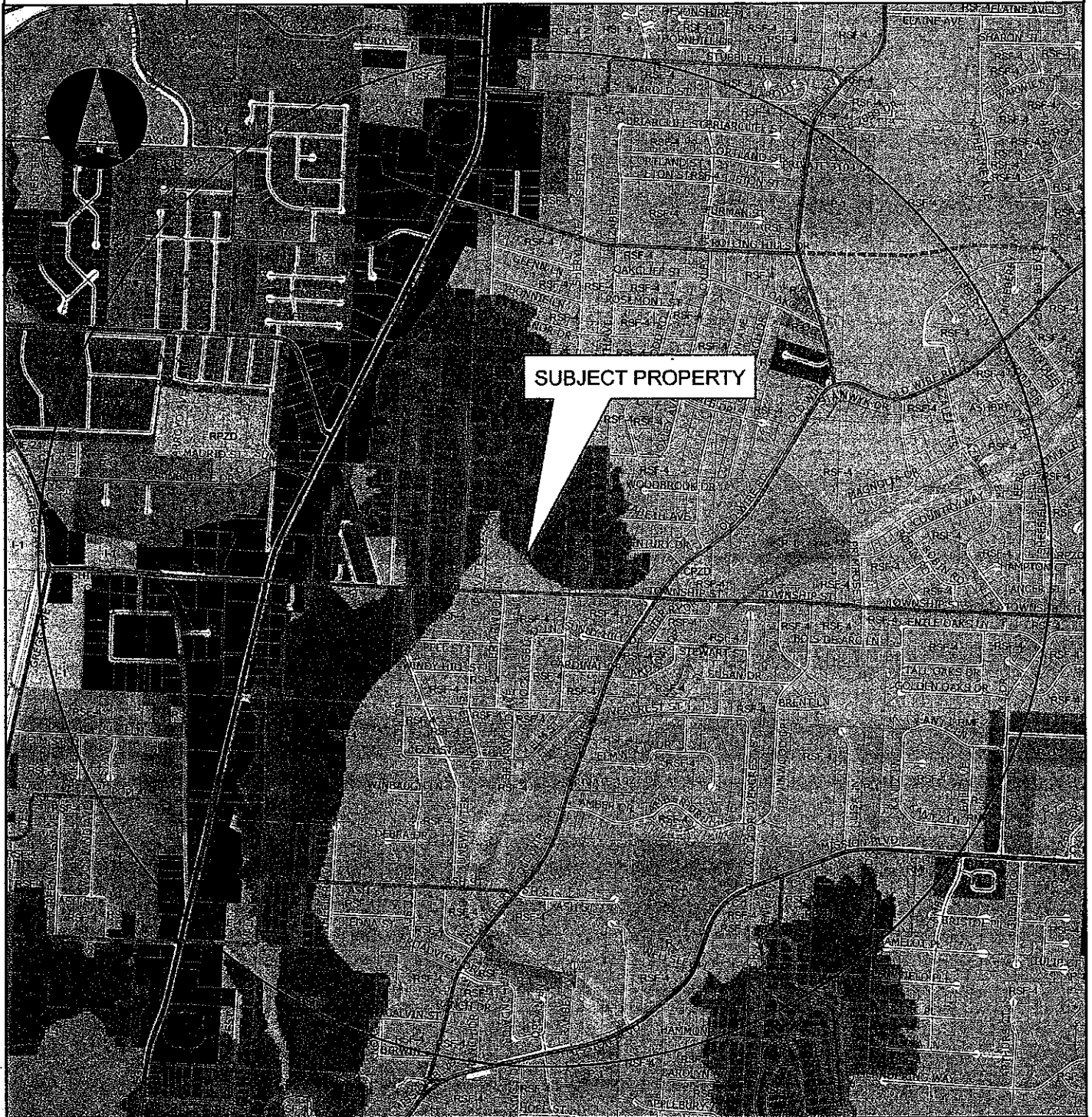
Overview



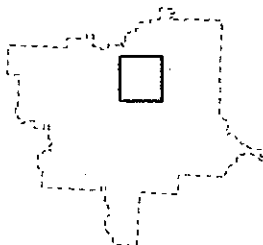
CUP08-3050

SMITH COMMUNICATIONS/TOWNSHIP TOWER

One Mile View



Overview



Legend

Subject Property

CUP08-3050

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

