

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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Alderman voted to add Cultural Arts District amendment to the end of the agenda.

Special Recognition

Nominating Committee Report

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**

APPROVED.

- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION.

- 3. Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 162-07.

4. **Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 163-07.

5. **Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 164-07.

6. **Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** A resolution rescinding Resolution #38-07, and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in the amount of \$29,980.00 for use by the Fleet Rental Pool.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 165-07.

1. **Little Mendelson, P.C. Contract:** A resolution approving a contract with Little Mendelson, P.C. to provide employment and labor litigation services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 166-07.

B. UNFINISHED BUSINESS:

1. **R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*

THIS ITEM WAS TABLED TO THE OCTOBER 2, 2007 CITY COUNCIL MEETING.

2. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and Tabled to the September 18, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5059.

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 167-07.

2. **Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 168-07.

D. NEW BUSINESS:

1. **R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE THIRD READING OF THE ORDINANCE AND TABLED TO THE OCTOBER 2, 2007 CITY COUNCIL MEETING.

2. **R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

3. **VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5060.

4. **ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5061.

5. **Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5062.

6. **Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

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

7. **Amend Cultural Arts District:** A resolution to amend the boundaries of the Cultural Arts District and specify its revised borders.

THIS ITEM WAS ADDED TO THE AGENDA AT THE CITY COUNCIL MEETING. PASSED AND SHALL BE RECORDED AS RESOLUTION 169-07.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

The Council plans on touring:

R-PZD 07-2576 Woodstock

R-PZD 07-2649 College Avenue Townhomes

Meeting adjourned 9:50 p.m.

Meeting Adjourned
at 9:50 PM

Subject: Roll					
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads Arrived at 6:05 PM	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody	✓			

8-0

Subject: Cultural Arts District Amend Boundaries					
Motion To:		Add to end of the agenda			
Motion By:		Allen			
Seconded:		Cook			
Added to the agenda	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent during the vote.			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

7-0

Subject: <i>Nominating Committee Report</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Cook</i>			
Seconded:		<i>Thiel</i>			
<i>Approve</i>	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	<i>absent during the vote</i>			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

7-0

Subject: <i>Consent</i>					
Motion To:		<i>Approve with item # 2 removed for discussion</i>			
Motion By:		<i>Jordan</i>			
Seconded:		<i>Lucas</i>			
<i>Approve with Littler Mendelson, P.C. Contract removed for discussion</i>	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

Minutes were approved 8-0 Res 162-07 to 165-07

City Council Meeting September 18, 2007

Subject: <i>Littler Mendelson, P.C. Contract</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Gray</i>			
Seconded:		<i>Thiel</i>			
<i>Removed from the Consent</i> <i>passed</i> <i>166-07</i>	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: <i>R-PZD 07-2576 Woodstock Community</i>					
Motion To:		<i>3rd Reading</i>	<i>Tabled to 10-02-07</i>		
Motion By:		<i>Jordan</i>	<i>Jordan</i>		
Seconded:		<i>Cook</i>	<i>Lucas</i>		
<i>Tabled to 10-2-07</i> <i>B.I.</i> <i>Unfinished Business</i>	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Mayor Coody				

8-0

8-0

Subject: Amend Chapter 96 Noise Ordinance					
Motion To:		Amend Section E	Approve		
Motion By:		Allen			
Seconded:		Jordan			
B.2. Unfinished Business Passed 5059	Thiel		✓		
	Cook	With	N		
	Allen	drawn	N		
	Rhoads		✓		
	Ferrell		N		
	Lucas		✓		
	Jordan		N		
	Gray		✓		
	Mayor Coody		Yes		

5-4 Tie Mayor Coody voted Yes to break the tie

Subject: Raze & Removal at 1989 E. Mission					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Cook			
C.1. Public Hearing passed 167-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

City Council Meeting September 18, 2007

Subject: Raze & Removal at 1533 - S. Duncen					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
C.2. Public Hearing <u>passed</u> 168-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: R-PZD 07-2649 College Avenue Townhomes.					
Motion To:	Amend to add Engineered foundations	2nd read	3rd read	Table to 10/2/07	
Motion By:	Thiel	Ferrell	Ferrell	Jordan	
Seconded:	Gray	Rhoads	Rhoads	Ferrell	
D.1. New Business Left on the Third Reading & Tabled to Oct. 2, 2007	Thiel	✓	✓	✓	✓
	Cook	✓	✓	N	✓
	Allen	✓	✓	N	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Mayor Coody				

8-0

8-0

6-0

8-0

City Council Meeting September 18, 2007

Subject: R-PZD 07-2680 Arcadian Court					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
D.2, New Business Lift on the 2nd Reading	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: VAC 07-2688 Walgreens					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D.3, New Business Passed 5060	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

City Council Meeting September 18, 2007

Subject: AD M 07-2725 Southern View II Amendments					
Motion To:		2nd read	Amend Section one to 75%	3rd read	Pass
Motion By:		Cook	Cook	Jordan	
Seconded:		Jordan	Lucas	Cook	
D.4. New Business <u>passed</u> 5061	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

Subject: Amend Chapter 174 Signs					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Jordan		
Seconded:		Thiel	Ferrell		
D.5. New Business <u>passed</u> 5062	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: Hobson, Inc. Appeal					
Motion To:					
Motion By:					
Seconded:					
D. 6, New Business Left on the first Reading	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Mayor Coody				

Subject: Cultural Arts District					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
D. 7. Added at the Council Meeting Passed 169-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

Aldermen

Mayor Dan Coody

City Attorney Kit Williams

City Clerk Sondra Smith



Ward 1 Position 1 – Adella Gray
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**Final Agenda
City of Fayetteville Arkansas
City Council Meeting
September 18, 2007**

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**Call to Order
Roll Call
Pledge of Allegiance**

Special Recognition

Nominating Committee Report

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**
- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.
- 3. Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.
- 4. Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.
- 5. Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

- 6. Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** A resolution rescinding Resolution #38-07, and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in the amount of \$29,980.00 for use by the Fleet Rental Pool.

B. UNFINISHED BUSINESS:

- 1. R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*
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C. PUBLIC HEARINGS:

- 1. Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas.
- 2. Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

- 1. R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
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4. **ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.
5. **Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.
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E. INFORMATIONAL:

City Council Tour: September 17, 2007

The Council plans on touring:

R-PZD 07-2576 Woodstock

R-PZD 07-2649 College Avenue Townhomes

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 6
Rescind Resolution #38-07 and
Award Bid #07-04 to Hugg & Hall
Equipment of Springdale
Page 1 of 6

Added at
Agenda Session
9/11/07

Sep. 18, 2007
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution (repealing Resolution #38-07) awarding bid #07-04 to Hugg & Hall Equipment of Springdale in the amount of \$29,980.00 for the purchase of one Forklift truck.

\$29,980.00 Cost of this request	\$ 1,052,969.00 Category/Project Budget	Other Vehicles/Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 775,637.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 277,332.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

[Signature] 9-11-07
Department Director Date

Previous Ordinance or Resolution # _____

[Signature] 9/11/07
City Attorney Date

Original Contract Date: _____

Original Contract Number: _____

[Signature] 9-11-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 9/11/07

[Signature] 9/11/07
Mayor Date

Received in Mayor's Office
ENTERED 9/11/07 BAP

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 6
Rescind Resolution #38-07 and
Award Bid #07-04 to Hugg & Hall
Equipment of Springdale
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: September 11, 2007
Subject: Purchase of one Fork Lift Truck from Bid #07-04

RECOMMENDATION: That City Council rescind resolution #38-07 to purchase a Yale fork lift truck from Yale Material Handling-Gammon, Inc., and approve the purchase of one Toyota fork lift truck from Hugg & Hall Equipment of Springdale in the amount of \$29,980.00

BACKGROUND: At the Council meeting of March 6, the purchase of one Yale fork lift truck was approved in the amount of \$28,800.00 from Yale Material Handling-Gammon, Inc. for assignment to the fleet rental pool and primarily used by Fleet, Parks, and Transportation Divisions. Yale was the lowest bidder meeting specifications of Bid #07-04 according to bid form responses and specification sheets provided. I personally met with a representative of Yale Material-Gammon to review the bid and specification sheets and was assured that the model required to meet the specifications would be provided. The forklift was delivered 7/24/2007 and inspection by Fleet staff revealed that the machine delivered was not as specified and does not meet bid specifications. Yale has advised that the machine listed in the specification sheets has yet to be produced and can provide no expected delivery date. Specified delivery deadline was 8/23/2007.

The next lowest bidder, Hugg & Hall has agreed to honor their bid in the amount of \$29,980.00 and can provide delivery in 90 days. This bid for a Toyota lift truck meets all specifications.

I recommend purchase of the forklift from Hugg & Hall in the amount of \$29,980.00

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles/Equipment.

This purchase from Yale was approved by the Equipment Committee at their meeting on February 13, 2007.

RESOLUTION NO. _____

A RESOLUTION RESCINDING RESOLUTION #38-07, AND
AWARDING BID #07-04 TO HUGG & HALL EQUIPMENT OF
SPRINGDALE FOR THE PURCHASE OF ONE (1) TOYOTA FORK
LIFT TRUCK IN THE AMOUNT OF \$29,980.00 FOR USE BY THE
FLEET RENTAL POOL.

**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 rescinds Resolution #38-07, and awards Bid #07-04 to Hugg & Hall
Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in
the amount of \$29,980.00 for use by the Fleet Rental Pool.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

1	Barloworld Handling LP	Hyster	H70 FT	\$24,561.00
2	Grady W Jones Co.	Caterpillar	P6500-LP	\$24,544.00
3	Hugg & Hall Equipment #1	Daewoo	G 32P-3	\$26,938.50
4	Hugg & Hall Equipment #2	Toyota	8FGU32	\$29,980.00 <i>A</i>
5	Yale Materials Handling Gammon	Yale	GLP070 VX	\$28,800.00

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

CERTIFIED: P. Vice W. J. Jones 1/16/07
 P. VICE PURCH MGR WITNESS DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor #		5571		Vendor Name:		HUGG & HALL EQUIPMENT	
Address:							
City:		State:		Fob Point:			
Requester		Barbara Olsen		Ship to code:		050	
Requester's Employee #		1940		Division Head Approval		Yes: No:	
Requester's Account Numbers		9700.1920.5802.00		Project/Subproject #		485	
Extended Cost		Unit Cost		Inventory #		Fixed Asset #	
1	TOYOTA 8FGU32 FORK LIFT	1	EA	\$29,980.00	\$29,980.00	02080.1	
2	TRUCK PER BID #07-04, TO BE		EA		\$0.00		
3	UNIT 812, FIXED ASSET #700812		EA		\$0.00		
4			EA		\$0.00		
5			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		

Requisition No. _____ Date: 9/11/2007

P.O Number _____ Expected Delivery Date: _____

Mail Yes: No: XX_

Taxable Yes: XX No: _____

Division Head Approval: *[Signature]* Quotes Attached Yes: No:

Extension: 485

Subtotal: 29,980.00

Tax: EXEMPT

Total: 29,980.00

Purchasing Manager: _____

IT Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Mayor: _____

Special Instructions: _____

Approvals: _____

Add to Final
Hobson, Inc. Appeal
9/18/07 Agenda.

THIS INSTRUMENT PREPARED BY:

Donald E. Wilson, P.A.
Attorney at Law
P.O. Box 1285
Fayetteville, AR 72702-1285

BILL OF ASSURANCE

KNOW ALL MEN BY THESE PRESENTS:

THAT Hobson, Inc., an Arkansas Corporation, holds title to the following described lands situated in Washington County, Arkansas, to-wit:

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49"W 39.12 feet from the Northeast corner of said 40 acre tract, said point being on the South Right-of-Way of Arkansas Highway 16; thence S1°17'49" W 146.88 feet; thence along a fence S89°10'35" W 61.88 feet; thence N0°40'45" E 148.25 feet, to the said Highway Right-of-Way; thence along said Right-of-Way S89°33'25" E 63.44 feet, to the point of beginning, containing 0.21 acres, more or less, Washington County, Arkansas. Subject to a 18.00 foot road easement along the East side thereof.

-and-

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49" W 186.00 feet from the Northeast corner of said 40 acre tract; thence S1°17'49" W 381.00 feet; thence N89°32'06" W 250.00 feet; thence N1°17'49" E 373.78 feet; thence along a fence N88°41'34" E 188.33 feet, N89°10'35" E 61.88 feet, to the point of beginning, containing 2.17 acres, more or less, Washington County, Arkansas. Subject to: An 18.00 foot Road Easement along the East side thereof.

And having a property street address of 7613 Wedington (12611 Hwy 16W), Fayetteville, Arkansas.

The Grantor, Hobson, Inc., has filed its application with the City of Fayetteville for rezoning of the above-described property from R-A, Residential-Agricultural, to C-2, Thoroughfare Commercial.

As a part of this Bill of Assurance, certain safeguards and restrictions hereinafter referred to as "Restrictions" are hereby placed on the above-described real property.

RESTRICTIONS

The purpose of these restrictions is to restrict and limit the use of the above-described real property under a C-2 Zoning classification as set forth in Chapter 161.18,

District C-2, Thorough Commercial, of the Fayetteville Unified Development Code, to the following permitted uses, as follows:

Unit 12	Offices, studios and related services
Unit 17	Trades and services
Unit 25	Commercial offices

It is the intention of these restrictions to limit the permitted uses as described above, and to restrict all other uses of the said property.

The hereinabove-described real property shall be used only for the permitted uses described in Unit 12, Unit 17, and Unit 25 of Chapter 161.18 of the Fayetteville Unified Development Code.

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its undersigned representative this _____ day of _____, 2007.

Hobson, Inc.

By: _____
David Pearce, President

By: _____
Patricia Pearce, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
COUNTY OF WASHINGTON)

On this _____ day of _____, 2007, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared David Pearce and Patricia Pearce, who acknowledged themselves to be the President and Secretary, respectively, of Hobson, Inc., an Arkansas Corporation, and that they, as such President and Secretary of said corporation, being authorized so to do, executed the foregoing instrument for and in the name and behalf of said corporation by signing the name of the corporation by themselves as President and Secretary, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

(Note: Legal Description is
not scrivener's description)

*Handed out at Agenda
Session 9/11/07*

CITY COUNCIL MAPS

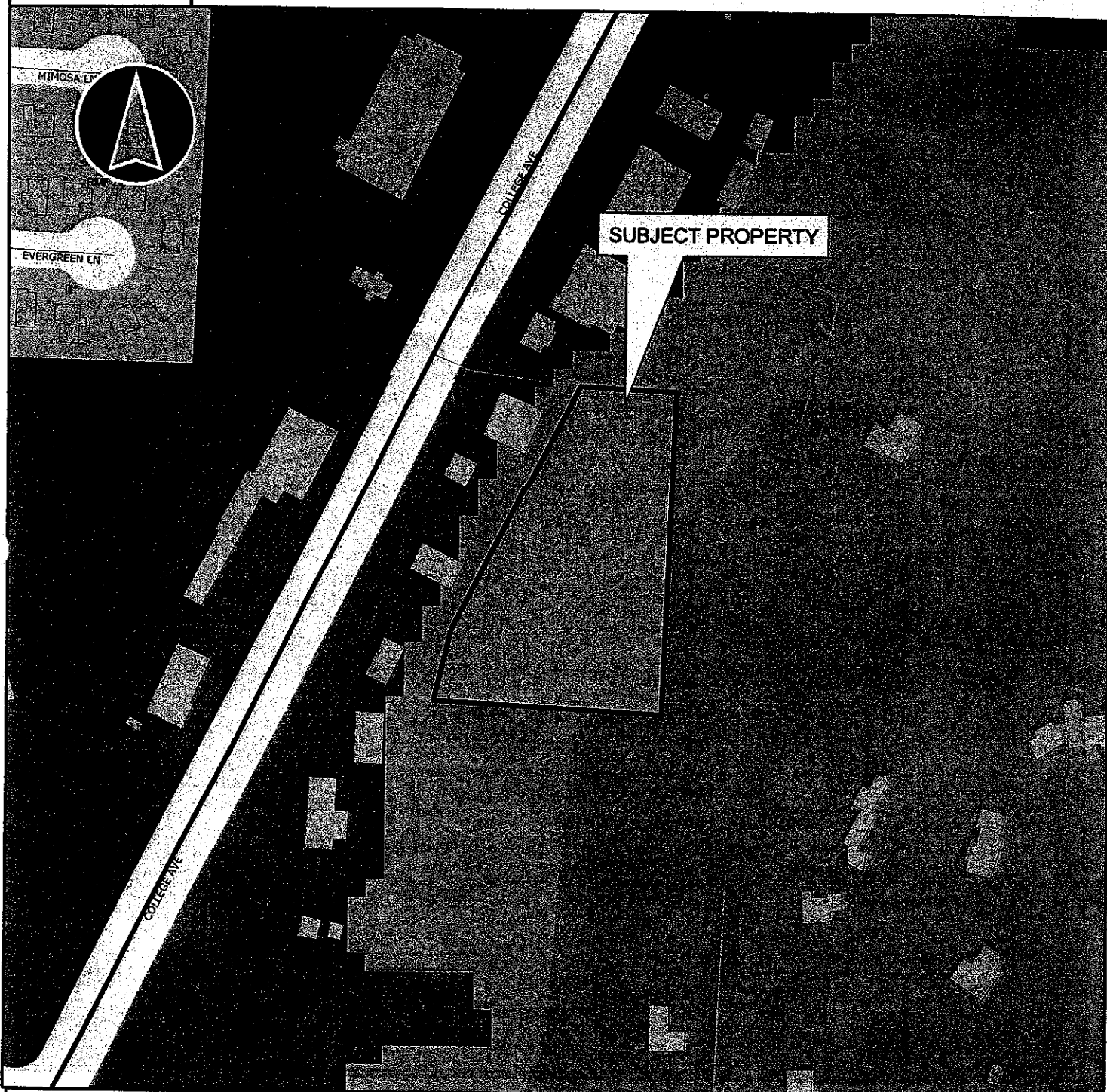
September 18, 2007

**College Avenue Townhomes PZD
Arcadian Court PZD
Walgreens Vacation
Hobson, Inc. Rezoning Appeal**

RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



Overview

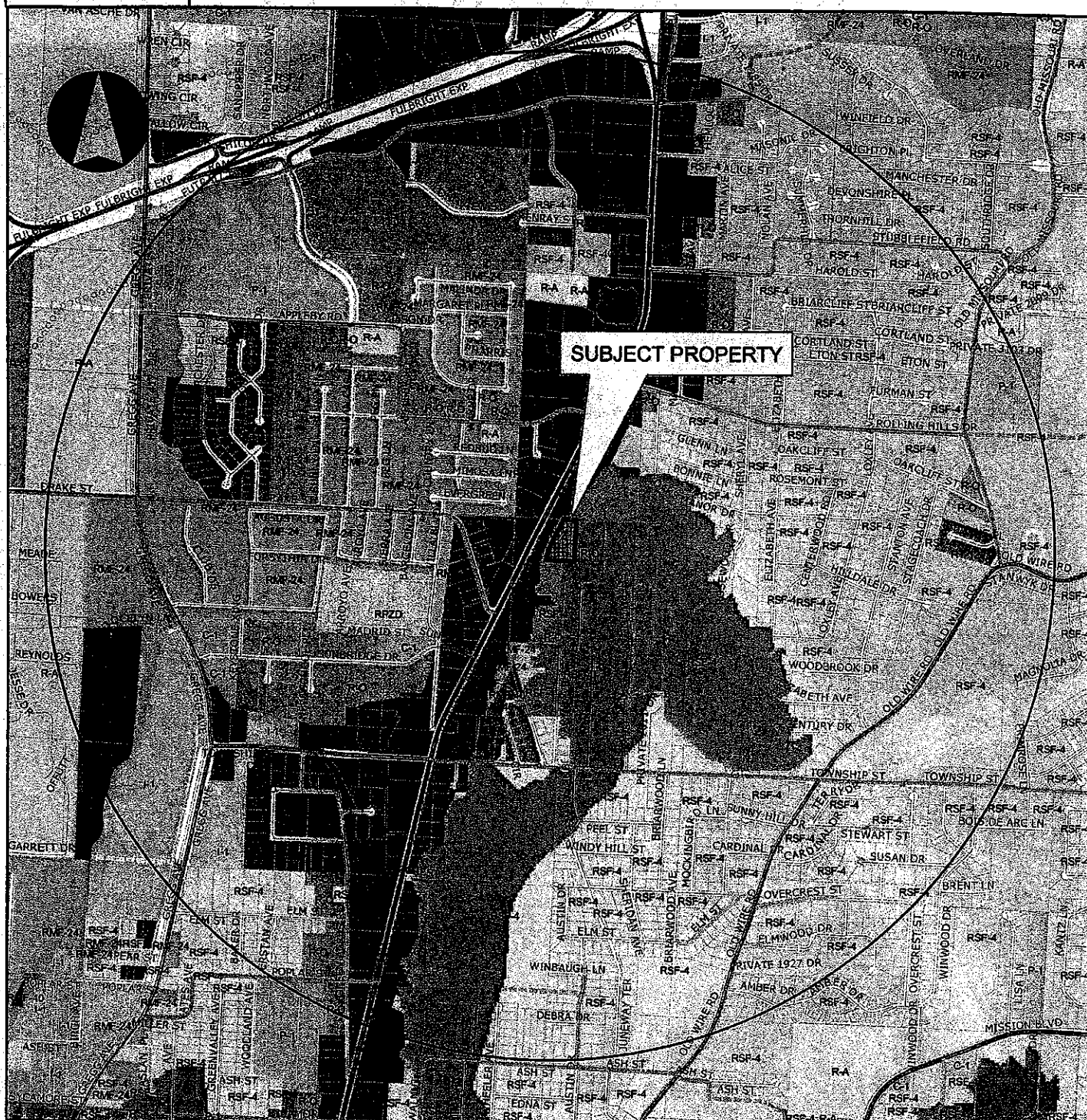


0 75 150 300 450 600 Feet

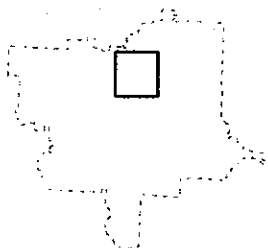
RPZD07-2649

One Mile View

COLLEGE AVENUE TOWNHOMES



Overview



Legend

Subject Property



Boundary

 Planning Area **Overlay District**

Outside City

Legend

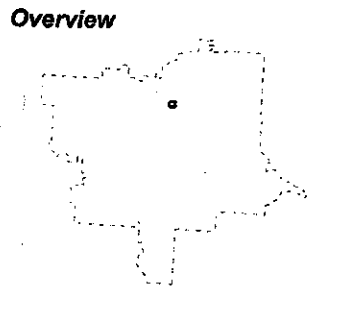
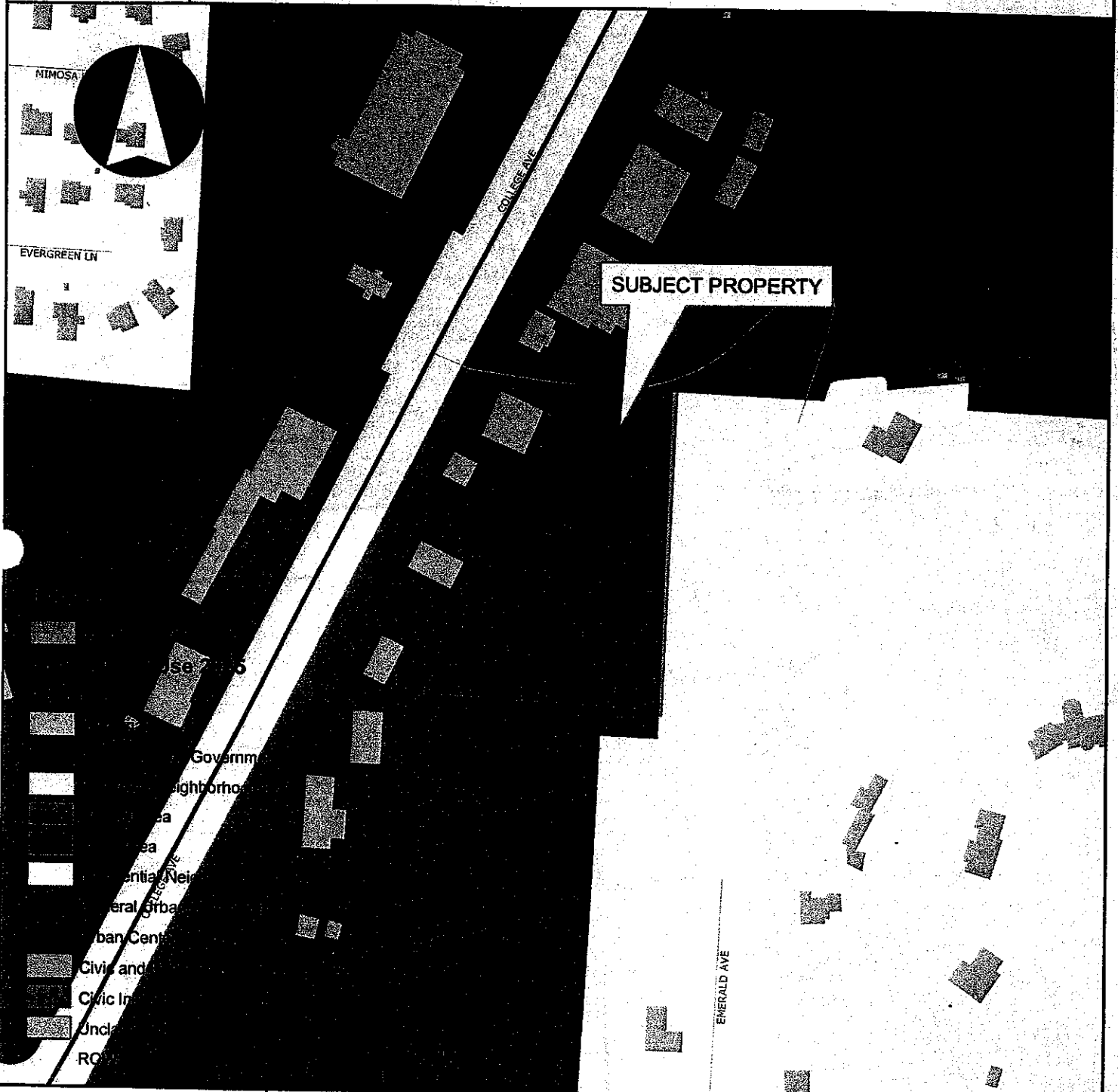
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

RPZD07-2649

COLLEGE AVENUE TOWNHOMES

Future Land Use



Legend
Subject Property

RPZD07-2649

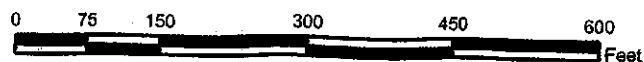
Boundary

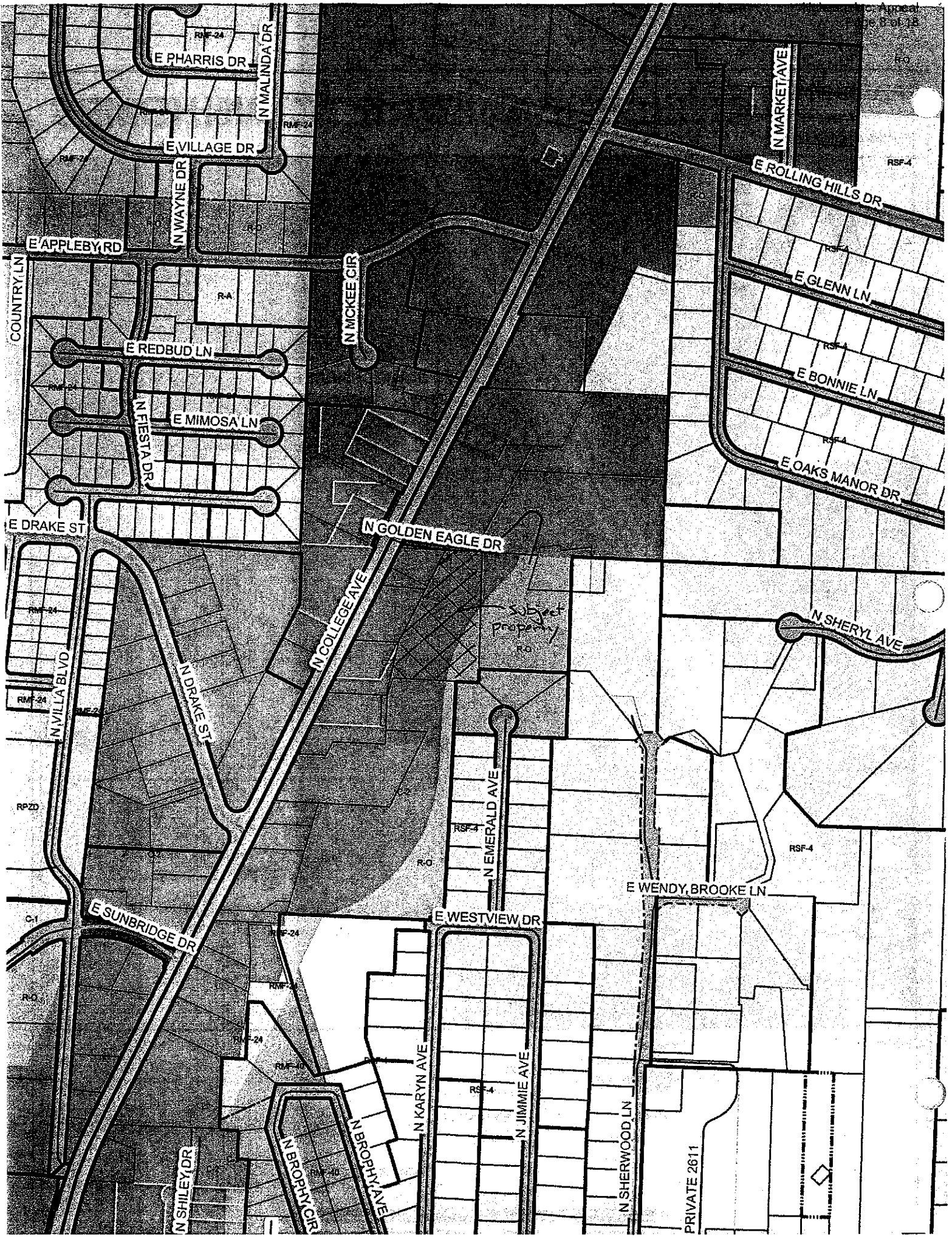
- Planning Area
- Overlay District
- Outside City

Streets

- Existing
- Planned

Legend

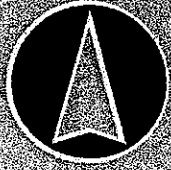




RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



0 75 150 300 450 600 Feet

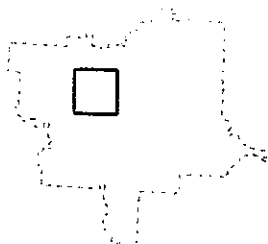
RPZD07-2680

One Mile View

ARCADIAN COURT



Overview



Legend

Subject Property



Boundary

 Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5

1 Miles

RPZD07-2680

Future Land Use

ARCADIAN COURT

SUBJECT PROPERTY

Legend

Building (2004)

Future Land Use 2025

CLASS

Industrial

Non-Municipal Government

Complete Neighborhood Plan

Natural Area

Rural Area

Residential Neighborhood Area

General Urban/City Neighborhood Area

Urban Center Area

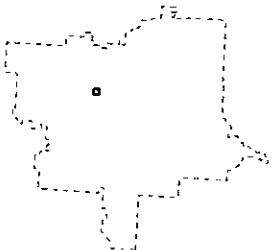
Civic and Private Open Space/Park

Civic Institutional

Unclassified

ROW

Overview



Legend

Subject Property

RPZD07-2680

Boundary

Planning Area

Overlay District

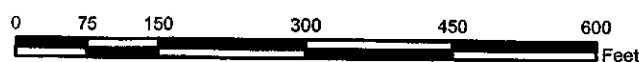
Outside City

Streets

Existing

Planned

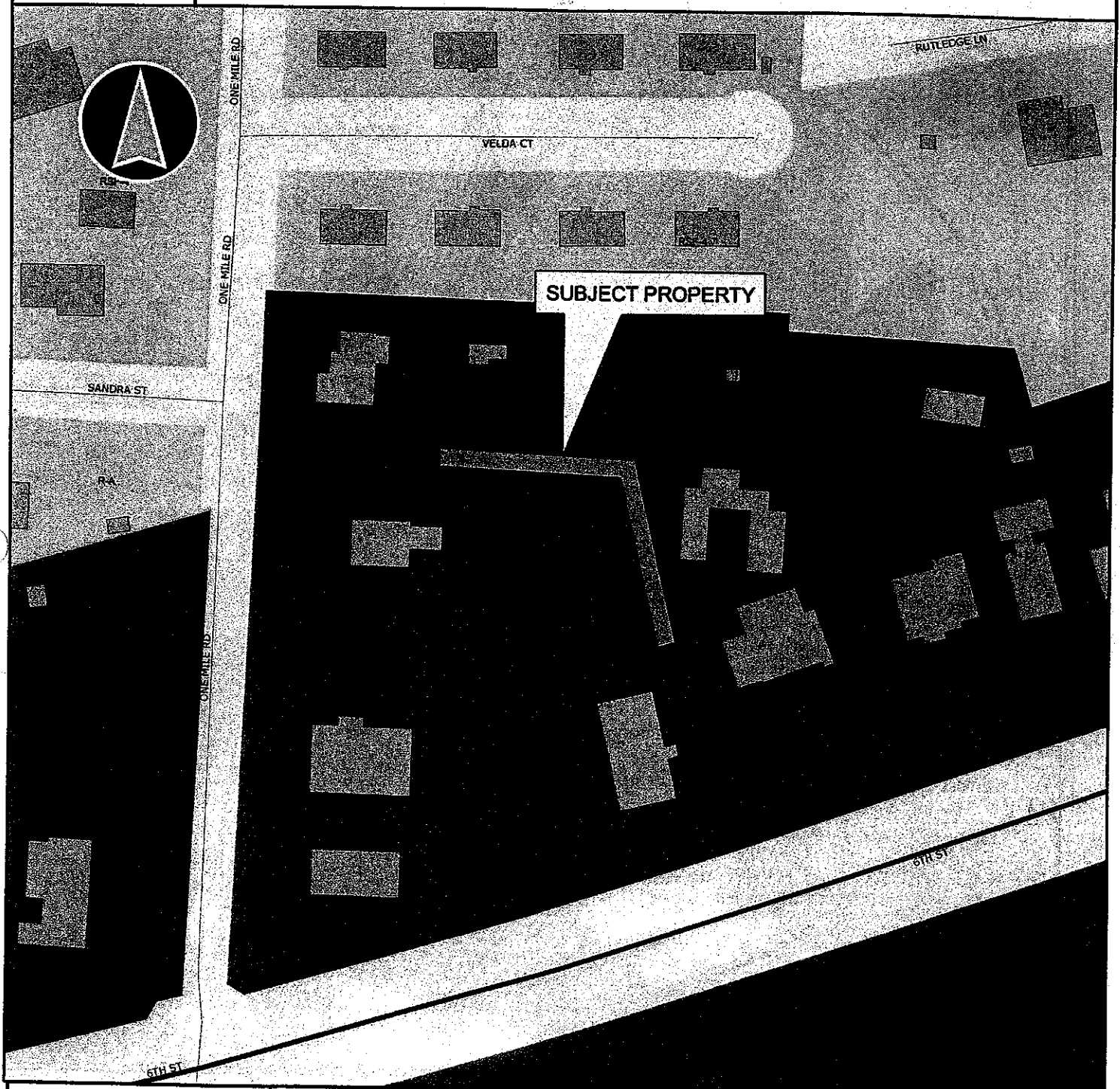
Legend



VAC07-2688

Close Up View

WALGREENS @6TH AND ONE MILE RD



Overview



0 37.5 75 150 225 300 Feet

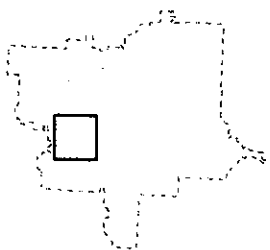
VAC07-2688

One Mile View

WALGREENS @6TH AND ONE MILE RD



Overview



Legend

Subject Property

VAC07-2688

Boundary

Planning Area

Overlay District

Outside City

Legend

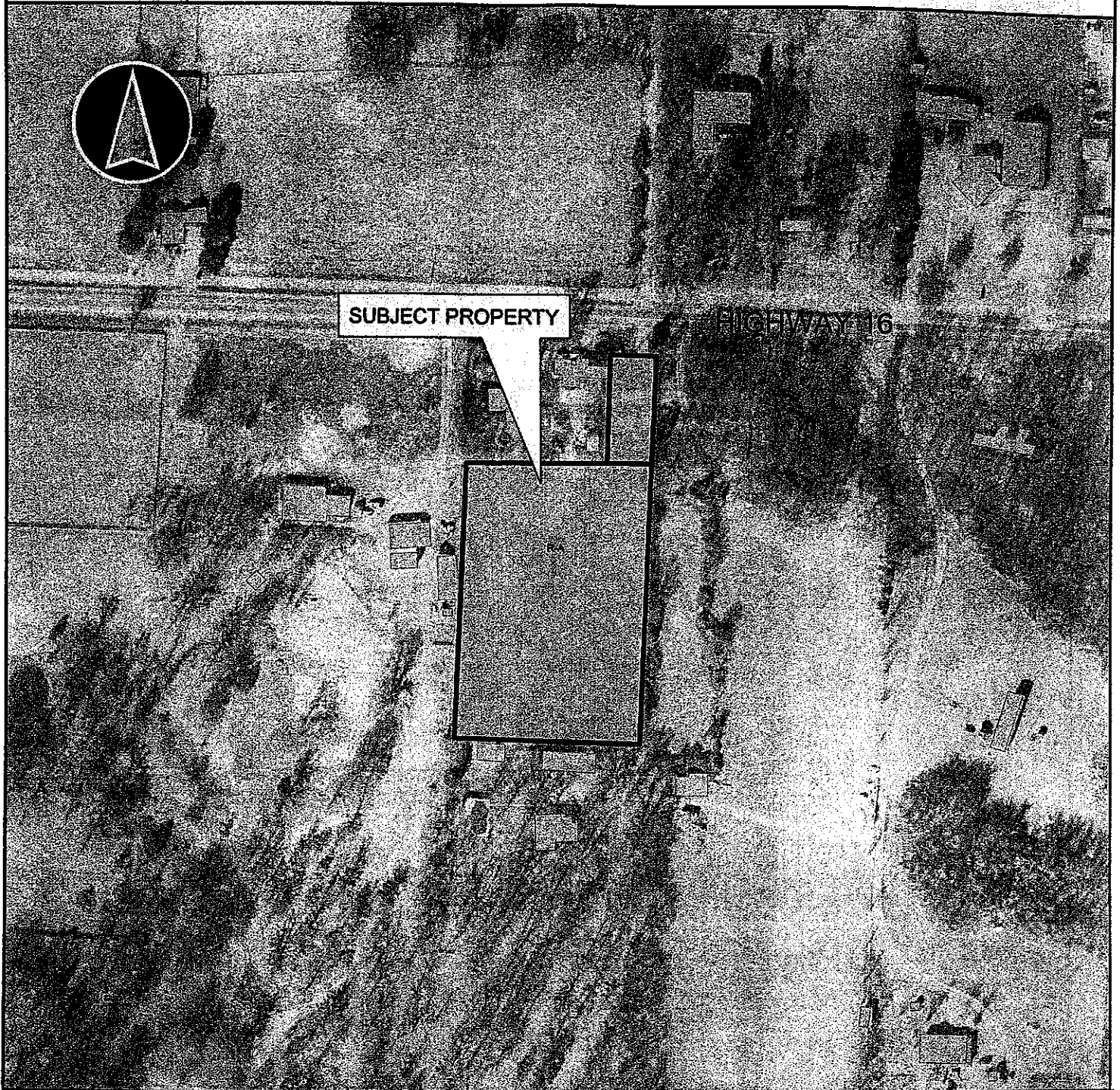
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

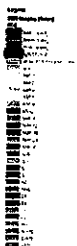
RZN07-2667

HOBSON INC.

Close Up View



Overview

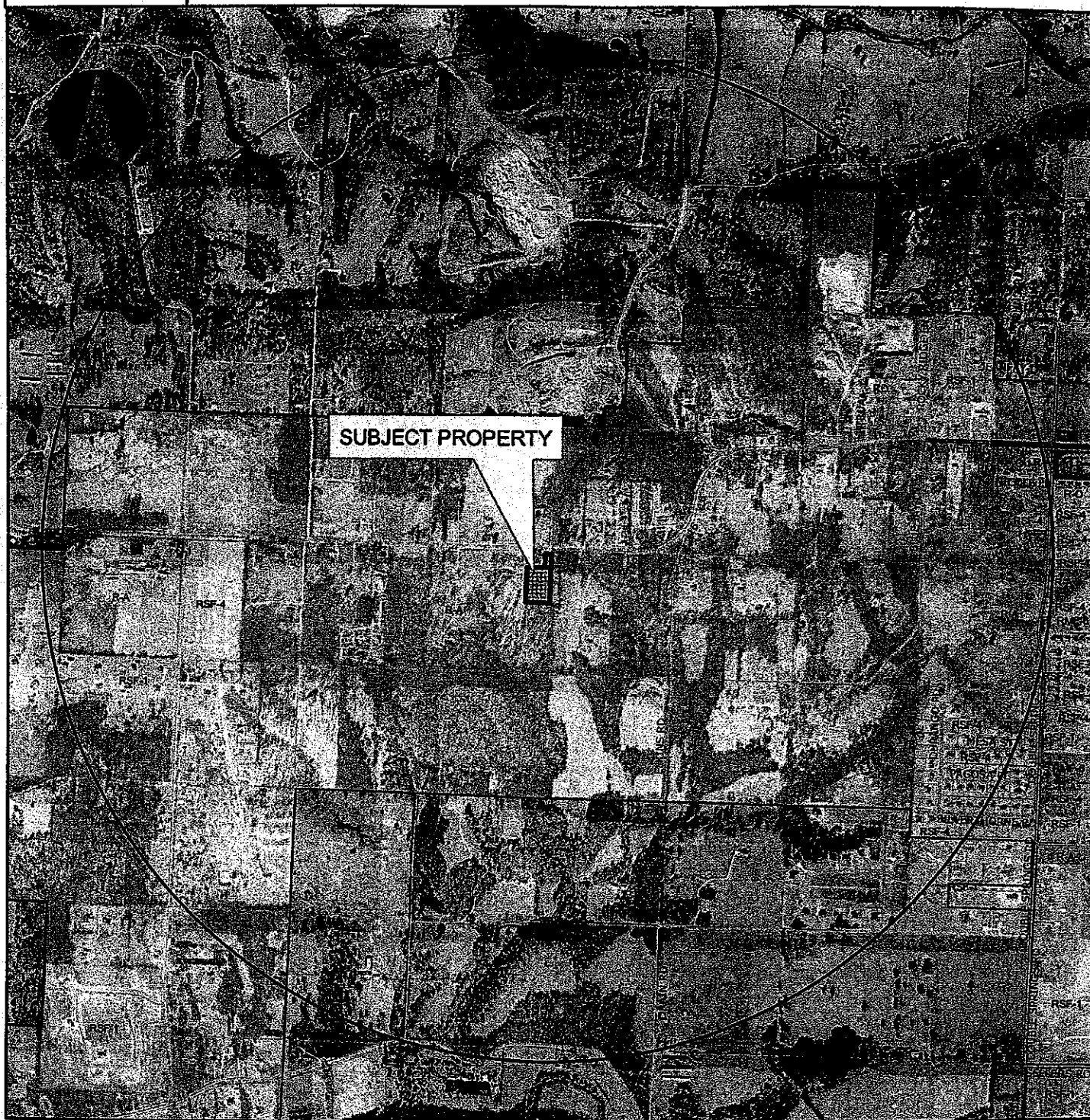


0 75 150 300 450 600 Feet

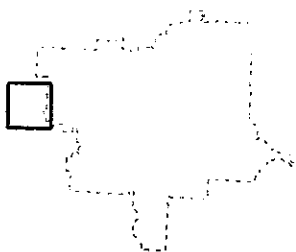
RZN07-2667

HOBSON INC.

One Mile View



Overview



Legend

Subject Property

 RZN07-2667

Boundary

Legend

0 0.25 0.5 1 Miles

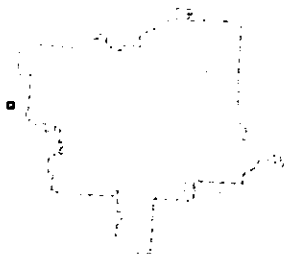
RZN07-2667

HOBSON INC.

Future Land Use

SUBJECT PROPERTY

Overview



Legend

Subject Property



RZN07-2667

Boundary

Planning Area

Overlay District

Streets

Existing

Planned

Legend



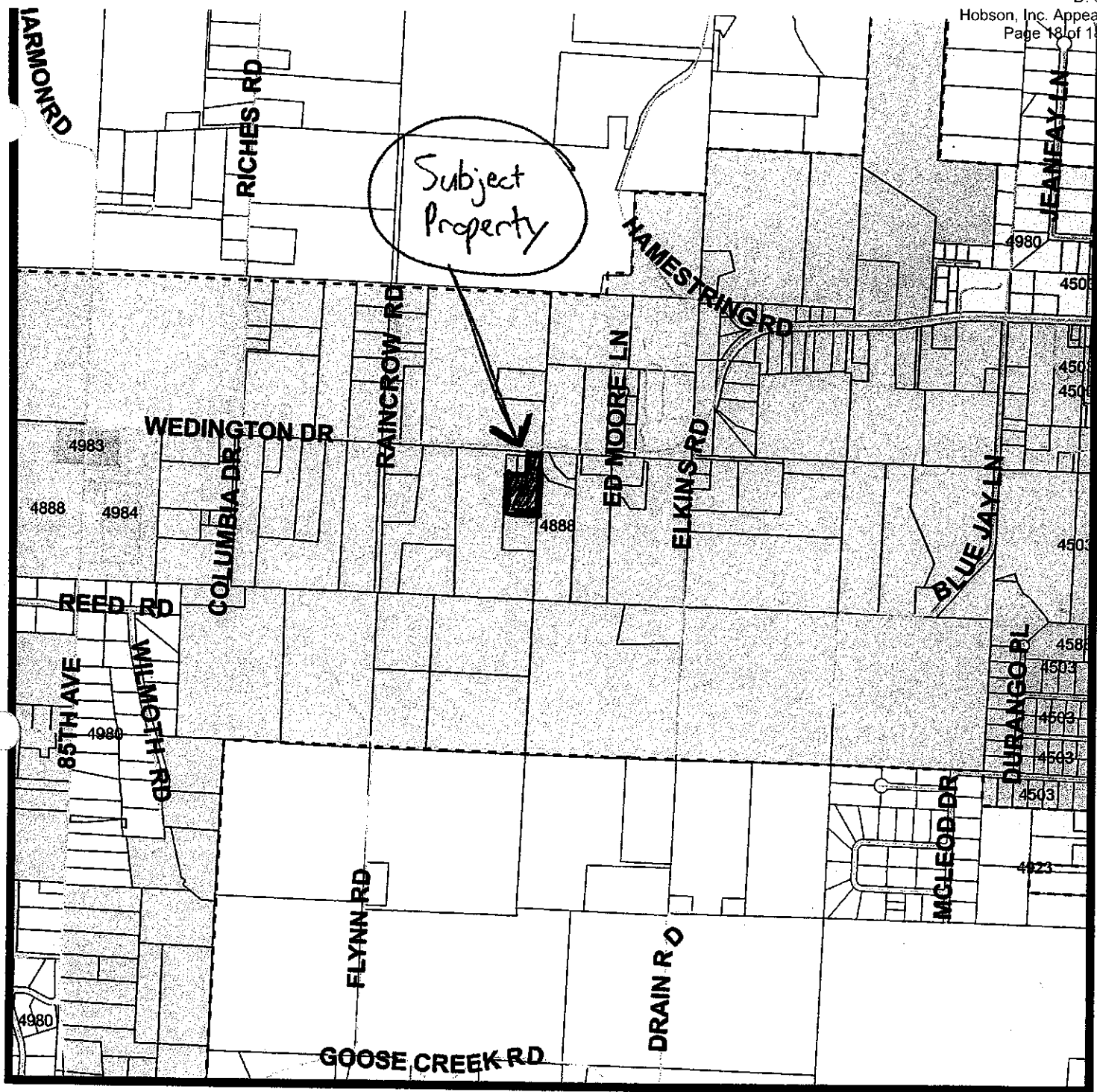


RZN 07-2667 (Hobson, Inc.)



1 inch equals 119.529068 feet

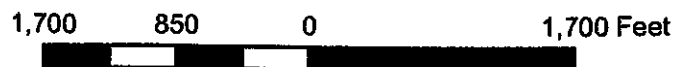




RZN 07-2667 (Hobson, Inc.)



1 inch equals 1,250 feet



Mayor Dan Coody
City Attorney Kit Williams
City Clerk Sondra Smith



Aldermen

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

**City of Fayetteville Arkansas
City Council Meeting Minutes
August 23, 2007**

A meeting of the Fayetteville City Council was held on August 23, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

This meeting was originally scheduled for August 21, 2007 but was rescheduled to August 23, 2007 after the Final Agenda went out.

Mayor Coody called the meeting to order.

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

ABSENT: Alderman Lucas

Pledge of Allegiance

Arts & Economic Prosperity Study

Terri Trotter, Walton Arts Center presented the results of the Arts & Economic Prosperity Study to the City Council. The following is a brief summary of Ms. Trotter's report:

The study is a comprehensive look at how the nonprofit arts & cultural industry impact the economy. The Americans for the Arts Study demonstrates that the nonprofit arts and cultural industry is a valued amenity but it is more than that. It is an economic driver in communities as well. It is a growth industry that supports jobs, generates government revenue and is the corner stone for cultural tourism. Arts & Economic Prosperity Three is the most comprehensive economic impact study of the nation's nonprofit arts and cultural industry that has ever been

conducted. The researchers on the study collected attendance data from over 6,000 nonprofit arts and cultural organizations and nearly 95,000 of their audience members to measure total industry spending. The study focused solely on the economic impact of the nonprofit arts and cultural industry and excluded spending by individual arts as well as the for profit arts and entertainment industry. The study documents the economic impact of nonprofit arts and cultural industry in 156 communities, Northwest Arkansas was also included. The nonprofit arts and cultural industry is one of growth. Between 2000 and 2005 expenditures by the nonprofit arts organizations and their audiences grew by 24% from \$134 billion to over \$166 billion. When adjusted for inflation it represents an 11% increase. In the study economic impact is defined by the employment, which is full time equivalent jobs, resident household income, which is salary, wages, and propriety income and government revenue, which is taxes and licenses fees that are generated by the dollar spent in the community by nonprofit arts organizations and their audiences. The spending supports 5.7 million fulltime jobs here in the United States. This industry generates nearly \$30 billion back to local, state and federal governments every year. The three levels of government collectively spend less than \$4 billion annually to support the arts and cultural so there is quite a spectacular return on investment. There is a tremendous untapped upside to the industry, how many industries have cultural impact and economic impact. The sector supports more jobs than accountants, auditors, public safety officers and even lawyers and just slightly fewer jobs than elementary school teachers.

The arts and cultural industry is an economic engine in Northwest Arkansas as well. Arts organizations audiences account for over \$16 million of economic activity. There is a huge opportunity for arts and cultural and for economic growth through this industry in our region. The nonprofit arts and cultural industry in Northwest Arkansas generated \$342,000 to local governments and over \$1 million to state governments. There is an additional opportunity for revenue generation for governments through additional investments in the arts and cultural sector. On average people spend \$27.79 per person per event not including the price of admissions. Previous economic and tourism research has shown that non-local attendees spend more than their local counterparts do. The national sample revealed that 39% of attendees traveled from outside the county and 61% were local. Arts and cultural is a product that attracts tourist.

Northwest Arkansas is really poised to capitalize on cultural tourist and if we invest in our cultural sector this data indicates that it will have a positive affect on our local economy and our government's ability to generate revenue. The study shows the arts are a magnet for travelers and their money. Local businesses are able to grow because travelers extend the length of their trips to attend cultural events. The national finds hold true for us locally yet also show incredible opportunities that we have by increasing our investment in the arts and the cultural industries.

I think this study lies to rest a common misperception that communities support arts and cultural at the expense of local economic development when in fact investing in arts and cultural is an investment in an industry that supports jobs, generates government revenue and is a cornerstone of tourism.

Mayor Coody: Most of us realize that the arts are important to any community.

We have a good arts scene here in Fayetteville but we aren't doing nearly enough to really foster, promote and grow that industry. Do you have any input for us, things that we might be able to consider that might help us build more of an environment that would make the arts flourish better in Fayetteville?

Terri Trotter: I think the conservation about the Cultural Arts District is a very good one. Looking at how we can create an environment where it is easier to function, particularly for local artist and creating a vibrant scene together. One of the things about the arts is that they function best when they are together. That synergy between organizations is important and is powerful.

Mayor Coody: One of the things that I am concerned about is that in Fayetteville we have been the center of the arts scene and we have taken it for granted and I don't think we can continue to do that anymore. I think we need to focus more on what we can do as the city government and in the community to promote the arts. There has to be a multitude of ways because other cities have certainly done it. I am asking you, the folks at the arts center and everyone else in the community to work with us and this Council to move us forward to where we can maintain a really good arts community in Fayetteville and grow what we have. We aren't doing enough right now to sustain a really good arts scene here. We need to do more. Whatever you can do to help I will ask you to do.

Terri Trotter: Great, thank you Mayor.

Public Facilities Board Appointment by Mayor Coody

Mayor Coody recommended the appointment of Tommy Deweese and Steve Cosby to the Public Facilities Board.

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

CONSENT:

Approval of the August 7, 2007 City Council meeting minutes.

Approved

Baird, Kurtz & Dobson, LLP: A resolution to approve an annually renewable five year contract with BKD, LLP in the amount of \$75,000.00 for this year.

Resolution 151-07 as Recorded in the office of the City Clerk.

Mud Creek Trail Grant: A resolution expressing the willingness of the City of Fayetteville to utilize Federal-Aid Moneys and apply for an 80/20 grant in the amount of \$100,000.00 to rebuild and improve a section of the Mud Creek Trail.

Resolution 152-07 as Recorded in the office of the City Clerk.

Alderman Jordan moved to approve the Consent Agenda as read. **Alderman Cook** seconded the motion. Upon roll call the Consent Agenda passed 7-0. **Alderman Lucas** was absent.

UNFINISHED BUSINESS:

Amend Chapter 161: Zoning Districts: An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 161: Zoning Districts in order to consider specific areas that are currently zoned Downtown General a Commercial Zoning District between 1 P.M. to 11 P.M. and as a residential zone for all other locations and times for the purposes of the noise ordinance. *This ordinance was Left on the First Reading at the July 3, 2007 City Council meeting. This ordinance was Left on the Second Reading at the July 17, 2007 City Council meeting. This ordinance was Left on the Second Reading and Tabled to the August 21, 2007 City Council meeting.*

Alderman Cook: They had an event last weekend and we took some more readings and had some comments from the neighbors. The neighbors are very happy with what happened. They didn't notice any loud noises; they were content with the levels that were provided.

Alderman Allen: We came up with a decibel that was agreeable with the neighbors and the disc jockey.

Alderman Gray: Is that going to curtail their planning of future events if it is tabled indefinitely?

Julie Meisch, Manager of the Garden Room of Ozark Mountain Smokehouse: I don't know the decibel level that was reached that everyone agreed upon.

Mayor Coody: I think the question is since the neighbors and the operators of the smokehouse seem to be in agreement is there any future events that are marginal based on the noise level that was achieved the other day.

Julie Meisch: As far as I know we have not received any complaints from the police department. We are ending the music at 11:00 PM and I believe that is still doable by both parties. The sound at this point is still registering above the 60 decibel level. As far as scheduling for the future if you table this indefinitely we are still in violation of the ordinance.

Alderman Gray: That is my concern.

Julie Meisch: There is really not an agreement that we can decide here because it is a law. It is hindering our scheduling at this point. We need to continue our business as is and if the neighbors are satisfied with where we have gotten at this point we would love to keep that going. To change the ordinance for one business on Dickson Street is not exactly fair however we are

willing to do our part. To schedule events when there is not a guarantee that they will be able to have music outside is the problem.

Julie Dora, chair of the Dickson Street Neighborhood Association: I sent you a letter that brought us up to what we are discussing now. At this point based on what the neighbors are telling me the noise level is fine. The Smokehouse has talked about doing other improvements after their season is over this fall that will probably continue to improve that noise level. As far as we can tell, things are fine and the noise level has not been obtrusive.

Sylvia Scarborough, Locust Avenue: The smokehouse has been conducting business without violation of the law every since they got this ordinance on the agenda. They say they are too busy now to do any further construction or improvements as far as the sound is concerned. That is fine with the neighbors if they prefer to wait until it is not as busy of a season. I think if they want to raise the decibel level at which they play they could probably do that if they put in a sound barrier fence.

Mayor Coody: I appreciate both the neighbors and the business working together to try to resolve this.

Beth Wagner, a neighbor of the Ozark Mountain Smokehouse: At this point I would not say that the level is problematic but I think to raise it would be problematic.

Alderman Thiel: I thought they violated the ordinance but if they didn't go above the decibel then it is a mute point. My understanding of the noise ordinance is that it is compliant driven. It sounds like the neighbors are satisfied.

Alderman Cook moved to table the ordinance indefinitely. **Alderman Allen** seconded the motion. Upon roll call the motion to table passed 7-0. **Alderman Lucas** was absent.

This ordinance was Tabled Indefinitely.

Amend Ordinance 4971 (R-PZD 04-1307 Aspen Ridge): An ordinance repealing and replacing Ordinance No. 4971, extending the expiration date for R-PZD 04-1307 (Aspen Ridge) to June 29, 2008. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: Apparently there are some transactions going on about the ownership of this property so that kind of keeps it in a flux right now. The neighborhood wants to meet so we are planning to meet in the morning. Hopefully we can look at all the issues involved. My idea is

that before this is approved the new owners or existing owner agrees in writing to some of the issues that have occurred.

Alderman Allen: I hope you talk about some of the work that needs to be done before there is an extension.

This ordinance was left on the Second Reading.

Boardwalk Property Owners Association: An ordinance waiving the requirements of formal competitive bidding and approving a cost-share with the Boardwalk Property Owners Associated (POA) in an amount not to exceed \$69,674.00 to dredge the Boardwalk POA pond. *This ordinance was left on the First Reading at the August 7, 2007 City Council meeting.*

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

City Attorney Kit Williams read the ordinance.

Alderman Thiel: I had some emails from some constituents that have said if we maintain this detention pond why shouldn't we maintain all POA detention ponds. There is a big difference in this pond and all the other POA detention ponds that I know of. This pond has a drainage basin of approximately 190 acres that drains to the pond through three different public drainage systems that are owned and maintained by the city. I can't think of any POA that the detention pond is actually fed by public drainage pipes or multiple drainage systems. That makes this very unique and a different situation in my opinion.

Alderman Ferrell: I visited with our State Senator and I asked her if there was any way that we might get some help from the state on this project. She made a call to the ADEQ and they were going to send someone up to take a look at this. I appreciate her taking that step to do that.

Mayor Coody: I have been playing phone tag with the ADEQ Director. Maybe something will work out there.

Alderman Gray: I appreciate Bobby taking the lead in this and helping us out. I think it is a great idea.

Rick Ballmer, representing the Boardwalk Property Owners Association: I would like to be in the loop as much as possible in meeting with them.

Lou Patrone, a resident of Boardwalk: There has been a lot of talk about the city should not give benefits to private property. I agree with that. In this case the city is fixing a property that is damaged. The storm drains were changed to direct the flow of water and debris into our pond. You are not doing this to be nice, or as a good deed, this is damage that is being addressed that was caused by the city to our pond.

Alderman Thiel: I agree with Rick that our City Engineer and our Transportation Division all need to be involved with the state.

Mayor Coody: We adopted storm water standards about a year ago. We have measures in place now that would keep this kind of silt from happening today at least to the extent that this pond has seen.

This ordinance was left on the Second Reading.

NEW BUSINESS:

Red Oak Park Streambank Improvements Project: A resolution approving a project design for the Red Oak Park Streambank Improvements submitted by the Arkansas Game and Fish Commission Region 1 Stream Team.

Carol Jones, Parks Department: There is some severe erosion in the stream that bisects this park. Carol gave a brief history of the proposed project. She stated the Stream Team wants to cut into the banks and widen the channel and allow more flow to go through this stream. There are a lot of mature trees along the edges of the banks some of which would definitely have to be removed.

Mayor Coody: The reason I wanted the City Council to go out and look at this is because I was hoping that there may be some kind of middle ground between doing nothing and doing the radical fix which really takes out a bunch of enormously beautiful trees. Is there that middle ground to where we could shave the banks back some and solve most of the problem without losing all that mature canopy.

Carol Jones: We will certainly try to work around as many trees as we can. Mr. Evans is concerned and has done calculations based on the flows. He is not comfortable tweaking that to the point that it is not going to allow enough flow through there. They are trying to do a natural restorative approach. There is still going to be a number of large trees involved.

Alderman Thiel: I want to make sure the engineer's numbers have been checked.

Alderman Jordan: You need to see this. This is the biggest mess I have ever seen. This is twice as bad as it was two years ago. There isn't a good fix. This sets an example of development that we certainly now are addressing that should have been addressed then so this sort of thing does not ever happen in this city again. That is absolutely just awful because everything was developed around it and they cut a big rut. It is a tough decision to have to make.

Mayor Coody: We want to get them to come back and look at this again to make it work with as little damage as possible. Will he be able to do that?

Carol Jones: I think so Mayor.

Alderman Allen: I think this is an example of how dangerous development at any cost can be to the city.

Alderman Jordan: This also establishes in my mind what the staff was trying to tell us about storm water runoff fees in this city.

Carol Jones: I think these subdivisions were approved through Planning and Engineering before the storm water management ordinance was in place.

Mayor Coody: I don't think we do development at any cost we try to balance it out to where we grow in such a way we can maintain and sustain it.

Valerie Biendara, a resident of Fieldstone: When I first moved to Fieldstone that park was gorgeous. Now this is an eyesore. It is not a usable park for the neighborhoods. There is now a big ugly gash, some of the trees roots are under cut. I am really appreciative of the staff of the Parks and Recreation Division they have done a wonderful job on this. I really believe in this plan, it looks like it is really workable. I see it as the best way to resolve the erosion that is occurring here. The only drawback is the loss of a number of trees. I want you to consider not just the loss of trees. I want you to start thinking about the future of this park. The Parks & Recreation Division are planning to put shrubs and trees in this park once they get everything done. In 10 to 15 years from now we won't remember the trees that were once there. In a few years we will have the mature trees back again. I really encourage this plan. I want you to trust the staff of the Parks & Recreation Division, they are really concerned about this park and they don't like the loss of the trees either. I trust them to do what is best for this park to resolve the problem, take care of the erosion and to make sure we have trees and shrubs. I encourage you to approve this and give the neighborhood back a safe, healthy, park instead of the overwhelming eyesore they have now.

Aubrey Shepherd: I care about those trees too. What we need to think of every time we see one of these disasters is that every roof top in this city from now on and all the old ones we can manage to talk people into putting in should have a rain garden. That should be the goal as we face this hard decision that was mentioned.

Mayor Coody: We are getting there, we are putting in rain gardens and we have looked at other cities that are doing some really innovative things.

Alderman Thiel: If they come back with the same recommendation hopefully we will follow through and do something.

Alderman Jordan moved to table the resolution indefinitely. Alderman Rhoads seconded the motion. Upon roll call the motion to table passed 7-0. Alderman Lucas was absent.

This resolution was Tabled Indefinitely.

ADM 07-2577 (Downtown Design Overlay District Architecture Standards): An ordinance amending Title XV: Unified Development Code of the Code of Fayetteville to amend Chapter 151: Definitions and Chapter 166: Development to adopt a Downtown Design Overlay District, Parking Garage Design Standards, DDOD Boundary Map and related definitions.

City Attorney Kit Williams read the ordinance.

Alderman Thiel: The Ordinance Review Committee reviewed this twice.

Tim Conklin, Planning and Development Management Director: I would recommend that you leave this on the first reading this evening and make sure you go through it and allow the public time to go through it also.

Tim gave a brief update of the project. The architectural committee met several times regarding this. The Planning Commission heard the draft. The Ordinance Review Committee met and made some amendments. There are basically two parts to this ordinance.

Alderman Jordan: Did this pass unanimously at the Ordinance Review meeting?

Alderman Thiel: Yes.

Alderman Allen: I voted to move it forward to the Council but I have some serious concerns about it.

Alderman Thiel: I am sorry I thought that meant that you were recommending it.

Mayor Coody: It was a unanimous recommendation with reservations.

Alderman Thiel: We were concerned about the affordability issue and whether we were requiring things that would make it too costly. This is just by right you can always get a variance. In remodeling projects this has no bearing unless it is 50% or more.

Alderman Allen: I have some concerns. When we had the Dover Kohl meetings and we voted on the Downtown Master Plan I did not feel like the participants who were at those meetings were trying to make an eliteous downtown and I was concerned about that. There are affordable houses in this area and I just wanted us to be cautious in not making our design standards so stringent that we could not have diversity of some sort downtown.

Mayor Coody: What you might do is come up with some specific complaints about the ordinance so they can be addressed.

Alderman Cook: I think those are a lot of the concerns when we went through the downtown master plan process and this was one of the charges of that process. I think there was a lot of concern across many different people from different walks of walk, especially these design standards. I think the process that was gone through was very successful. This will not limit a

person from bringing something forward that is different from what is proposed in this ordinance. To me that is a key change in what is being proposed tonight.

Daniel Hintz, Executive Director of Fayetteville Downtown Partners: As always we welcome continued focus and conservation on our downtown community. We would like to thank city staff and the volunteers who put in an enormous amount of hours to get this very vital component to the downtown master plan vision to this place. We look forward to more public conservation. He expressed his concern about parking decks in the downtown area.

This ordinance was left on the First Reading.

ADM 07-2693 (Links at Fayetteville PZD Modification): An ordinance amending a residential planned zoning district entitled R-PZD 07-2452, Links at Fayetteville, located on the north side of Wedington Drive and east of Ruppel Road, containing approximately 152.23 acres, to reflect revised maximum height limit for Planning Area III of 52'.

City Attorney Kit Williams read the ordinance.

Jeremy Pate, Director of Current Planning: This is a proposal that staff has brought before you to change the building height from 40 feet to 52 feet in planning area three at the Links at Fayetteville planned zoning district. The buildings are the same exact buildings that you saw and approved on May 15, 2007. There was a clerical error in that the height limit of 40 feet was never changed. The four stories have always been there. Staff is recommending changing this building height from 40 to 52 feet.

Mayor Coody: There was no change except for the fact there was a scrivener's error saying 40 feet when it should have said 52 feet. Nothing changes in the project.

Jeremy Pate: That is exactly right.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5033 as Recorded in the Office of the City Clerk.

Sales and Use Tax Capital Improvement Bonds Series 2007 – Wastewater Improvement Project: : An ordinance authorizing the issuance and sale of the City's Sales and Use Tax Capital Improvement Bonds, Series 2007, for the purpose of financing a portion of the costs of certain wastewater system line extensions and betterments and related facilities; authorizing the execution and delivery of a first supplemental trust indenture pursuant to which the bonds will be issued and secured; authorizing the execution and delivery of an official statement pursuant to which the bonds will be offered; authorizing the execution and delivery of a bond purchase agreement providing for the sale of the bonds; authorizing the execution and delivery of a continuing disclosure agreement; and prescribing other matters relating thereto.

City Attorney Kit Williams read the ordinance.

Alderman Ferrell: Does everything look good to you Paul?

Paul Becker, Finance Director: Yes it does. This is the final piece of necessary bonding for us to go ahead with the contracts and complete the wastewater system improvement project.

Mayor Coody: You guys at Stephens have done a really good job.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

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

Ordinance 5054 as Recorded in the Office of the City Clerk.

Road Impact Fees: A resolution to express the City of Fayetteville's intent to enact road impact fees.

Alderman Jordan: I thought there were some really good comments and a lot of good points made on both sides. I thought we could come back and modify the road impact fees and

hopefully it would be something that we could all live with in the business community, the city and the Council. I would like to make an amendment to the resolution.

Alderman Jordan moved to amend Section 1 of the resolution to add input from city administration and other interested parties. Alderman Cook seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Alderman Jordan: I truly hope that we can come together and work something out on this. I want to get everybody's input and resolve this thing once and for all. We had a tie vote on that election.

Alderman Ferrell: I am not in. Lioneld is going to continue to try to get feedback and get some ideas from people different than what was proposed last time. I appreciate you doing that.

Alderman Jordan: One thing I wanted to look at was graduated impact fees and also to look at some sort of a reduction for a LEED building. Possibly some changes in the industrial, retail and commercial rate and off site improvements possibly rolling them into the impact fee.

Mayor Coody: All the things you mentioned were some of the things that were wrong with the previous impact fee. Would this be approved by the Council or would it go back to a vote of the public?

Alderman Jordan: I haven't decided.

Mayor Coody: That would make a big difference to me because I would like to see this go back to a vote of the public since they voted evenly on this I would hate to think that we as a Council would approve something that had failed publicly a few months ago. An election is not very expensive and it would be better for the public to say yes or no to something this important instead of us just approving it and not letting the public vote on it.

Alderman Jordan: My personal preference would be to put it before a vote of the Council but I will listen to my peers on what they would like to do.

Alderman Thiel: Haven't we been told that we had to have a study done by someone qualified to do this. Are we going to hire another firm to do a study?

City Attorney Kit Williams: The statute under which we enact impact fees does require a study to be made. However I think what the study does, and we have one that we have already done, it places the maximum limits on how high you can go. As long as you are going below that I think it is legally defensible to do that. There are still some arguments against it. It would be better to have a study exactly on point on exactly what we are going to do.

Alderman Ferrell: What is the deal in Rogers?

City Attorney Kit Williams: I think the problem that is being alleged by the plaintiffs in the Rogers case is that the Rogers Commission, it was not their City Council, passed and imposed

fees that were more than the actual cost to do the connection. They were recovering not only the cost for doing the tap but additional money to help expand their system. The allegation is that those are impact fees even though they did not call them impact fees and they were not passed in accordance with the impact fee statute.

Alderman Cook: If this passes how do we move forward from here. I don't see the last election as necessarily a loss or a victory it was just people were undecided at that point. I think there is room to go back and revisit some of these items. My question is how do we revisit those.

Tim Conklin: If the resolution passes I would recommend what we dig back in 2000, formulate what policies we are trying to implement and have a consensus on that. We had a committee made up of stakeholders that worked to formulate those policies. I think lessons that I learned this year with the special election is that there were a lot of questions that people had once it was determined to have a special election and a vote was to occur. I think those questions should be answered ahead of time. Once you determine what the policies are that you want to enact then move forward to draft something. I would not want to draft something without having a clear direction from the Council or a group.

City Attorney Kit Williams: In addition to that we should go to the groups that are identified in the resolution and get input from them and then you all would be the final synthesis of what we do with the input so that hopefully more of a consensus can be reached.

Mayor Coody: I think if we can reach more of a consensus the public would get behind it more. One reason I really want this to go back to a public vote with whatever the staff, Council and all the stakeholders would come up with is that in these economic times with the local economy not doing as well as we would like, uncertainty in the national economy and things like that I don't want to force something on the public that they really might not financially or emotionally be ready for. I would rather have the public say if they are ready for this or not. These are uncertain times and timing is everything. I like the idea of going back to revisit this and doing something that is more fair and less regressive.

Alderman Allen: This did not fail or pass. How will we determine if this will go to the people or the Council is that a vote that we take here?

Mayor Coody: Yes.

Alderman Ferrell: I would disagree with that. Is that a failure by law if it is a tie?

City Attorney Kit Williams: Yes legally the ordinance failed because of the tie vote.

Alderman Ferrell: If you have an opinion on this and you want it to be known the Council wants to know about it, come forward with it.

Alderman Thiel: I wonder if there needs to be some of the Aldermen serving on a committee and working with staff rather than expecting staff to go out and do all this. I certainly hope that

is what we are looking at because that is how we worked on other ordinances. Staff is fairly limited in their time.

Alderman Jordan: Yes. I think this resolution sums that up. I don't want it to go on forever.

Alderman Cook: We are looking at a two part process, we develop the policy and if we agree on the policy then we move forward as far as plugging in numbers.

Alderman Jordan: Right.

Tim Conklin: That is what I would recommend.

Alderman Cook: I agree with the task force I don't think that is a bad idea but at the same time we do not want it to drag out.

Mayor Coody: The only thing that gives me discomfort about this language is it makes it seem pretty clear this would be a Council decision and it sounds like there is not the option of going back to a public vote. I would like to find some language in there that might let the public understand that there is a good opportunity for this to go to a public vote.

City Attorney Kit Williams: Just like last time the Council enacted them but then referred them to the citizens.

Alderman Jordan: We went through this exact same process with the last impact fees. We made a final decision whether we were going to do it before the people or a vote of the Council.

Alderman Jordan moved to approve the resolution. Alderman Allen seconded the motion. Upon roll call the resolution passed 6-1. Alderman Ferrell voting no. Alderman Lucas was absent.

Resolution 153-07 as Recorded in the office of the City Clerk.

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

Alderman Cook moved to add the Sweetbriar Park Utility Easement ordinance to the agenda. Alderman Jordan seconded the motion. Upon roll call the motion passed 7-0. Alderman Lucas was absent.

Sweetbriar Park Utility Easement: An ordinance vacating an electrical utility easement and granting a replacement easement at Sweetbriar Park.

City Attorney Kit Williams read the ordinance.

Mayor Coody: Have we done the work already on this?

Connie Edmonston, Parks Director: No, they started construction today on it.

Mayor Coody: There are two conduits that have electric lines in them that are under water. That is not a good idea.

Connie Edmonston: It is a potential hazardous condition. I appreciate you bringing this forward and considering it tonight.

City Attorney Kit Williams: What happened is that the stream eroded and uncovered this and that is why we need to change the easement.

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

City Attorney Kit Williams read the ordinance.

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

City Attorney Kit Williams read the ordinance.

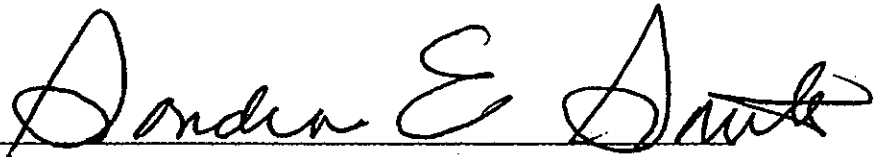
Mayor Coody asked shall the ordinance pass. Upon roll call the ordinance passed 7-0. Alderman Lucas was absent.

Ordinance 5055 as Recorded in the Office of the City Clerk.

Meeting adjourned at 8:00 PM



Dan Coody, Mayor



Sondra E. Smith, City Clerk/Treasurer

Nominating Committee Report
Meeting: Monday, September 10, 2007
Room 111, City Hall 5:00 p.m.
Members Present – Kyle Cook, Adella Gray, Shirley Lucas, and Robert Rhoads

The following is being submitted to the entire City Council for consideration.

Board of Adjustments

The Committee recommends the following candidate for appointment:

- *Mark Waller* – One unexpired term ending 3/31/12.

Botanical Garden Society of the Ozarks

The Committee recommends the following candidate for appointment:

- *Walt Eilers* – One unexpired term ending 12/31/09.

Environmental Concerns Committee

The Committee recommends the following candidate for appointment:

- *Jeff Beaver* – One unexpired citizen-at-large term ending 6/30/10.

Telecommunications Board

The Committee recommends the following candidate for appointment:

- *M. Eric Sales* – One unexpired term ending 6/30/09.

Tree and Landscape Advisory Committee

The committee recommends the following candidate for appointment:

- *Chris Wilson* – one unexpired environmental term ending 12/31/08.

Garlock, James Wesley*Handed out at the City Council Meeting
9/18/07 Woodstock***From:** Craig Honchell [chonchell@bargoeng.com]**Sent:** Tuesday, September 18, 2007 3:29 PM**To:** Shirley Lucas; Lionel Jordan; jasonandkathy@windstream.net; jsrichmond@netzero.net; Garlock, James Wesley; BZiada@ceieng.com; Bob Estes; ward1_pos1@ci.fayetteville.ar.us; bthiel@cox.net; ward2_pos1@ci.fayetteville.ar.us; ward2_pos2@ci.fayetteville.ar.us; rrhoads@hallestill.com; ward3_pos2@ci.fayetteville.ar.us**Subject:** Woodstock Development

My name is Craig Honchell; I am the president of the Cross Keys POA in Fayetteville. I have tried to attend most of the meetings regarding the Woodstock Development and unfortunately have prior commitments tonight and will be unable to attend the meeting. I would like to take a moment to point out a few items that seem to be getting glossed over by the Nock and Broyles group.

My primary concern is in regard to scale and the implementation of the 2025 Plan. I could not get a satisfactory answer from Tim Conklin when I posed some questions to him at a special Ward 4 meeting. Scale is mentioned several times throughout the text of the 2025 Plan in the description of all existing neighborhoods in our community. The fact that the city was able to impose a designation of "city neighborhood" rather than keeping the existing "residential neighborhood" is a mystery to me. At no time was this reclassification made obvious or discussed as being a point of contention with this development. This designation alone will allow all future construction to go in as whatever the developer wishes. I do not recall any structures being over 2 stories tall anywhere in the proximity of the proposed construction. This in itself brings the question of scale to the forefront. What existing structure is the Council referencing to gauge the scale of this development to? Does the mere classification of city neighborhood allow a development to be constructed under the guise of this classification? I honestly feel that the 2025 Plan is rhetoric that accommodates developers and not development. Obviously the 2025 Plan is not in place to protect existing neighborhoods or property owners for that matter. I understand that a lot of time and effort has gone into the fabrication of such a plan and feel that it is flawed. I chose to remain a resident of Ward 4 to be out from development, not to have a 70 foot tall behemoth built in my backyard. What exactly does the city want to create in our ward? We currently have a shopping center of sorts being built north of the Boys and Girls Club, expansive dirt work being performed south of Betty Jo Drive, The Links north of Wedington and now another 380 plus units west of 46th Street, what's next a Motel 6 south of Persimmon? And dare I ask what is being proposed on the adjacent property west of the Woodstock Development? I get the feeling that another development is lying in wait to get this structure up so another large scale structure to go in right next to it. The city knows what is coming down the pipe months, probably years, prior to any public discussion. The city has an obligation to allow people the chance to understand the ramifications that a construction like this represents prior to a 30 day posting. A construction like this will change an area for generations. Had I known that the city intended to transform the west side of town into a pocket community of apartments, town homes and condominiums I never would have bought where I did. Of course hindsight is 20/20. I have lived in Ward 4 for most of my adult life and regrettably enough never taken the time to get involved until I found a home that I thought I would live in for 30 plus years. My home is much like any other in the sense that it is going to be the single biggest investment of my life. I'm an average person that works long hours and has put my faith in my local government to utilize good judgment; I have a hard time believing that a project like this will enhance our area if built to the suggested parameters. A development like this will be the tool used by any development hereafter to reference as a model of what the city will allow. I don't understand how this city can have an ordinance in place to protect our bars and inner city area from tall structures but nothing in place to protect the working class of Fayetteville.

Privacy seems to be an afterthought amongst all of this development; I think that most homeowners have a certain expectation of privacy when purchasing a home. I challenge any council member to question themselves as to whether they would like to look out their backdoor, everyday, and see a four, 70 foot tall, glass, brick, and concrete square block jutting out of the ground. I really don't think that anyone understands the magnitude of what this structure will look like amid several blocks of single story smaller homes. I would surmise out of place as being the best answer.

Along with all of the large scale construction I have concerns as to how the city proposes to support our area schools. We have recently acquired a beautiful elementary school that is currently running near capacity. With all of the proposed multiuse housing coming in how does the city plan to redistrict or shift enrollment around to accommodate the looming influx of students? I have heard from parents that live in Persimmon Place that are unable to get their children in to a school less than a mile from their home due to capacity constraints. Will our tax base support the

9/18/2007

construction of another elementary school, middle school or junior high in our area? We may want to weigh these things out before we start allowing all of this proposed mixed use style of dwellings in this area. We are building these pocket communities for families, correct?

The cost of these homes is another point that was brought up by the Broyles group. They claim that they are designing these homes to be purchased and lived in by employees of the retail space below the condominiums. Am I to believe that a condominium priced at an estimated starting price of around \$220,000, their number, is affordable at this time? The last that I read the housing market is in a glut. I doubt that Fayetteville is immune from the tumultuous forecast of the real estate market. The developers would have the city residents believing that this is necessary, that there is going to be a boom time for real estate again. That may be the case but I doubt that the current economic state of this city can survive on more promises akin to Aspen Ridge and The Renaissance. Something will be built on 46th Street, I'm not against development, but bring in a development that suits our area. The Aspen Ridge area would be a perfect fit for the Woodstock Development. The height of these buildings would diminish in part due to the lay of the land, railroad, and surrounding structures. It would be centrally located to all of the University sports complexes ultimately offering condos and town homes to hundreds of alumni.

I have always been proud to live in Fayetteville, I consider myself a native. I look forward to seeing this community flourish. I feel that if the city is to build a development of this magnitude we need to find a better fit. I don't think that it is fair for the city to expect this remote area of town to endure dump trucks, graters, scaffolding and all sorts of heavy equipment for the next eight to ten years. It is almost as if the council turns the other cheek as long as it's not in their backyard. Then again I can't think of the last proposed development on the east side of town where the 2025 Plan was being enforced with such a heavy hand. If this is a sign of how the 2025 Plan is going to be implemented I suggest we build the first development of this type on a small scale and look to this as to how we can improve the process, rather than look back 10 years from now and second guess the decisions that we made today.

If this development is voted in please give the current homeowners some peace of mind by requiring the developers to bring the single family homes in on the first phase of the project. This would create a buffer of sorts for existing residents and provide the city a certain level of commitment from the Nock and Broyles group. Thank you for allowing me the opportunity to address this matter.

Craig Honchell,
Cross Keys POA President
chonchell@cox.net
236-1494
444-8843

~~Comment~~ Handed out at the City Council Meeting 9/18/07 Woodstock

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

20% of internal.

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

Using the selected trip-generation rates, calculations were made as a part of this study to provide a reliable estimate of traffic volumes that can be expected to be associated with the development as proposed. Applying the appropriate trip-generation rates to the land-uses proposed for the development makes these calculations. Results of this calculation are summarized on Table 4, "Summary of Trip Generation," below.

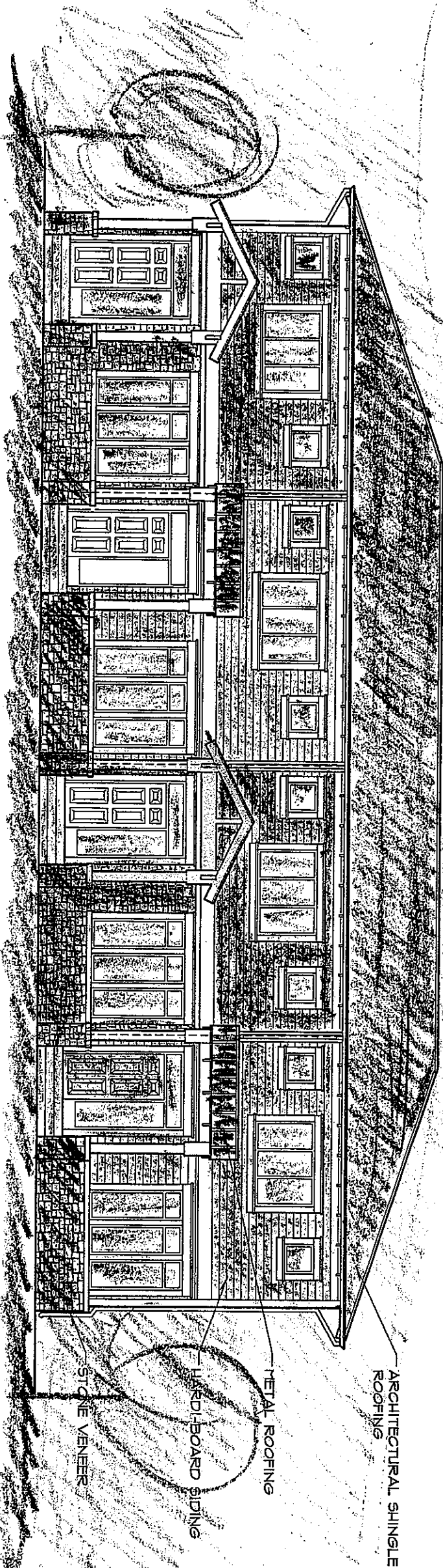
PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Residential Single-Family	54 Units	210	517	10	30	35	20
Residential Townhouses	104 Units	230	609	7	38	36	18
Residential Condominiums	224 Units	230	1,313	16	83	78	38
General Office*	20,000 Sq. Ft.	710	176	22	3	4	20
Retail*	69,135 Sq. Ft.	820	2,375	35	22	99	108
Sit-Down Restaurant*	2,500 Sq. Ft.	932	254	12	11	14	9
Sit-Down Restaurant*	2,100 Sq. Ft.	932	214	10	10	11	7
Sit-Down Restaurant*	3,800 Sq. Ft.	932	386	18	17	20	13
TOTALS:			5,844	130	214	297	233
			TOTAL ENTERING + EXITING	344		530	

*These volumes adjusted to reflect 20% internal capture.

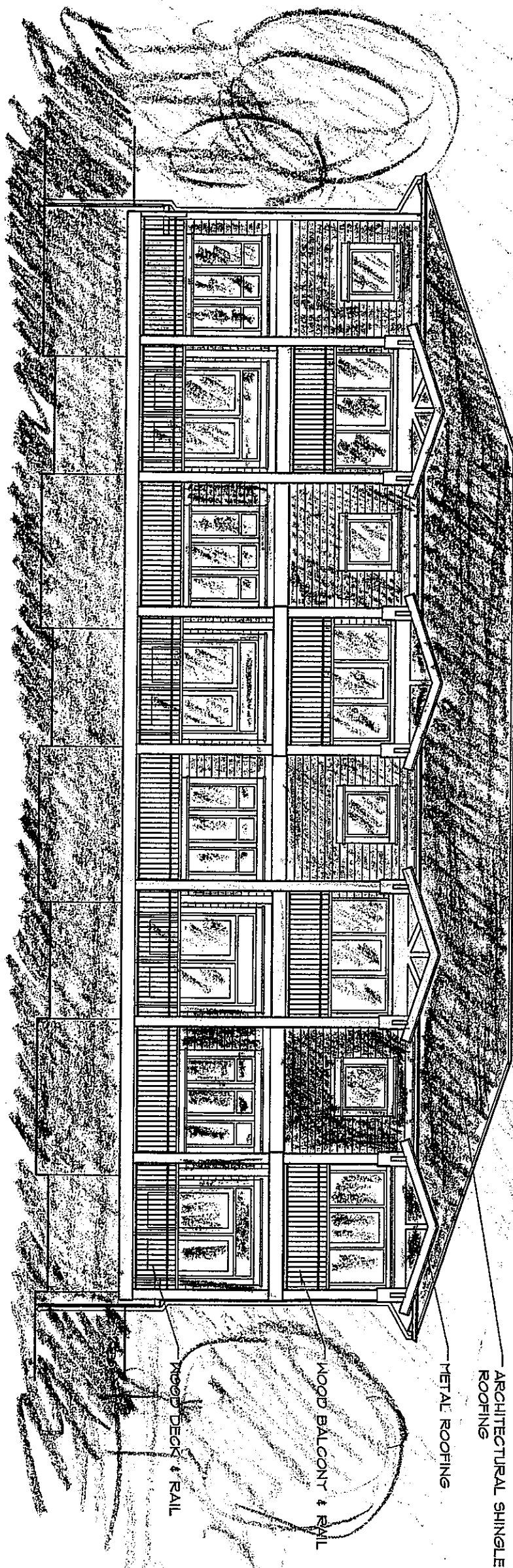
Table 4 – Trip Generation Summary

D.I. New Business
 Handled out at the
 City Council Meeting 7/18/07
 College Ave. Townhomes

1 FRONT ELEVATION
 SCALE: 1/8" = 1'-0"



2 BACK ELEVATION
 SCALE: 1/8" = 1'-0"



REV. #	DATE	DESCRIPTION

REV. #	DATE	DESCRIPTION

PROJECT # 0715	DATE —	TOWNHOUSE DEVELOPMENT --- FAYETTEVILLE, ARKANSAS 72701	KEY ARCHITECTURE INC. P.O. BOX 748 FAYETTEVILLE, ARKANSAS 72702 PH: 479.444.6066 FAX: 479.444.1445
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ADM 07-2725 Southern View II
 Handed out at the City Council Meeting 9/18/07

LOCATION	NUMBER OF ROOMS	WEEK DAY		WEEKEND		FAYETTEVILLE		FAYETTEVILLE		FAYETTEVILLE		TOTAL TAX PAID TO CITY
		RATE	RATE	RATE	RATE	PARKS TAX	A&P TAX	SALES TAX	SALES TAX	SALES TAX	SALES TAX	
Days Inn	150	\$65.00	\$65.00	\$65.00	\$65.00	\$18,809.70	\$18,809.70	\$37,619.40	\$37,619.40	\$37,619.40	\$37,619.40	\$75,238.80
Cosmopolitan Hotel	235	\$119.00	\$119.00	\$119.00	\$119.00	\$53,950.08	\$53,950.08	\$107,900.16	\$107,900.16	\$107,900.16	\$107,900.16	\$215,800.31
Clarion Inn	197	\$89.00	\$89.00	\$159.00	\$159.00	\$41,425.71	\$41,425.71	\$82,851.42	\$82,851.42	\$82,851.42	\$82,851.42	\$165,702.85
Windsor Suites	68	\$79.89	\$79.89	\$139.00	\$139.00	\$12,695.95	\$12,695.95	\$25,391.91	\$25,391.91	\$25,391.91	\$25,391.91	\$50,783.82
Hampton Inn	95	\$169.00	\$169.00	\$169.00	\$169.00	\$30,973.31	\$30,973.31	\$61,946.61	\$61,946.61	\$61,946.61	\$61,946.61	\$123,893.22
Red Roof Inns	104	\$65.00	\$65.00	\$65.00	\$65.00	\$13,041.39	\$13,041.39	\$26,082.78	\$26,082.78	\$26,082.78	\$26,082.78	\$52,165.57
Holiday Inn Express	110	\$99.00	\$99.00	\$169.00	\$169.00	\$25,253.23	\$25,253.23	\$50,506.46	\$50,506.46	\$50,506.46	\$50,506.46	\$101,012.91
Comfort Inn	60	\$79.95	\$79.95	\$129.95	\$129.95	\$10,907.97	\$10,907.97	\$21,815.94	\$21,815.94	\$21,815.94	\$21,815.94	\$43,631.89
Sleep Inn	62	\$74.99	\$74.99	\$119.99	\$119.99	\$10,507.43	\$10,507.43	\$21,014.86	\$21,014.86	\$21,014.86	\$21,014.86	\$42,029.73
Lindsey Presidential Suites	46	\$125.00	\$125.00	\$125.00	\$125.00	\$11,092.90	\$11,092.90	\$22,185.80	\$22,185.80	\$22,185.80	\$22,185.80	\$44,371.60

Lindsey Presidential Suites	52	\$125.00	\$125.00	\$125.00	\$125.00	\$12,539.80	\$12,539.80	\$25,079.60	\$25,079.60	\$25,079.60	\$25,079.60	\$50,159.20
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THIS INSTRUMENT PREPARED BY:

Donald E. Wilson, P.A.
Attorney at Law
P.O. Box 1285
Fayetteville, AR 72702-1285

Hobson, Inc. Appeal
Handed out at
the City Council
Meeting 9/18/07

BILL OF ASSURANCE

KNOW ALL MEN BY THESE PRESENTS:

THAT Hobson, Inc., an Arkansas Corporation, holds title to the following described lands situated in Washington County, Arkansas, to-wit:

A part of the SW $\frac{1}{4}$, of the SE $\frac{1}{4}$, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49"W 39.12 feet from the Northeast corner of said 40 acre tract, said point being on the South Right-of-Way of Arkansas Highway 16; thence S1°17'49" W 146.88 feet; thence along a fence S89°10'35" W 61.88 feet; thence N0°40'45" E 148.25 feet, to the said Highway Right-of-Way; thence along said Right-of-Way S89°33'25" E 63.44 feet, to the point of beginning, containing 0.21 acres, more or less, Washington County, Arkansas. Subject to a 18.00 foot road easement along the East side thereof.

-and-

A part of the SW $\frac{1}{4}$, of the SE $\frac{1}{4}$, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49" W 186.00 feet from the Northeast corner of said 40 acre tract; thence S1°17'49" W 381.00 feet; thence N89°32'06" W 250.00 feet; thence N1°17'49" E 373.78 feet; thence along a fence N88°41'34" E 188.33 feet, N89°10'35" E 61.88 feet, to the point of beginning, containing 2.17 acres, more or less, Washington County, Arkansas. Subject to: An 18.00 foot Road Easement along the East side thereof.

And having a property street address of 7613 Wedington (12611 Hwy 16W), Fayetteville, Arkansas.

The Grantor, Hobson, Inc., has filed its application with the City of Fayetteville for rezoning of the above-described property from R-A, Residential-Agricultural, to C-2, Thoroughfare Commercial.

As a part of this Bill of Assurance, certain safeguards and restrictions hereinafter referred to as "Restrictions" are hereby placed on the above-described real property.

RESTRICTIONS

The purpose of these restrictions is to restrict and limit the use of the above-described real property under a C-2 Zoning classification as set forth in Chapter 161.18,

District C-2, Thorough Commercial, of the Fayetteville Unified Development Code, to the following permitted uses, as follows:

Unit 12	Offices, studios and related services
Unit 17	Trades and services
Unit 25	Commercial offices

It is the intention of these restrictions to limit the permitted uses as described above, and to restrict all other uses of the said property.

The hereinabove-described real property shall be used only for the permitted uses described in Unit 12, Unit 17, and Unit 25 of Chapter 161.18 of the Fayetteville Unified Development Code.

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its undersigned representative this 18 day of September, 2007.

Hobson, Inc.

By: David Pearce, President
David Pearce, President

By: Patricia Pearce
Patricia Pearce, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
COUNTY OF WASHINGTON)

On this 18 day of September, 2007, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared David Pearce and Patricia Pearce, who acknowledged themselves to be the President and Secretary, respectively, of Hobson, Inc., an Arkansas Corporation, and that they, as such President and Secretary of said corporation, being authorized so to do, executed the foregoing instrument for and in the name and behalf of said corporation by signing the name of the corporation by themselves as President and Secretary, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

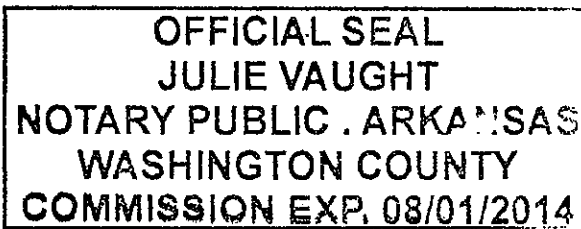
My Commission Expires:

8-1-2014

(Note: Legal Description is
not scrivener's description)



Notary Public



Added at the
City Council Meeting 9/18/07

RESOLUTION NO. _____

A RESOLUTION TO AMEND THE BOUNDARIES OF
THE CULTURAL ARTS DISTRICT AND SPECIFY ITS
REVISED BORDERS

**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 boundaries of the Cultural Arts District as shown on the revised map attached as Exhibit A and specifies that its borders shall be as shown on the map.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

ALDERMAN AGENDA REQUEST FORM

Added at
the City Council
Meeting 9/18/07

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2007

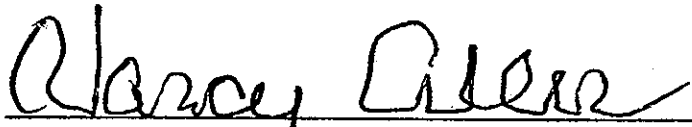
FROM:

ALDERMAN NANCY ALLEN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend The Boundaries Of The Cultural Arts District And Specify Its Revised Borders

APPROVED FOR AGENDA:



Nancy Allen
Alderman

9-18-07

Date



David J. Whitaker
Assistant City Attorney (as to form)

9/12/2007

Date

From: "Paula Marinoni" <pmarinoni@sbcglobal.net>
To: <kwilliams@ci.fayetteville.ar.us>, <dwhitaker@ci.fayetteville.ar.us>
Date: 9/17/2007 9:12 AM
Subject: Evergreen exclusion letter

CC: <ngallen@earthlink.net>

Here is a copy of the letter given to Nancy Allen on Friday. Please add to the exclusion resolution.

Thank you! Paula

Fayetteville Evergreen Cemetery

Board of Directors

Fayetteville, AR 72701

September 14, 2007

To the Fayetteville City Council;

Please remove the historic Fayetteville Evergreen Cemetery from inclusion in the Cultural Arts District as outlined as part of the Downtown Master Plan. The area is identified in the map submitted for approval at the last meeting, outlined in yellow, just west of the Downtown Master Plan boundary, and bordered by Whiteside Street on the north.

We have not been involved or notified of this process at all and thus would be at a loss for the relevance of inclusion. As individuals and as a board, we are very supportive of culture and the arts, however our energies and time are limited and involvement would require both at a very minimum.

We are proud to focus our time and energies on providing a place of rest, peace, and respect for Fayetteville's founding generations.

Thank you for taking care of this for us.

Sincerely,

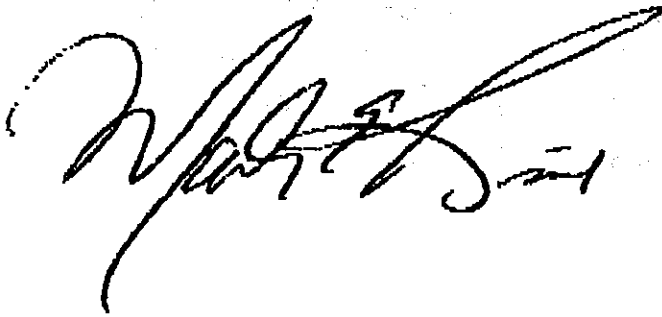
Paula Marinoni

Vice-President

Grounds Supervisor

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.



owner Bill Reagan

613 Reagan

439 N. 4th Ave.

From: Paula Marinoni (pm@paulamarinoni.com)

To: 'Paul'

Date: Monday, September 10, 2007 8:58:23 PM

Subject: FW: Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

612 REAGAN

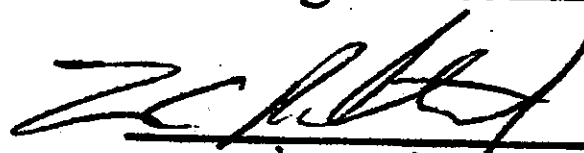
614 REAGAN (DUPLEX)

465 N. GREGG (DUPLEX)

Paul Marinoni Jr.

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

 339 N. GREGG DOG13GREGG@AOL.COM
M. Konert 616 W. Reagan RSKONERT@gmail.com
 616 W REAGAN JGO616@gmail.com
Bill Mandrell 370 Arkansas Ave. Bill@thenewschool.org

9/10/07

Paula Marinoni

From: DonBdn@aol.com
Sent: Monday, September 10, 2007 4:52 PM
To: pm@paulamarinoni.com
Subject: Re: Petition to remove

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

September 10, 2007

I own 614 W. Lafayette
 Fayetteville, AR

signature attached

[OBJ]

P.S. I know nothing of faxes or signing email forms; I hope this helps
 Don B.

In a message dated 9/10/2007 3:25:42 P.M. Central Daylight Time, pmarinoni@sbcglobal.net writes:

I Don;

9/10/2007

Don

Boulaman

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

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The Gentlemen of FarmHouse Fraternity
oppose the cultural arts District
boundary.

[346 N. Arkansas Ave Fayetteville, AR 72701]	Grant Hunt	MD LH
	Chris Scarborough	Chris Scarborough
	Thomas Haynes	Thomas Haynes
	Ryan Siebenmorgen	Ryan Siebenmorgen
	Nathan Brown	Nathan Brown
	Marcus A. Looney	Marcus A. Looney
	Hy Mahany Jr.	Henry Michael Chaney Jr.
	Kris Bunnell	Kris Bunnell

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including, but not limited to, Cultural Arts and Entertainment.

Name

Address

Date

Evelyn Stilwell 358 Arkansas Ave., Fay. 72701 9-10-07

Bronson & Cheryl 358 Arkansas Ave, 72701 10 Sept 2007

Brianne Kohn 358 Arkansas Ave. 72701 9-10-07

Lindsay A. Mack 358 N. Arkansas Ave. 72701 9-10-07

B. D. Beale 610 Lafayette St. Fayetteville, AR 72701 Apt. #206

Lisa Freyberger 358 N Arkansas Ave 72701 9-11-07

Haniva Henry 358 N. Arkansas Ave 72701 9-11-07

Paul Daniel Gateley 358 N. Arkansas Ave. 72701 9-11-07

Teleshwan Longman 358 N. Arkansas Ave. 72701 9-11-07

April Robertson 358 N. Arkansas Ave. 72701 9-11-07

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

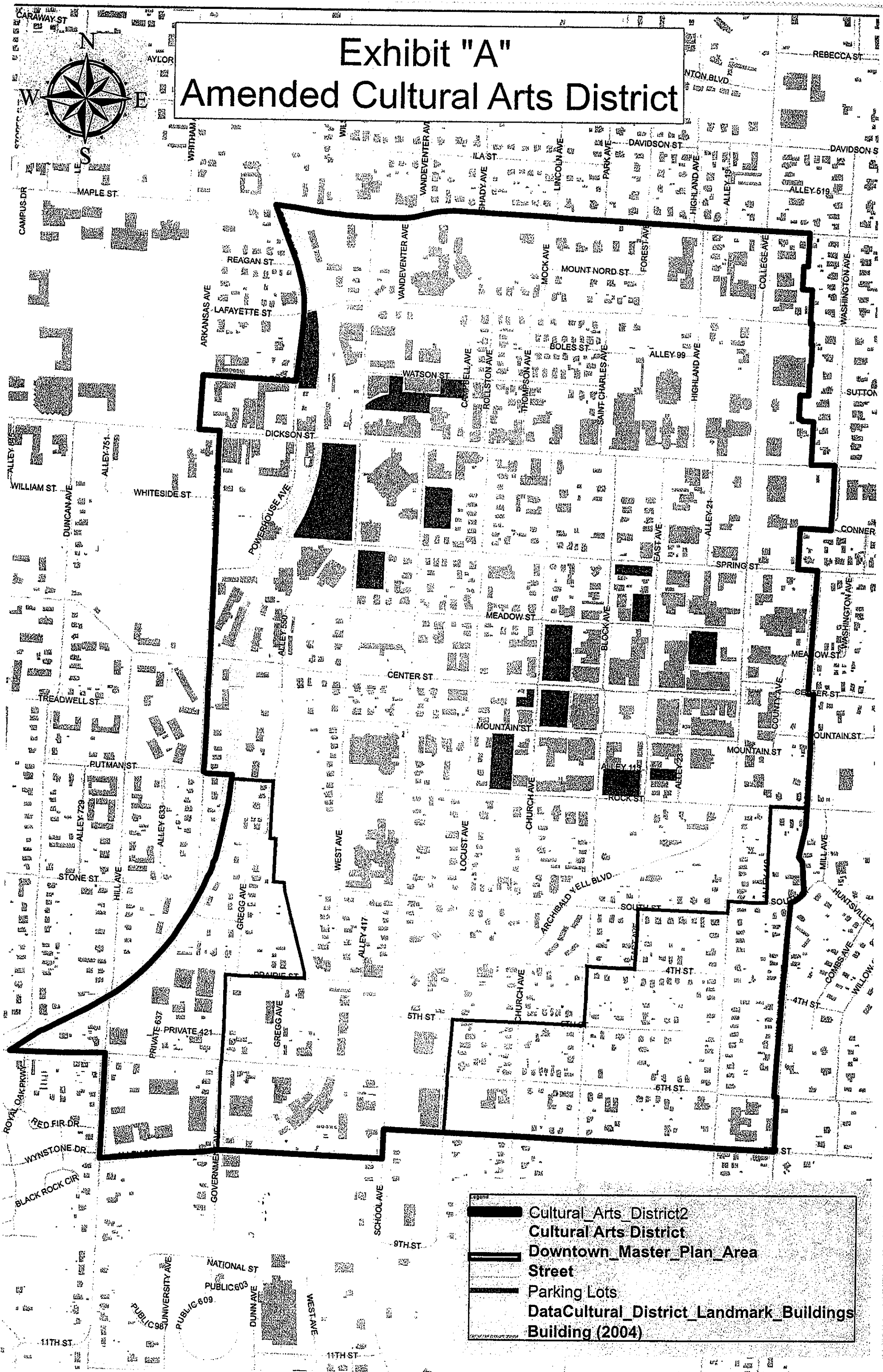
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Paula Marenoni
✓ Matt Lawrence

617 W Lafayette
9-10-07

Exhibit "A"

Amended Cultural Arts District



- Cultural Arts District2
- Cultural Arts District
- Downtown Master Plan Area
- Street
- Parking Lots
- Data Cultural District Landmark Buildings
- Building (2004)

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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

Alderman voted to add Cultural Arts District amendment to the end of the agenda.

Special Recognition

Nominating Committee Report

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**

APPROVED.

- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.

THIS ITEM WAS REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION.

- 3. Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 162-07.

4. **Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 163-07.

5. **Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 164-07.

6. **Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** A resolution rescinding Resolution #38-07, and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in the amount of \$29,980.00 for use by the Fleet Rental Pool.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 165-07.

1. **Little Mendelson, P.C. Contract:** A resolution approving a contract with Little Mendelson, P.C. to provide employment and labor litigation services.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 166-07.

B. UNFINISHED BUSINESS:

1. **R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*

THIS ITEM WAS TABLED TO THE OCTOBER 2, 2007 CITY COUNCIL MEETING.

2. **Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and Tabled to the September 18, 2007 City Council meeting.*

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5059.

C. PUBLIC HEARINGS:

1. **Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 167-07.

2. **Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

PASSED AND SHALL BE RECORDED AS RESOLUTION NO. 168-07.

D. NEW BUSINESS:

1. **R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

THIS ITEM WAS LEFT ON THE THIRD READING OF THE ORDINANCE AND TABLED TO THE OCTOBER 2, 2007 CITY COUNCIL MEETING.

2. **R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

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

3. **VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5060.

4. **ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5061.

5. **Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.

PASSED AND SHALL BE RECORDED AS ORDINANCE NO. 5062.

6. **Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

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

7. **Amend Cultural Arts District:** A resolution to amend the boundaries of the Cultural Arts District and specify its revised borders.

THIS ITEM WAS ADDED TO THE AGENDA AT THE CITY COUNCIL MEETING. PASSED AND SHALL BE RECORDED AS RESOLUTION 169-07.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

The Council plans on touring:

R-PZD 07-2576 Woodstock

R-PZD 07-2649 College Avenue Townhomes

Meeting adjourned 9:50 p.m.

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

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

DATE: **September 19, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of September 18, 2007**

1. **Littler Mendelson, P.C. Contract:** Resolution approving contract with Littler Mendelson, P.C. to provide employment and labor litigation services;
2. **Bid #07-60 – Truck Centers of Arkansas:** Resolution awarding Bid #07-60 to Truck Centers of Arkansas for purchase of one tandem axle diesel dump truck in amount of \$96,314.00 for use by Water & Sewer Division;
3. **Bid #07-61 – Countryside Farm & Lawn Equipment:** Resolution awarding Bid #07-61 to Countryside Farm & Lawn Equipment for purchase of one two-wheel drive utility tractor in amount of \$21,657.00 for use by Parks & Recreation Division;
4. **Bid #07-62 – Hertz Equipment Rental:** Resolution awarding Bid #07-62 to Hertz Equipment Rental for purchase of one self-propelled concrete saw in amount of \$27,795.00 for use by Transportation Division;
5. **Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** Resolution rescinding Resolution #38-07 and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for purchase of one Toyota Fork Lift Truck in amount of \$29,980.00 for use by Fleet Rental Pool;

6. Amend Chapter 96 Noise Ordinance: Ordinance amending §96.05 *Motor Vehicle and Motorcycle Sound Limit* by adding a new subsection (E) to prohibit excessive engine revving;

7. Raze & Removal at 1989 E. Mission: Resolution ordering raze and removal of dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Blvd. in City of Fayetteville;

8. Raze & Removal at 1533 S. Duncan: Resolution ordering raze and removal of dilapidated and unsafe structure owned by North America Lighthouse Properties, LLC located at 1533 S. Duncan in City of Fayetteville and approving a budget adjustment in the amount of \$3,000.00;

9. Amend Cultural Arts District Boundaries: Resolution amending boundaries of Cultural Arts District and specifying its revised borders.

Meeting Adjourned
at 9:50 PM

Subject: Roll					
Motion To:					
Motion By:					
Seconded:					
Alderman Rhoads Arrived at 6:05 PM	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody	✓			

8-0

Subject: Cultural Arts District Amend Boundaries					
Motion To:		Add to end of the agenda			
Motion By:		Allen			
Seconded:		Cook			
Added to the agenda	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent during the vote.			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

7-0

City Council Meeting September 18, 2007

Subject: Nominating Committee Report					
Motion To:		Approve			
Motion By:		Cook			
Seconded:		Thiel			
Approve	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	absent during the vote			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

7-0

Subject: Consent					
Motion To:		Approve with item # 2 removed for discussion			
Motion By:		Jordan			
Seconded:		Lucas			
Approve with Little Mendelson, P.C. Contract removed for discussion	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

Minutes were approved 8-0 Res 162-07 to 165-07

City Council Meeting September 18, 2007

Subject: <i>Littler Mendelson, P.C. Contract</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Gray</i>			
Seconded:		<i>Thiel</i>			
<i>Removed from the Consent</i> <i>passed</i> <i>166-07</i>	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: <i>R-PZD 07-2576 Woodstock Community</i>					
Motion To:		<i>3rd Reading</i>	<i>Tabled to 10-02-07</i>		
Motion By:		<i>Jordan</i>	<i>Jordan</i>		
Seconded:		<i>Cook</i>	<i>Lucas</i>		
<i>Tabled to 10-2-07</i> <i>B.I.</i> <i>Unfinished Business</i>	Thiel	✓	✓		
	Cook	✓	✓		
	Allen	✓	✓		
	Rhoads	✓	✓		
	Ferrell	✓	✓		
	Lucas	✓	✓		
	Jordan	✓	✓		
	Gray	✓	✓		
	Mayor Coody				

8-0

8-0

City Council Meeting September 18, 2007

Subject: Amend Chapter 96 Noise Ordinance					
Motion To:		Amend Section E	Approve		
Motion By:		Allen			
Seconded:		Jordan			
B.2. Unfinished Business Passed 5059	Thiel		✓		
	Cook	With	N		
	Allen	drawn	N		
	Rhoads		✓		
	Ferrell		N		
	Lucas		✓		
	Jordan		N		
	Gray		✓		
	Mayor Coody		Yes		

5-4

ie Mayor Coody voted Yes to break the tie.

Subject: Raze & Removal at 1989 E. Mission					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Cook			
C.1. Public Hearing Passed 167-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

City Council Meeting September 18, 2007

Subject: Raze & Removal at 1533 - S. Duncen					
Motion To:		Approve			
Motion By:		Thiel			
Seconded:		Gray			
C.2. Public Hearing <u>Passed</u> 168-07	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: R-PZD 07-2649 College Avenue Townhomes					
Motion To:	Amend to add Engineered foundations		2nd read	3rd read	Table to 10/2/07
Motion By:		Thiel	Ferrell	Ferrell	Jordan
Seconded:		Gray	Rhoads	Rhoads	Ferrell
D.1. New Business Left on the Third Reading & Tabled to Oct. 2, 2007	Thiel	✓	✓	✓	✓
	Cook	✓	✓	N	✓
	Allen	✓	✓	N	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Mayor Coody				

8-0

8-0

6-0

8-0

City Council Meeting September 18, 2007

Subject: R-PZD 07-2680 Arcadian Court					
Motion To:		2nd read			
Motion By:		Jordan			
Seconded:		Lucas			
D.2, New Business Left on the 2nd Reading	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

8-0

Subject: VAC 07-2688 Walgreens					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Jordan	Jordan		
Seconded:		Lucas	Lucas		
D.3, New Business Passed 5060	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				

8-0

8-0

8-0

City Council Meeting September 18, 2007

Subject: AD M 07-2725 Southern View II Amendments					
Motion To:		2nd read	Amend Section one to 75%	3rd read	Pass
Motion By:		Cook	?	Jordan	
Seconded:		Jordan	?	Cook	
D.4, New Business <u>passed</u> 5061	Thiel	✓	✓	✓	✓
	Cook	✓	✓	✓	✓
	Allen	✓	✓	✓	✓
	Rhoads	✓	✓	✓	✓
	Ferrell	✓	✓	✓	✓
	Lucas	✓	✓	✓	✓
	Jordan	✓	✓	✓	✓
	Gray	✓	✓	✓	✓
	Mayor Coody				
		8-0	8-0	8-0	8-0

Subject: Amend Chapter 174 Signs					
Motion To:		2nd read	3rd read	Pass	
Motion By:		Cook	Jordan		
Seconded:		?	Ferrell		
D.5. New Business <u>passed</u> 5062	Thiel	✓	✓	✓	
	Cook	✓	✓	✓	
	Allen	✓	✓	✓	
	Rhoads	✓	✓	✓	
	Ferrell	✓	✓	✓	
	Lucas	✓	✓	✓	
	Jordan	✓	✓	✓	
	Gray	✓	✓	✓	
	Mayor Coody				
		8-0	8-0	8-0	

Subject: <i>Hobson, Inc. Appeal</i>					
Motion To:					
Motion By:					
Seconded:					
<i>D. 6, New Business Left on the first Reading</i>	Thiel				
	Cook				
	Allen				
	Rhoads				
	Ferrell				
	Lucas				
	Jordan				
	Gray				
	Mayor Coody				

Subject: <i>Cultural Arts District</i>					
Motion To:		<i>Approve</i>			
Motion By:		<i>Thiel</i>			
Seconded:		<i>Gray</i>			
<i>D. 7. Added at the Council Meeting Passed 169-07</i>	Thiel	✓			
	Cook	✓			
	Allen	✓			
	Rhoads	✓			
	Ferrell	✓			
	Lucas	✓			
	Jordan	✓			
	Gray	✓			
	Mayor Coody				

Added at the
City Council Meeting 9/18/07

RESOLUTION NO. _____

A RESOLUTION TO AMEND THE BOUNDARIES OF
THE CULTURAL ARTS DISTRICT AND SPECIFY ITS
REVISED BORDERS

**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 boundaries of the Cultural Arts District as shown on the revised map attached as Exhibit A and specifies that its borders shall be as shown on the map.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

ALDERMAN AGENDA REQUEST FORM

Added at
the City Council
Meeting 9/18/07

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2007

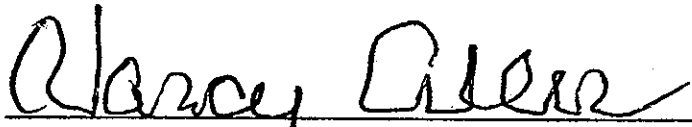
FROM:

ALDERMAN NANCY ALLEN

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

A Resolution To Amend The Boundaries Of The Cultural Arts District And Specify Its Revised Borders

APPROVED FOR AGENDA:



Nancy Allen
Alderman

9-18-07

Date



David J. Whitaker
Assistant City Attorney (as to form)

9/12/2007

Date

From: "Paula Marinoni" <pmarinoni@sbcglobal.net>
To: <kwilliams@ci.fayetteville.ar.us>, <dwhitaker@ci.fayetteville.ar.us>
Date: 9/17/2007 9:12 AM
Subject: Evergreen exclusion letter

CC: <ngallen@earthlink.net>

Here is a copy of the letter given to Nancy Allen on Friday. Please add to the exclusion resolution.

Thank you! Paula

Fayetteville Evergreen Cemetery

Board of Directors

Fayetteville, AR 72701

September 14, 2007

To the Fayetteville City Council;

Please remove the historic Fayetteville Evergreen Cemetery from inclusion in the Cultural Arts District as outlined as part of the Downtown Master Plan. The area is identified in the map submitted for approval at the last meeting, outlined in yellow, just west of the Downtown Master Plan boundary, and bordered by Whiteside Street on the north.

We have not been involved or notified of this process at all and thus would be at a loss for the relevance of inclusion. As individuals and as a board, we are very supportive of culture and the arts, however our energies and time are limited and involvement would require both at a very minimum.

We are proud to focus our time and energies on providing a place of rest, peace, and respect for Fayetteville's founding generations.

Thank you for taking care of this for us.

Sincerely,

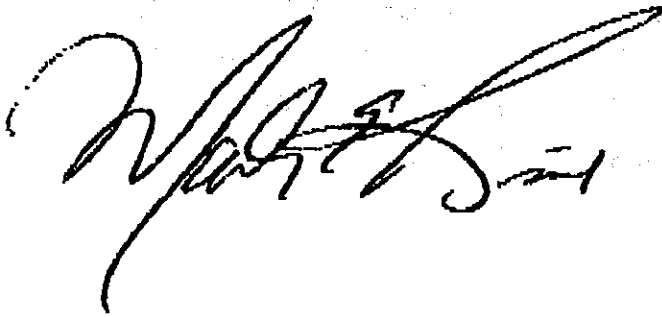
Paula Marinoni

Vice-President

Grounds Supervisor

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.



owner Bill Reagan

613 Reagan

439 N. 4th Ave.

From: Paula Marinoni (pm@paulamarinoni.com)

To: 'Paul'

Date: Monday, September 10, 2007 8:58:23 PM

Subject: FW: Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

612 REAGAN

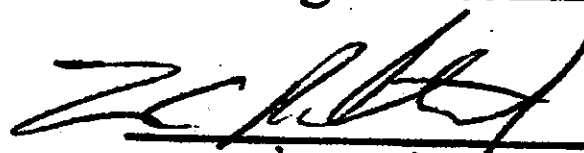
614 REAGAN (DUPLEX)

465 N. GREGG (DUPLEX)

Paul Marinoni Jr.

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

 339 N. GREGG DOG13GREGG@AOL.COM
M. Konert 616 W. Reagan RSKONERT@gmail.com
 616 W REAGAN JGO616@gmail.com
Bill Mandrell 370 Arkansas Ave. Bill@thenewschool.org

9/10/07

Paula Marinoni

From: DonBdn@aol.com
Sent: Monday, September 10, 2007 4:52 PM
To: pm@paulamarinoni.com
Subject: Re: Petition to remove

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

September 10, 2007

I own 614 W. Lafayette
 Fayetteville, AR

signature attached

[OBJ]

P.S. I know nothing of faxes or signing email forms; I hope this helps
 Don B.

In a message dated 9/10/2007 3:25:42 P.M. Central Daylight Time, pmarinoni@sbcglobal.net writes:

I Don;

9/10/2007

Don

Boulaman

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

The Gentlemen of FarmHouse Fraternity
oppose the cultural arts District
boundary.

[346 N. Arkansas Ave Fayetteville, AR 72701]	Grant Hunt	MD LH
	Chris Scarborough	Chris Scarborough
	Thomas Haynes	Thomas Haynes
	Ryan Siebenmorgen	Ryan Siebenmorgen
	Nathan Brown	Nathan Brown
	Marcus A. Looney	Marcus A. Looney
	Hy Mahany Jr.	Henry Michael Chaney Jr.
	Kris Bunnell	Kris Bunnell

Petition to remove the yellow area on West Lafayette Street from the Cultural Arts District boundary.

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Name

Address

Date

Evelyn Stilwell 358 Arkansas Ave., Fay. 72701 9-10-07

Bronson & Cheryl 358 Arkansas Ave, 72701 10 Sept 2007

Brianne Kohn 358 Arkansas Ave. 72701 9-10-07

Lindsay A. Mack 358 N. Arkansas Ave. 72701 9-10-07

B. D. Beale 610 Lafayette St. Fayetteville, AR 72701
Apt. #206

Lisa Freyberger 358 N Arkansas Ave 72701 9-11-07

Haniva Henry 358 N. Arkansas Ave 72701 9-11-07

Paul Daniel Gateley 358 N. Arkansas Ave. 72701 9-11-07

Teleshwan Longman 358 N. Arkansas Ave. 72701 9-11-07

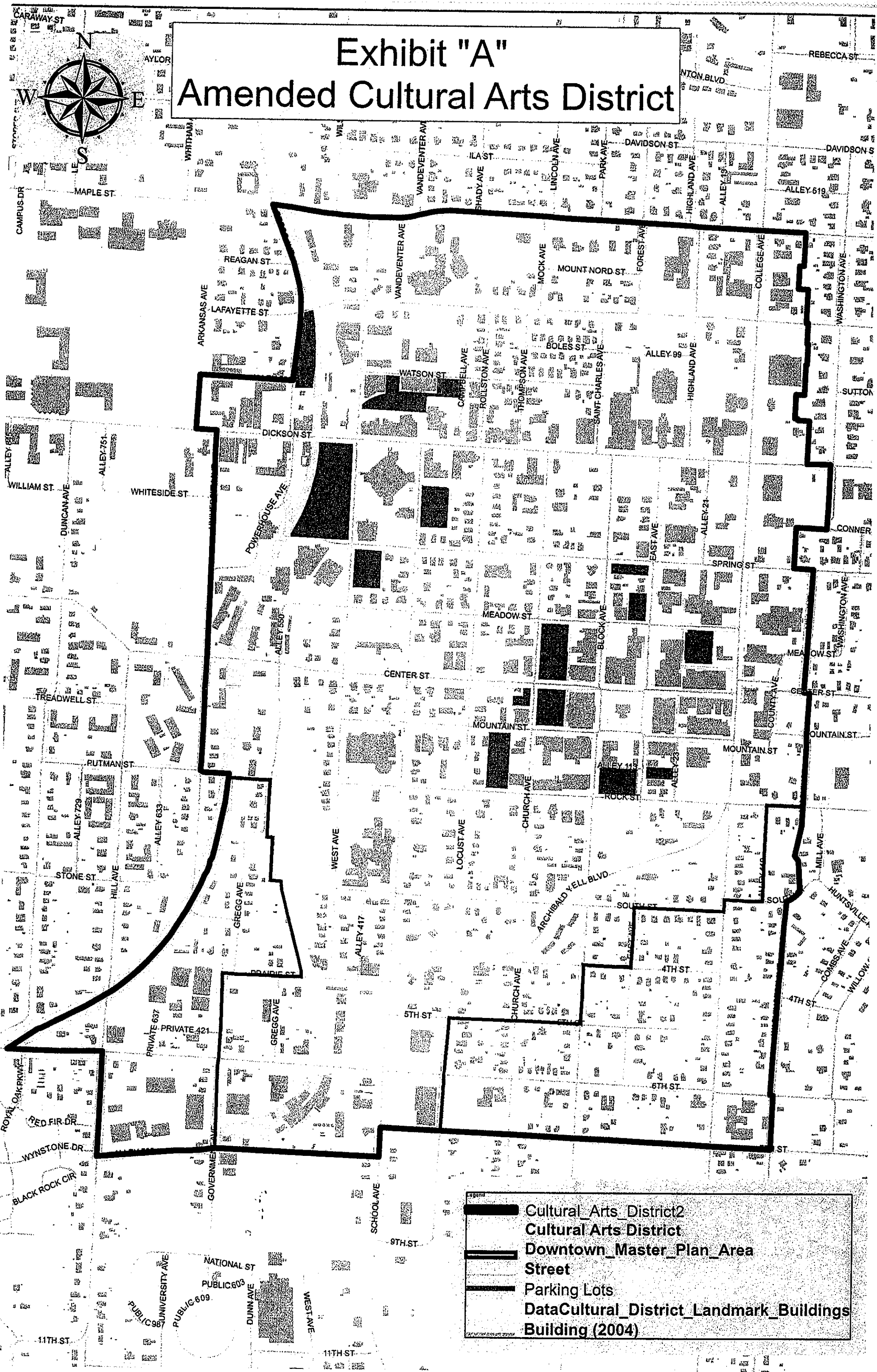
April Robertson 358 N. Arkansas Ave. 72701 9-11-07

**Petition to remove the yellow area on West Lafayette Street
from the Cultural Arts District boundary.**

Petition to remove the three block area located between Arkansas Avenue and the railroad tracks and Maple Street and the alley south of the Greg House which extends west on the south side of the old Sigma Nu house, from the Downtown Master Plan area as identified in the Cultural Arts district overlay outlined in yellow. Our neighborhood was intentionally removed from the Downtown Master Plan boundary last year. We do not want to be part of the Downtown Master Plan area or any overlay as part of, or associated with, the Downtown Master Plan including but not limited to Cultural Arts and Entertainment.

Paula Marenoni
✓ Matt Lawrence

617 W Lafayette
9-10-07

[illegible]

- [illegible]

From: "Don Wilson" <don@dewilsonlaw.com>
To: <city_clerk@ci.fayetteville.ar.us>
Date: 8/17/2007 11:59 AM
Subject: RZN 07-2667 (Hobson, Inc.) Appeal to City Council

CC: "Tricia Pearce" <tpearce@coldwellbanker.com>

Ms. Smith, per our telephone conversation this morning, please accept this communication as my request for an appeal of the decision of the Planning Commission held on August 13, 2007, on the rezoning for the property located at 7613 Wedington (12611 Hwy 16W), RZN 07-2667 (Hobson Inc., 433).

The property in question is located within the newly annexed area brought into the city limits in 2006 as R-A Zoning. The request for rezoning to C-2 was made so that the property could be used for its historical use for commercial trades, as a permitted use under C-2. The Planning Commission acted on recommendation of city planning staff that the broad impact of a C-2 rezoning had the potential to bring other impact uses into the area without adequate services to support urban development. The potential to bring other impact uses can be resolved by limiting the use to its historical use through the use of a bill of assurance. The subject property has been commercial property for more than 30 years for various trades, and is not compatible with the current R-A zoning. This is an important issue to the owners of the property, and denial of the use of the property for use as has existed for 30 years would subject the owners to economic hardship.

The appeal to the City Council is requested for the above-stated reasons. I would request this matter be placed on the agenda of the September 18, 2007 meeting of the City Council.

I appreciate your assistance, and would also appreciate your confirmation of this email. Please do not hesitate to call if you have any questions. Thanks.

Donald E. Wilson

Attorney at Law

P.O. Box 1285

Fayetteville, AR 72702-1285

(479) 443-2249

(479) 443-8016 (fax)

Garlock, James Wesley*Handed out at the City Council Meeting
9/18/07 Woodstock***From:** Craig Honchell [chonchell@bargoeng.com]**Sent:** Tuesday, September 18, 2007 3:29 PM**To:** Shirley Lucas; Lionel Jordan; jasonandkathy@windstream.net; jsrichmond@netzero.net; Garlock, James Wesley; BZiada@ceieng.com; Bob Estes; ward1_pos1@ci.fayetteville.ar.us; bthiel@cox.net; ward2_pos1@ci.fayetteville.ar.us; ward2_pos2@ci.fayetteville.ar.us; rrhoads@hallestill.com; ward3_pos2@ci.fayetteville.ar.us**Subject:** Woodstock Development

My name is Craig Honchell; I am the president of the Cross Keys POA in Fayetteville. I have tried to attend most of the meetings regarding the Woodstock Development and unfortunately have prior commitments tonight and will be unable to attend the meeting. I would like to take a moment to point out a few items that seem to be getting glossed over by the Nock and Broyles group.

My primary concern is in regard to scale and the implementation of the 2025 Plan. I could not get a satisfactory answer from Tim Conklin when I posed some questions to him at a special Ward 4 meeting. Scale is mentioned several times throughout the text of the 2025 Plan in the description of all existing neighborhoods in our community. The fact that the city was able to impose a designation of "city neighborhood" rather than keeping the existing "residential neighborhood" is a mystery to me. At no time was this reclassification made obvious or discussed as being a point of contention with this development. This designation alone will allow all future construction to go in as whatever the developer wishes. I do not recall any structures being over 2 stories tall anywhere in the proximity of the proposed construction. This in itself brings the question of scale to the forefront. What existing structure is the Council referencing to gauge the scale of this development to? Does the mere classification of city neighborhood allow a development to be constructed under the guise of this classification? I honestly feel that the 2025 Plan is rhetoric that accommodates developers and not development. Obviously the 2025 Plan is not in place to protect existing neighborhoods or property owners for that matter. I understand that a lot of time and effort has gone into the fabrication of such a plan and feel that it is flawed. I chose to remain a resident of Ward 4 to be out from development, not to have a 70 foot tall behemoth built in my backyard. What exactly does the city want to create in our ward? We currently have a shopping center of sorts being built north of the Boys and Girls Club, expansive dirt work being performed south of Betty Jo Drive, The Links north of Wedington and now another 380 plus units west of 46th Street, what's next a Motel 6 south of Persimmon? And dare I ask what is being proposed on the adjacent property west of the Woodstock Development? I get the feeling that another development is lying in wait to get this structure up so another large scale structure to go in right next to it. The city knows what is coming down the pipe months, probably years, prior to any public discussion. The city has an obligation to allow people the chance to understand the ramifications that a construction like this represents prior to a 30 day posting. A construction like this will change an area for generations. Had I known that the city intended to transform the west side of town into a pocket community of apartments, town homes and condominiums I never would have bought where I did. Of course hindsight is 20/20. I have lived in Ward 4 for most of my adult life and regrettably enough never taken the time to get involved until I found a home that I thought I would live in for 30 plus years. My home is much like any other in the sense that it is going to be the single biggest investment of my life. I'm an average person that works long hours and has put my faith in my local government to utilize good judgment; I have a hard time believing that a project like this will enhance our area if built to the suggested parameters. A development like this will be the tool used by any development hereafter to reference as a model of what the city will allow. I don't understand how this city can have an ordinance in place to protect our bars and inner city area from tall structures but nothing in place to protect the working class of Fayetteville.

Privacy seems to be an afterthought amongst all of this development; I think that most homeowners have a certain expectation of privacy when purchasing a home. I challenge any council member to question themselves as to whether they would like to look out their backdoor, everyday, and see a four, 70 foot tall, glass, brick, and concrete square block jutting out of the ground. I really don't think that anyone understands the magnitude of what this structure will look like amid several blocks of single story smaller homes. I would surmise out of place as being the best answer.

Along with all of the large scale construction I have concerns as to how the city proposes to support our area schools. We have recently acquired a beautiful elementary school that is currently running near capacity. With all of the proposed multiuse housing coming in how does the city plan to redistrict or shift enrollment around to accommodate the looming influx of students? I have heard from parents that live in Persimmon Place that are unable to get their children in to a school less than a mile from their home due to capacity constraints. Will our tax base support the

9/18/2007

construction of another elementary school, middle school or junior high in our area? We may want to weigh these things out before we start allowing all of this proposed mixed use style of dwellings in this area. We are building these pocket communities for families, correct?

The cost of these homes is another point that was brought up by the Broyles group. They claim that they are designing these homes to be purchased and lived in by employees of the retail space below the condominiums. Am I to believe that a condominium priced at an estimated starting price of around \$220,000, their number, is affordable at this time? The last that I read the housing market is in a glut. I doubt that Fayetteville is immune from the tumultuous forecast of the real estate market. The developers would have the city residents believing that this is necessary, that there is going to be a boom time for real estate again. That may be the case but I doubt that the current economic state of this city can survive on more promises akin to Aspen Ridge and The Renaissance. Something will be built on 46th Street, I'm not against development, but bring in a development that suits our area. The Aspen Ridge area would be a perfect fit for the Woodstock Development. The height of these buildings would diminish in part due to the lay of the land, railroad, and surrounding structures. It would be centrally located to all of the University sports complexes ultimately offering condos and town homes to hundreds of alumni.

I have always been proud to live in Fayetteville, I consider myself a native. I look forward to seeing this community flourish. I feel that if the city is to build a development of this magnitude we need to find a better fit. I don't think that it is fair for the city to expect this remote area of town to endure dump trucks, graters, scaffolding and all sorts of heavy equipment for the next eight to ten years. It is almost as if the council turns the other cheek as long as it's not in their backyard. Then again I can't think of the last proposed development on the east side of town where the 2025 Plan was being enforced with such a heavy hand. If this is a sign of how the 2025 Plan is going to be implemented I suggest we build the first development of this type on a small scale and look to this as to how we can improve the process, rather than look back 10 years from now and second guess the decisions that we made today.

If this development is voted in please give the current homeowners some peace of mind by requiring the developers to bring the single family homes in on the first phase of the project. This would create a buffer of sorts for existing residents and provide the city a certain level of commitment from the Nock and Broyles group. Thank you for allowing me the opportunity to address this matter.

Craig Honchell,
Cross Keys POA President
chonchell@cox.net
236-1494
444-8843

~~Comment~~ Handed out at the City Council Meeting 9/18/07 Woodstock

Traffic Study

TRIP GENERATION and SITE TRAFFIC PROJECTIONS

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

20% of internal.

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 4, "Summary of Trip Generation," below.

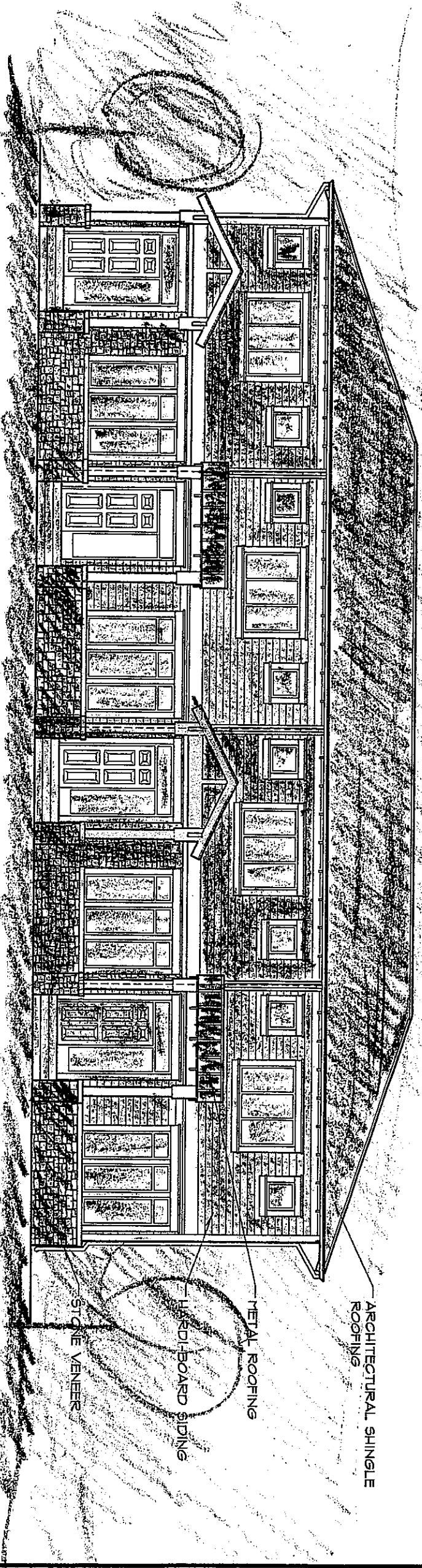
PROPOSED LAND USE	APPROXIMATE SIZE	ITE CODE	24-HOUR TWO-WAY WEEKDAY VOLUME	AM PEAK HOUR VOLUME		PM PEAK HOUR VOLUME	
				ENTER	EXIT	ENTER	EXIT
Residential Single-Family	54 Units	210	517	10	30	35	20
Residential Townhouses	104 Units	230	609	7	38	36	18
Residential Condominiums	224 Units	230	1,313	16	83	78	38
General Office*	20,000 Sq. Ft.	710	176	22	3	4	20
Retail*	69,135 Sq. Ft.	820	2,375	35	22	99	108
Sit-Down Restaurant*	2,500 Sq. Ft.	932	254	12	11	14	9
Sit-Down Restaurant*	2,100 Sq. Ft.	932	214	10	10	11	7
Sit-Down Restaurant*	3,800 Sq. Ft.	932	386	18	17	20	13
TOTALS:			5,844	130	214	297	233
			TOTAL ENTERING + EXITING	344		530	

*These volumes adjusted to reflect 20% internal capture.

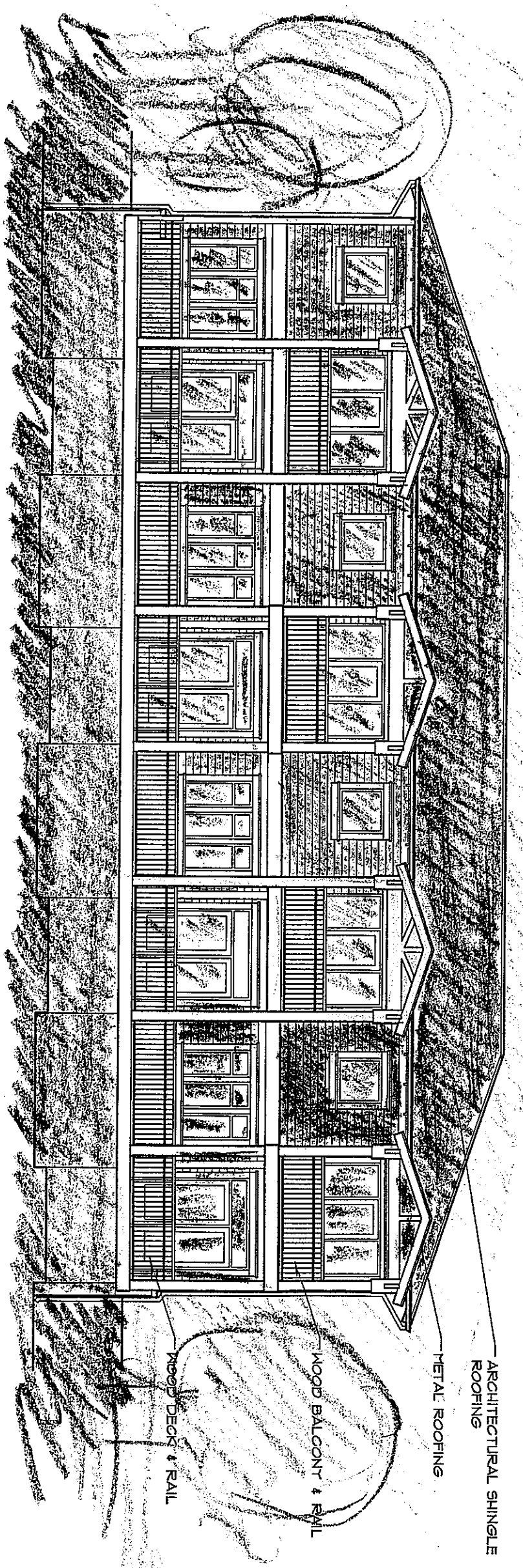
Table 4 - Trip Generation Summary

D.I. New Business
 Handled out at the
 City Council Meeting 7/18/07
 College Ave. Townhomes

1 FRONT ELEVATION
 SCALE: 1/8" = 1'-0"



2 BACK ELEVATION
 SCALE: 1/8" = 1'-0"



REV. #	DATE	DESCRIPTION	REV. #	DATE	DESCRIPTION

DATE
—

PROJECT #
0715

TOWNHOUSE DEVELOPMENT

FAYETTEVILLE, ARKANSAS 72701

KEY ARCHITECTURE INC.

P.O. BOX 748 FAYETTEVILLE, ARKANSAS 72702
 PH: 479.444.6066 FAX: 479.444.1445



These Drawings and Specifications are the exclusive property of Key Architecture Inc. and are protected by Copyright. Use or reproduction is prohibited without written consent.

ADM 07-2725 Southern View II
 Handed out at the City Council Meeting 9/18/07

LOCATION	NUMBER OF ROOMS	WEEK DAY RATE	WEEKEND RATE	FAYETTEVILLE PARKS TAX	FAYETTEVILLE A&P TAX	FAYETTEVILLE SALES TAX	TOTAL TAX PAID TO CITY
Days Inn	150	\$65.00	\$65.00	\$18,809.70	\$18,809.70	\$37,619.40	\$75,238.80
Cosmopolitan Hotel	235	\$119.00	\$119.00	\$53,950.08	\$53,950.08	\$107,900.16	\$215,800.31
Clarion Inn	197	\$89.00	\$159.00	\$41,425.71	\$41,425.71	\$82,851.42	\$165,702.85
Windsor Suites	68	\$79.89	\$139.00	\$12,695.95	\$12,695.95	\$25,391.91	\$50,783.82
Hampton Inn	95	\$169.00	\$169.00	\$30,973.31	\$30,973.31	\$61,946.61	\$123,893.22
Red Roof Inns	104	\$65.00	\$65.00	\$13,041.39	\$13,041.39	\$26,082.78	\$52,165.57
Holiday Inn Express	110	\$99.00	\$169.00	\$25,253.23	\$25,253.23	\$50,506.46	\$101,012.91
Comfort Inn	60	\$79.95	\$129.95	\$10,907.97	\$10,907.97	\$21,815.94	\$43,631.89
Sleep Inn	62	\$74.99	\$119.99	\$10,507.43	\$10,507.43	\$21,014.86	\$42,029.73
Lindsey Presidential Suites	46	\$125.00	\$125.00	\$11,092.90	\$11,092.90	\$22,185.80	\$44,371.60

Lindsey Presidential Suites	52	\$125.00	\$125.00	\$12,539.80	\$12,539.80	\$25,079.60	\$50,159.20
-----------------------------	----	----------	----------	-------------	-------------	-------------	-------------

THIS INSTRUMENT PREPARED BY:

Donald E. Wilson, P.A.
Attorney at Law
P.O. Box 1285
Fayetteville, AR 72702-1285

Hobson, Inc. Appeal
Handed out at
the City Council
Meeting 9/18/07

BILL OF ASSURANCE

KNOW ALL MEN BY THESE PRESENTS:

THAT Hobson, Inc., an Arkansas Corporation, holds title to the following described lands situated in Washington County, Arkansas, to-wit:

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49"W 39.12 feet from the Northeast corner of said 40 acre tract, said point being on the South Right-of-Way of Arkansas Highway 16; thence S1°17'49" W 146.88 feet; thence along a fence S89°10'35" W 61.88 feet; thence N0°40'45" E 148.25 feet, to the said Highway Right-of-Way; thence along said Right-of-Way S89°33'25" E 63.44 feet, to the point of beginning, containing 0.21 acres, more or less, Washington County, Arkansas. Subject to a 18.00 foot road easement along the East side thereof.

-and-

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49" W 186.00 feet from the Northeast corner of said 40 acre tract; thence S1°17'49" W 381.00 feet; thence N89°32'06" W 250.00 feet; thence N1°17'49" E 373.78 feet; thence along a fence N88°41'34" E 188.33 feet, N89°10'35" E 61.88 feet, to the point of beginning, containing 2.17 acres, more or less, Washington County, Arkansas. Subject to: An 18.00 foot Road Easement along the East side thereof.

And having a property street address of 7613 Wedington (12611 Hwy 16W), Fayetteville, Arkansas.

The Grantor, Hobson, Inc., has filed its application with the City of Fayetteville for rezoning of the above-described property from R-A, Residential-Agricultural, to C-2, Thoroughfare Commercial.

As a part of this Bill of Assurance, certain safeguards and restrictions hereinafter referred to as "Restrictions" are hereby placed on the above-described real property.

RESTRICTIONS

The purpose of these restrictions is to restrict and limit the use of the above-described real property under a C-2 Zoning classification as set forth in Chapter 161.18,

District C-2, Thorough Commercial, of the Fayetteville Unified Development Code, to the following permitted uses, as follows:

Unit 12	Offices, studios and related services
Unit 17	Trades and services
Unit 25	Commercial offices

It is the intention of these restrictions to limit the permitted uses as described above, and to restrict all other uses of the said property.

The hereinabove-described real property shall be used only for the permitted uses described in Unit 12, Unit 17, and Unit 25 of Chapter 161.18 of the Fayetteville Unified Development Code.

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its undersigned representative this 18 day of September, 2007.

Hobson, Inc.

By: David Pearce, President
David Pearce, President

By: Patricia Pearce
Patricia Pearce, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
COUNTY OF WASHINGTON)

On this 18 day of September, 2007, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared David Pearce and Patricia Pearce, who acknowledged themselves to be the President and Secretary, respectively, of Hobson, Inc., an Arkansas Corporation, and that they, as such President and Secretary of said corporation, being authorized so to do, executed the foregoing instrument for and in the name and behalf of said corporation by signing the name of the corporation by themselves as President and Secretary, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

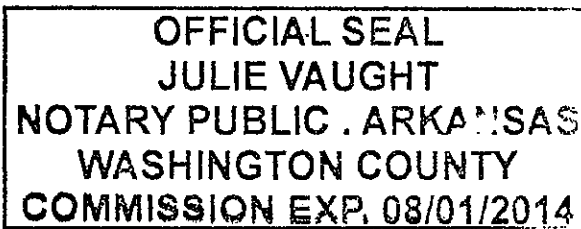
My Commission Expires:

8-1-2014

(Note: Legal Description is
not scrivener's description)



Notary Public



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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Special Recognition

Nominating Committee Report

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**
- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.
- 3. Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.
- 4. Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.
- 5. Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

- 6. Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** A resolution rescinding Resolution #38-07, and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in the amount of \$29,980.00 for use by the Fleet Rental Pool.

B. UNFINISHED BUSINESS:

- 1. R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*
- 2. Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and Tabled to the September 18, 2007 City Council meeting.*

C. PUBLIC HEARINGS:

- 1. Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas.
- 2. Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

- 1. R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 2. R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 3. VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.

4. **ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.
5. **Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.
6. **Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

The Council plans on touring:

R-PZD 07-2576 Woodstock

R-PZD 07-2649 College Avenue Townhomes

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 6
Rescind Resolution #38-07 and
Award Bid #07-04 to Hugg & Hall
Equipment of Springdale
Page 1 of 6

Added at
Agenda Session
9/11/07

Sep. 18, 2007

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution (repealing Resolution #38-07) awarding bid #07-04 to Hugg & Hall Equipment of Springdale in the amount of \$29,980.00 for the purchase of one Forklift truck.

\$29,980.00

Cost of this request

\$

1,052,969.00

Category/Project Budget

Other Vehicles/Equipment

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

775,637.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02080.1

Project Number

\$

277,332.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
9/11/07

Mayor

Date

Received in Mayor's Office

ENTERED
9/11/07

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 6
Rescind Resolution #38-07 and
Award Bid #07-04 to Hugg & Hall
Equipment of Springdale
Page 2 of 6

Interdepartmental Correspondence

To: Mayor/City Council
Thru: Gary Dumas, Director of Operations
From: David Bragg, Fleet Operations Superintendent *DB*
Date: September 11, 2007
Subject: Purchase of one Fork Lift Truck from Bid #07-04

RECOMMENDATION: That City Council rescind resolution #38-07 to purchase a Yale fork lift truck from Yale Material Handling-Gammon, Inc., and approve the purchase of one Toyota fork lift truck from Hugg & Hall Equipment of Springdale in the amount of \$29,980.00

BACKGROUND: At the Council meeting of March 6, the purchase of one Yale fork lift truck was approved in the amount of \$28,800.00 from Yale Material Handling-Gammon, Inc. for assignment to the fleet rental pool and primarily used by Fleet, Parks, and Transportation Divisions. Yale was the lowest bidder meeting specifications of Bid #07-04 according to bid form responses and specification sheets provided. I personally met with a representative of Yale Material-Gammon to review the bid and specification sheets and was assured that the model required to meet the specifications would be provided. The forklift was delivered 7/24/2007 and inspection by Fleet staff revealed that the machine delivered was not as specified and does not meet bid specifications. Yale has advised that the machine listed in the specification sheets has yet to be produced and can provide no expected delivery date. Specified delivery deadline was 8/23/2007.

The next lowest bidder, Hugg & Hall has agreed to honor their bid in the amount of \$29,980.00 and can provide delivery in 90 days. This bid for a Toyota lift truck meets all specifications.

I recommend purchase of the forklift from Hugg & Hall in the amount of \$29,980.00

Funds are budgeted and available in the 2007 CIP budget, Project 02080, Other Vehicles/Equipment.

This purchase from Yale was approved by the Equipment Committee at their meeting on February 13, 2007.

RESOLUTION NO. _____

A RESOLUTION RESCINDING RESOLUTION #38-07, AND
AWARDING BID #07-04 TO HUGG & HALL EQUIPMENT OF
SPRINGDALE FOR THE PURCHASE OF ONE (1) TOYOTA FORK
LIFT TRUCK IN THE AMOUNT OF \$29,980.00 FOR USE BY THE
FLEET RENTAL POOL.

**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 rescinds Resolution #38-07, and awards Bid #07-04 to Hugg & Hall
Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in
the amount of \$29,980.00 for use by the Fleet Rental Pool.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

1	Barloworld Handling LP	Hyster	H70 FT	\$24,561.00
2	Grady W Jones Co.	Caterpillar	P6500-LP	\$24,544.00
3	Hugg & Hall Equipment #1	Daewoo	G 32P-3	\$26,938.50
4	Hugg & Hall Equipment #2	Toyota	8FGU32	\$29,980.00 <i>A</i>
5	Yale Materials Handling Gammon	Yale	GLP070 VX	\$28,800.00

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

CERTIFIED: P. Vice W. J. Jones 1/16/07
 P. VICE PURCH MGR WITNESS DATE

City Of Fayetteville

(Not a Purchase Order)

Vendor # 5571		Vendor Name: HUGG & HALL EQUIPMENT		Requisition No.	Date: 9/11/2007		
Address:		Fob Point:		P.O Number	Expected Delivery Date:		
City:		State:		Mail Yes: ☐ No: ☒ XX			
Requester Barbara Olsen		Ship to code: 050		Taxable Yes: ☐ No: ☒ XX			
		Requester's Employee # 1940		Division Head Approval <i>[Signature]</i>	Quotes Attached Yes: ☐ No: ☐		
		Account Numbers		Extension: 485			
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Inventory #	Fixed Asset #
1	TOYOTA 8FGU32 FORK LIFT	1	EA	\$29,980.00	\$29,980.00	9700.1920.5802.00	02080.1
2	TRUCK PER BID #07-04, TO BE		EA		\$0.00		
3	UNIT 812, FIXED ASSET #700812		EA		\$0.00		
4			EA		\$0.00		
5			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: **29,980.00**

Tax: **EXEMPT**

Total: **29,980.00**

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Add to Final
Hobson, Inc. Appeal
9/18/07 Agenda.

THIS INSTRUMENT PREPARED BY:

Donald E. Wilson, P.A.
Attorney at Law
P.O. Box 1285
Fayetteville, AR 72702-1285

BILL OF ASSURANCE

KNOW ALL MEN BY THESE PRESENTS:

THAT Hobson, Inc., an Arkansas Corporation, holds title to the following described lands situated in Washington County, Arkansas, to-wit:

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49"W 39.12 feet from the Northeast corner of said 40 acre tract, said point being on the South Right-of-Way of Arkansas Highway 16; thence S1°17'49" W 146.88 feet; thence along a fence S89°10'35" W 61.88 feet; thence N0°40'45" E 148.25 feet, to the said Highway Right-of-Way; thence along said Right-of-Way S89°33'25" E 63.44 feet, to the point of beginning, containing 0.21 acres, more or less, Washington County, Arkansas. Subject to a 18.00 foot road easement along the East side thereof.

-and-

A part of the SW ¼, of the SE ¼, Section 9, T-16-N, R-31-W described as beginning at a point S1°17'49" W 186.00 feet from the Northeast corner of said 40 acre tract; thence S1°17'49" W 381.00 feet; thence N89°32'06" W 250.00 feet; thence N1°17'49" E 373.78 feet; thence along a fence N88°41'34" E 188.33 feet, N89°10'35" E 61.88 feet, to the point of beginning, containing 2.17 acres, more or less, Washington County, Arkansas. Subject to: An 18.00 foot Road Easement along the East side thereof.

And having a property street address of 7613 Wedington (12611 Hwy 16W), Fayetteville, Arkansas.

The Grantor, Hobson, Inc., has filed its application with the City of Fayetteville for rezoning of the above-described property from R-A, Residential-Agricultural, to C-2, Thoroughfare Commercial.

As a part of this Bill of Assurance, certain safeguards and restrictions hereinafter referred to as "Restrictions" are hereby placed on the above-described real property.

RESTRICTIONS

The purpose of these restrictions is to restrict and limit the use of the above-described real property under a C-2 Zoning classification as set forth in Chapter 161.18,

District C-2, Thorough Commercial, of the Fayetteville Unified Development Code, to the following permitted uses, as follows:

Unit 12	Offices, studios and related services
Unit 17	Trades and services
Unit 25	Commercial offices

It is the intention of these restrictions to limit the permitted uses as described above, and to restrict all other uses of the said property.

The hereinabove-described real property shall be used only for the permitted uses described in Unit 12, Unit 17, and Unit 25 of Chapter 161.18 of the Fayetteville Unified Development Code.

IN WITNESS WHEREOF, the name of the Grantor is hereunto affixed by its undersigned representative this _____ day of _____, 2007.

Hobson, Inc.

By: _____
David Pearce, President

By: _____
Patricia Pearce, Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS
COUNTY OF WASHINGTON)

On this _____ day of _____, 2007, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared David Pearce and Patricia Pearce, who acknowledged themselves to be the President and Secretary, respectively, of Hobson, Inc., an Arkansas Corporation, and that they, as such President and Secretary of said corporation, being authorized so to do, executed the foregoing instrument for and in the name and behalf of said corporation by signing the name of the corporation by themselves as President and Secretary, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires:

Notary Public

(Note: Legal Description is
not scrivener's description)

*Handed out at Agenda
Session 9/11/07*

CITY COUNCIL MAPS

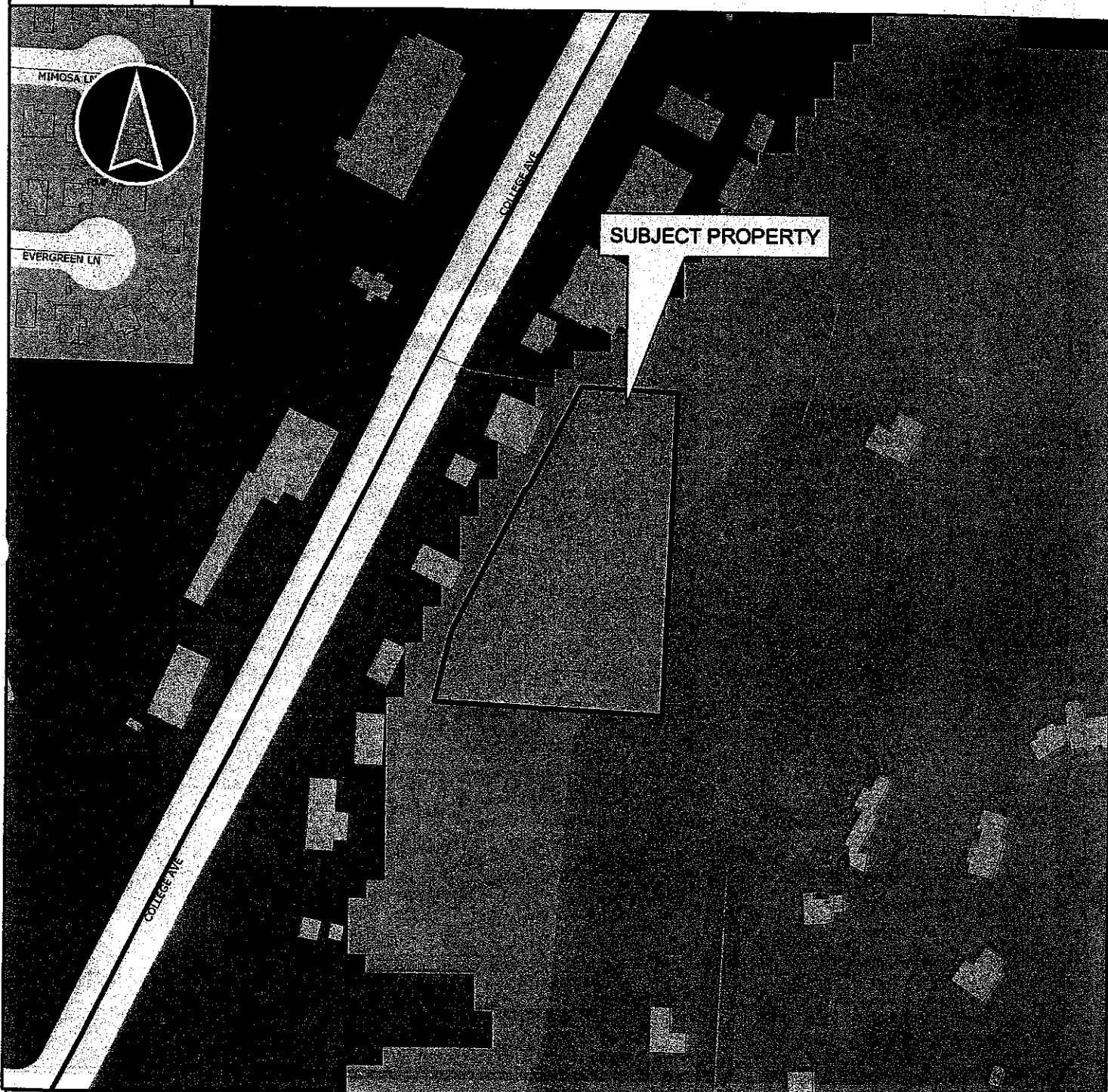
September 18, 2007

**College Avenue Townhomes PZD
Arcadian Court PZD
Walgreens Vacation
Hobson, Inc. Rezoning Appeal**

RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



Overview

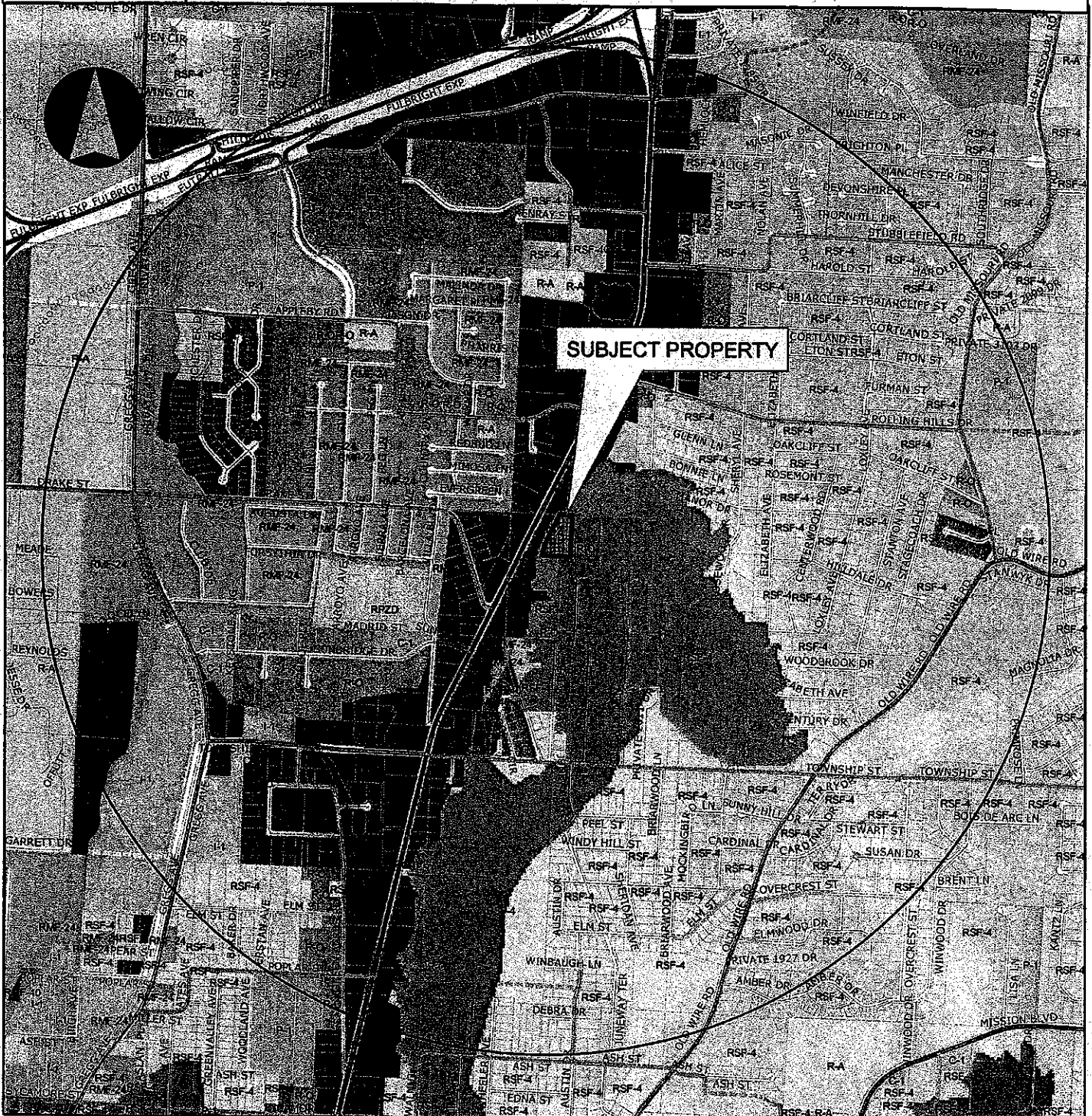


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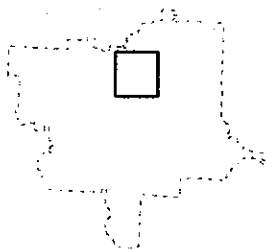
RPZD07-2649

One Mile View

COLLEGE AVENUE TOWNHOMES



Overview



Legend

Subject Property

 RPZD07-2649

Boundary

 Planning Area

 Overlay District

 Outside City

Legend

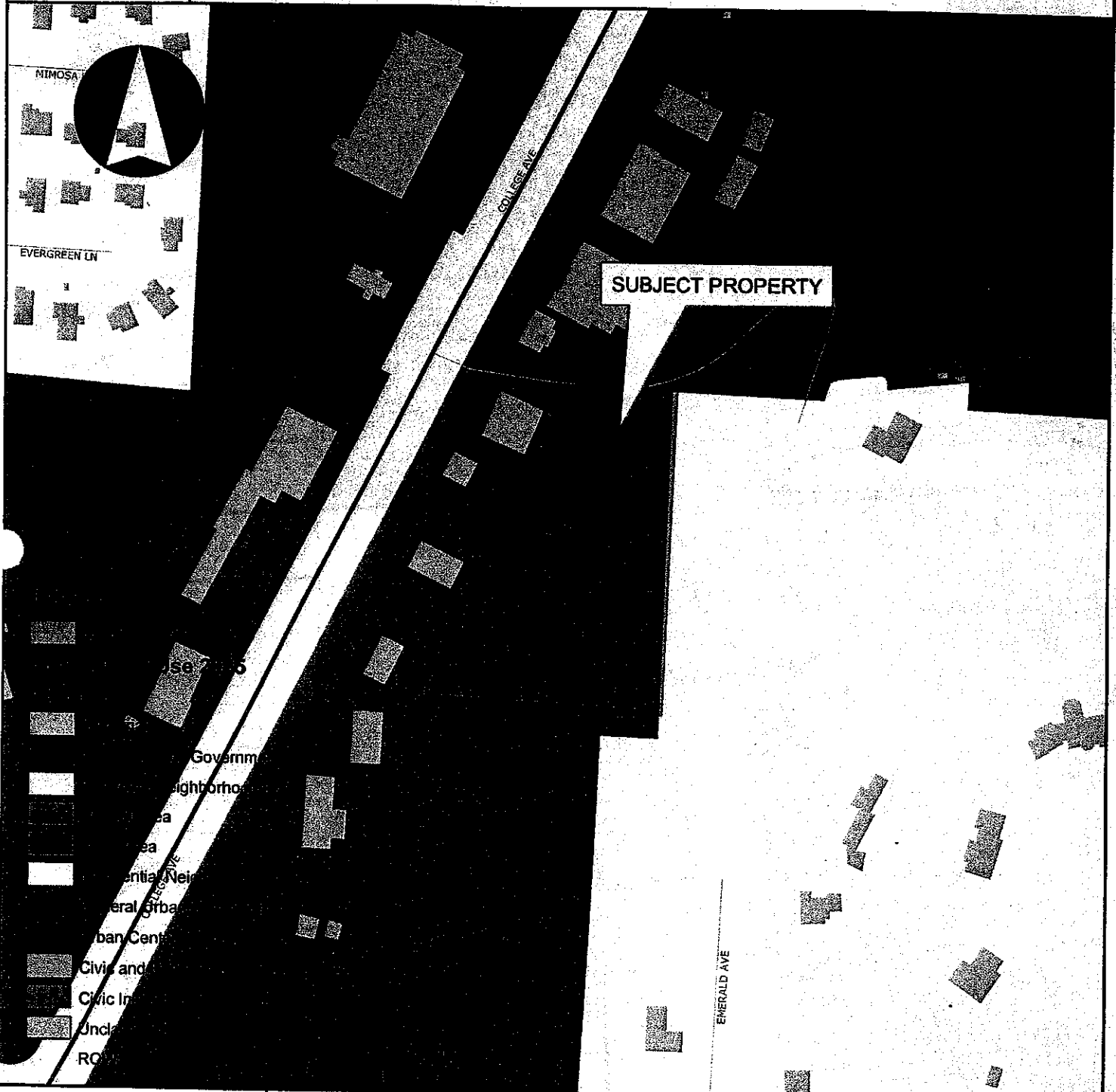
 Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

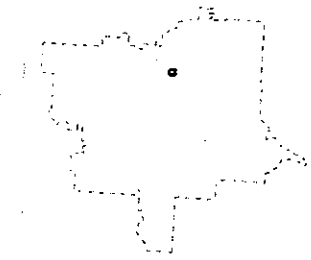
RPZD07-2649

COLLEGE AVENUE TOWNHOMES

Future Land Use



Overview



Legend

Subject Property



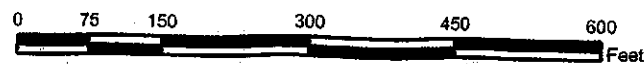
Boundary

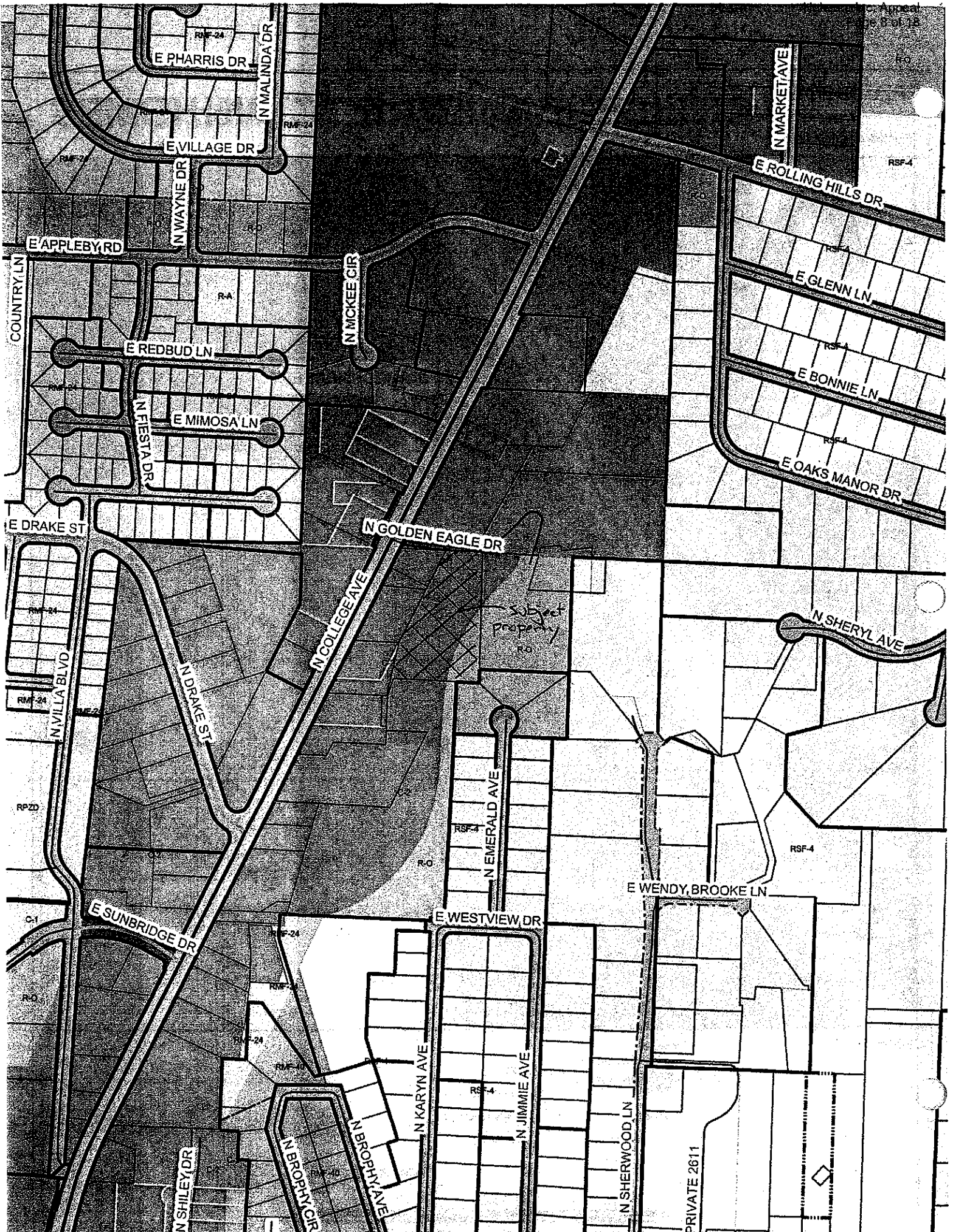
- Planning Area
- Overlay District
- Outside City

Streets

- Existing
- Planned

Legend





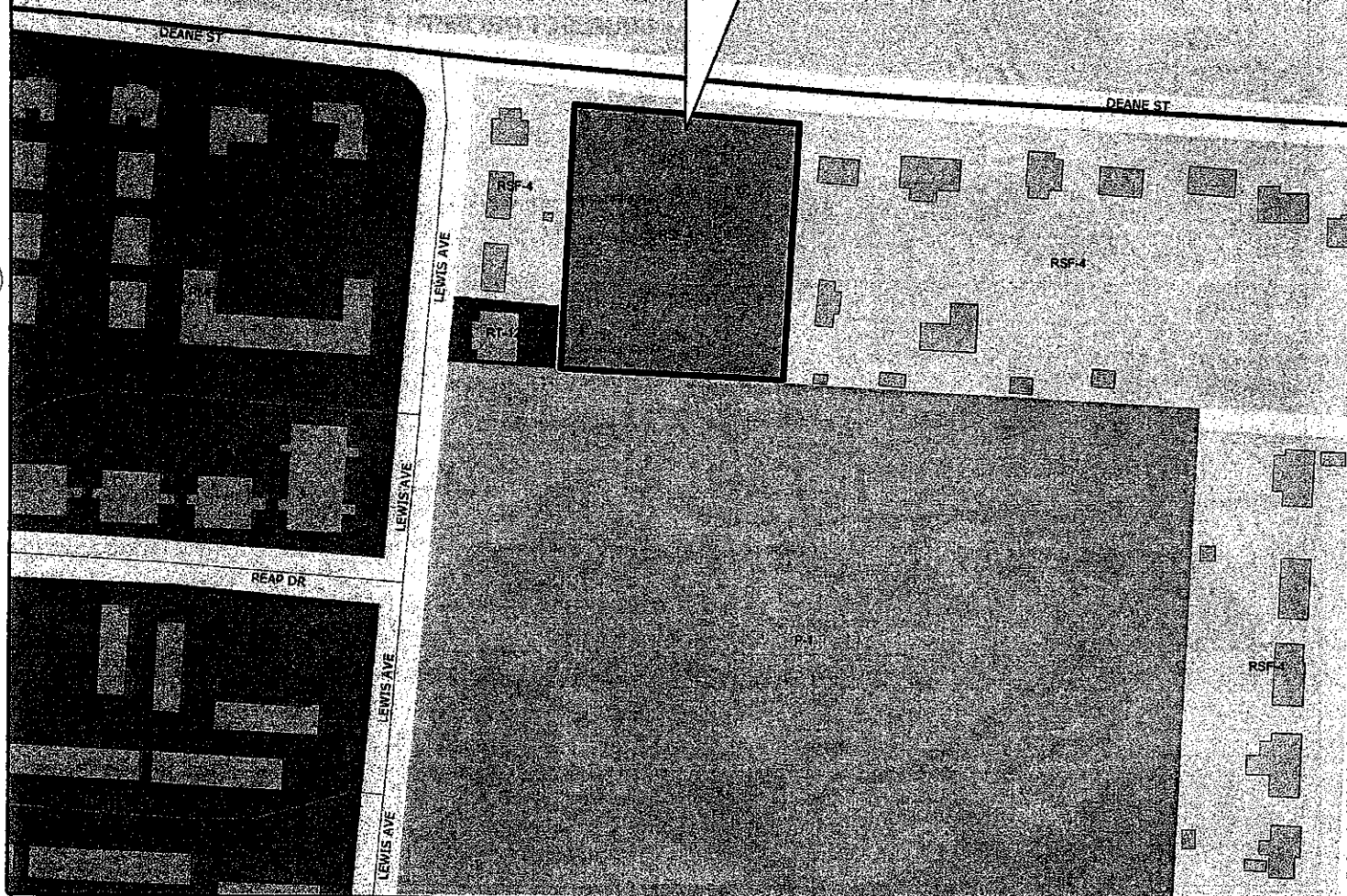
RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



0 75 150 300 450 600 Feet

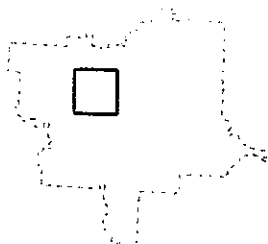
RPZD07-2680

One Mile View

ARCADIAN COURT



Overview



Legend

Subject Property



Boundary

 Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5

1 Miles

RPZD07-2680

Future Land Use

ARCADIAN COURT

SUBJECT PROPERTY

Legend

Building (2004)

Future Land Use 2025

CLASS

Industrial

Non-Municipal Government

Complete Neighborhood Plan

Natural Area

Rural Area

Residential Neighborhood Area

General Urban/City Neighborhood Area

Urban Center Area

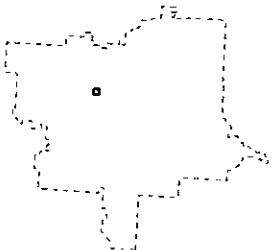
Civic and Private Open Space/Park

Civic Institutional

Unclassified

ROW

Overview



Legend

Subject Property

RPZD07-2680

Boundary

Planning Area

Overlay District

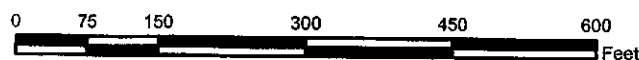
Outside City

Streets

Existing

Planned

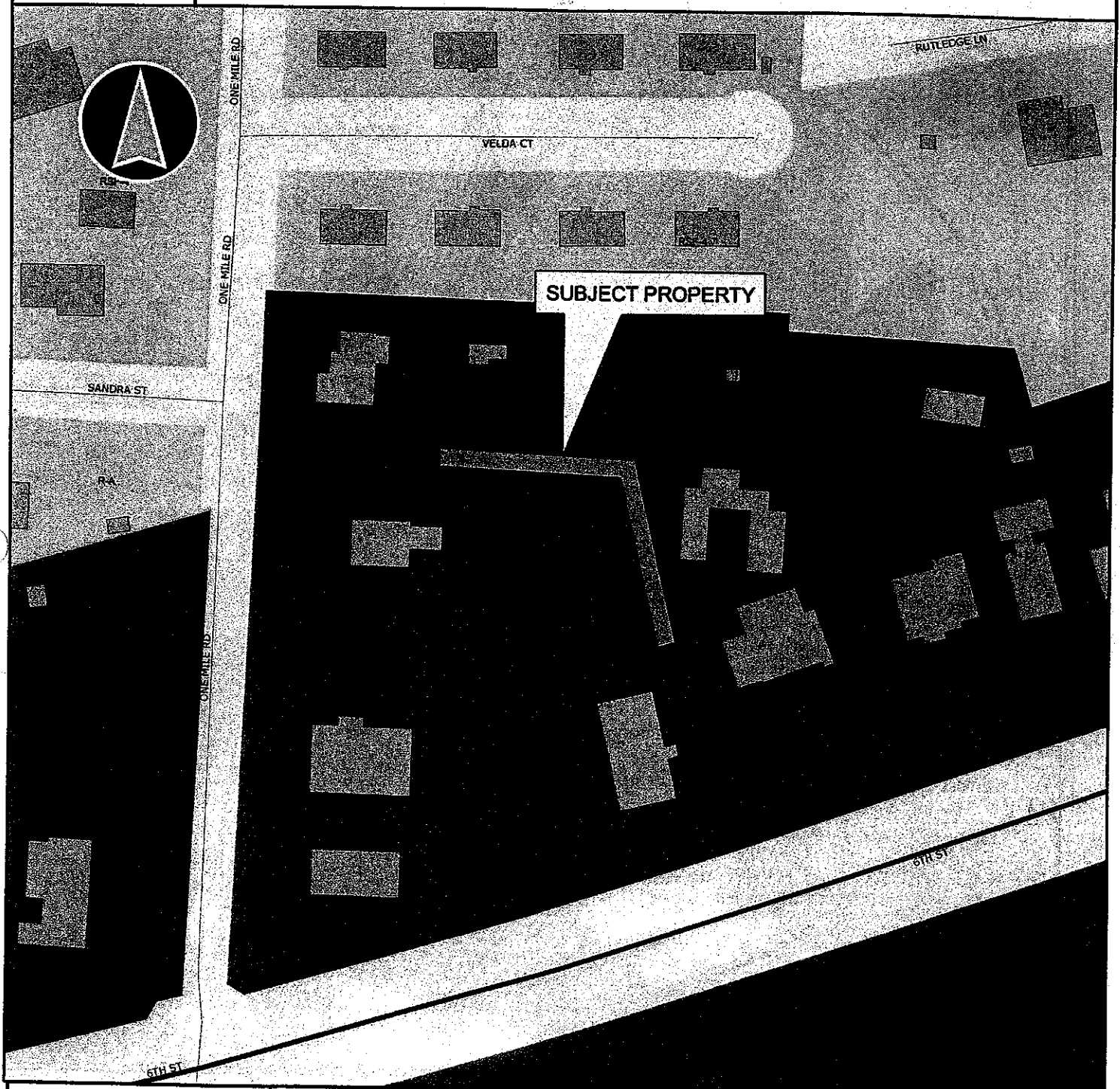
Legend



VAC07-2688

Close Up View

WALGREENS @6TH AND ONE MILE RD



Overview



0 37.5 75 150 225 300 Feet

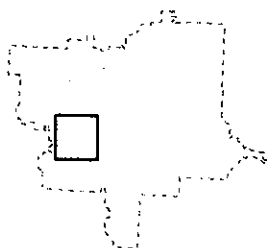
VAC07-2688

One Mile View

WALGREENS @6TH AND ONE MILE RD



Overview



Legend

Subject Property

VAC07-2688

Boundary

Planning Area

Overlay District

Outside City

Legend

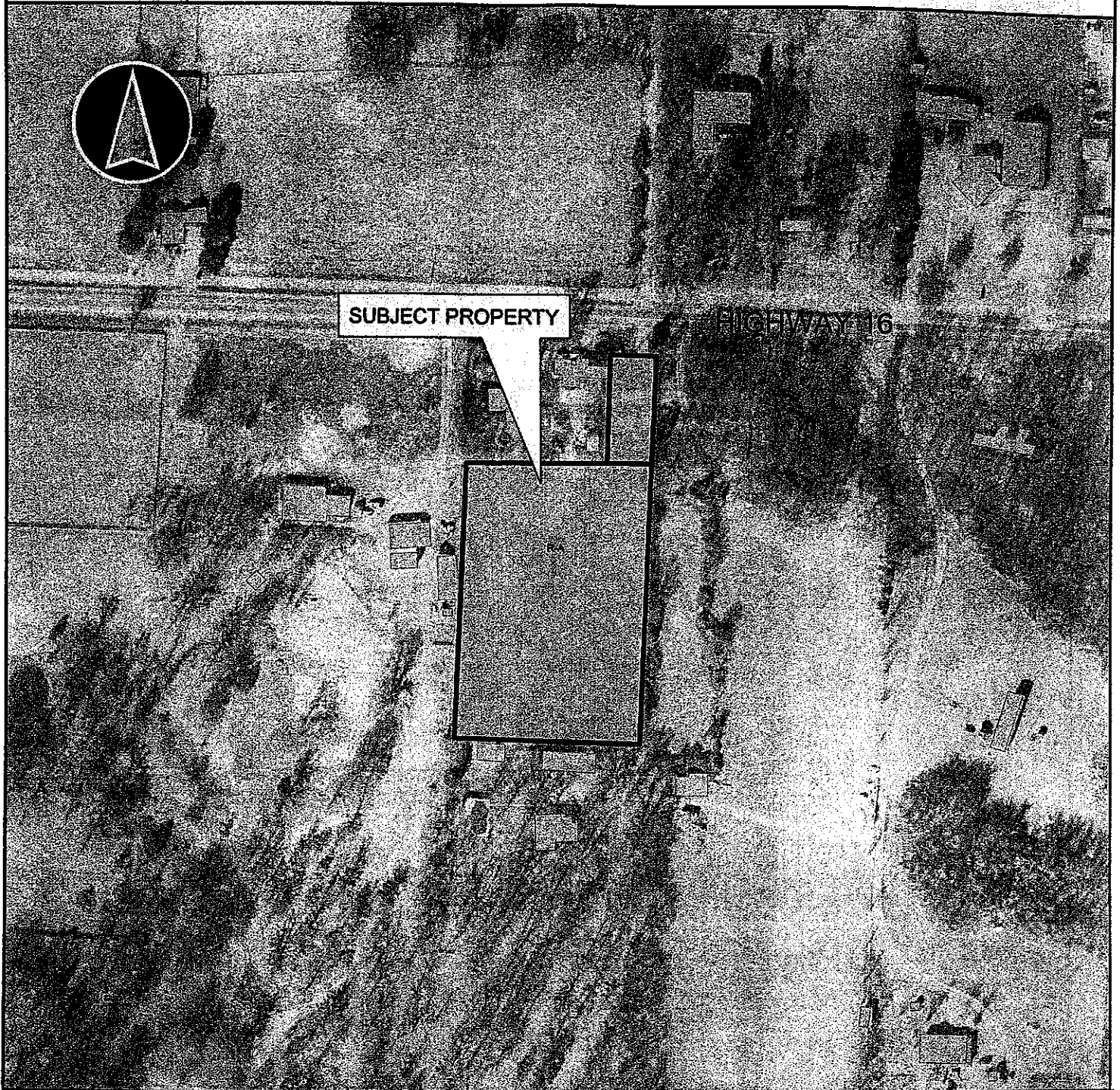
Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

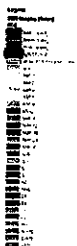
RZN07-2667

HOBSON INC.

Close Up View



Overview

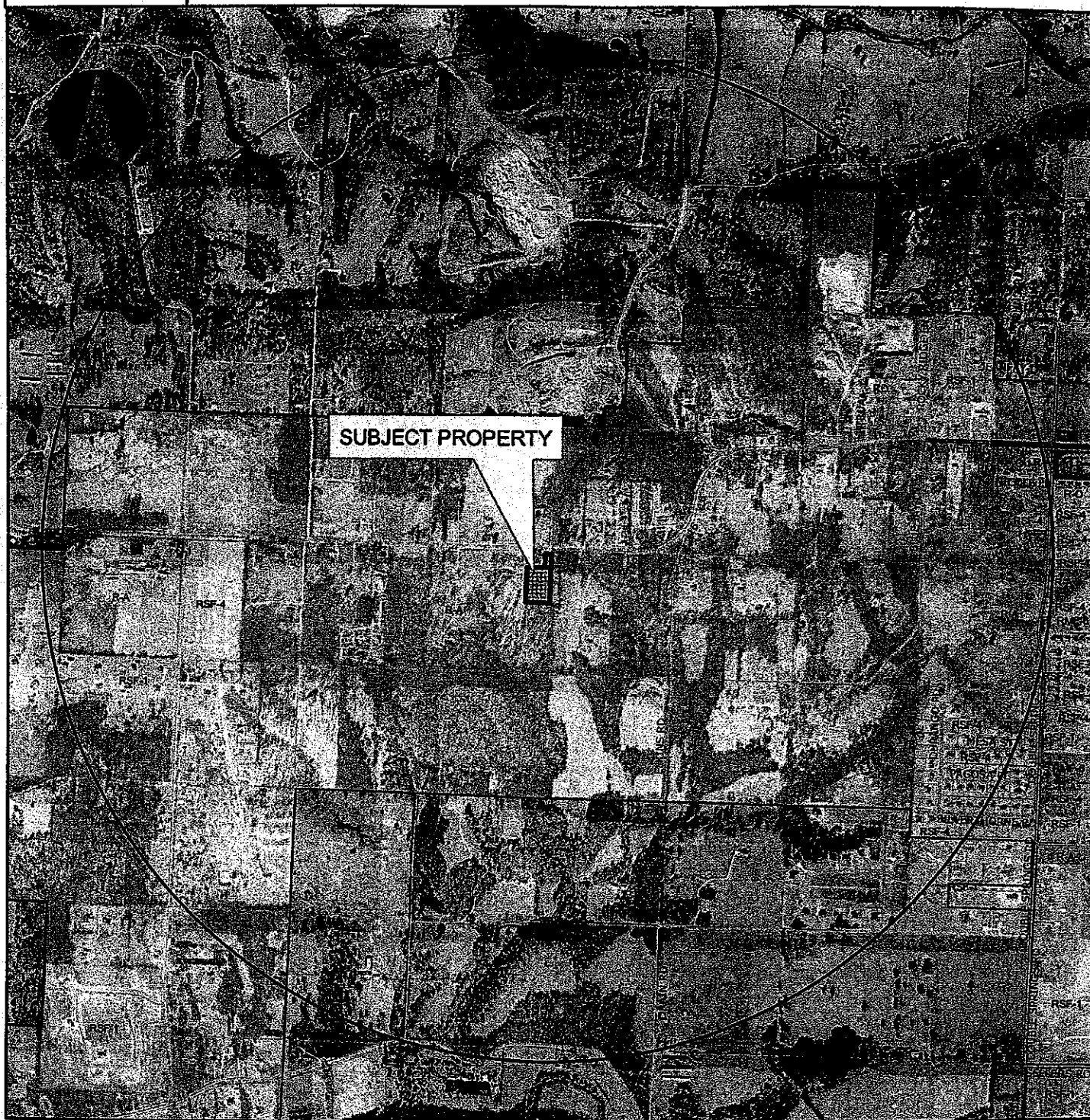


0 75 150 300 450 600 Feet

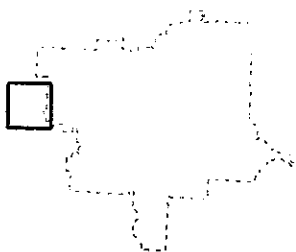
RZN07-2667

HOBSON INC.

One Mile View



Overview



Legend

Subject Property

 RZN07-2667

Boundary

Legend

0 0.25 0.5 1 Miles

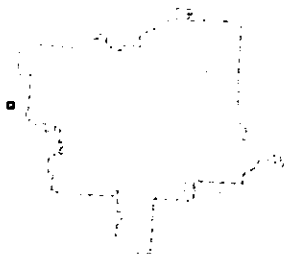
RZN07-2667

HOBSON INC.

Future Land Use

SUBJECT PROPERTY

Overview



Legend

Subject Property



RZN07-2667

Boundary

Planning Area

Overlay District

Streets

Existing

Planned

Legend



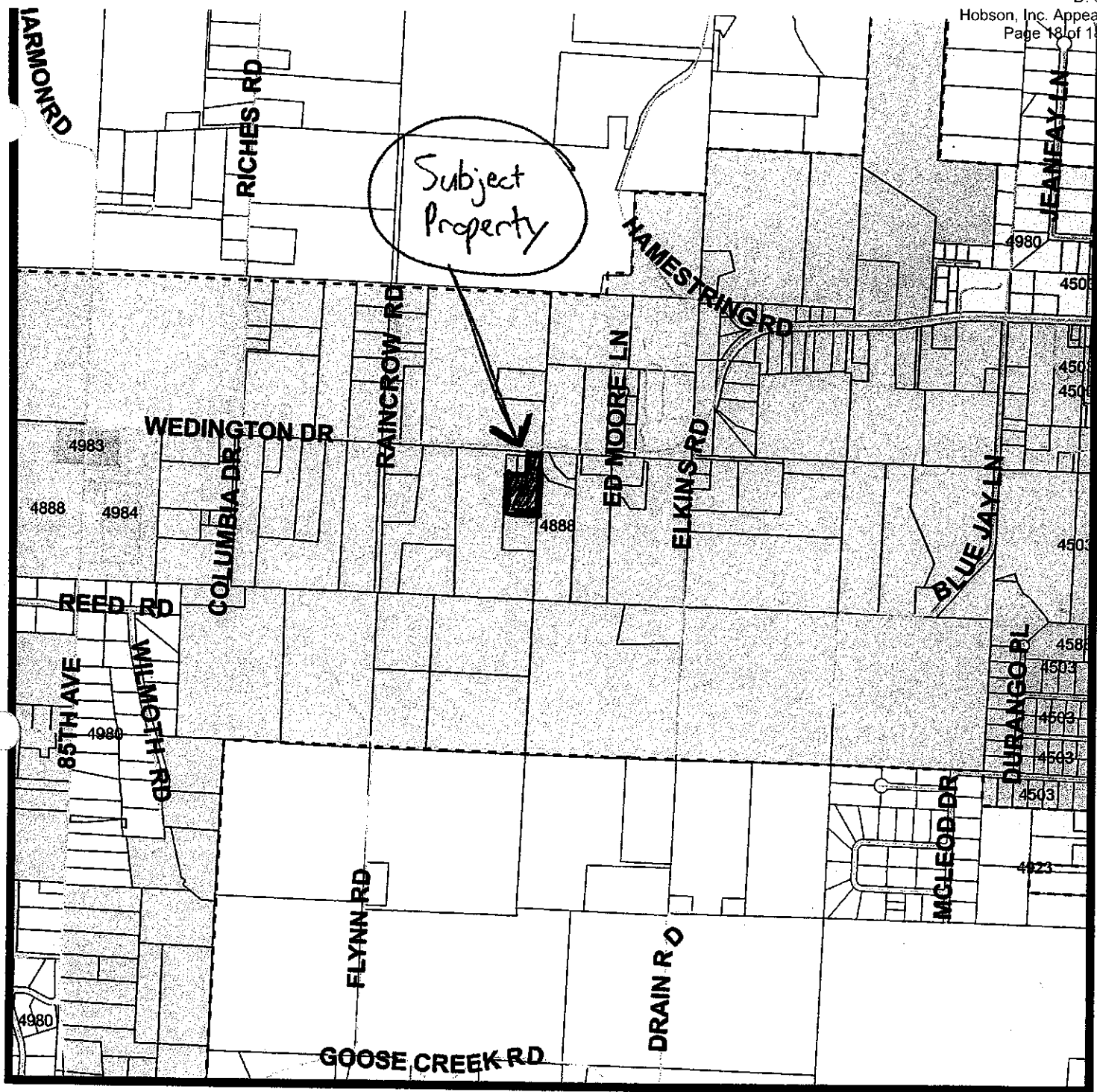


RZN 07-2667 (Hobson, Inc.)



1 inch equals 119.529068 feet

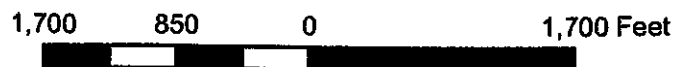




RZN 07-2667 (Hobson, Inc.)



1 inch equals 1,250 feet



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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**
- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.
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C. PUBLIC HEARINGS:

- 1. Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$5,000.00.
- 2. Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

- 1. R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 2. R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 3. VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.
- 4. ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

- 5. Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.
- 6. Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Missy Leflar

Submitted By

Human Resources

Division

Operations

Department

Action Required:

Staff requests Council Approval of the attached contract for Employment and Labor Law Legal Services. The purpose is to have an employment law firm at the ready should the City ever have employment law trial litigation (typically involves 20 calendar days to file a response) or similar non-routine type matter for which the City Attorney's office and the HR Division determines in house handling would not be appropriate. This is not a specifically budgeted item. Therefore, Council might be asked to approve supplemental funding.

None at this time

Cost of this request

\$

287,740.00

Category / Project Budget

Services & Charges

Program Category / Project Name

1010.1210.5314.01

Account Number

\$

182,464.00

Funds Used to Date

Human Resources

Program / Project Category Name

\$

105,276.00

Remaining Balance

General

Fund Name

Project Number

Budgeted Item

☒

Budget Adjustment Attached

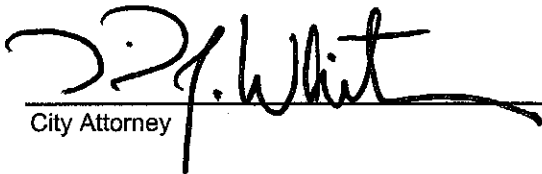
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Department Director

8.29.07

Date

Previous Ordinance or Resolution #



City Attorney

8/31/07

Date

Original Contract Date:

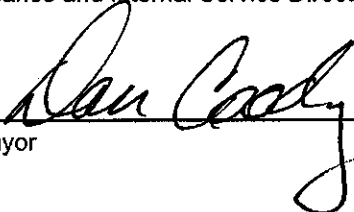
Original Contract Number:



Finance and Internal Service Director

9-4-07

Date

Received in City
Clerk's Office


Mayor

9/4/07

Date

Received in
Mayor's Office

Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director
FROM: Missy Leflar, Human Resources Division Manager
DATE: August 24, 2007
SUBJECT: Approval of Employment Law Services Contract

Recommendation

Staff recommends approval of the attached Employment Law Services Contract.

Background

This contract is for the purpose of the City having a qualified employment law firm at the ready in the event the City were engaged in employment related trial litigation or other highly unusual employment law related matter deemed inappropriate for in house handling.

Discussion

Day to day legal advisory matters, legal research, and other routine employment law matters are handled in house, at a savings to the taxpayer. However, should the City ever be engaged in employment law trial litigation then the in house employment law advisor (HR Division Manager) would likely be a witness. Attorneys are not permitted to litigate cases in which they are also witnesses. It could therefore be potentially necessary to engage outside employment law counsel on very short notice, as a party typically has 20 calendar days to file a legal response to a Complaint. This is not expected to happen, but it is good to have a firm waiting in the wings as "insurance" against an emergency.

It could also possibly be necessary to engage outside employment law counsel if some highly unusual matter ever arose that the City Attorney's office and HR Division deemed inappropriate for in house handling.

The City advertised for and received competitive bids from several employment law firms. The top candidates were interviewed by a committee that included representation from the City Attorney's office, the Human Resources Division, the Purchasing Division, the Fire Department, and the Accounting Division. The Fayetteville office of Littler Mendelson, P.C., the largest employment law firm in the United States, was selected as the firm to represent the City in the event of employment law litigation or other emergency need for outside employment law legal counsel.

The purpose of this action is to have a firm selected and retained. The selection process and Council action should require more time than is available should specialized legal counsel become necessary.

Budget Impact

There is no budget currently for this service. No budget is necessary until litigation or another matter requires outside counsel. This contract will retain a firm specializing in employment law, establish a fee structure, and have the firm available if necessary. If it becomes necessary to employ the firm, a budget adjustment will be brought forward for Council approval.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH LITTLER MENDELSON, P.C. TO PROVIDE EMPLOYMENT AND LABOR LITIGATION SERVICES.

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 Littler Mendelson, P.C. to provide employment and labor litigation services. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville, Arkansas
Ref: RFQ 07-09, Employment & Labor Law Legal Services
Contract

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Littler Mendelson, P.C. and

WHEREAS, City of Fayetteville has by Committee awarded the project for **Employment and Labor Law Legal Services** and;

WHEREAS, Littler Mendelson, P.C. and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Littler Mendelson, P.C. agrees to provide all the staff, facilities, materials, equipment and labor necessary to carry out, in good faith, the complete requirements of the "project" (providing legal services in the event of Employment Law litigation) specified in strict conformity with all sections of the **RFQ # 07-09**, hereinafter set forth, whose program services together with the Consultant's Proposal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto, shall form essential parts of this Agreement as if fully contained herein. The RFQ and Consultant's bound written Proposal are attached hereto and marked "Exhibit A" for reference. However nothing herein requires Littler Mendelson to accept an assignment that would require it to violate any law or professional obligation imposed upon Littler Mendelson. City of Fayetteville agrees to pay Littler Mendelson, P.C. in current funds, for the performance of this Contract in accordance with the **Fee Schedule**, attached.

City of Fayetteville and Littler Mendelson, P.C. agree that the **RFQ #07-09**, hereinafter set forth, whose services together with the Consultant's Proposal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto annexed are as fully a part of the Contract as if attached or herein repeated.

City of Fayetteville shall have 30 working days from approval by the Project Manager in which to pay Littler Mendelson, P.C. subject to any documentation requests by City of Fayetteville as necessary to allow City of Fayetteville to evaluate the completeness and accuracy of monies due.

To the fullest extent permitted by laws, statutes, rules and regulations, Littler Mendelson, P.C. shall indemnify and hold harmless City of Fayetteville, and its Officers, Directors, Employees, Agents, and other Consultants of each and any of them from and against claims, costs, damages, losses, and expenses, including but not limited to all fees and charges of , , attorneys and other professionals and all court costs, arising out of or resulting from performance of the Work, but only to the extent caused in whole or in part by acts or omissions of Littler Mendelson, P.C. its Officers, Directors, Employees, Agents, and anyone directly, or indirectly employed by them or anyone for whose acts they may be liable, however, nothing in this agreement creates an agency relationship between Littler Mendelson and such entities as court reporters or court reporting services, private investigators or consulting or testifying experts; regardless of whether or not such claim, cost, damage, loss, or expense is caused in part by a party indemnified hereunder, except that no party shall indemnify any other party or person for their own sole negligence. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

Littler Mendelson, P.C. agrees to comply with the laws of the State of Arkansas and applicable federal laws. Notwithstanding statutory exemptions or exclusions, Littler Mendelson, P.C. agrees to subject itself to the

jurisdiction and process of the Courts of Washington County, State of Arkansas as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including all issues relating to liability for taxes, licenses or fees levied by the State, unless federal jurisdiction applies in which case Littler Mendelson, P.C. agrees to subject itself to the jurisdiction and process of the U.S. District Court for the Western District of Arkansas at the Fayetteville Court location. Littler Mendelson, P.C. irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract, shall be brought in any court in Washington County, Arkansas.

Littler Mendelson, P.C. hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.

Littler Mendelson, P.C. assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Littler Mendelson, P.C. the sole point of contact with regard to contractual matters. Subcontracting of any part of the work or service contemplated by this Agreement may not be entered in by Littler Mendelson, P.C. without prior written approval by City of Fayetteville.

Littler Mendelson, P.C. expressly confirms that it carries and shall continue to carry for the duration of this agreement malpractice insurance in the minimum amount of \$1,000,000.00.

No assignment or transfer of this Agreement or any right accruing here under shall be made in whole or in part by Littler Mendelson, P.C. without the express written consent of City of Fayetteville.

Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and/or the Fayetteville City Council **in advance** of the change in scope, cost or fees.

A waiver by either party of any breach of the provisions hereof shall not be deemed a waiver of any succeeding breach of such provision or any other provision of this Agreement. Should any term, provision or other part of this Agreement be declared illegal or unenforceable, it shall be excised or modified to conform to the appropriate laws or regulations, and the remainder of the Agreement shall not be affected but shall remain in full force and effect.

The provisions, covenants, and conditions in this Agreement apply to and bind the parties, their legal heirs, representatives, successors and assigns.

No modification or amendment of the terms hereof shall be effective unless written and signed by the authorized representatives of all parties hereto.

This Agreement constitutes the final and complete agreement and understanding between the parties regarding the subject matter hereof. All prior and contemporaneous Agreements and understandings, whether oral or written, are to be without effect in the construction of any provisions or term of this Agreement if they alter, vary or contradict this Agreement.

Termination of Agreement: Each Party to this agreement may terminate it upon sixty (60) days advance written

notification. Absent such notification, this Agreement and its terms will continue from year to year.

Littler Mendelson, P.C. and City of Fayetteville, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2007.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
Dan Coody, Mayor

ATTEST:

BY _____
SONDRA SMITH, City Clerk

Consultant Firm's Authorized Signature

BY _____
PRINTED NAME AND TITLE

ATTEST: CONSULTANT FIRM'S ADDITIONAL
AUTHORIZED REPRESENTATIVE

BUSINESS ADDRESS

LITTLER MENDELSON, P.C. RATE PROPOSAL TO CITY OF FAYETTEVILLE

This is in response to your request for a proposal from our firm regarding legal representation of the City of Fayetteville for its labor and employment matters. Littler focuses on employment law and labor relations matters and utilizes technology in sharing and disseminating information internally and with clients. This focus enables us to deliver the highest quality services and obtain client objectives with greater efficiency for an overall lower cost than firms with lower hourly rates, but less expertise, experience, and efficiency.

Littler staffs its matters very cost effectively. We typically use teams consisting of only one shareholder and one associate at the appropriate level of experience. Our hourly rates in each office are determined by local market conditions (for example, we charge more in New York than in Columbus).

We understand that every client's needs are unique. We are willing to explore with you a range of alternative fee arrangements that will meet your mutual objectives of cost containment and fairness. Littler Mendelson has developed a number of fee arrangements with individual clients as dictated by circumstances of budget, scheduling, and level of representation. These have included the following: Per Case or Per Phase Fee Caps for Routine Litigation Cases, Fixed Fees for Arbitration/Mediation Cases and Immigration Matters, Annual Cap for All Litigation, Fixed Fees for Transactions, Blended Rates, Volume-Based Discounts, and/or Fixed Fee Advice Retainer.

Because this would be a new relationship without a history of claims on which to base any alternate fee structure, we recommend that a flat hourly rate at a significant discount be the basis for any fee agreement. As such, the following chart represents our recommendation:

Attorney	Standard Rate	Local Rate	Proposed Rate City of Fayetteville
Scott Summers	\$365	\$315	\$250
Eva Madison	\$325	\$260	\$215
Fayetteville Associates	varies	varies	\$175
Firm Shareholders	varies	varies	*
Firm Associates	varies	varies	*
* 25% discount on lowest available rate			



CITY OF FAYETTEVILLE

**113 W. Mountain St.
Fayetteville, AR 72701**

REQUEST FOR QUALIFICATIONS

RFQ # 07-09

Employment and Labor Law Legal Services

RFQ #: 07-09

DATE ISSUED: Tuesday, June 12, 2007

DEADLINE: Friday, June 29, 2007 at 2:00 PM, Central Standard Time

PURCHASING AGENT: Andrea Foren, Room 306 ~ (479) 575-8220



REQUEST FOR QUALIFICATIONS **LEGAL SERVICES**

RFQ #07-09, Employment & Labor Law Legal Services

CITY OF FAYETTEVILLE, ARKANSAS

The City of Fayetteville, Arkansas is requesting statements of qualifications for an attorney or law firm to serve as an attorney of record for the City in instances of employment law or wage and hour litigation.

Scope of Services:

The City seeks to retain the services of an independent attorney to provide advice and counsel to the City in the specialized area of employment, labor, and wage & hour law in instances of actual litigation.

Requirements:

Applicants must be licensed to practice law in Arkansas, be admitted to practice before the Federal District Court for the Western District of Arkansas, and possess experience in the area of employment and labor law.

Applicants must include the following information with their response:

- a. Past record of malpractice claims or professional conduct claims including the outcome and resolution,
- b. Representative list of clients for whom employment law services have been performed.

Selection Process:

- A. Fees shall not be included with the qualifications but will be considered during the negotiating process and will be a factor in the award of any proposed contract.
- B. This contract shall automatically renew at the option of the City of Fayetteville for up to five one-year terms. Either party may terminate this contract by giving the other party 30 days written notice of termination.

C. In evaluating the qualifications of each firm or individual, the following items shall be considered (assigning point ranges for each element from 20% to 40%, so that the total of the four elements combined equals 100%):

- | | |
|-----------|--|
| 35 Points | (1) Specialized experience and technical competence of the firm with respect to employment and labor law; |
| 30 Points | (2) Capacity and capability of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project; |
| 25 Points | (3) Past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines; and |
| 10 Points | (4) Firm's proximity to and familiarity with the area in which the project is located. |

Terms and Conditions:

1. Qualifications must be submitted no later than June 29th, 2007, 2:00 P.M., Central Standard Time. Qualifications received after this date and time will not be opened or accepted for consideration.
2. Qualifications should be mailed or hand-delivered to:
City of Fayetteville
Purchasing Division, Room 306
113 West Mountain Street
Fayetteville, AR 72701
3. Six (6) copies of each statement of qualification should be provided, in addition to one (1) electronic copy. The use of PDF documents is highly recommended but not required.
3. Qualifications must be labeled "RFQ 07-09, Employment and Labor Law Legal Services" on the outside of the sealed envelope.
4. Awarded firm must provide and maintain in force at all times during the term of the contract Errors and Omissions Liability in not less than the amount of \$1,000,000. Proof of such shall be submitted within ten (10) calendar days after contract award.
5. It shall be clearly understood that any costs incurred by the Proposer in responding to this request is at the Proposer's own risk and expense as a cost of doing business, and

the City of Fayetteville is not liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.

6. The competitive selection for such this request for qualification shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate city personnel and may include professionals, and/or individuals with expertise in the community.
5. All questions related to Qualifications should be addressed to
Andrea Foren
Purchasing Agent
aforen@ci.fayetteville.ar.us
(479) 575-8220

Statement of Qualifications

City of Fayetteville, Arkansas

To Provide Employment and Labor Law Counsel and Representation

June 2007

LITTLER MENDELSON, P.C.
THE NATIONAL EMPLOYMENT & LABOR LAW FIRM®



Submitted By:

Littler Mendelson, PC
3608 N. Steele Boulevard
Suite 214
Fayetteville, AR 72703

Contact:

Eva C. Madison
(479) 442-3677
emadison@littler.com

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Appendices

- A. Map and List of Littler Mendelson Locations
- B. Attorney Biographies
- C. Littler Mendelson's Training Solutions and Publications

The City of Fayetteville's images taken from the Internet are displayed here strictly for the purpose of communicating our firm's proposed legal services. We have not used these images in any other publications and would not do so without first obtaining permission.

EXECUTIVE SUMMARY

Littler Mendelson is pleased to present the City of Fayetteville, Arkansas ("the City of Fayetteville") with our capabilities to provide employment law counsel and advice and to defend the City of Fayetteville in employment litigation. We believe that the exclusive focus of our practice, our wide geographical presence and case success throughout the United States uniquely position us to be of maximum value to the City of Fayetteville in achieving its goals. We look forward to building the relationship between your company and our firm.

By working with Littler to address your employment matters on a nationwide basis, the City of Fayetteville will realize significant immediate and tangible benefits in terms of seamless efficiency of work and cost containment, while receiving legal services of the highest caliber. Some of the more significant advantages are summarized below:

Experience – Founded over 60 years ago, Littler Mendelson has a proven and distinguished track record. In its area of practice, Littler Mendelson has more clients, more cases, more lawyers, more knowledge of laws and decisions and more experience in more jurisdictions than any other law firm.

Depth and Expertise – While every Littler Mendelson attorney practices labor and employment law, many of our lawyers have full-time practices that are exclusively devoted to subspecialties, such as class action prevention and litigation, labor relations and employee benefits. We do not just specialize in employment law – we specialize *within* employment law.

Geography – With 43 offices strategically located across the country in 25 states, Littler is in more cities, more states and more venues than any of our competitors. Our lawyers are members of the bar in 41 states and the District of Columbia and have appeared as counsel in state or federal court in all 50 states.

Global Partner – In addition to our connections with international counsel worldwide, our clients benefit from Littler's Global Corporate Migration Law Group. This multicultural, transnational, full-service practice provides employment law and international migration solutions for companies around the world.

Recognition – Littler Mendelson is *The American Lawyer's* top Go-To Firm® for labor and employment chosen by Fortune 500 companies and has been recognized in both *The National Law Journal* and *Corporate Counsel Magazine* as the #1 choice for employment law counsel by Fortune 250 companies.

We fully recognize that any law firm you select must be knowledgeable in national, state, and local employment laws throughout the United States and must be accessible to provide advice and counsel immediately. Littler Mendelson is uniquely qualified to meet the City of Fayetteville's needs.

WHY LITTLER?

We Are Where You Need Us

With 600 attorneys practicing in 43 offices coast-to-coast, we are the largest law firm in the United States exclusively representing management in employment law. Our attorneys consistently remain on the cutting edge of employment law developments in all U.S. jurisdictions.

One of the advantages of having such geographic diversity is that Littler Mendelson attorneys know the legal “landscape” well—the plaintiffs’ bar, judges, clerks, arbitrators and mediators, typical jury pools, and the local rules and procedures. As the map in *Appendix A* indicates, Littler Mendelson is strategically located in metropolitan areas throughout the country.

Littler Is the Ultimate Expert on Employment and Labor Law Compliance

For the last three years, one of Littler’s strategic initiatives has been to support and develop the Employment and Labor Law Domain of the Open Compliance and Ethics Group (OCEG). Over 50 Littler attorneys have worked on this initiative, outlining 14 areas of employment and labor law legal requirements and guidelines. It is expected that OCEG requirements and guidelines will become the national and international standard for corporate compliance in all areas of law. Littler has been instrumental in Employment Law Compliance, and assisting the OCEG Employment and Labor Law Domain set standards and guidelines that will become the metrics for measuring employment and labor law compliance within the corporation.

Our Experience with National Clients

As a law firm, Littler Mendelson has represented more than 50,000 employers in virtually every industry. In addition, with the globalization of the business community, we increasingly work with clients throughout the world. Littler has extensive experience representing major corporations on a regional or national basis in employment litigation and related matters.

Littler Mendelson has represented the nation’s largest companies for over 60 years. We remain committed to the goals of each individual client and recognize that no two companies are the same. The specific needs of each client must be carefully considered and assessed. That commitment extends to hiring and retaining the best legal talent, regardless of gender, race, national origin, or orientation. To that end, we have frequently received notations for our diversity efforts, including the ranking by *American Lawyer Magazine* as first among the nation’s 100 largest Firms in the percentage of women equity partners.

The following is a representative sampling of some of our national/regional clients:

24 Hour Fitness USA, Inc.

Adecco

AGL Resources

AmerisourceBergen Corporation

AMR Corporation	AON Corporation
Applera Corporation	Caesars Entertainment, Inc.
CaremarkRX	Cendant Corporation
Cisco Systems, Inc.	Clear Channel Communications, Inc.
Dean Foods Company	Dow Chemical Company
Ferguson Enterprises, Inc.	Fresenius Medical Care NA
Hewlett-Packard Company	Johnson & Johnson
Kraft Foods, Inc.	Masco Corporation
The McGraw-Hill Companies, Inc.	Parker Hannifin Corporation
Penske Truck Leasing Co.	Pitney Bowes, Inc.
Praxair, Inc.	Rent-A-Center, Inc.
Safeway, Inc.	Sara Lee Corporation
Solectron Corporation	Sony Electronics, Inc.
Sunrise Medical, Inc.	Swift Transportation Company, Inc.
Waste Management, Inc.	Yellow Transportation, Inc.

Malpractice Claims/Professional Conduct Claims

Regarding malpractice cases filed by former clients, over approximately the last five years, there have been five cases filed, no judgments entered against the Firm, and three settlements. One settlement involved payment by the former client to the Firm. One of the two pending cases is associated with collection proceedings our Firm initiated, and the Firm is vigorously contesting both pending matters.

There have been a small number of claims for professional misconduct filed with state bar associations, virtually all filed by disgruntled opposing parties or their counsel (none filed by clients), and none resulting in any finding of professional misconduct.

There was one widely publicized sanction finding by a US Magistrate on an International Truck case. However, what was not publicized is that the Federal District Court Judge later refused to adopt the Magistrate's findings, and thus no sanctions issued. The plaintiffs' counsel did file bar charges in that case. Those are pending, however there has been no adverse finding by the applicable state bar.

It should be noted that none of these actions or claims arose out of the Northwest Arkansas office.

SPECIALTY AREAS WITHIN EMPLOYMENT AND LABOR LAW

Employment law is all we practice. This means that the Littler attorney you work with is capable of answering practically all of your day-to-day questions with little to no research required. With more employment and labor attorneys than any firm in the United States, Littler can provide you with expertise in every sub-field, and most likely has successfully solved a similar legal issue. Our attorneys, including those we would propose for the City of Fayetteville, have counseled and represented management in thousands of employment law matters in every major industry.

In addition to Eva Madison, who would likely lead your team of employment and labor attorneys, the City of Fayetteville can draw on the expertise of Littler attorneys in specialized areas of employment law. Some of these areas of expertise are described below.

➤ APPELLATE PRACTICE

One mark of a great firm is a deep well of legal talent that can not only try cases to verdict but also take cases to the “next level,” the appellate courts. Over the last 5 or so years, Littler attorneys throughout the United States have won federal and state employment and labor law appeals. The Firm’s cases have made law, changed or confirmed workplace practices, or simply saved clients money. What makes Littler’s appellate practice so effective and invaluable is our ability to:

- Identify and preserve potential appellate issues while the case is still in trial;
- Efficiently assess the merits and likelihood of success of an appeal after trial;
- Handle any and all aspects of the appellate process;
- Prepare writs, achieve results when seeking extraordinary relief, and analyze the cost-effectiveness of seeking such relief; and
- Consult and prepare amicus curiae briefs when appropriate.

➤ BUSINESS RESTRUCTURING

While the art of the deal is in the details, the elements involved with the labor, employment, and benefits aspects can add a deal-breaking level of complexity to any transaction. Over the last twenty years, Littler attorneys have managed the details of thousands of major transactions, including some of the largest deals in the industries involved. Every day, Littler attorneys in the Business Restructuring Practice Group (BRPG) use their experience and knowledge of employment, labor, and benefits practices to help clients meet their business objectives by:

- Minimizing risk;
- Favorably structuring deal components;

- Identifying and resolving important, but often overlooked, human relations and management culture issues;
- Performing deal-related due diligence; and
- Partnering with human resource professionals to ensure that post-closing initiatives are implemented.

Whether it is an underfunded pension plan burrowed deep into a multibillion-dollar merger, a pending employment litigation or a potential union liability that threatens to derail an important acquisition, our attorneys have the skills to quickly identify and resolve outstanding employment, labor, or benefits issues of any acquisition, merger, carve out, or other corporate transaction. Littler's BRPG attorneys are there with you throughout every stage of the transaction, regardless of what side you are on, to help ensure your objectives are met and the deal is transacted to your satisfaction.

➤ **CLASS ACTION AVOIDANCE AND DEFENSE**

Regardless of its merits, an employment class action can threaten the reputation, good will and economic standing of your company. At Littler, we focus on protecting and defending employers from employment class actions. Our Class Action Practice Group has litigated numerous discrimination class actions, FLSA collective actions and state labor code class actions on behalf of major multi-outlet employers throughout the nation, and prevailed against the plaintiffs' bar's most prominent firms. Every day, many more of the nation's employers turn to us to assess their class action risk, and identify and remedy vulnerable workplace policies and procedures before they become problems.

➤ **EMPLOYEE BENEFITS**

What once was a simple, and effective way for employers to provide their employees with security and stability has become, especially for large employers, a complex set of financial and legal complexities. At Littler, we understand the strategic importance employee benefits has for businesses.

Our Employee Benefits Practice ranks with the nation's most sophisticated and has the capacity to handle virtually any benefits related matter, for any size or type of employer, wherever they happen to be located.

Every day, HR professionals and corporate counsel rely on us for everything from practical plan advice to complex, strategic solutions, such as those involved with a business restructuring, conversion of a pension plan or termination of a retiree medical benefit.

- We regularly provide advice regarding all aspects of executive compensation arrangements.

- We help clients reduce their financial and legal obligations in connection with underfunded pension plans.
- We advise on how to structure acquisitions to take best advantage of the latest regulatory or legislative changes.
- We help companies put in place compliance safeguards for their 401(k) plans to prevent problems stemming from employee or government action.
- And we also have benefits litigation teams in place to mount an aggressive defense in the event a plan or fiduciary comes under attack.

Because of our experience in the workplace as employment attorneys, we understand the wider implications of each issue. Whether it's a benefits question, problem or opportunity, we have the multidisciplinary knowledge and capability to provide a unique and creative solution that best meets the client's business needs, both now and for the future.

➤ **EMPLOYMENT LITIGATION**

Avoiding litigation is a top priority for most employers, and Littler attorneys are experienced in providing advice and counseling that minimizes the risk of litigation. While the Firm frequently advises clients on preventive and cost-effective alternatives, civil litigation is an unavoidable reality in the business world and is a significant part of Littler's practice. When facing employment litigation, employers need fast, effective, and focused legal assistance.

Littler represents clients before state and federal trial and appellate courts in lawsuits pertaining to every employment matter, including:

- Wrongful discharge claims;
- Civil litigation involving overtime wages, unpaid commissions, vacation pay, and severance pay;
- Contract and labor disputes;
- Unfair competition;
- Employment discrimination; and
- Sexual harassment.

Littler helps clients nationwide prepare for litigation and represents employers of all sizes in almost every industry. The Firm has the knowledge and resources to act quickly when a lawsuit arises, and help limit clients' exposure and costs. Firm attorneys' litigation experience affords them up-to-date knowledge on how courts are ruling, allowing them to pursue cutting edge strategies for clients.

Littler takes a broad view of each case, considers how it affects the client's overall employment picture, and works to achieve outcomes that meet the client's business goals.

➤ **IMMIGRATION**

Littler's Global Corporate Migration Law Group is a multicultural, transnational, full service corporate migration law practice providing immigration solutions for global companies around the world. Begun as a collaboration between the employment and labor law firm Littler Mendelson and the immigration boutique Bacon and Dear, the group has quickly become a leading provider of in and outbound immigration solutions for many of the world's leading businesses. Our attorneys have extensive experience and knowledge in the following areas:

- Analysis, design and implementation of individual business immigration applications, worldwide;
- Design, implementation, and monitoring of corporate migration policies and procedures;
- Company-wide strategic immigration advice at the highest intellectual and creative level;
- Customized processes to measure performance objectives against actual results to provide continuous improvement;
- On-line, secure, "24/7" web access to company managers, Human Resources and visa employees to provide real-time information about case status;
- Preparation of clients for direct testimony before the Congress regarding employment-based immigration initiatives;
- Development of liaison relationships with CIS, various consulates and American Chambers of Commerce around the world to explain clients' needs and the "real world" challenges they face due to government processes;
- Client-specified reports that provide information to client managers by selected field or case sorting; and
- Reports updating clients about important migration developments around the world.

With a client-focused approach, combining state of the art technology with good, old-fashioned customer service, we are able to help clients throughout the world design and implement global migration strategies, efficiently process thousands of immigration assignments, and resolve immigration challenges, whenever and wherever they do business.

➤ **INTERNATIONAL EMPLOYMENT AND LABOR LAW**

As the global economy continues to flatten and the need to look beyond one's borders for partners and talent becomes more critical, employers increasingly find themselves in unfamiliar legal territory.

To help gain their bearings, a growing number of global organizations rely on the counsel of Littler Mendelson's International Employment and Labor Law Practice.

- The International Practice brings the Firm's considerable employment, labor, and benefits experience to bear on the complex legal problems associated with establishing, staffing, and sustaining global operations.
- Littler's International Practice helps multinational clients analyze local employment and labor conditions in the face of changing corporate dynamics, including mergers and acquisitions.
- Firm attorneys draft and modify expatriate employment contracts, develop globally applicable employment policies, assist with terminations and work reductions, and advise clients on standards of global conduct.
- And our affiliated practice, Littler Global, helps our largest clients move thousands of employees across and between international borders.

Over the last several years, the Firm has developed working relationships with strategic partners around the world, allowing Littler to be the single point of contact for global legal needs, from moving and tracking employees and supervising the quality of the local legal work product to ensuring compliance with global codes of conduct, and complex laws such as the Foreign Corrupt Practices Act, the Patriot Act, and Sarbanes-Oxley.

In addition to their practice, Littler attorneys have written extensively on international employment law subjects and have become authorities on such critical issues as data privacy and global employment contracts.

➤ **LABOR MANAGEMENT RELATIONS**

Although the percentage of America's unionized workers is at an all-time low, the labor movement is still very much a powerful international force that wields enormous influence over the nation and its employers, organized or otherwise. Almost every business strategy or decision-from mergers and acquisitions to downsizing and outsourcing-has the potential to be affected by labor issues.

For more than six decades Littler has represented management in its dealings with organized employees and their union representatives, serving as counterpoint to the world's most powerful labor organizations. Littler's Labor Practice Group is comprised of over 160 attorneys, many of whom began their legal careers at the National Labor Relations Board (NLRB).

As business partners, Littler attorneys take a strategic approach to every engagement, helping employers:

- Manage representation elections;

- Negotiate contracts;
- Prepare for and respond to strikes;
- Arbitrate grievances; and
- Minimize the effectiveness of corporate campaigns.

Littler attorneys have represented employers before thousands of NLRB and state labor relations agency hearings, and have regularly defended and pursued clients' labor interests in the federal courts. Littler advises employers which have no experience with unions, as well as employers which have decades-old, mature bargaining relationships. Whether an employer is confronted with mass picketing outside its facility, or has just learned that a union is trying to organize its employees, Littler has the depth of experience to guide management to advantageous, legal, and practical solutions.

➤ OFCCP PRACTICE

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has dramatically shifted its enforcement agenda in the last several years away from affirmative action compliance to remedying and enforcing systemic discrimination practices. As the Solicitor of Labor has said on more than one occasion, he views the Department of Labor as the largest plaintiff's employment law firm in the country, very well poised to investigate and enforce the nation's civil rights laws, with OFCCP being a key component in that agenda. In 2005, the OFCCP conducted approximately 3,000 audits and obtained in excess of \$45 million in remedies from cases that it closed that same year.

Littler's OFCCP Practice Group has extensive experience representing government contractors from the beginning to the end of the audit process.

- We evaluate OFCCP's jurisdictional claims against employers that do not have contracts or subcontracts with the federal government using the single entity test and OFCCP's 27-question questionnaire.
- If the contractor is covered, we can prepare affirmative action plans very cost-effectively on a flat fee basis using leveraged data analysts and proprietary software that we developed ourselves.
- Every affirmative action plan that we prepare is reviewed by an attorney who has defended audits and knows how OFCCP is going to examine the data for indicators of systemic discrimination.
- For clients that choose to use a consulting company to prepare their plans, we can evaluate the plans with an eye towards OFCCP's systemic discrimination agenda.
- We evaluate contractor compensation practices, including developing regression analyses in-

house and ensuring that compensation analyses disclosed to OFCCP pass the OFCCP's initial compensation assessment at the desk audit stage.

- We respond to follow-up requests for information with an eye towards providing OFCCP with the information it needs to close an audit promptly.
- We prepare managers and employees for OFCCP interviews, and we defend manager interviews during on-sites.
- Our counseling practice is extensive, including some of the nation's leading authorities on the implementation of the final Internet Applicant rule and the practical implications for employers.

➤ **PRIVACY AND DATA PROTECTION**

As part of Littler's Compliance Practice, the Privacy and Data Protection (P&DP) Task Force focuses on emerging privacy issues facing today's employers. From background checks and cross-border transfers of information within multi-national corporations to employee "blogging," more and more aspects of the employer-employee relationship are raising privacy concerns, such as:

- Responding to and reducing the risk of workplace ID theft;
- Complying with HIPAA Privacy and Security Rules;
- Developing appropriate workplace policies regarding technology, communications, workplace monitoring, drug and alcohol testing, employee assistance; and
- Employee claims alleging a confidentiality, privacy or security breach.

Our attorneys advise a wide range of businesses on successfully navigating the intersection of privacy law and today's technologically driven-workplace. We are at the forefront of this developing area, and our goal is to find innovative ways to help clients maximize available technology while minimizing their exposure to litigation and government enforcement actions.

➤ **UNFAIR COMPETITION AND TRADE SECRETS**

In a world where loyalty has become a four-letter word, and tomorrow's biggest competitor may be sitting two doors down from you today, protecting your human and intellectual capital has become a major priority. And while you cannot patent your clients or business processes, you can protect them. At Littler, safeguarding the ideas and people that drive your business' success is the cornerstone of our Unfair Competition and Trade Secret Practice (UCTS) Group.

As the nation's largest firm devoted exclusively to employment and labor law, we are in the unique position to counsel and represent employers in disputes involving unfair competition, trade secrets and covenants not to compete. We understand not only the business ramifications of these situations,

but the employment implications as well. Our UCTS Group regularly represents businesses from all industries.

- We help them to respond quickly and decisively in matters involving potential theft of trade secrets, disclosure of confidential information, customer and employee raiding and violations of covenants not to compete;
- We help providing guidance to companies to investigate and evaluate their options including, get into court immediately, when they need to do so, and address the problem; and
- We assist businesses in drafting confidentiality and noncompete agreements tailored to their particular jurisdictions and needs.
- We frequently counsel companies about how to hire employees from competitors without finding themselves at the receiving end of a lawsuit; and
- We are regularly sought out by such esteemed institutions as the ABA and BNA as authors and lecturers on the subject of trade secret and competitive practices.

➤ **WAGE AND HOUR**

For a business transaction as fundamental as paying employees for the work they do, there are an unseemly number of challenges and complexities involved. Wage and hour practices must comply with the technical requirements of state and federal labor codes, employees must be properly classified, and appropriate records must be kept to avoid drastic penalties. Wage and hour practices can fall under scrutiny in the event of an audit by the Department of Labor (DOL) or the Department of Labor Standards Enforcement (DLSE), or when hit with a lawsuit from a current or former employee.

Littler's Wage and Hour Practice Group has the breadth and depth of expertise to handle wage and hour disputes brought in all forms, including state and federal departments of labor, as well as civil litigation brought by employees and former employees for such issues as overtime wages, unpaid commissions, vacation pay, and severance pay. The Firm represents large and small companies, and assists not only in resolving litigation, but bringing companies into compliance with the relevant wage and hour laws and minimizing penalty payments. When necessary, Littler can review and assess company-wide operations to modify employee programs, such as bonus plans, severance plans, commission plans, and vacation policies, to ensure state and federal compliance.

The sheer volume of wage and hour cases Littler attorneys have handled affords them valuable, up-to-date knowledge of how the administrative agencies and courts are ruling on cases, and allows them to pursue cutting edge strategies that benefit clients' cases.

➤ **WORKERS' COMPENSATION**

From compliance issues and insurance rates to compensation for injury or illness, employers carry the great burden of maintaining a safe workplace and properly handling employee claims. Considering costs involved with employee injury and illness, it is in employers' best interests to make workers' compensation compliance and claims handling a priority.

- Littler's Workers' Compensation Group specializes in this complicated area of the law, and understands the complex relationships between employers, insurance carriers, claims administrators, and employees.
- Littler attorneys work with employers to proactively maintain proper plans and documents, such as injury and illness prevention plans, and train employees to implement those plans.
- The Firm conducts workplace site assessments and evaluations to ensure compliance with safety regulations.
- In the event of an injury, the Firm provides counsel and works with employers to develop and implement effective claims handling and monitoring procedures.

By providing employers with proactive advice and recommendations, Littler can help employers reduce the chances for workplace injuries and be well-positioned in the event of litigation. As the nation's largest employment and labor law firm, Littler is uniquely prepared to handle workers' compensation cases that involve other employment laws including discrimination, disability, or unemployment, with equal ease.

Because workers' compensation litigation can greatly affect other aspects of an employer's business, Littler attorneys work closely with the employer during litigation to achieve the most beneficial solution.

➤ **WORKPLACE SAFETY**

Employers have no greater responsibility than protecting employee safety and health. In recent years, there has been a dramatic increase in the number of both occupational safety and health regulations, with which employers must comply, and the civil and criminal penalties faced by employers when they fail to do so. Littler's Workplace Safety Practice was formed to help employers meet their obligations and protect them from litigation and penalties and their employees from illness and injury.

- Every day, the Firm works with companies nationwide.
- Littler provides guidance on the application of Federal-OSHA and corresponding state standards and regulations to their workplaces and operations. We advise and represent clients during OSHA inspections or injury/illness investigations.

- We assist employers in achieving compliance and avoiding OSHA breaches.
- We frequently prepare or review written safety programs, standard operating procedures, safety rules, and employee handbooks for compliance with local, state, and federal statutes.

Through the Firm's work in the courts and administrative agencies, Littler attorneys are at the forefront of the law. They help keep employers well ahead of any regulatory or administrative changes, and potential legal quagmires. Further, the Firm proactively educates clients, with an entire network in place to give managers the tools they need to keep the workplace safe, comply with regulations, avoid injuries, and protect against liability.

STAFFING PLAN

The City of Fayetteville's Representation Will Be Coordinated by Eva C. Madison

Eva C. Madison, Of Counsel in our Fayetteville office, will serve as the primary contact for the City of Fayetteville. In this capacity, she will be responsible for managing the relationship, assigning attorneys, reviewing all billings and resolving any issues that may arise. This arrangement will allow City of Fayetteville to draw on Eva's collective knowledge of the expertise of Littler attorneys in all areas of employment law as well as her knowledge and understanding of the City of Fayetteville – its goals, policies, programs, personnel, practices, and priorities. She will be working closely with her colleague in the Northwest Arkansas office, Scott Summers.

Eva has extensive experience in managing multiple attorney legal projects, national client relationships, and the representation of major corporations. She dedicates herself to providing day-to-day counsel for her clients, and understanding how she can best serve their needs.

Eva's biography, as well as Scott's, is included in *Appendix B*.

ATTORNEY DIVERSITY

While we are the nation's largest employment and labor law firm, our strength lies not just in our size, but in our diversity and depth of experience. At Littler, we view diversity not as an end to be pursued for its own sake, but as a core cultural value that is critical to our continued success. Difference breeds genius, and without the ability to pool from the entire universe of available talent, we would not be able to offer or sustain the high level of service that our clients expect, nor would we be the firm that we are today. We are not only committed to recruiting and retaining a diverse workforce, but also to providing an inclusive environment where ideas are exchanged freely and everyone is given the opportunity for advancement.

At Littler, we recognize that diversity's importance extends far beyond our practice. The workplace has changed dramatically, and whatever the future brings, it will look nothing like the past. With diversity comes vast pools of new talent and energy – and challenges. Companies that can't, or won't, manage diversity effectively will most likely perish. In the short run, they will face increased exposure to lawsuits. But ultimately, without the ability to recruit and retain top-tier talent, and keep up with and understand the needs of diverse consumers, suppliers and employees, they will be overtaken by competitors who do understand and embrace diversity's importance.

While our internal diversity initiatives enhance our practice and ability to represent our clients successfully, our diversity training and Diversity Practice Group provide businesses with the tools they need to recognize and utilize diversity to the fullest extent.

Internal Diversity Initiatives

The Firm's commitment to diversity is exemplified by the work and progress of our Diversity Council. With the support and active participation of senior management, the Council is responsible for both the strategic direction and the implementation of the Firm's diversity initiatives.

Diversity Council and Advisory Group

Established in 2003, the Diversity Council works to codify and enhance the inclusive culture at Littler. By charter, Littler's Diversity Council is made up of a small group of attorneys and executives who have demonstrated through their experience and actions a strong commitment to the ideals and goals of diversity. To assist the Diversity Council with its mission, Littler formed a Diversity Advisory Group, which brings to the effort the added experience, perspectives and insight of Firm attorneys, managers, and staff. While the Council and Advisory Group are responsible for formal initiatives and strategy, they also have become an invaluable and integral part of the way the Firm implements its strategies regarding a variety of critical issues, including, but not limited to, recruiting, providing advice on a host of client issues, and identifying business and career growth opportunities.

The top four goals of the Diversity Council are:

- Enhance Littler Mendelson's recruiting efforts to promote the hiring of individuals from diverse backgrounds;
- Promote diversity within the firm and encourage those from diverse backgrounds to network with others in our profession to gain knowledge, develop business and encourage one another;
- Include attorneys from diverse backgrounds in the Firm's management, leadership, and training and client development opportunities; and
- Assist our clients in meeting their diversity goals.

Affinity Groups

Littler has established discussion forums for its attorneys to discuss and explore issues of inclusion through the creation of affinity groups. Although the affinity groups are focused on particular areas of inclusion, membership is open to all attorneys. Each of the affinity groups allow the Firm's attorneys to come together to engage in candid dialogue concerning strategies for success within the Firm, including the enhancement of skill sets and business development, while at the same time promoting the diversity that each attorney brings to Littler. For example, Littler hosted a diversity "Bollo" in Chicago to foster discussion and inclusiveness for African-American attorneys. Similarly, a diversity "Reunión" was held in San Diego during which attorneys had the opportunity to collaborate on issues of diversity and inclusion for Hispanic and Latino attorneys. These forums allowed attorneys to meet in person to develop internal support networks, gain professional development skills, and discuss creative ways to promote diversity within the Firm and the legal profession. The collective experience of attendees at these summits was overwhelmingly positive, and has greatly enhanced the Firm's retention efforts. To build on this success, additional summits are planned for other affinity groups within the Firm.

Through the Littler Diversity Council, the Firm has established a Gay/Lesbian/Bisexual/Transgender Subcommittee to promote awareness, inclusion, and support for GLBT issues, both within and outside the Firm. The Firm also created the Parents Advisory Group to address work-life balance issues, and to support attorneys with families. In addition to promoting an inclusive environment at Littler, the Firm provides non-traditional career paths for attorneys who may choose an alternative to the shareholder (partner) track. Littler offers opportunities for attorneys to work part-time, or serve as staff attorneys with the Firm's Knowledge Management team or Legal Learning Group.

Diversity Symposium

In 2006, the Firm held a comprehensive Diversity Symposium at its annual flagship Executive Employer Conference®. The Symposium was designed to focus on implementing diversity plans that work by bringing together some of the best minds and brightest leaders in diversity across the country for a

collective conversation. Littler was able to successfully map a direction of diversity that is proof of its own success.

Littler Diversity*

- 27.5% of our associates are attorneys of color
- 59.1% of our associates are women
- 8.8% of our shareholders are attorneys of color
- 25.9% of our shareholders are women
- 16.6% of our attorneys are persons of color
- 43.1% of our attorneys are women
- 26.1% of our entire workforce are persons of color

**As of March 2007*

Community Outreach

The Diversity Council, the Diversity Advisory Group, and the Firm participate in numerous diversity related events each year. Here are a few of the many diverse organizations and events on the national level we proudly support:

- MCCA – Minority Corporate Counsel Association
- HNBA – Hispanic National Bar Association
- NBA – National Bar Association
- NAPABA – National Asian Pacific American Bar Association
- NASABA – North American South Asian Bar Association
- NLGLA - National Lesbian and Gay Law Association
- CMCP - California Minority Counsel Program
- CYOC – Chart Your Own Course Foundation
- NELC – National Employment Law Council
- Corporate Counsel Women of Color
- National Association of Women Lawyers
- National Conference of Women's Bar Associations
- American Bar Association's Labor & Employment Law Section, EEO Committee- Diversity Task Force

In addition to national organizations, Littler and its attorneys are proud to support a long list of local organizations including the following, to name just a few:

- Northwest Arkansas Diversity Council
- Atlanta Legal Diversity Consortium
- Thurgood Marshall Scholarship Association
- Twin Cities Diversity in Practice
- J.L. Turner Legal Association – Dallas
- Pan Asian Lawyers of San Diego
- Haitian Lawyers Association – Miami
- Latin Chamber of Commerce – Las Vegas
- Washington State Bar Association – statewide diversity conference
- Lesbian and Gay Bar Association Chicago
- Mexican American Bar Foundation
- Earl B. Gilliam Bar Association - San Diego
- Southern Institute for Business and Professional Ethics Diversity Committee
- John M. Langston Bar Association – Los Angeles
- Dallas Bar Association – Asian Pacific Interest Section
- Lawyers Club of San Diego
- National Association of College and University Attorneys Annual Conference Luncheon for African American Attorneys
- DiversityBusiness.com Conference on Minorities and Women in Business
- Mexican American Legal Defense and Education Fund (MALDEF)
- Asian Pacific American Bar Association – Los Angeles
- Asian American Bar Association of Houston
- Los Angeles Gay and Lesbian Chamber of Commerce
- Women's Bar Summit
- Women's Bar Associations Initiative on the Advancement and Retention of Women
- Black Law Students Association, University of Denver Sturm College of Law
- UCLA School of Law – Law Firm Diversity Reception
- Tom Homann Law Association – San Diego

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

The Firm has been recognized for diversity efforts by clients, community organizations, and the media:

- Littler received the 2007 Multicultural Heritage Award, honoring diversity in the workplace, from the San Diego Business Journal.
- Littler's corporate culture video entitled "Diverse by Design," produced by company Frame Productions, was the recipient of the 2006 Silver Davey Award.
- The Firm was honored as the 2005 winners of ChevronTexaco's Law Firm Diversity Recognition Program;
- Littler has repeatedly been listed as one of the top ten in the VAULT's Best 20 Law Firms for Diversity; and
- An American Lawyer survey ranked Littler Mendelson first among the nation's 100 largest Firms in the percentage of women equity partners.

COMMITMENT TO TECHNOLOGY

Littler Mendelson shares the City of Fayetteville's commitment to the collaborative use of technology in accelerating service, reducing costs and sharing knowledge. We have made a strategic decision to invest substantially in technology, recognizing that this investment would allow us to service our clients' needs faster, more accurately, and more efficiently. As Littler continues to invest in technology we listen to our clients in order to understand both their legal and business needs and deliver the right solutions at the right cost.

All Littler attorneys are issued state-of-the-art laptops with wireless remote access and portable telephone extension capabilities. Most attorneys also carry BlackBerries for additional connectivity. Whether they are in our offices, hotels, airports or their homes, our attorneys have direct access to email, documents and Littler's knowledge management systems. By providing remote network accessibility for our individual attorneys, and in some instances to our clients, and by providing a reliable and secure technology infrastructure, Littler has rendered geographic separation virtually meaningless in providing client services.

Littler has also made extensive use of our intellectual capital by deploying an enterprise-wide document management system that allows us immediate and efficient access to work which has been done in the past by Littler attorneys. The system also allows us to efficiently collaborate on documents between our offices, coast-to-coast. Littler has deployed a firmwide IP telephone system that links every office to provide a seamless communications network of voicemail, call forwarding, and in many cases, services directly into attorney's homes.

Knowledge Management

Littler Mendelson's Knowledge Management (KM) Department enhances the ability of our attorneys to readily access the Firm's considerable knowledge and resources enabling our attorneys to better and more efficiently serve the needs of our clients. With its dedicated staff of experienced employment attorneys and technologists, the KM Department has adapted and developed technologies and applications to create a unique intranet environment used daily by the Firm's attorneys. Through this technology platform, attorneys can access for their clients the latest legal developments, legal surveys, precedent documents, the expertise of the Firm's practice group specialists and the collective knowledge of Littler's 600 attorneys. The KM Department is also responsible for the Firm's various publications including The National Employer[®] (winner of the 2005 Burton Foundation Award for best legal compendium), Littler's ASAP and Insight newsletters, and the Littler Monitor, a subscription service that provides a legislative and regulatory update, via extranet.

The KM Department also develops specialized extranets for clients in order for them to gain access to the Firm's knowledge base on a 24/7 basis. The KM Department can set up client extranets providing access

to, among other things, the Firm's 50-state survey library, an on-line version of the National Employer publication, and client-specific documents and templates.

Generally, developing these client extranets requires close coordination between the client and Littler's KM Department to identify the specific requirements necessary to satisfy the client's needs. There are a number of options available in terms of the content to be shared, as well as the format in which the information is presented.

Littler Mendelson's Litigation Practice Support Department

Consistently adhering to the highest standards in representing employers while recognizing the complexities of today's workplace, Littler has developed a Practice Support Department whose primary purpose is to leverage technology in the implementation of standard protocols for electronic discovery and litigation support. Littler's Practice Support Department is comprised of highly trained and experienced litigation support professionals who know how to streamline the organization, management, and presentation of case information and provide each Littler office with access to best of breed litigation support technologies and services. Our attorneys are well-equipped to handle any matter – large or small.

Littler Mendelson's Practice Support Department can be engaged early on to consult with Littler attorneys and in-house counsel on case management and litigation support best practices that serve the company's requirements and case needs. Littler's Practice Support Department assists with preservation of evidence, incorporating technological solutions with legal intelligence, electronic document management and trial preparation using technologies such as *Summation*, *CaseMap*, *Trial Director* and other leading-edge programs.

Electronic Records Management

Littler is in the process of converting from a paper-based system to a fully electronic records management system. Littler prides itself in our ability to serve the needs of our clients through our attorney's expertise in all areas of labor and employment law across all 50 states. Our electronic records management system will allow the seamless and cost-effective management of the City of Fayetteville's cases, while maintaining the highest level of security and adherence to new regulations for records management.

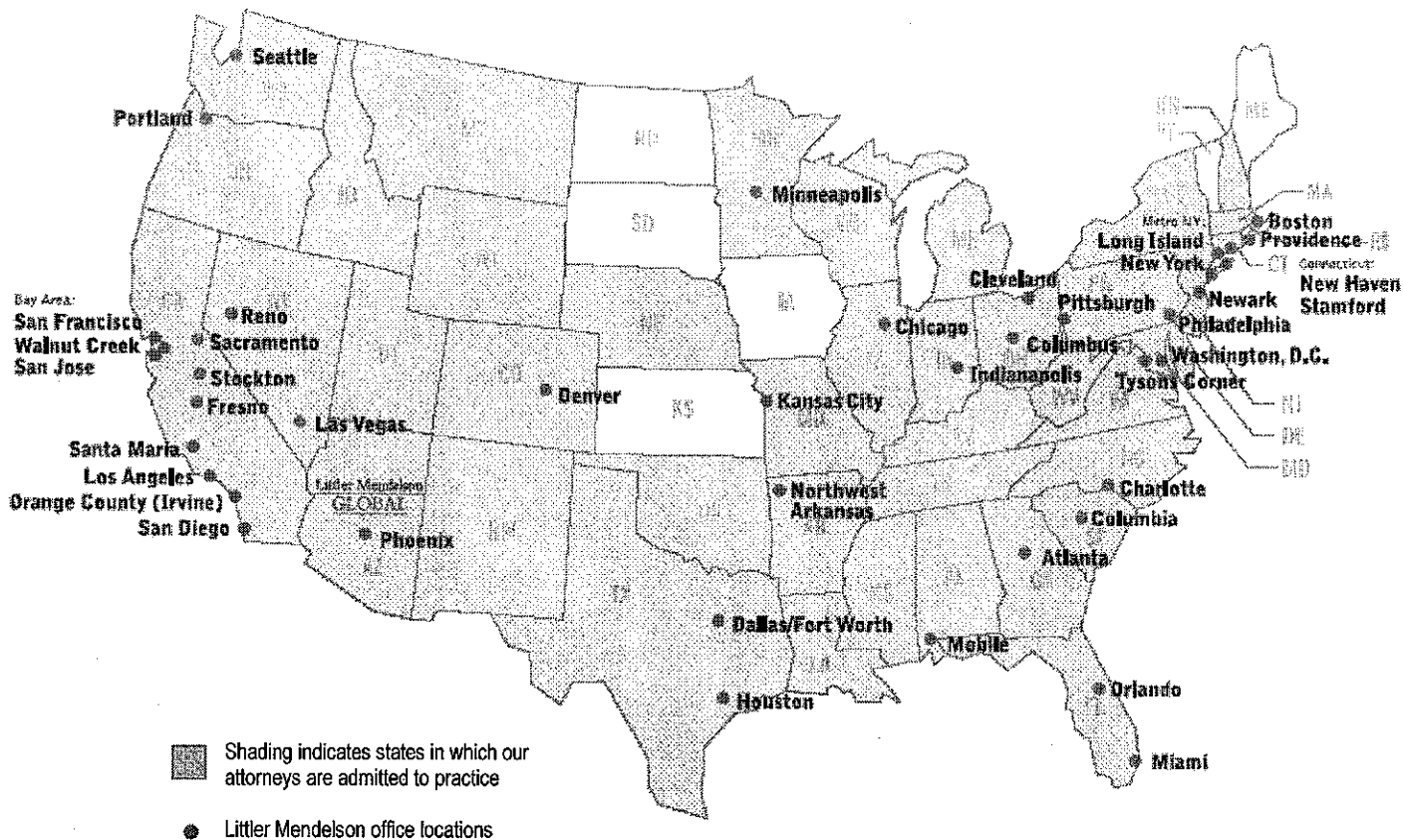
Electronic Billing Capabilities

We are currently collaborating with several of our clients on e-billing software including Data Cert, Serengeti, Tri-Point, Examen and TyMetrix. Should Littler be selected to provide legal services for the City of Fayetteville, the use of e-billing software for all billing would be easy to implement. Further, we would not charge the City of Fayetteville for e-billing set up fees.

Appendices

- A. Map of Littler Mendelson Locations
- B. Attorney Biographies
- C. Littler Mendelson's Training Solutions and Publications

APPENDIX A: MAP OF LITTLER'S OFFICES AND STATES IN WHICH LITTLER ATTORNEYS ARE ADMITTED TO PRACTICE



LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

ATLANTA, GA
3348 Peachtree Rd.,
N.E., Suite 1100
Atlanta, GA
30326.1008
404.233.0330
404.233.2361, fax

BOSTON, MA
One International
Place
Suite 2700
Boston, MA 02110
617.378.6000
617.737.0052, fax

CHARLOTTE, NC
Bank of America
Corporate Center
100 North Tryon St.
Suite 4150
Charlotte, NC 28202
704.972.7000
704.333.4005, fax

CHICAGO, IL
200 North LaSalle St.
Suite 2900
Chicago, IL
60601.1014
312.372.5520
312.372.7880, fax

CLEVELAND, OH
1100 Superior Avenue
20th Floor
Cleveland, OH 44114
216.696.7600
216.696.2038, fax

COLUMBIA, SC
Capitol Center Tower
1201 Main St.
Suite 1100
Columbia, SC 29201
803.799.9760
803.799.9837, fax

COLUMBUS, OH
Fifth Third Center
21 East State St.
Suite 1600
Columbus, OH
43215.4228
614.463.4201
614.221.3301, fax

DALLAS, TX
2001 Ross Avenue
Suite 2600
Lock Box 116
Dallas, TX
75201.2931
214.880.8100
214.880.0181, fax

DENVER, CO
One Tabor Center
1200 17th St.
Suite 1000
Denver, CO 80202-
5835
303.629.6200
303.629.0200, fax

FAYETTEVILLE, AR
3608 North Steele
Blvd.
Suite 210
Fayetteville, AR 77703
479.442.5376
479.442.3765, fax

FRESNO, CA
5200 North Palm Ave.
Suite 302
Fresno, CA
93704.2227
559.244.7500
559.244.7525, fax

HOUSTON, TX
1301 McKinney St.
Suite 1900
Houston, TX
77010.3031
713.951.9400
713.951.9212, fax

INDIANAPOLIS, IN
1300 First Indiana
Plaza
135 North
Pennsylvania St.
Indianapolis, IN 46204
317.581.6355
317.581.6354, fax

IRVINE, CA
1920 Main St.
Suite 900
Irvine, CA 92614
949.705.3000
949.724.1201, fax

KANSAS CITY, MO
2300 Main St.
Suite 900
Kansas City, MO
64108
816-488-3558 x3561
816.488.3558, fax

LAS VEGAS, NV
3960 Howard Hughes
Parkway, Suite 300
Las Vegas, NV
89109.5937
702.862.8800
702.862.8811, fax

LOS ANGELES, CA
2049 Century Park
East
5th Floor
Los Angeles, CA
90067.3107
310.553.0308
310.553.5583, fax

MELVILLE, NY
532 Broadhollow Rd.
Suite 142
Melville, New York
11747
631.293.4525
631.293.4526, fax

MIAMI, FL
One Biscayne Tower
2 S. Biscayne
Boulevard
Suite 1500
Miami, FL 33131.1804
305.400.7500
305.603.2552, fax

MINNEAPOLIS, MN
1300 IDS Center
80 South 8th St.
Minneapolis, MN
55402.2136
612.630.1000
612.630.9626, fax

MOBILE, AL
Riverview Plaza
63 South Royal St.
Suite 709
Mobile, AL
36602.3245
251.432.0413
251.432.0427, fax

NEWARK, NJ
One Newark Center
8th Floor
Newark, NJ 07102
973.848.4700
973.643.5626, fax

NEW HAVEN, CT
110 Washington Ave.
3rd Floor
North Haven, CT
06473
203.234.6344
203.234.6345, fax

NEW YORK, NY
885 Third Avenue
16th Floor
New York, NY
10022.4834
212.583.9600
212.832.2719, fax

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

ORLANDO, FL
4767 New Broad St.
Orlando, FL
32814-6405
407. 514.2637
407.514.2638, fax

PHILADELPHIA, PA
Three Parkway
1601 Cherry St.
Suite 1400
Philadelphia, PA
19102.1321
267.402.3000
267.402.3131, fax

PHOENIX, AZ
Camelback Esplanade
2425 East Camelback
Rd.
Suite 900
Phoenix, AZ
85016.4242
602.474.3600
602.957.1801, fax

PITTSBURGH, PA
Dominion Tower
625 Liberty Avenue
26th Floor
Pittsburgh, PA
15222.3110
412.201.7600
412.456.2377, fax

PORTLAND, OR
1750 SW Harbor Way
Suite 450
Portland, OR
97201.5128
503.221.0309
503.226.2791, fax

PROVIDENCE, RI
10 Weybosset Street
Suite 404
Providence, RI 02903
401.454.2903
401.454.2969, fax

RENO, NV
50 West Liberty Street
Suite 400
Reno, NV 89501-1944
775.348-4888
775.786-0127, fax

SACRAMENTO, CA
2520 Venture Oaks
Way
Suite 390
Sacramento, CA
95833.4227
916.830.7200
916.561.0828, fax

SAN DIEGO, CA
501 W. Broadway
Suite 900
San Diego, CA
92101.3577
619.232.0441
619.232.4302, fax

SAN FRANCISCO, CA
650 California St.
20th Floor
San Francisco, CA
94108.2693
415.433.1940
415.399.8490, fax

SAN JOSE, CA
50 West San Fernando
St.
14th Floor
San Jose, CA
95113.2431
408.998.4150
408.288.5686, fax

SANTA MARIA, CA
(satellite)
2643 Industrial
Parkway
Santa Maria, CA
93455.1503
805.934.5770
805.937.1510, fax

SEATTLE, WA
Bank of America
Tower
701 Fifth Avenue
Suite 6500
Seattle, WA
98104.7097
206.623.3300
206.447.6965, fax

STAMFORD, CT
(satellite)
One Stamford Plaza
263 Tresser Blvd.
9th Floor
Stamford CT 06901
203.564.1493
203.564.1402, fax

STOCKTON, CA
(satellite)
7488 Shoreline Drive
Suite A-3
Stockton, CA
95219.5433
209.472.7944
209.472.9528, fax

TYSONS CORNER
8200 Greensboro
Drive
9th Floor
McLean, VA 22102
703.442.8425
703.442.8428, fax

WALNUT CREEK, CA
2175 North California
Boulevard
Suite 835
Walnut Creek, CA
94596.3565
925.932.2468
925.946.9809, fax

WASHINGTON, D.C.
1150 17th St.
NW, Suite 900
Washington, D.C.
20036
202.842.3400
202.842.0011, fax

LITTLER GLOBAL, AZ
3003 N. Central
Suite 700
Phoenix, AZ 85012
602.256-6700
602.257-0600, fax

APPENDIX B: ATTORNEY BIOGRAPHIES

Eva C. Madison



Fayetteville Office
3608 N. Steele Blvd.
Suite 214
Fayetteville
Arkansas 72703
Telephone: (479) 442-5376
Fax: (479) 442-3765
Email: emadison@littler.com

Emphasis

Litigation of Employment Law Matters
Advice and Counseling on Personnel Matters and Practices
Advice on Human Resources Policies and Systems
Management and Employee Training

Biography

Ms. Madison represents and advises employers of all sizes in all aspects of employment law throughout the United States. Her practice focuses primarily on employment litigation, including claims of race, gender, national origin, religious, disability, and age discrimination and harassment, claims under the Family and Medical Leave Act, and employment contract disputes. Additionally, she counsels employers on strategies for minimizing potential litigation and provides advice on the practical and legal implications of everyday employment decisions. She has particular experience advising employers on human resources systems, including selection systems and training.

Prior to joining Littler Mendelson, Ms. Madison practiced law with prestigious law firms in Tennessee and Arkansas, where she represented and counseled employers in a variety of employment matters, and worked in-house in the area of employment litigation for a Fortune 50 company.

Education

J.D., *summa cum laude*, University of Arkansas, Fayetteville, Arkansas, 1998
Editor-in-Chief of the Arkansas Law Review
Member of the National Moot Court Team
B.S., *magna cum laude*, Vanderbilt University, Nashville, Tennessee, 1993

Publications

The Supreme Court Sets New Standards of Review for Excessive Verdicts in Federal Court in Gasperini v. Center for Humanities, Inc., 50 Ark. L. Rev. 591 (1997).

Published Decisions: *Stuhan v. Atlantis Plastics Injection Molding, Inc.*, No. 05-2088, 2006 WL 1805966 (W.D. Ark. June 29, 2006); *XO Communications Services, Inc. v. Southern Telecom, Inc.*, No. 05-3018, 2006 WL 1155946 (W.D.

Ark. May 1, 2006); *Wilson v. Wal-Mart Stores, Inc.*, No. 3:04CV000206-WRW, 2006 WL 318828 (E.D. Ark. Feb. 9, 2006); *Richardson v. Wal-Mart Stores, Inc.*, No. 04-00734, 2006 WL 62826 (W.D. Mich. Jan. 11, 2006); *In re Estate of Williams*, No. M2000-02434-COA-R3-CV, 2003 WL 1961805 (Tenn. Ct. App. Apr. 28, 2003).

Lectures & Presentations

Ms. Madison is an Adjunct Professor at the University of Arkansas School of Law where she has taught a course on employment discrimination since 2004.

Honors & Awards

Ms. Madison was named to the *Northwest Arkansas Business Journal*'s "40 under 40" Young Leaders List in 2005. In 2002, she won the Nashville Bar Association's Enterprise Award for creative service to the legal profession.

Activities

American Bar Association (Labor and Employment Law Section)
Arkansas Bar Association (Labor and Employment Law Section)
Oklahoma Bar Association
W.B. Putman Inn of Court (Barrister)
Benton County Bar Association
Washington County Bar Association
Humane Society of the Ozarks, President 2005-2007; Board of Directors since 2002.
Habitat for Humanity of Washington County, Volunteer Coordinator for 2005 House that Jane Built.
Ozark Affiliate of the Susan G. Komen Breast Cancer Foundation, Legal Advisor.
Junior League of Northwest Arkansas, Active Member.
University of Arkansas Black Law Student Association Moot Court Team, 2006-07 Coach.

Cases/Courts/Judges

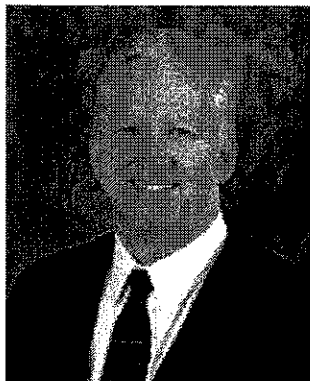
Arkansas (1998)
Oklahoma (1998)
Tennessee (1999)
United States District Court for the Eastern and Western Districts of Arkansas
Middle District of Tennessee
Eastern District of Tennessee
Western District of Michigan
Eighth Circuit Court of Appeals

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

Ms. Madison served as a law clerk to the Honorable G. Thomas Eisele, Senior United States District Judge, Eastern District of Arkansas, from 1998-99.

R. Scott Summers



Fayetteville Office
3608 N. Steele Blvd.
Suite 214
Fayetteville
Arkansas 72703
Telephone: (479) 442-5376
Fax: (479) 442-3765
Email: ssummers@littler.com

Emphasis

Employment Litigation
National Labor Relations Board Proceedings
Collective Bargaining, Labor Arbitration and Union Avoidance,
Responding to Corporate Campaigns
Human Resources Policies, and Procedures

Biography

R. Scott Summers is Office Managing Attorney of the firm's Northwest Arkansas office. He has practiced labor and employment law for over 18 years. Mr. Summers represents employers in various industries, and ranging from small businesses to Fortune 100 companies, on cases throughout the United States. He has been involved in over 50 union organizing campaigns, multiple corporate campaigns and numerous labor arbitration cases and collective bargaining negotiations. Additionally, he litigates cases in various federal and state courts around the country and before various administrative agencies including the NLRB, EEOC and OSHA. Mr. Summers also, regularly advises employers on day-to-day personnel matters and practices, including assistance with employee separations and the drafting of severance agreements designed to protect employers.

Prior to joining Littler, he was managing attorney for an office of a large multi-practice Arkansas firm and has been in - house in the Labor Relations and Employment Practices Division of a Fortune 50 company.

Education

J.D., Louis D. Brandeis School of Law, University of Louisville, 1988
B.S., Eastern Kentucky University, 1984

Cases/Courts/Judges

1988, Kentucky; 2006, Arkansas
Eastern and Western Districts of Kentucky
Eastern and Western Districts of Arkansas
Sixth, Seventh and Eighth Circuit Courts of Appeal

APPENDIX C: TRAINING SOLUTIONS AND PUBLICATIONS

Littler has focused its efforts on employment law training more so than any other law firm. Littler Mendelson's seminars, workshops, conferences, briefings, publications, and in-person, video and computer-based training, through its in-house training division and affiliated entities, reflect the firm's commitment to problem prevention.

TRAINING FOR YOUR ORGANIZATION

Legal Learning Group (LLG)

A division of Littler Mendelson, LLG was created to assist employers in complying with employment law requirements with a full range of training solutions, including: classroom training, train-the-trainer, one-on-one training, live on-line webinar, and self-study programs.

Employment Law Learning Technologies (ELT)

An affiliate training organization of Littler Mendelson, ELT provides employers with the highest quality online training, with a special focus on harassment prevention and ethics & code of conduct education. ELT's state-of-the-art e-learning programs for managers and employees have now been used by more than 1,000,000 learners in leading organizations across the United States. ELT offers superior legal content, an engaging user experience, flexible delivery options, enterprise-wide tracking and exceptional customer service. ELT is the only e-learning provider that designs and maintains up-to-date solutions in a *truly integrated*, day-to-day partnership with world-renowned practicing legal experts at Littler Mendelson.

CONFERENCES AND BRIEFINGS

The Executive Employer[®] Conference

In a complex world full of questions, The Executive Employer Conference, held each spring, offers you a unique opportunity to spend two full days considering the solutions. The Executive Employer is the premier employment law conference produced specifically for senior level executives and in-house employment counsel.

Mixing intense subject area study with informal discussions and topical roundtables, the Conference provides a rare opportunity to delve into the critical employment law topics that matter to you most. From the dynamic opening General Session to the lively break-out sessions focusing on Litigation, Compliance, and Legal Currents, you will have the opportunity to hear from senior litigators, top thought leaders, and your peers from some of the world's leading companies.

Breakfast BriefingsSM

Littler Mendelson offers periodic educational training programs on individual topics of particular interest to employers. Past Breakfast Briefings have addressed such issues as deferred compensation, FLSA, sexual harassment, combating workplace violence, affirmative action, avoiding litigation and conducting disciplinary investigations, to name only a few.

SEMINARS

Offered to the general public live and over the Web, the Seminars integrate LLG's training experience with Littler's wealth of employment law knowledge to deliver thought-provoking and interactive instructional programs that build skills and develop the expertise necessary to solve the most pressing and complex employment law problems.

- **Live In-Person Training:** Led by LLG's pool of attorney-educators, live training programs blend custom curricula, subject matter expertise, innovative multimedia, and engaging scenarios based on real world cases and experience. These lively and entertaining sessions are designed to encourage audience participation and to get managers and employees to think proactively about the issues and trouble spots they face every day in the workplace.
- **Train-the-Trainer Services:** With in-house training programs facing increased scrutiny, employers need to take a closer look at how their in-house educators are trained. Using similar methods that have made our employee training programs so successful, LLG's attorney-educators will guide your HR professionals, attorneys, and managers through the essential components of conducting employment law courses.
- **E-Learning:** e-Learning is the most efficient way to train large numbers of employees cost effectively. ELT's solutions are available via the Internet, 24/7, with seamless tracking of individual training records. ELT focuses its efforts on harassment and discrimination prevention training as well as ethics & code of conduct education. To date, ELT has trained more than 1,000,000 learners at leading organizations across the United States.

For clients that benefit most from a blend of live and online training, ELT operates as Littler's alliance partner in providing training solutions. ELT courses employ real-life interactive scenarios and Q&A exercises to guide managers and employees through key workplace compliance issues, and can be customized for company-specific presentations. Courses include:

- | | |
|----------------------------|-----------------------|
| ♦ Workplace Harassment | ♦ EEO |
| ♦ Ethics & Code of Conduct | ♦ Lawful Hiring |
| ♦ Workplace Diversity | ♦ Lawful Terminations |
| ♦ Cyber Policy | ♦ Workplace Violence |
| ♦ Workplace Privacy | |

- ***Live Web-Based and Satellite Training:*** The next wave in training, webinars and live satellite feeds, allow for maximum interactivity with minimum inconvenience. Led by our attorney-educators, these customized programs provide managers and supervisors with the training they require from the comfort of their own workstation or nearest conference room. Please ask us about technical requirements and assistance.

Our most popular courses include:

- ♦ Manager's Boot Camp — *Managing Crucial Employment Law Issues*
- ♦ Managing the Law: Beyond the Basics — *Responding to Employment Law Issues*
- ♦ Preventing Workplace Harassment — *What Every Manager Must Know*
- ♦ Eliminating Workplace Harassment & Discrimination — *What Every Employee Must Know*
- ♦ "You Don't Have to Hire the Person You Hate!" — *Making Smart and Legal Hiring Decisions*
- ♦ "Managing the Employee from Hell" — *Managing Performance Before and After Problems Begin*
- ♦ "Security for All" Preventing Workplace Violence — *The Manager's Role*
- ♦ "You Can't Make Me Come to Work" — *Untangling the Complex Web of Leaves of Absence*
- ♦ Positive Employee Relations — *Managing the Union-Free Workplace*
- ♦ Employment Law Fundamentals for Human Resource Professionals
- ♦ Conducting Lawful Investigations: Practical Skills for Internal Human Resource Investigators
- ♦ California Mandatory Sexual Harassment Training

LITTLER MENDELSON'S PUBLICATIONS

The Employer® Book Series

For more than two decades, each year Littler has written and published The Employer books. This series of national and state reference books has become the field's preeminent reference work providing practical advice to management concerning employment and labor relations.

- ***The National Employer w/CD-ROM.*** The National Employer provides human resources professionals, corporate counsel and other in-house attorneys a practical and extensive guide to federal and state employment and labor laws. This book comes with a companion CD-ROM that contains full text of the book as well as all referenced cases.
- ***State and Regional Employers.*** The State and Regional Employers provide human resources professionals, corporate counsel and other in-house attorneys a practical and extensive guide to state employment and labor laws in the following regions:
- ♦ Arizona
 - ♦ California (includes CD-ROM)

- ♦ Mid-Atlantic (Delaware, Maryland, Pennsylvania, Virginia, and the District of Columbia)
- ♦ Nevada
- ♦ Rocky Mountain (Colorado and Utah)
- ♦ Southern (Georgia, Florida, North Carolina, and South Carolina)
- ♦ Texas (includes CD-ROM)
- ♦ Tri-State (New York, New Jersey, and Connecticut)
- ♦ Upper Midwest (Illinois, Minnesota, Ohio, and Wisconsin)
- ♦ Washington

Compliance Bookstore

Publications and videos written by leading employment law practitioners and subject matter experts contain up-to-date legal research and analysis on a wide range of employment law topics and include materials tailored to every level of your organization.

These materials include:

Manuals and Guides

- ***Employment Law Trials: A Practical Guide with CD-ROM.*** A practical guide designed to prepare the seasoned employment lawyer, junior litigation associate, or personal injury lawyer for the unique aspects of trying an employment case.
- ***Managing Workplace Harassment: A Guide for Preventing, Addressing and Resolving Harassment Issues on the Job.*** This comprehensive guide was developed by practicing labor and employment attorneys with many years of experience in litigation and counseling employers about workplace harassment. Written to be clearly understood by a general audience, the guide walks the employer through the entire policy process, pointing out common pitfalls along the way and providing proven strategies that will keep the employer on the path toward a harassment-free workplace.
- ***Retaliation & Whistleblowing: A Guide for HR Professionals & Counsel.*** Provides practical information on such topics as: overview of retaliation claims; retaliatory discharge; Sarbanes-Oxley, federal and state statutes; best practices; and hot topics.
- ***The Boss's Survival Guide.*** This book provides hands-on, real-world advice on how to hire, motivate, and keep today's higher-level, less-loyal employee.
- ***Threat Assessment: A Risk Management Approach.*** Detailed "how to's" of threat assessment from the initial contact to the sharing of results. Introduction by Garry G. Mathiason, Senior Shareholder Littler Mendelson.

Educational Videos

- ***Avoiding Litigation Landmines.*** This program uses a compelling dramatization to teach your managers how to avoid litigation landmines that can cost them and your organization millions of dollars.
- ***Harassment and Diversity: Respecting Differences.*** Harassment is not just about sex. It can also be about race, religion, age, disabilities and other protected characteristics. This dramatic story shows an all-too-common situation, where friction between employees grows from “just kidding around” into illegal harassment.
- ***Legal Survival Skills for the Modern Manager.*** It’s not easy to be a supervisor these days. You’ve got to get the job done—often with fewer employees and a tighter budget. Plus, you’re expected to know exactly what to do or say every time a “people problem” comes up. This video was created to help you find your way through the maze of employment laws and regulations, while at the same time maximizing the performance of your workers.
- ***Patterns – A Sexual Harassment Prevention Series.*** *Patterns* takes on the behavioral challenge, arming employees and managers with the information they need to prevent sexual harassment and the tools that will help them respond when incidents occur. Through a series of short dramatizations, this program describes common patterns of illegal or inappropriate behavior at work and how best to respond.
- ***Workplace Violence: First Line of Defense.*** As the second-leading cause of workplace deaths, violence represents a challenge to employers who must be prepared to respond to and manage these incidents. This program uses an interview with a convicted perpetrator, as well as a compelling dramatization to communicate the impact of this problem.

Online Subscriptions

- ***Auditing Your Organization’s Compliance with the California Labor Code – Annual On-line Subscription Service.*** Created by Littler Mendelson in cooperation with the Legal Learning Group, the compliance materials provide you with the tools required to assess your business’s compliance level with literally hundreds of the Labor Code provisions.
- ***The National Employer Handbook – Annual Online Subscription.*** The National Employer subscription provides access to the online, searchable software version of Littler’s National Employer handbook.

Training Workbooks

- ***Preventing Workplace Harassment - Set of 25 Interactive Employee Workbooks.*** This harassment self-study workbook for employees is the only one with content provided by Littler Mendelson. These workbooks are the easy and economical way to train employees on preventing workplace harassment.

They are also the perfect solution for employees who need retraining or orientation, or when live or computer-based training is not available.

Newsletters

- ***Littler Monitor.*** The Littler Monitor is a legislative and case law update e-newsletter available exclusively to Firm clients. The Littler Monitor focuses on both state and federal employment- related legislation that has been signed into law in the previous quarter, as well as any significant case law developments in the federal and state appellate courts. The Littler Monitor not only lists new legislation and cases, but also provides substantive legal analysis and practical suggestions for implementing the new requirements. Occasional bonus features are included, such as articles on employment law trends or proposed legislation to follow regarding major employment issues. The Littler Monitor is designed to keep companies operating in multiple states up to date on legal changes that will likely affect their business operations.
- ***Littler GPS – Guide to Policies by State.*** Littler GPS is a dynamic online research tool, available 24/7, exclusively for Littler Mendelson clients on a subscription basis. Littler GPS provides quick access and easy navigation to allow you to search one state or many states on a variety of legal topics. The convenient design includes references to the specific statutory or case law authority. Updated on a regular basis, changes to laws and statutes are highlighted in the text of the database. There are comprehensive annual updates to each subject area as well.
- ***A.S.A.P.™ Newsletter.*** From reports on recent law and regulation to coverage of the latest employment law trends, Littler's ASAPs keep you up-to-date and informed on the legal issues that impact your workplace.
- ***Littler Report.*** With dead-on analysis and uncannily accurate forecasts, the Littler Report provides readers with a comprehensive review of the employment law trends impacting the workplace now and into the foreseeable future.
- ***Insights.*** For complex employment and labor law issues, in-house employment counsel count on Littler's Insight Newsletters for in-depth analysis of today's legal employment challenges.

INTERNET

Our website, www.littler.com, offers access to Littler's compliance tools, attorney biographies, case studies, practice areas, events, and publications.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Sep-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-60 to Truck Centers of Arkansas (Springdale) in the amount of \$96,314 for the purchase of one tandem axle diesel dump truck for use by Water & Sewer division.

\$96,314.00 Cost of this request	\$ 195,165.00 Category/Project Budget	Medium/Heavy Utility Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 76,358.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02079.1 Project Number	\$ 118,807.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

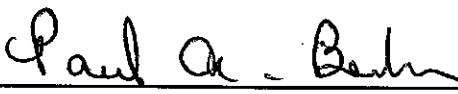
Previous Ordinance or Resolution # _____

Department Director _____ Date _____

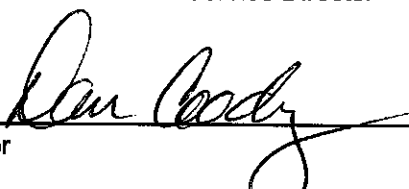
Original Contract Date: _____

 9/4/2007
City Attorney Date

Original Contract Number: _____

 9-7-07
Finance and Internal Service Director Date

Received in City Clerk's Office
ENTERED 8-31-07

 9/4/07
Mayor Date

Received in Mayor's Office
ENTERED 9/4/07

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 3
of Arkansas
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE TANDEM AXLE DUMP TRUCK

RECOMMENDATION: That City Council approve the purchase of one tandem axle diesel dump truck for use by Water & Sewer Division in the amount of \$96,314.

BACKGROUND: Bid #07-60 was opened on August 16, 2007 for one tandem axle diesel dump truck for assignment to the Water and Sewer Division. Six bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas (Springdale) meets all specifications.

This purchase was approved at the May Equipment Committee meeting for purchase from a prior bid. The truck was in inventory subject to prior sale and was sold prior to a purchase order being issued, necessitating a new bid process. Unit #719, a 1993 Mack flat bed dump truck has been scheduled for replacement in 2009, however a recent automatic transmission failure creates a need to perform major repairs or replace at this time. Spending an estimated \$12,000 to repair this fourteen year old truck does not make economic sense.

I recommend acceptance of the bid from Truck Centers of Arkansas in the amount of \$96,314.00.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Heavy Duty Trucks.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-60 TO TRUCK CENTERS OF ARKANSAS FOR THE PURCHASE OF ONE (1) TANDEM AXLE DIESEL DUMP TRUCK IN THE AMOUNT OF \$96,314.00 FOR USE BY THE WATER & SEWER DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

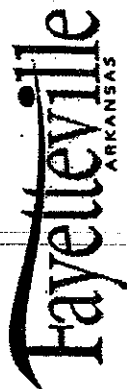
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

BID: 07-60

8/16/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-60, Tandem Axle Diesel Dump Truck

BIDDER	Manufacturer	Year	Model	Price Each	Total Bid Price
1 Diamond International Trucks #1	International Ox Body	2008 2007	7600 6x4 Stampede	\$93,165.00 \$13,895.00	\$107,060.00
2 Diamond International Trucks #2	International Hilbilt	2007	8600 Hilbilt	\$93,165.00 \$15,077.00	\$108,242.00
3 Glover's Truck Parts and Equipment	Sterling Hilbilt	2008 2007	LT9513 Hilbilt	\$88,799.00 \$15,077.00	\$103,876.00
4 Peterbilt of Fort Smith	PETERBILT HILBILT	2008 2008	367	\$100,623.00 \$15,077.00	\$115,700.00
5 Truck Centers of Arkansas #1	Freightliner Ox	2008 2007	Stampede	\$82,419.00 \$13,895.00	\$96,314.00
6 Truck Centers of Arkansas #2	Freightliner Hilbilt	2008		\$82,419.00 \$15,477.00	\$97,896.00

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

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE

P. Vice *A. Jones* 8/16/07



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 3
Truck Centers of Arkansas
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-60

Bid #07-60 was opened on August 16, 2007 for one tandem axle diesel dump truck for assignment to the Water and Sewer Division. Six bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas (Springdale) meets all specifications.

I recommend acceptance of the bid from Truck Centers of Arkansas in the amount of \$96,314.00.

This purchase was approved at the May Equipment Committee meeting for purchase from a prior bid. The truck was in inventory subject to prior sale and was sold prior to a purchase order being issued, necessitating a new bid process. Unit #719, a 1993 Mack flat bed dump truck has been scheduled for replacement in 2009, however a recent automatic transmission failure creates a need to perform major repairs or replace at this time. Spending an estimated \$12,000 to repair this fourteen year old truck does not make economic sense.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Heavy Duty Trucks.

Cc:
Gary Dumas

APPROVED

8/28/07

3 PRESENT
FERRELL ABSENT

2RB

City Of Fayetteville (Not a Purchase Order)										Requisition No.	Date:
Vendor #		16751		Vendor Name: TRUCK CENTERS OF ARKANSAS		P.O. Number		8/30/2007		Expected Delivery Date:	
Address:				Fob Point:		Mail Yes: No: XX					
City:				State:		Zip Code		Ship to code: 050		Quoted Attached Yes: No:	
Requester Barbara Olsen				Requester's Employee # 1940		Extension: 485					
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #		
1	2008 FREIGHTLINER TANDEM AXLE	1	EA	\$96,314.00	\$96,314.00	9700.1920.5802.00	02079.1				
2	DUMP TRUCK, DIESEL WITH 2007		EA		\$0.00						
3	OX STAMPEDE BODY. TO BE UNIT		EA		\$0.00						
4	#752, FIXED ASSET #700752		EA		\$0.00						
5			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:	96,314.00
										Tax:	EXEMPT
Approvals:										Total:	96,314.00
Mayor: _____ Department Director: _____ Finance & Internal Services Director: _____ Dispatch Manager: _____										Purchasing Manager: _____ IT Manager: _____	

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 4
Bid #07-61 Countryside Farm
and Lawn Equipment
Page 1 of 6

18-Sep-07
City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding bid #07-61 to Countryside Farm and Lawn Equipment (Springdale) in the amount of \$21,657 for the purchase of one two wheel drive utility tractor for use by Parks Division.

\$21,657.00

Cost of this request

\$

249,775.00

Category/Project Budget

Medium/Heavy Utility Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

115,140.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.1

Project Number

\$

134,635.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 4
yside Farm
Equipment
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE 2WD UTILITY TRACTOR

RECOMMENDATION: That City Council approve the purchase of one two wheel drive utility tractor for use by Parks Division in the amount of \$21,657.

BACKGROUND: Bid #07-61 was opened on August 16, 2007 for one two wheel drive utility tractor for assignment to the Parks Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Countryside Farm and Lawn Equipment (Springdale) meets all specifications.

This tractor is a replacement for unit #553, a 1995 Ford utility tractor that is no longer dependable for daily use. This replacement was approved by the Equipment Committee and funded in the 2007 budget process.

I recommend acceptance of the bid from Countryside Farm and Lawn Equipment in the amount of \$21,657.00.

Funds are available for this purchase in Fleet Replacement Special Project 02083 – Tractors and Mowers.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-61 TO COUNTRYSIDE FARM AND LAWN EQUIPMENT FOR THE PURCHASE OF ONE (1) TWO-WHEEL DRIVE UTILITY TRACTOR IN THE AMOUNT OF \$21,657.00 FOR USE BY THE PARKS AND RECREATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.

PASSED and APPROVED this 18th day of September, 2007.

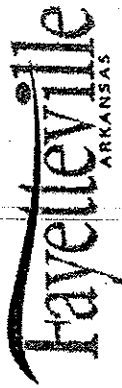
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-61
8/16/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-61, 2WD Diesel Tractor

BIDDER	Manufacturer	Year	Model	Total Bid Price
1 Countryside Farm and Lawn Equipment #1	John Deere		5325	\$24,729.22
2 Countryside Farm and Lawn Equipment #2	John Deere		5325	\$21,657.00
3 Riggs CAT	Challenger	2007	MT325	\$27,562.51
4 Williams Tractor, Inc.	New Holland	2007	TN70A	\$22,897.00

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

CERTIFIED: P. Vice
P. VICE PURCH MGR

A. Zuer
WITNESS

8/16/07
DATE



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 4
Bid #07-61 Countryside Farm
and Lawn Equipment
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-61

Bid #07-61 was opened on August 16, 2007 for one two wheel drive utility tractor for assignment to the Parks Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Countryside Farm and Lawn Equipment (Springdale) meets all specifications.

I recommend acceptance of the bid from Countryside Farm and Lawn Equipment in the amount of \$21,657.00.

This tractor is a replacement for unit #553, a 1995 Ford utility tractor that is no longer dependable for Jaily use. This replacement was approved by the Equipment Committee and funded in the 2007 budget process.

Funds are available for this purchase in Fleet Replacement Special Project 02083 – Tractors and Mowers

Cc:
Gary Dumas

APPROVED
8/28/07
3 PRESENT
FERRELL ABSENT
ZRB

City Of Fayetteville

(Not a Purchase Order)

Vendor #		13947		Vendor Name: COUNTRYSIDE FARM AND LAWN		Requisition No.		Date: 8/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Zip Code		Ship to code: 050		Division Head Approval Yes: <u>2913</u> No: _____	
Requester Barbara Olsen		Requester's Employee # 1940		Account Numbers		Extension: 485		Quotes Attached Yes: _____ No: _____	
Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Project/Subproject #	Inventory #	Fixed Asset #	
1	TWO WHEEL DRIVE UTILITY	1	EA	\$21,657.00	\$21,657.00	9700.1920.5802.00	02083.1		
2	TRACTOR, JOHN DEERE 5325		EA		\$0.00				
3	TO BE UNIT 5005, FIXED ASSET		EA		\$0.00				
4	#705005		EA		\$0.00				
5			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: 21,657.00			
Approvals:						Tax: EXEMPT			
						Total: 21,657.00			
Mayor: _____						Purchasing Manager: _____			
Finance & Internal Services Director: _____						IT Manager: _____			
Dispatch Manager: _____						Utilities Manager: _____			

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Sep-07
City Council Meeting Date

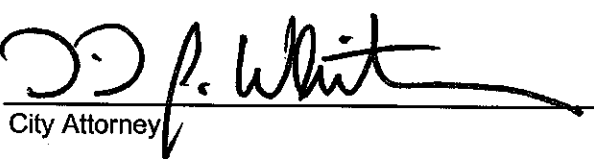
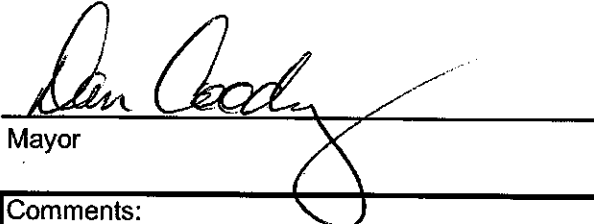
David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-62 to Hertz Equipment Rental (Springdale) in the amount of \$27,795 for the purchase of one self propelled concrete saw for use by Transportation Division.

\$27,795.00 Cost of this request	\$ 1,052,969.00 Category/Project Budget	Other Vehicles and Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 792,692.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 260,277.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Department Director	Date	Previous Ordinance or Resolution #
	9/4/07	
City Attorney	Date	Original Contract Date:
Finance and Internal Service Director	Date	Original Contract Number:
	9-4-07	
	Date	
Mayor	Date	Received in City Clerk's Office
	9/4/07	ENTERED 8-31-07
	Date	Received in Mayor's Office
		ENTERED 9/4/07

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 5
ment Rental
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DRB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE SELF PROPELLED CONCRETE SAW

RECOMMENDATION: That City Council approve the purchase of one self propelled concrete saw for \$27,795 for use by Transportation Division.

BACKGROUND: Bid #07-62 was opened on August 14, 2007 for one self propelled concrete saw for assignment to the Transportation Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Hertz Equipment Rental (Springdale) meets all specifications.

This saw is a replacement for unit #79, a 1992 jet wash trailer that was no longer dependable and underutilized. Due to the increased amount of concrete work by the Transportation Division, this replacement was approved in the 2006 budget.

I recommend acceptance of the bid from Hertz Equipment Rental in the amount of \$27,795.00.

Funds for this purchase were re-budgeted and are available in Fleet Replacement Special Project 02080 – Other Equipment.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-62 TO HERTZ EQUIPMENT RENTAL FOR THE PURCHASE OF ONE (1) SELF-PROPELLED CONCRETE SAW IN THE AMOUNT OF \$27,795.00 FOR USE BY THE TRANSPORTATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 5
Bid #07-62 Hertz Equipment Rental
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-62

Bid #07-62 was opened on August 14, 2007 for one self propelled concrete saw for assignment to the Transportation Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Hertz Equipment Rental (Springdale) meets all specifications.

I recommend acceptance of the bid from Hertz Equipment Rental in the amount of \$27,795.00.

This saw is a replacement for unit #79, a 1992 jet wash trailer that was no longer dependable and underutilized. Due to the increased amount of concrete work by the Transportation Division, this replacement was approved in the 2006 budget.

Funds for this purchase were re-budgeted and are available in Fleet Replacement Special Project 02080 – Other Equipment.

Cc:
Gary Dumas

APPROVED

8/28/07

3 PRESENT

FERRELL ABSENT

City Of Fayetteville

(Not a Purchase Order)

Vendor #		88490		Vendor Name: HERTZ EQUIPMENT RENTAL		Requisition No.		Date: 8/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX_			
Requester Barbara Olsen				Zip Code		Ship to code: 050		Taxable Yes: XX No:	
Requester's Employee # 1940				Requester's Employee # 050		Division Head Approval <i>[Signature]</i>		Quotes Attached Yes: No:	
Account Numbers				Extended Cost		Project/Subproject # 485		Inventory #	
Unit Cost				Unit Cost		Fixed Asset #			
Quantity				Unit of Issue		Inventory #			
1		EA		\$27,795.00		9700.1920.5802.00		02080.1	
2		EA		\$0.00					
3		EA		\$0.00					
4		EA		\$0.00					
5		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: 27,795.00									
Tax: EXEMPT									
Total: 27,795.00									

Approvals:

Mayor: _____

Finance & Internal Services Director: _____

Dispatch Manager: _____

Department Director: _____

Budget Manager: _____

Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

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

4-Sep-07

City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2576: Woodstock Community, 438: Submitted by Appian Center for Design for property located south of Wedington Drive from 46th to Broyles Avenue containing approximately 28.90 acres. The request is for a Residential Planned Zoning District for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

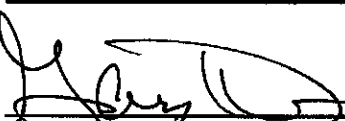
Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

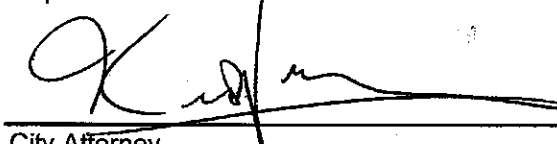

Department Director

8-17-07
Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a


City Attorney

8-17-07
Date


Finance and Internal Service Director

8-20-07
Date

Received in City Clerk's Office

ENTERED
8/17/07

Received in Mayor's Office

ENTERED
8/20/07
PH

Mayor

8/20/07
Date

Comments:

Left on the second reading 9/4/07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: August 14, 2007

Subject: Residential Planned Zoning District for Woodstock Community (R-PZD 07-2576)

RECOMMENDATION

The Planning Commission unanimously voted to forward the subject request, recommending approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Woodstock Community. This action would establish a unique zoning district for a mixed use development on a 28.90-acre tract located on the south side of Wedington Drive, between 46th Avenue and Broyles Avenue.

BACKGROUND

The site is zoned R-A, and is generally flat hay pasture with trees along the fence rows. The property is generally surrounded by single family residences, with some duplexes located adjacent to the property on the north side of Wedington. The site has direct access to Wedington Drive (State Highway 16), Broyles Avenue, and 46th Street. Wedington Drive is a Principal Arterial on the City's Master Street Plan and is state highway that is currently being widened by the State to a five-lane section adjacent to the property. Broyles Avenue is a Collector Street that has been improved by the City to a 28-foot wide street. 46th Street is an unimproved local street adjacent to the property. The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 382 attached and detached planned dwellings as well as 100,390 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in approval of all of the non-residential/commercial space (100,390 square feet), 104 townhouses, and 224 condominiums at this time. Total density for this project is proposed at 12.96 units per acre. The single family lots would require a preliminary and final plat approval. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On July 23, 2007 the Planning Commission voted 8-0-0 in favor of forwarding this request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2576, WOODSTOCK COMMUNITY, LOCATED SOUTH OF WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE; CONTAINING APPROXIMATELY 28.90 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 RA, Residential-Agricultural to R-PZD 07-2576, Woodstock Community, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

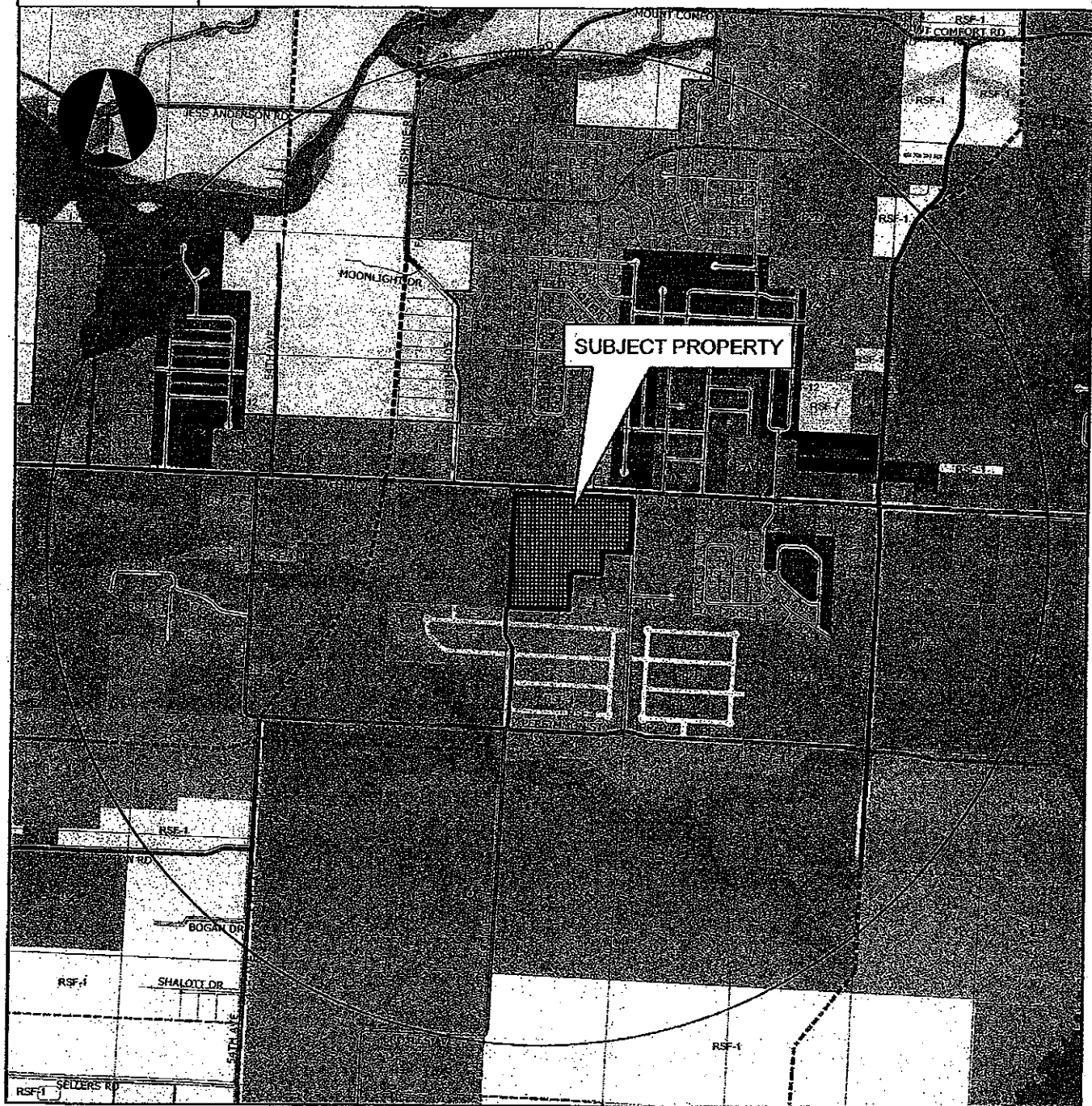
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

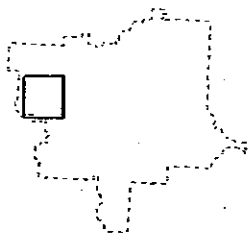
RPZD07-2576

One Mile View

WOODSTOCK COMMUNITY



Overview



Legend

Subject Property
RPZD07-2576

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

EXHIBIT "B"
R-PZD 07-2576

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°15'08"E 3.06' FROM THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT SAID POINT BEING ON THE EAST RIGHT-OF-WAY OF BROYLES AVENUE AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY N02°06'49"E 733.46', N02°21'11"E 511.99' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID RIGHT-OF-WAY S87°34'33"E 139.56', N83°35'24"E 44.55', S88°01'12"E 87.99', S67°36'50"E 53.26', S87°22'34"E 27.88', N82°00'44"E 81.38', S87°19'33"E 819.69', S51°33'46"E 28.62' TO THE WEST RIGHT-OF-WAY OF NORTH 46TH AVENUE, THENCE ALONG SAID RIGHT-OF-WAY OF NORTH 46TH AVENUE S01°52'14"W 575.81', THENCE LEAVING SAID RIGHT-OF-WAY N87°16'34"W 300.48' TO A SET IRON PIN, THENCE S02°30'08"W 249.48' TO A SET IRON PIN, THENCE N87°16'34"W 332.21' TO A SET IRON PIN, THENCE S02°30'08"W 410.65' TO A SET IRON PIN, THENCE N87°15'06"W 639.76' TO THE POINT OF BEGINNING. CONTAINING 28.90 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2576

Page 1 of 8

The Planning Commission and Staff recommends the following conditions of approval associated with R-PZD 07-2576 (Woodstock Community).

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** This property has frontage on three streets: Wedington Drive, Broyles Avenue, and 46th Street. Wedington is being fully improved along the project frontage by the Arkansas State Highway Department, Broyles Avenue has recently been fully improved by the City, and 46th Street is an unimproved two-lane paved street along the project frontage and continues south until improvements to this street begin with the Cross Keys Subdivision. Based on the condition of the immediate surrounding street system and the impact of the amount of traffic generated by 100,390 square feet of non-residential spaces and 382 dwelling units from this project, staff recommends the following street improvements as being proportional to the development:
 - A. The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phases, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
 - B. The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
 - C. Street lights and sidewalks shall be installed along all public streets adjacent to the project boundaries pursuant to City codes.

PLANNING COMMISSION DETERMINED IN FAVOR OF THE STREET IMPROVEMENTS AS RECOMMENDED BY STAFF (07/23/07).

2. **Right-of-way dedication.** 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue by easement plat; 25' from centerline along 46th Street by easement plat; variable right-of-way dedication along the internal streets as depicted on the site plan by easement plat; private drives would be under an access

CONDITIONS OF APPROVAL:

R-PZD 07-2576

Page 2 of 8

easement owned and maintained by the property owner's association and dedicated by easement plat.

3. Planning Commission determination of a waiver of minimum street design standards:

- a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)) and 25' CRR for the street intersections with Broyles, a Collector. *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- b. The applicant requests a waiver to allow a different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. In addition, the palette of street widths proposed is not allowed under the Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.

1. *Staff recommends in favor of a waiver to construct the street cross sections as requested (see plat sheet 2 of 16) finding the more narrow street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity. Provided that 7.5' parking lane is maintained, as measured to the face of curb, and that all sidewalks to be used by the public be constructed with a 5' minimum width.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ii. *Alley cross-section/private drive aisle width. Staff recommends in favor of the alley widths as depicted on the revised alley exhibits showing turning movements on these alleys. The bump outs directly adjacent to the garages shall be a flat, paved driving surface to allow for vehicular movement as shown on the exhibit.*

PLANNING COMMISSION RECOMMENDED THAT STAFF WORK WITH THE APPLICANT FOR A RECOMMENDATION TO THE CITY COUNCIL (07/23/07).

THE APPLICANT AND STAFF MET SINCE THE PLANNING COMMISSION MEETING AND CAME TO AN AGREEMENT ON THE ALLEY WIDTHS AS DEPICTED ON THE REVISED ALLEY WIDTHS EXHIBITS ATTACHED TO THIS REPORT (08/14/07).

- c. The applicant requests a waiver of the centerline radii required by the City of

CONDITIONS OF APPROVAL:

R-PZD 07-2576

Page 3 of 8

Fayetteville Minimum Street Standards due to site constraints. The applicant proposes a 50' centerline radius on Street Four, where 150' is the minimum. *Staff recommends in favor of this request.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- d. Curb sections. The applicant requests 18" curb on all streets versus a standard 24" curb, in contrast to the City's street design standards. *Staff finds in favor of this request, agreeing with the applicant's justification that a narrow curb is acceptable in a Traditional Neighborhood Development as proposed.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ~~4. Planning Commission determination of appropriate curb cut location onto Wedington, a Principal Arterial. Staff does not support the curb cut directly east of Broyles Avenue approximately 100' to the east of the intersection onto Hwy 16/Wedington, a Principal Arterial. Staff finds that this curb cut may create a dangerous traffic condition in direct conflict with a future signalized intersection. Staff also has concern with the full turning movement proposed with the access west of 46th Street, and recommends the following revisions to the access proposed onto Wedington:~~

- ~~a) Remove the curb cut currently east of Building A.~~
- ~~b) Relocate the curb cut currently west of Building J to align with the drive aisle west of Building H.~~

~~Staff finds these two revisions will greatly enhance safety and provide mobility of pedestrians and traffic from this development, and also create a more traditional lot/block access pattern, serving multiple uses.~~

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

THE APPLICANT HAS FULLY ADDRESSED THIS CONDITION WITH THE REVISED SUBMITTAL (08/14/07).

5. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat.
6. A minimum of 26' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provide adequate room for a trash truck and arm to pick up residential trash carts.
7. Signs indicating future street extension shall be installed at all street stub-outs.

Commercial Design Standards

8. Planning Commission determination of commercial design standards for the commercial

CONDITIONS OF APPROVAL:

R-PZD 07-2576

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portion of the mixed use structures, and the stand-alone commercial structures, and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of other 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.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION, BUT REQUIRED THAT THE APPLICANT SHALL PROVIDE REVISED ELEVATIONS TO CITY COUNCIL TO SHOW GRADING/GARAGE ENTRIES FROM UNDERNEATH (07/23/07).

REVISED ELEVATIONS HAVE BEEN PROVIDED IN THE BOOKLET TO ADDRESS THE PLANNING COMMISSION'S COMMENT (08/13/07).

General

9. A preliminary and final plat approval is required prior to development of the single family portion of this project.
10. All infrastructure necessary to support Phase I of the project, including streets, is required to be constructed prior to final occupancy permits.
11. 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.
12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
13. 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.
14. 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. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless

CONDITIONS OF APPROVAL:

R-PZD 07-2576

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specifically waived or varied by the Planning Commission as part of the PZD approval.

15. Should the detention pond area be approved as part of this project, it shall be formally incorporated into the property by way of a property line adjustment prior to issuance of construction permits.

Phasing

16. This project is required to obtain all permits in accordance to the Phasing as listed below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions). *The PZD booklet should be revised to reflect this phasing, including an exhibit graphically depicting the limits of construction for each phase.*

Phase No.	Timeframe for Permits (years)	Timeframe for Construction (years)
Phase 1	1	2.5
Phase 2	2	3.5
Phase 3	3	4.5
Phase 4	4	5.5
Phase 5	5	6.5
Phase 6	6	7.5
Phase 7	7	8

Parks

17. PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres. A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.

Landscape and Tree Preservation Plan Conditions

18. Planning Commission determination of a waiver of Unified Development Code Section 177.04(D)(3). *Staff finds in favor of the waiver for greenspace. Currently Chapter 177.04(D)(3) requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

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19. Installation of the sidewalk north of Building H needs to be coordinated with the Urban Forester and the Sidewalk Administrator to achieve the highest amount of preservation.
20. Mitigation will be required on the site. The applicant has requested and been approved to utilize the Residential On-site Planting option. Using a combination of low and high priority trees, 215 (2) inch caliper large species trees will be required for this development.
21. The 215 mitigation trees will be planted at the time of C of O for the building they are associated with. If all the trees can not be located on the site, outside of utility easements, money in lieu will be accepted.
22. A 3-year bond, letter of credit, or check will be required before issuance of a final certificate of occupancy for the buildings in phase I. This should amount to \$53,750.
23. The Tree Preservation Calculations do not include canopy removed for the proposed single family homes. At the time of development approval, this canopy will be assessed for preservation and subsequent mitigation.
24. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
25. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.

Plat and Booklet Revisions

27. Plat revisions to be completed prior to Planning Commission:
 - a. Provide two points in Arkansas State Plane Coordinates on the plat.

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. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Add this note to the site plan and all construction documents. Elevations shall be submitted to Planning staff for review and approval prior to building permit.

CONDITIONS OF APPROVAL:

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30. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
31. 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.
32. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
33. 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.
34. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Final plat for this project that shall include all easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

~~35. The PZD booklet shall be revised to add a note to the maximum building height for PA-1 to 62' as measured to the top of the parapet.~~

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

~~36. The PZD booklet shall be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.~~

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THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

37. The PZD booklet shall be revised to correct reference to on-street parking on page 6, change note that sidewalk cafes are allowed only by conditional use, and eliminate the duplicate text on alleys on page 32.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).



Planning Commission Meeting
July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 18, 2007 Updated August 13, 2007

R-PZD 07-2576: Planned Zoning District (WOODSTOCK COMMUNITY, 438): Submitted by APIAN CENTER FOR DESIGN for property located ALONG W. WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 28.90 acres. The request is for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame. The request also includes development approval for the non-residential, mixed use, and multi-family portion of the project at this time.

Property Owner: HANK BROYLES
Planner: ANDREW GARNER

Findings:

July 12, 2007 Subdivision Committee: Meeting minutes from the July 12, 2007 Subdivision Committee meeting are attached to this report.

Property Description: The subject property consists of approximately 28.90 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-A, and is generally flat hay pasture with trees along the fence rows. The property is undeveloped.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single family residences; Ozark Electric facility, Duplexes	R-A; RSF-4; RT-12
South	Single family residences	RSF-4; R-A
East	Single family residences	R-A
West	Pasture	R-A

Proposal: The request is for rezoning and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 382 attached and detached planned dwellings as well as 100,390 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in development approval of all of the non-residential/commercial space (100,390 square feet), 104 townhouses, and 224 condominiums. The 54 single family lots are not proposed to be subdivided or developed at this time, and would be required to go through preliminary and final plat prior to development.

Master Development Plan: The proposed uses over the site are listed in *Table 1.*

Table 1
Woodstock PZD 07-2576
Land Use Summary

TYPE OF USE	PLANNING AREA	DENSITY (UNITS/ ACRE)	DWELLING UNITS	NON- RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON- RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Mixed Use	PA-1	21.92	224	9,661	98,740	10.22	34.67%
Townhouse	PA-2	13.76	104	NA	NA	7.56	15.51%
Single Family	PA-3	6.46	54	NA	NA	8.36	20.30%
Civic Building	PA-4	0.00	0	494	1,650	3.34	10.18%
TOTAL		12.96	382	3,405	100,390	29.48	100%

This project is designed to be a Traditional Neighborhood Development (TND) including a variety of housing types and land uses in a defined area. Rather than a typical, sprawling subdivision, this development attempts to create an eclectic, urban neighborhood of various uses connected by a network of sidewalks, streets and lanes suitable for pedestrians as well as vehicles. The north side of the property fronts onto Wedington Drive (State Highway 16), a Principal Arterial, the west fronts onto Broyles Avenue, a Collector Street, and the east side of the property fronts onto 46th Street, a Local Street. The property is located in an area designated for a City Neighborhood Area on the Future Land Use Map.

The proposed zoning criteria and site plan allow for a denser layout of single-family residences (6.46 units per acre in Planning Area 3) along the southern edge of the property adjacent to existing single family residences, with mixed-use buildings, townhouses, non-residential buildings, and private open space interspersed throughout the remainder of the site. This site layout and proposal would not be allowed under any standard zoning criteria. The zoning criteria 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: Access is proposed directly off of Wedington Drive, 46th Street, and Broyles Avenue with several points of ingress/egress. The development has a number of well-

connected interior public streets, alleys, and private drives. A variety of street cross-sections is proposed and is designed to calm traffic and encourage pedestrian comfort and activity throughout the development. These street sections are narrow with small curb return radii consistent with the concepts of the Institute of Transportation Engineers and Smart Code, but do not meet the City's Unified Development Code or current Master Street Plan criteria. All streets with the exception of the Streets Three and Five will have designated on-street, parallel parking. The project provides vehicular connection to Wedington Drive, Broyles Avenue, and 46th Street to the north, west, and east respectively. Connectivity to the south is provided with a public street stub-out, and by providing public alleys along much of the southern property line.

Parking: The majority of the mixed use buildings will face onto Wedington Drive, with surface parking in the rear of these buildings, as well as in underground garages. Parking is provided on the public streets and along private drives, and garage parking is provided for the townhouses and single family residences.

Phasing: Several phases are planned for Woodstock Community over the next several years as listed below. *The Project Phase exhibit provided in the PZD Booklet needs to be updated to reflect the phases as listed in the most recent submittal.* All permits required for development within these phases are required to be obtained and constructed within the specified timeframe. A one-year extension will be permitted, subject to Planning Commission approval.

Phase No.	Timeframe for Permits (years)	Timeframe for Construction (years)
Phase 1	1	2.5
Phase 2	2	3.5
Phase 3	3	4.5
Phase 4	4	5.5
Phase 5	5	6.5
Phase 6	6	7.5
Phase 7	7	8

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

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial); Broyles Avenue (Collector Street); 46th Street (Local Street)

Right-of-way Dedication: 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue; 25' from centerline along 46th Street; variable right-of-way dedication along the internal streets as depicted on the site plan; private drives would be under an access easement owned and maintained by the property owner's association.

Street Improvements: The proposed addition of over 100,000 SF of non-residential space and 382 dwelling units will have a significant impact on surrounding infrastructure. However, much of the surrounding infrastructure has been improved or is being improved in the near future. The City constructed Broyles Avenue to the west which is a 28-foot wide street without a turn lane at the intersection of Wedington. The State is currently in the process of widening Hwy 16 along

the north property line. While these improvements will aid in accommodating additional traffic load generated by this development, 46th Street is currently an unimproved and narrow street, and will undoubtedly bear a substantial burden of traffic, given the proximity of the Boys and Girls Club and Owl Creek elementary School. Additionally, a traffic signal to moderate movements into and out of the site onto Hwy 16 at Broyles Avenue, a Collector Street, will be warranted in the near future. Staff's recommendation for street improvements at the Subdivision Committee did not coincide with the applicant's proposal. At that time it included the following:

- A full assessment for a traffic signal at Broyles and Wedington (the State Highway Department is installing conduit for a future signal at this location) in the amount of \$125,000 prior to issuance of a building permit.
- Continuation of street improvements on both sides of 46th Avenue, from Wedington south to where the street is currently improved (28-foot section with curb, gutter, pavement).
- Install street lights every 300' along Broyles Avenue and at intersections, where needed.

After a meeting with the applicant explaining staff's position for these recommendations, the applicant has presented a different proposal, which indicated the paying for half of the traffic signal over the first three phases of development (\$62,500.00) and improvements to both sides of 46th Street along the property frontage, with the first phase of development.

Staff has further evaluated the traffic study prepared for this development with the City's transportation engineer, and concurs that this development alone does not warrant a traffic signal, though it will increase the vehicle trips at this intersection. Further, property to the south of this property currently exists as large-lot residential, with the potential for redevelopment in the future. Based on these factors, staff has revised its recommendation for street improvements to include the following:

- The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phase, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
- The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
- Street lights and sidewalks shall be installed along all public streets adjacent to the

project boundaries pursuant to City codes.

The City does not participate in the purchase of right-of-way or realigning utilities for private development projects, when the need for the improvement is deemed to be the responsibility of the developer.

Staff is recommending the cost of these improvements be the responsibility of the developer, without a cost-share by the City, based on the impact of the development proposed. *Without these improvements, staff is not comfortable recommending approval of the project. The applicant has submitted a letter describing a different recommendation for the street improvements, attached to this staff report.*

Parks: Park Recreation Advisory Board reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres.

Solid Waste Service: The mixed use and non-residential portion of this development will dispose of solid waste in several trash compactors spaced throughout the development. The single family residences will be serviced by standard residential trash pick-up.

Tree Preservation: Existing Canopy: 7.55%
Preserved Canopy: 1.95%
Required Canopy: 7.55%
Mitigation: Required; 215 two-inch caliper trees planted onsite.

Public Comment: Eight members of the public spoke at the July 12, 2007 Subdivision Committee and were generally opposed to the project, citing concerns with community character, traffic, and property values (see attached minutes from the meeting).

Recommendation: Staff recommends forwarding **R-PZD 07-2576** to the City Council with the following conditions of approval:

Issues/Conditions to Address:

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** This property has frontage on three streets: Wedington Drive, Broyles Avenue, and 46th Street. Wedington is being fully improved along the project frontage by the Arkansas State Highway Department, Broyles Avenue has recently been fully improved by the City, and 46th Street is an unimproved two-lane paved street along the project frontage and continues south until improvements to this street begin with the Cross Keys Subdivision. Based on the condition of the immediate surrounding street system and the impact of the amount of traffic generated by 100,390 square feet of non-residential spaces and 382 dwelling units

from this project, staff recommends the following street improvements as being proportional to the development:

- A. The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phases, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
- B. The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
- C. Street lights and sidewalks shall be installed along all public streets adjacent to the project boundaries pursuant to City codes.

PLANNING COMMISSION DETERMINED IN FAVOR OF THE STREET IMPROVEMENTS AS RECOMMENDED BY STAFF (07/23/07).

- 2. Right-of-way dedication. 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue by easement plat; 25' from centerline along 46th Street by easement plat; variable right-of-way dedication along the internal streets as depicted on the site plan by easement plat; private drives would be under an access easement owned and maintained by the property owner's association and dedicated by easement plat.
- 3. Planning Commission determination of a waiver of minimum street design standards:
 - a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)) and 25' CRR for the street intersections with Broyles, a Collector. *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- b. The applicant requests a waiver to allow a different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. In addition, the palette of street widths proposed is not allowed under the Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.
- i. *Staff recommends in favor of a waiver to construct the street cross sections as requested (see plat sheet 2 of 16) finding the more narrow street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity. Provided that 7.5' parking lane is maintained, as measured to the face of curb, and that all sidewalks to be used by the public be constructed with a 5' minimum width.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ii. *Alley cross-section/private drive aisle width. The Unified Development Code 172.04 requires a minimum of 24' of pavement for a one way drive aisle with 90 degree parking. For most of the rear alley access for the townhouses, the alleys are well below 24' wide, some with a 12' dimension. The applicant has provided a brief recommendation from a traffic engineer on the alley widths. The AutoTurn analysis provided depicting with the revisions for Planning Commission appears to indicate that only one of the vehicles backing out onto the one-way alleys would be able to make a functional turning movement out of these two car garages. Staff recommends further graphical analysis clearly showing that the alleys will function at the narrow width proposed, or the alleys should be widened to a minimum 16' width, to allow adequate turning movements into and out of garages. Staff recommends in favor of the alley widths as depicted on the revised alley exhibits showing turning movements on these alleys. The bump outs directly adjacent to the garages shall be a flat, paved driving surface to allow for vehicular movement as shown on the exhibit.*

PLANNING COMMISSION RECOMMENDED THAT STAFF WORK WITH THE APPLICANT FOR A RECOMMENDATION TO THE CITY COUNCIL (07/23/07).

THE APPLICANT AND STAFF HAVED MET SINCE THE PLANNING COMMISSION MEETTING AND COME TO AN AGREEMENT ON THE ALLEY WIDTHS AS DEPICTED ON THE REVISED ALLEY WIDTHS EXHIBITS ATTACHED TO THIS REPORT (08/14/07).

- c. The applicant requests a waiver of the centerline radii required by the City of Fayetteville Minimum Street Standards due to site constraints. The applicant

proposes a 50' centerline radius on Street Four, where 150' is the minimum. *Staff recommends in favor of this request.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- d. Curb sections. The applicant requests 18" curb on all streets versus a standard 24" curb, in contrast to the City's street design standards. *Staff finds in favor of this request, agreeing with the applicant's justification that a narrow curb is acceptable in a Traditional Neighborhood Development as proposed.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ~~4. Planning Commission determination of appropriate curb cut location onto Wedington, a Principal Arterial. Staff does not support the curb cut directly east of Broyles Avenue approximately 100' to the east of the intersection onto Hwy 16/Wedington, a Principal Arterial. Staff finds that this curb cut may create a dangerous traffic condition in direct conflict with a future signalized intersection. Staff also has concern with the full turning movement proposed with the access west of 46th Street, and recommends the following revisions to the access proposed onto Wedington:~~

~~A. Remove the curb cut currently east of Building A.~~

~~B. Relocate the curb cut currently west of Building J to align with the drive aisle west of Building H.~~

~~Staff finds these two revisions will greatly enhance safety and provide mobility of pedestrians and traffic from this development, and also create a more traditional lot/block access pattern, serving multiple uses.~~

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

THE APPLICANT HAS FULLY ADDRESSED THIS CONDITION WITH THE REVISED SUBMITTAL (08/14/07).

5. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat.
6. A minimum of 26' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provide adequate room for a trash truck and arm to pick up residential trash carts.
7. Signs indicating future street extension shall be installed at all street stub-outs.

Commercial Design Standards

8. Planning Commission determination of commercial design standards for the commercial

portion of the mixed use structures, and the stand-alone commercial structures, and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of other 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.*

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General

9. A preliminary and final plat approval is required prior to development of the single family portion of this project.
10. All infrastructure necessary to support Phase I of the project, including streets, is required to be constructed prior to final occupancy permits.
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14. 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. The development shall be consistent with the site plan and mix of uses

as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

15. Should the detention pond area be approved as part of this project, it shall be formally incorporated into the property by way of a property line adjustment prior to issuance of construction permits.

Phasing

16. This project is required to obtain all permits in accordance to the Phasing as listed below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions). *The PZD booklet should be revised to reflect this phasing, including an exhibit graphically depicting the limits of construction for each phase.*

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Phase 7	7	8

Parks

17. PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres. A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.

Landscape and Tree Preservation Plan Conditions

18. Planning Commission determination of a waiver of Unified Development Code Section 177.04(D)(3). *Staff finds in favor of the waiver for greenspace. Currently Chapter 177.04(D)(3) requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

19. Installation of the sidewalk north of Building H needs to be coordinated with the Urban Forester and the Sidewalk Administrator to achieve the highest amount of preservation.
20. Mitigation will be required on the site. The applicant has requested and been approved to utilize the Residential On-site Planting option. Using a combination of low and high priority trees, 215 (2) inch caliper large species trees will be required for this development.
21. The 215 mitigation trees will be planted at the time of C of O for the building they are associated with. If all the trees can not be located on the site, outside of utility easements, money in lieu will be accepted.
22. A 3-year bond, letter of credit, or check will be required before issuance of a final certificate of occupancy for the buildings in phase I. This should amount to \$53,750.
23. The Tree Preservation Calculations do not include canopy removed for the proposed single family homes. At the time of development approval, this canopy will be assessed for preservation and subsequent mitigation.
24. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
25. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.

Plat and Booklet Revisions

27. Plat revisions to be completed prior to Planning Commission:
 - a. Provide two points in Arkansas State Plane Coordinates on the plat.

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. Trash enclosures shall be screened on three sides with materials compatible with the

surrounding structures, with access not visible from the street. Add this note to the site plan and all construction documents. Elevations shall be submitted to Planning staff for review and approval prior to building permit.

30. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
31. 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.
32. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
33. 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.
34. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Final plat for this project that shall include all easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

~~35. The PZD booklet shall be revised to add a note to the maximum building height for PA-1 to 62' as measured to the top of the parapet.~~

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

36. The PZD booklet shall be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

37. The PZD booklet shall be revised to correct reference to on-street parking on page 6, change note that sidewalk cafes are allowed only by conditional use, and eliminate the duplicate text on alleys on page 32.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

Planning Commission Action:	Approval	Tabled	<u>X</u> Forwarded to C.C.
Motion:	<u>Lack</u>		
Second:	<u>Myres</u>		
Vote:	<u>8-0-0</u>		
Meeting Date:	<u>July 23, 2007</u>		
Comments:			

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

Signature

Date

Findings associated with R-PZD 07-2576 (Woodstock Community)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Future Land Use Map adopted as part of City Plan 2025 designated this site City Neighborhood. 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, neighborhood shopping should be 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.

Rezoning this property to R-PZD 07-2576 for a traditional town form development with a majority of residential uses is consistent with the City Neighborhood designation, and is also consistent with several of the six major goals of the City Plan 2025. There are a number of waivers from the City's UDC that are applied for, and required, in order to develop a traditional neighborhood development, whether on this site or another.

The development proposes a maximum of 382 units and 100,390 square feet of non-residential space in a complete, compact, and connected community with meaningful open space. This development is different in use and density than most of the surrounding single-family lots in the immediate area. However, the site is located on a major transportation corridor (State Highway 16/Wedington Drive) with improvements currently taking place. The most intense uses front onto Wedington with the mixed use and stand-alone commercial buildings. The intensity and density decreases as the project site goes south, transitioning to townhouses, then detached single family residences along the southern property line adjacent to the Persimmon Place Subdivision.

Staff finds that the project is both different and compatible with the surrounding land uses and zoning, and that appropriate building setbacks have been provided adjacent to the surrounding single-family residences to provide a reasonable level of transition.

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

FINDING: The application has been reviewed and found to be compliant with applicable

statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow a mix of uses and density over the site. The proposed zoning criteria concentrates the density and intensity along the major thoroughfare, State Highway 16/Wedington Drive, and provides a transition to the existing single family residences adjacent to the south by providing single family residences along the southern property line.

While this traditional neighborhood development introduces a different development pattern to this area, the layout has been done sensitively and is compatible with surrounding land uses. The proposed non-residential uses are needed and appropriate in the area, and will be used by surrounding existing neighborhoods.

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

FINDING: The 28.90-acre property is flat undeveloped pasture with trees generally concentrated along the fencerows. The natural environment is suitable for the type of development proposed.

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

FINDING: The intended land uses, a mix of residential, commercial, and civic, will impact the existing traffic conditions. Currently this development proposes several points of ingress and egress onto Wedington Drive to the north, and other points of ingress/egress onto Broyles Avenue and 46th Street to the west and east. As noted in the conditions of approval, staff recommends that the eastern and western curb cuts onto Wedington Drive either be eliminated or relocated further away from Broyles Avenue. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not create traffic congestion or overburden the existing road network. Staff recommends that assessments for half the cost of a traffic signal be installed at the intersection of Wedington/Broyles Avenue be

constructed with the final three phases of development, and that 46th Street be fully improved on both sides of the street adjacent to the project and the pavement section widened to 24' south to where it is currently improved to improve this section of 46th Street, tying into the existing improvements completed with the Persimmon Place and Cross Keys subdivisions. Staff finds that with the recommended street improvements this development will not create traffic congestion or burden the existing road network. Additionally, providing a mix of commercial and residential uses and providing pedestrian improvements may encourage many to walk or bicycle to utilize those services in the area, thereby decreasing the use of the vehicular network.

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

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

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: The proposed Woodstock Community PZD provides for a different form of development than surrounding single family residences. This development is a traditional town form of development that integrates a variety of housing types and non-residential uses into one neighborhood, rather than single family residential suburban development in the existing surrounding developed areas. This project provides appropriate transition between these mixes of uses adjacent to a principal arterial street. The mix of uses proposed enhances the existing surrounding neighborhoods and transportation corridor. The transition in this development involves the careful use of single family detached units adjacent to existing single family residences, with the most retail and more intense residential areas located in the northern portion of the site adjacent to Wedington Drive.

This development is a compact, complete development pattern, all connected with a system of sidewalks, pedestrian walkways, and narrow streets. 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. The mix of uses and relatively high density encourages a balance of people living and working in the same area reducing daily vehicle trips that rely on the regional road network. Several public spaces are proposed that will be a benefit to the community. Circulation is compact and connected, adequate parking has been provided, and the inclusion of landscaping/mitigation trees will create a healthy urban canopy. Also see Staff Findings No. 1 and No. 4.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed, as there are not large surface parking areas or other areas requiring screening facing streets. All structures are oriented toward the streets. Surface parking for the mixed use buildings and stand-alone commercial buildings will be internal and screened from the streets. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are required.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of public streets and alleys, and private drives as described earlier in this report accessing Wedington Drive, Broyles Avenue, and 46th Street. 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. 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: The majority of the mixed use buildings will face onto Wedington Drive, with surface parking in the rear of these buildings, as well as in underground garages. Parking is provided on the public streets and along private drives, and garage parking is provided for the townhouses and single family residences. Parking proposed is in compliance with City code.

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

FINDING: This requirement has been met.

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

FINDING: Public, five-foot sidewalks are to be constructed adjacent to Wedington Drive and 46th Street along the property frontage and south offsite to tie into the existing sidewalk on 46th Street, sidewalks currently exist on Broyles Avenue. Internal to the development, sidewalks are provided along both sides of the public streets. A public sidewalk is provided around the civic building and green, and a public crushed stone trail will be provided around the stormwater detention area.

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

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

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

FINDING: Public water lines are being extended in accordance with city codes.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

(a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private

streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic and encourage pedestrian comfort and activity throughout the site. Staff recommends in favor of the waivers for street and alley design, with the revisions submitted for Planning Commission consideration.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to alter the previous site plans, bringing forward a plan that accomplishes more of the goals for tree preservation. Mitigation trees will serve to provide an increased overall canopy on the site, providing for an urban canopy.

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

FINDING: The non-residential structures on the site include the mixed use and stand-alone commercial buildings in PA-1. Staff recommends in favor of commercial design standards for these structures as reflected in the conditions of approval.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed (four stories facing Wedington Drive) are appropriate along this major transportation corridor.

(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, compatibility and transition of land use, provision of a variety of housing types and common open spaces. The following guiding policies within City Neighborhood Areas 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.

(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 single family residential and agricultural. Although a majority of the surrounding uses are single family residential at a density of approximately four units per acre, density under the current zoning (RSF-4) is not appropriate for development of this site for a traditional neighborhood. The city's development goals, future land use plan, and infrastructure for this area supports a higher density. 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 development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

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

FINDING: Building heights proposed for this project are typical of single and multi-family development, with the four-story mixed use buildings facing Wedington Drive providing adequate light and air to adjacent property, and the single family residences along the southern property line with a maximum height of 40'. With this development the aesthetics of this area would change from rural hay pasture, 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 relatively high, given the high density and mix of commercial uses. The lot coverages are appropriate given the urban 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. Rezoning this property to R-PZD 07-2576, 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. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced 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 and non-residential 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 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. Rezoning of this property as proposed is advisable.

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

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

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

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

Engineering: Public water is located adjacent to the site. There are waterlines along Wedington, Broyles, and 46th. Water service will need to be extended through the property at the time of development.

Sanitary sewer is available adjacent to the site. Sewer service will need to be extended within the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development.

The site has access to Wedington Drive, Broyles Avenue, and 46th Street. Wedington Drive is under construction to be an improved 4 lane state highway in this location, Broyles Avenue is an improved two-lane road, and 46th Street is an unimproved local street adjacent to this property. Staff is recommending improvements to the public streets as reflected in the conditions of approval.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services. The Police Department expressed similar concerns with the curb cuts onto Wedington Drive as the Planning and Engineering Divisions.

Fire: The subject property is located 1 mile from the Station No. 7 located at 835 Ruppel Road with an expected response time of 2.25 minutes. No adverse impacts on call volume or response time are anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed

zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

R-PZD 07-2576 WOODSTOCK COMMUNITY

**Staff Recommended Alley Width Cross Section
Updated After July 23, 2007 Planning Commission**

From: "Evan Niehues" <eniehues@appiancenterfordesign.com>
To: "Andrew Garner" <agarner@ci.fayetteville.ar.us>, "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 8/1/07 7:53AM
Subject: Woodstock Alleys

Jeremy and Andrew,

Here are the alley exhibits we talked about. Please, keep in mind most of the templates are shown from the edge of the garage not where they will actually be parked in the garages. For a more accurate view of a parked car next to a backing up car see Exhibit 4 T-02/T-03 and Exhibit 2 T-64. Most views are of two cars backing up next to each other. Also, the part that seems to be cut out of the asphalt will actually be stamped asphalt to delineate the driving lane.

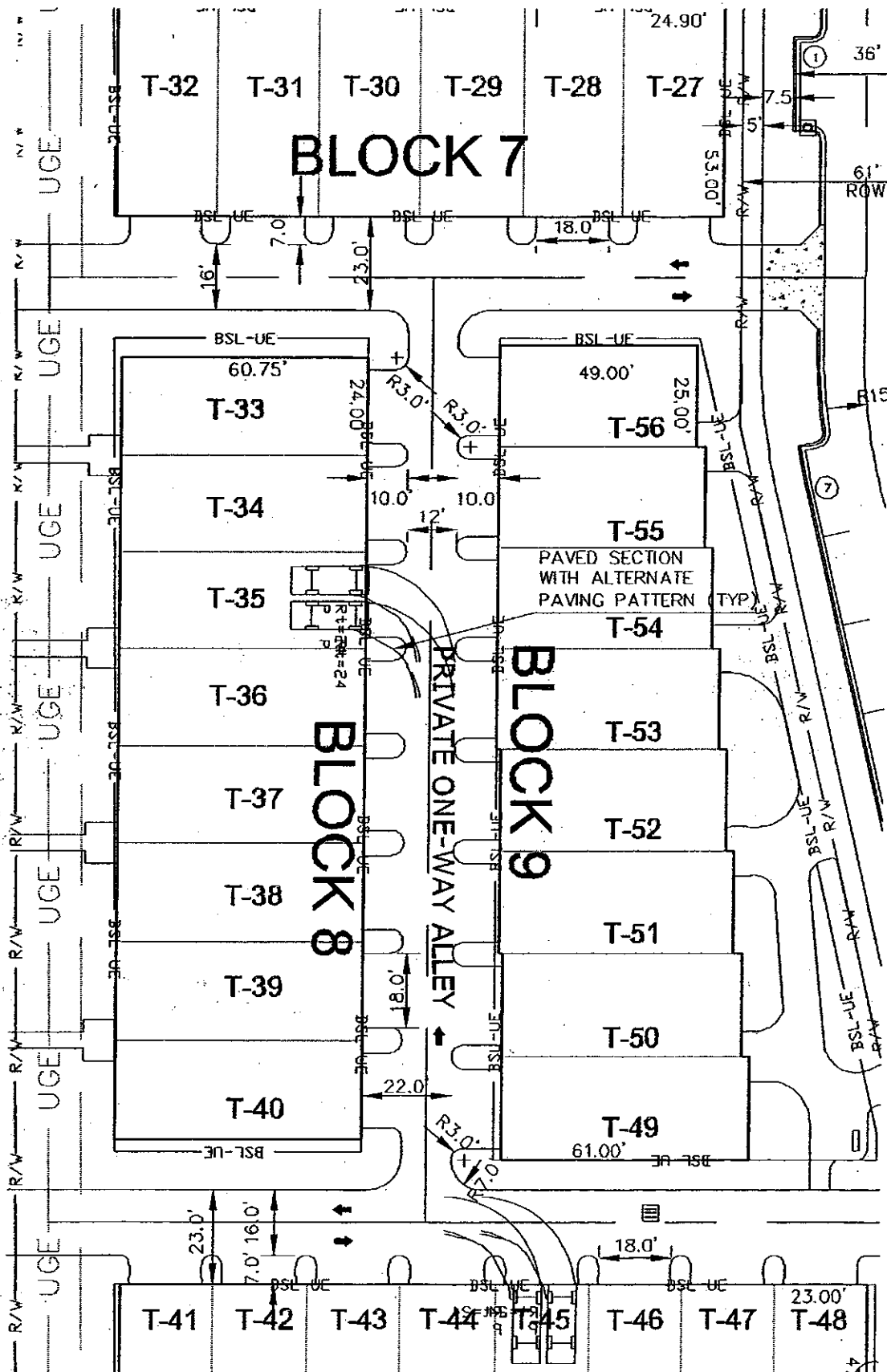
Thank you,

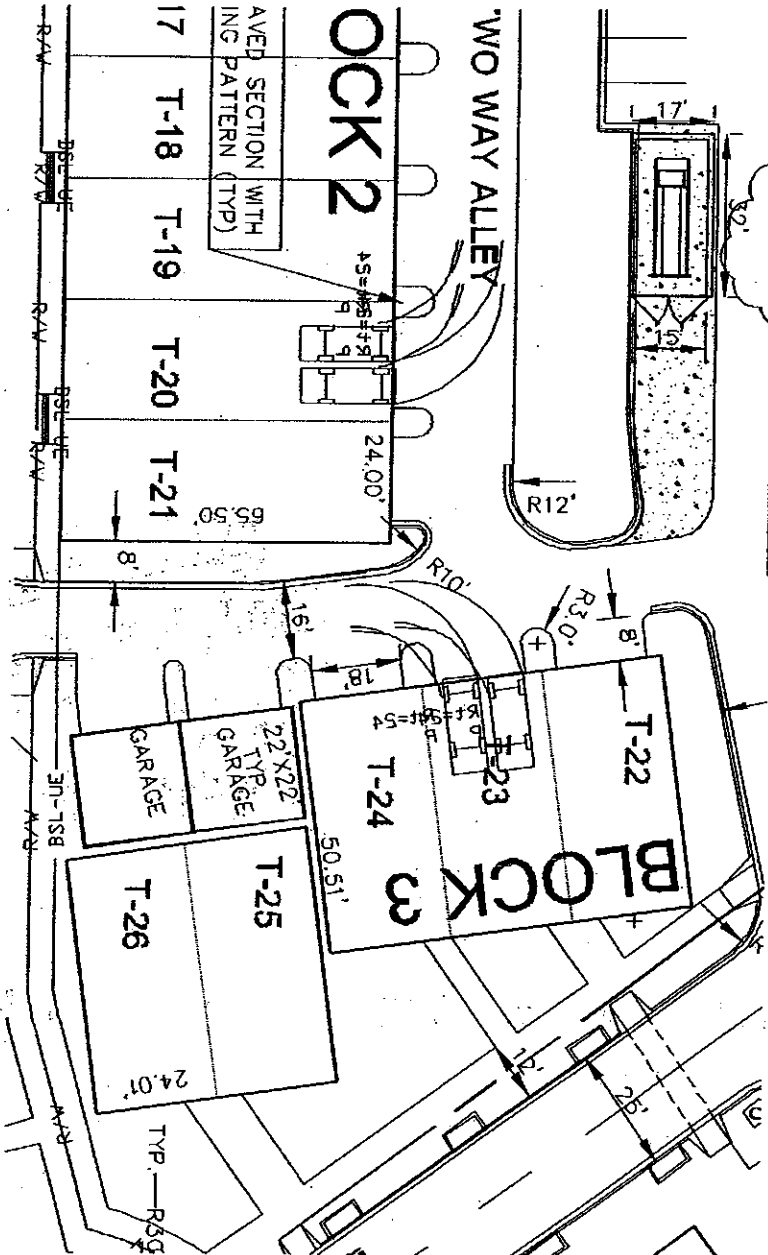
Evan Niehues

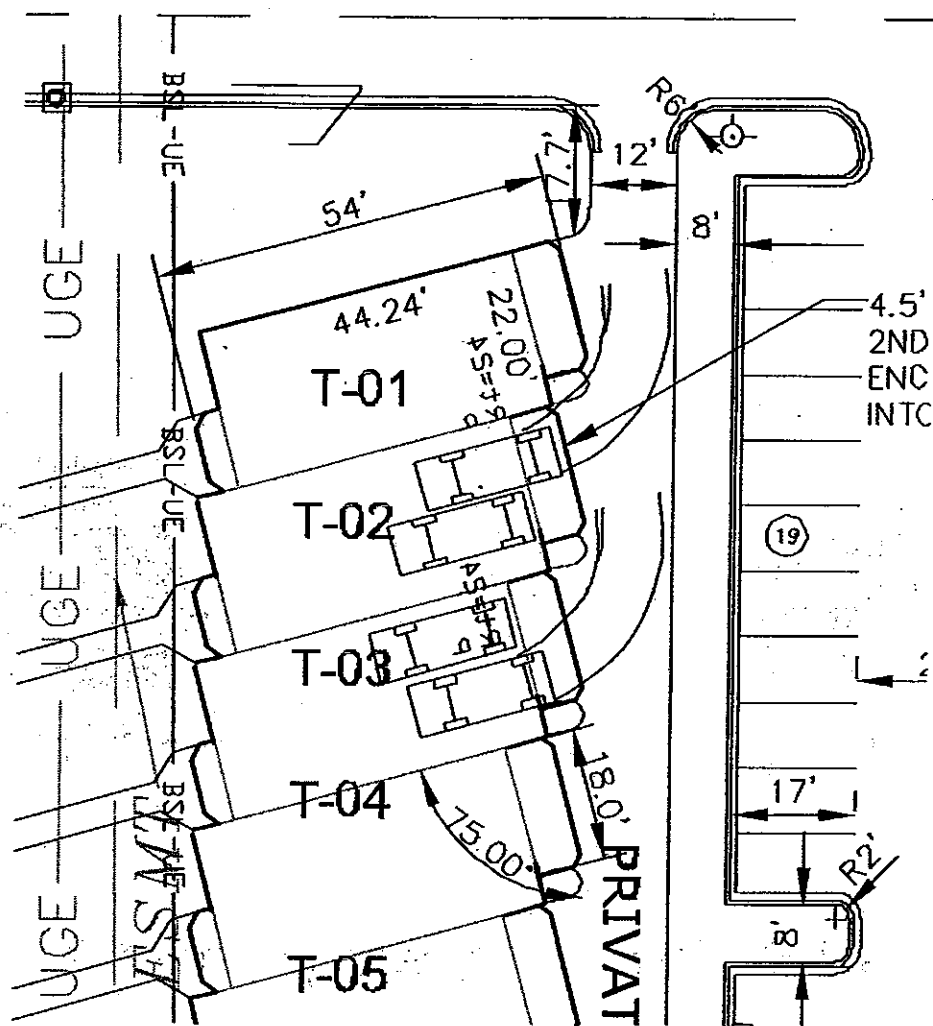
Appian Centre IV Design, Inc

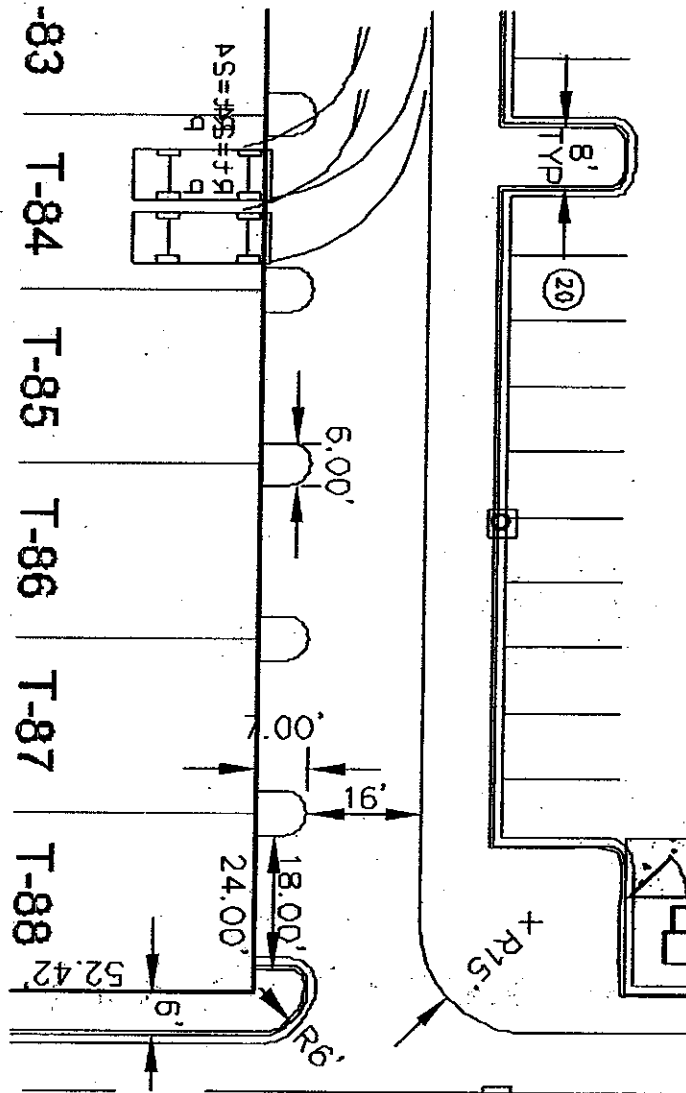
Phone: (479) 445-6009

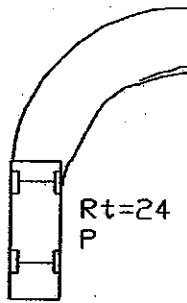
Fax: (479) 445-6050



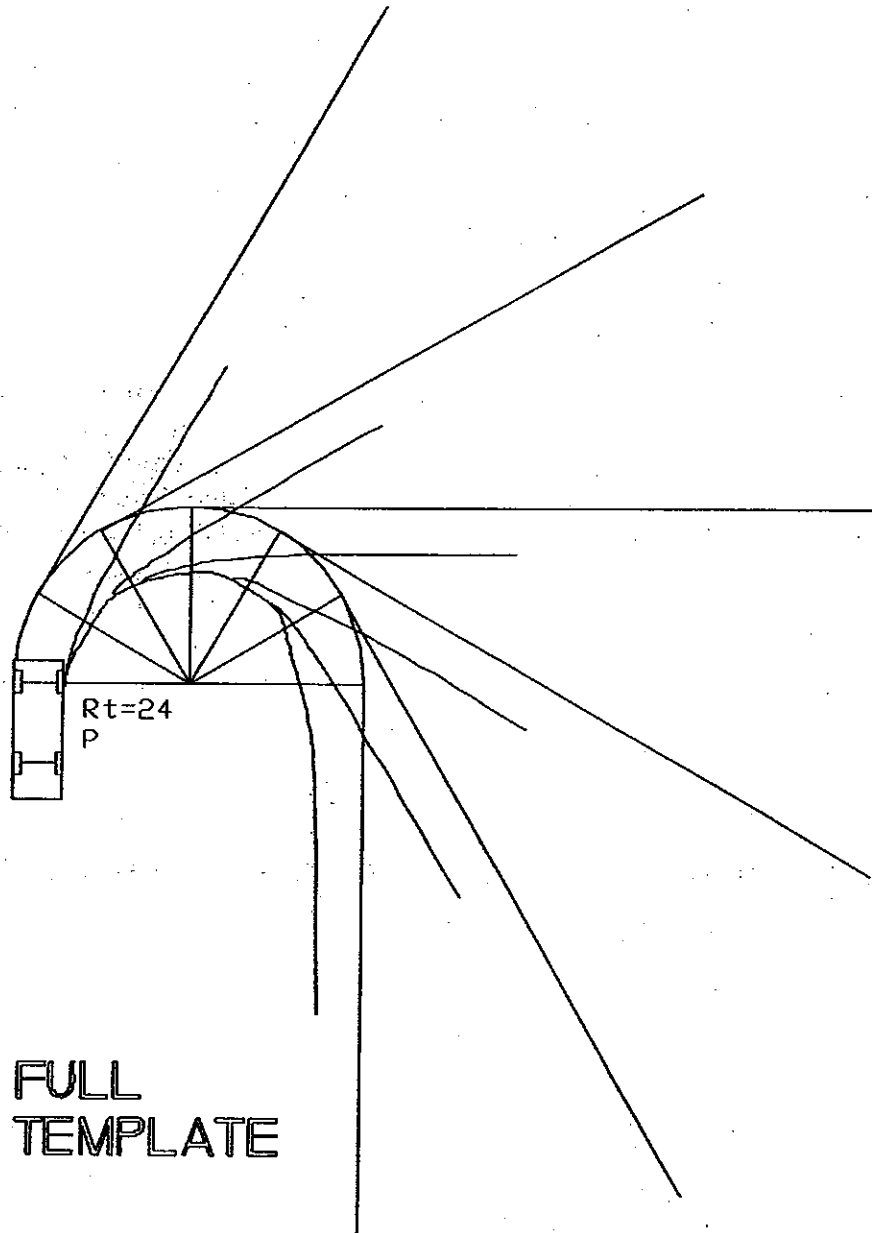








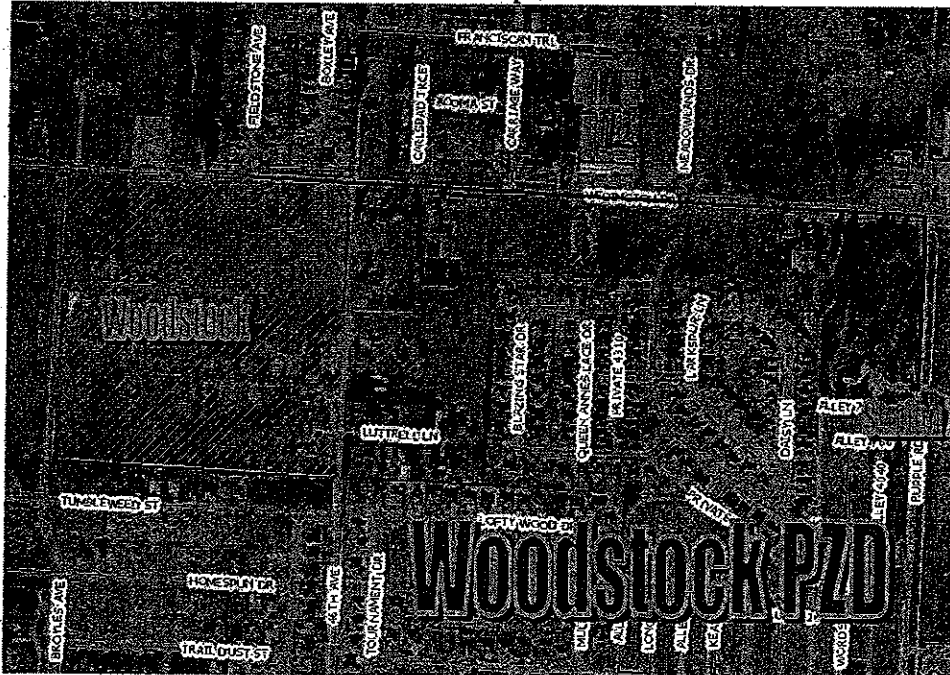
7' x 19' TRAFFIC TEMPLATE EQUIVALENT TO FULL-SIZE EXTENDED CAB CHEVY PICK-UP



FULL
TEMPLATE

MEMO

The Fire Department anticipates 87 (53 EMS & 34 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred. We do not calculated calls for service in Commercial Space but typically this will not affect our Call Volume. The development is to be constructed in 7 phases over an 8 year time frame and should not affect our call volume or response times.



Captain Dale Riggins
Fayetteville Fire Department



PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: July 17, 2007

ITEM #: R-PZD 07-2576: Planned Zoning District (Woodstock Community)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
NA	1-540 Design Overlay
Y	Street Tree Planting Standards
Y	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant

N=requested by City of Fayetteville

NA= not applicable

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

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

Findings

- **Staff finds in favor of the waiver for greenspace. Currently Chapter 177 requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.**

Conditions of Approval:

1. **Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.**
2. **Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval**

is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

3. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.



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

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner
FROM: Carole Jones, Park Planner
DATE: July 10, 2007
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: July 12, 2007
Item: PZD 07-2576 Woodstock Community
Park District: SW
Zoned: R-A
Billing Name & Address: Nock-Broyles Land Development
4921 Clear Creek Blvd., Fayetteville, AR 72704
PH: (479) 283-9545

Current Land Dedication Requirement

Money in Lieu

Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	328 @ .017 acre per unit = 5.57 acres	_____ @ \$680 per unit = \$ _____

COMMENTS:

- PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres.
- A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.
- Parks will review each phase as it is submitted for large scale development review.



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APIAN CENTRE FOR DESIGN

July 17th, 2007

Mr. Jeremy Pate and Mr. Ron Petrie
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Proposal #2

RE: Woodstock Community Traffic Signal Assessment and 46th St. Street improvements

The following is Appian Centre for Design's proposal to the City of Fayetteville for a traffic signal at the intersection of N. Broyles Ave and Wedington Dr. and street improvements for N. 46th Street.

Intersection of Broyles Avenue and Wedington Drive Traffic Light: Appian Centre for Design proposes that the Woodstock Community project be assessed half (\$62,500 of \$125,000) of the costs for construction of a new traffic signal to be located at the intersection of N. Broyles Ave. and Wedington Drive. We are requesting that the associated fees be staggered proportionally (1/3 of the assessment paid at each phase) through the first three phases.

Phase 1:	\$20,833.34
Phase 2:	\$20,833.33
Phase 3:	\$20,833.33

Total Cost: \$62,500.00

N. 46th Ave Improvements: Nock-Broyles Land Development will be funding and installing improvements on the west and east side of 46th street along approximately 680 LF bordering the Woodstock Community. Improvements to N. 46th Ave. will occur during construction of Phase I.

*The City of Fayetteville assumes all responsibility for acquiring necessary right of ways and realigning necessary utilities along N. 46th Ave.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050

Proposal #2
QD



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APIIAN CENTRE FOR DESIGN

Proposal #1
(64)

June 14, 2007

Mr. Ron Petri and Mr. Jeremy Pate
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Woodstock Community Traffic Signal Assessment and 46th St. Street improvements assessment

The following is Appian Centre for Design's proposal to the City of Fayetteville for a traffic signal at the intersection of N. Broyles Ave and Wedington Dr. and street improvements for N. 46th Street.

Concerning the intersection of Broyles Avenue and Wedington Drive, Appian Centre for Design proposes that the Woodstock Community project be assessed for a percentage of the construction costs proportional to the traffic generated from this development for construction of a new traffic signal to be located at the intersection of N. Broyles Ave. and Wedington Drive. This proposal is based upon the relatively small percentage of traffic generated from the Woodstock Community entering this intersection.

Concerning 46th street... Nock-Broyles Land Development will be funding and installing improvements on the west side of 46th street bordering the Woodstock Community, however we request the City of Fayetteville cost share 50% in the of improvements to the east side of 46th street. Appian Centre for Design also proposes the Woodstock Community project not is assessed any costs for construction of street improvements south of the projects property line based on the minimal traffic volumes generated by the Woodstock Community.

Woodstock Projected Traffic for Full Build Out = 5,844 vpd

- 27% (1,578) of Woodstock-generated traffic will use the intersection of Broyles and Wedington
- 35% (2,045) of Woodstock-generated traffic will use N. 46th going north to Wedington Drive.
- 5% (292) of Woodstock-generated traffic will use N. 46th going south from Woodstock.

Traffic Signal Assessment

Probable Costs of Traffic Signal Plus Intersection Improvements	= \$150,000
Projected traffic from full build-out of Phase I using Traffic Signal	= 1578 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from full build out	= 11%
Woodstock Community Signal Assessment Costs	= \$16,000

N. 46th Ave Assessment on East Side North of N 87° 05' 38" W

Probable Costs for East Side of 46 th Ave. North of N 87° 05' 38" W	= \$55,000
Projected traffic using 46 th Ave. bordering property	= 2,045 vpd
Local street traffic capacity	= 4,000 vpd
% traffic from full build-out	= 51%
Woodstock Community 46 th Ave Assessment Costs after 50% cost share	= \$27,500

*The City of Fayetteville assumes all responsibility for acquiring necessary right of ways and engineering necessary utilities

RECEIVED

JUN 15 2007

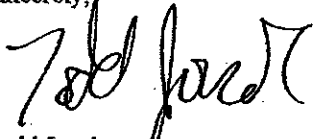
CITY OF FAYETTEVILLE

Construction of the Woodstock Community is expected to take approximately 2 to 8 years. As the improvements will occur over time, we are requesting that the collection of the associated assessment fees be staggered per construction phase to better account for the true time of impact. Construction to improvements along the west side of N. 46th Ave is to occur at time of construction to Phase II.

Woodstock Community Total Assessment

= \$43,500

Sincerely,



Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APPIAN CENTRE FOR DESIGN

July 16th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Woodstock Community Phasing Plan

CC: [REDACTED] Assistant City Engineer
Matt Casey P.E.

Mr. Pate,

Appian Centre for Design would like to propose the following phasing plan for the construction of the Woodstock Community:

Phase 1: Permits will be pulled within one year of Fayetteville City Council approval. Construction will be completed within two and one half years of approval.

Phase 2: Permits will be pulled within two years of Fayetteville City Council approval. Construction will be completed within three and one half years of approval. Improvements to the west side of 46th Ave. will be completed in phase two.

*Payment for the traffic signal at the intersection of Broyles Ave. and Wedington Dr. will be split proportionally (according to number of units) between phases one and two.

Phase 3: Permits will be pulled within three years of Fayetteville City Council approval. Construction will be completed within four and one half years of approval.

Phase 4: Permits will be pulled within four years of Fayetteville City Council approval. Construction will be completed within five and one half years of approval.

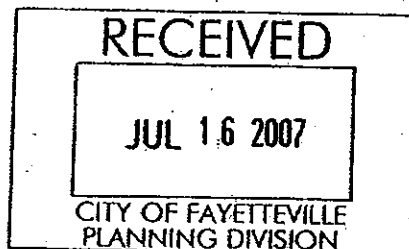
Phase 5: Permits will be pulled within five years of Fayetteville City Council approval. Construction will be completed within six and one half years of approval.

Phase 6: Permits will be pulled within six years of Fayetteville City Council approval. Construction will be completed within seven and one half years of approval.

Phase 7: Permits will be pulled within seven years of Fayetteville City Council approval. Construction will be completed within eight years of approval.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050





PLANNING
LANDSCAPE ARCHITECTURE
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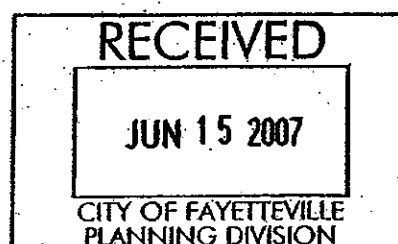
APIAN CENTRE FOR DESIGN

June 14th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Woodstock Community

CC: Glen Newman P.E. Staff Engineer
Andrew Garner Senior Planner
Matt Casey P.E. Assistant City Engineer



Mr. Pate,

Appian Centre for Design is writing to request waivers granting permission to:

1. Construction curb return radii (CRR) of 20' on all interior street and alley intersections
2. Implementation of street cross sections different than those required by the current Master Street Plan standard with regards to street width, greenspace, and sidewalk width.
3. Waiver for a minimum centerline curve radius on Street Four of 31.5
4. The option to use 18" curb versus the standard 24" curb

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all interior street intersections in order to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. A 20' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted within fifteen feet (15') of an intersection of streets. Along with the reinforced curbs and no parking zones designed to allow apparatus to utilize curbs for their turning needs if the roadway is otherwise restricted.

2. This request is for a waiver granting permission to implement street cross sections with the following conditions: 10 feet driving lanes, 7.5 feet wide parallel on-street parking, 1.5 feet of curb and gutter, 7 feet of green space or greater, and five feet sidewalks. The current Master Street Plan Cross sections were created in regards to RS-4 development. Appian Centre for Design believes that for the Woodstock Community to be successful

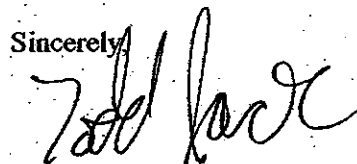
as a Traditional Neighborhood it must adopt street sections that lend toward a more compact, safer, and pedestrian friendly environment.

On-street parking will provide pedestrians with a feeling of separation from moving traffic along the street not obtained with greenspace. A greenspace of seven feet has proven adequate for proper tree growth in community developments throughout the United States and will prove a welcome alternative to the urban tree well with regards to the desired aesthetic quality along public streets within the Woodstock Community. A seven and a half feet parallel parking space will serve adequate for typically sized automobiles to be parked along the Woodstock Community's residential streets. A five feet sidewalk is wide enough for two large adults to walk abreast of each other on.

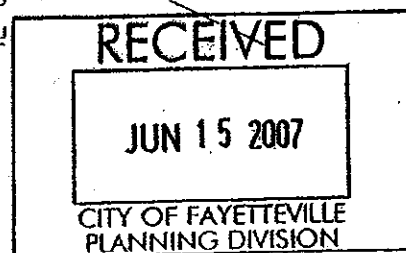
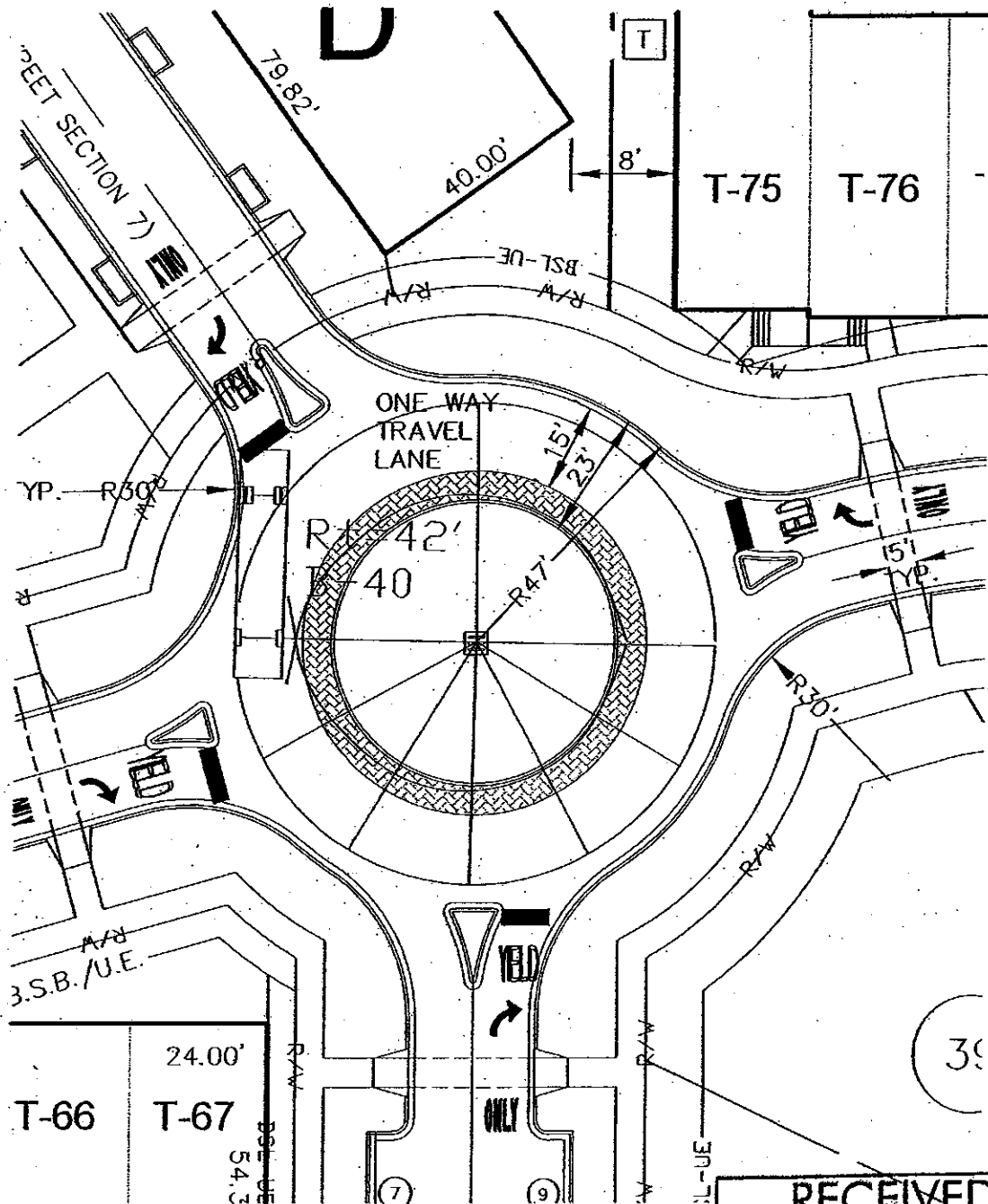
3. Due to site constraints, we are proposing a 31.5' centerline radius on Street Four. This radius will prove adequate for the small amount of residential traffic on the street along with any service or emergency vehicles that will require access into the rear of the Woodstock Community.
4. An 18" curb versus a standard 24" curb uses less concrete and is consistent with traditional neighborhood design in which aesthetics play a large role.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.

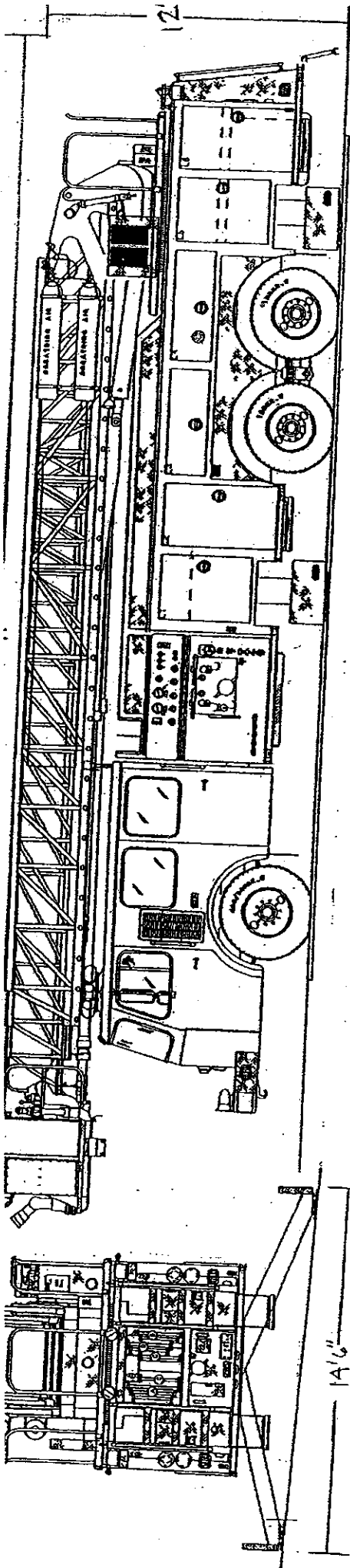
Sincerely,



Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050



FAYETTEVILLE'S LARGEST FIRE TRUCK

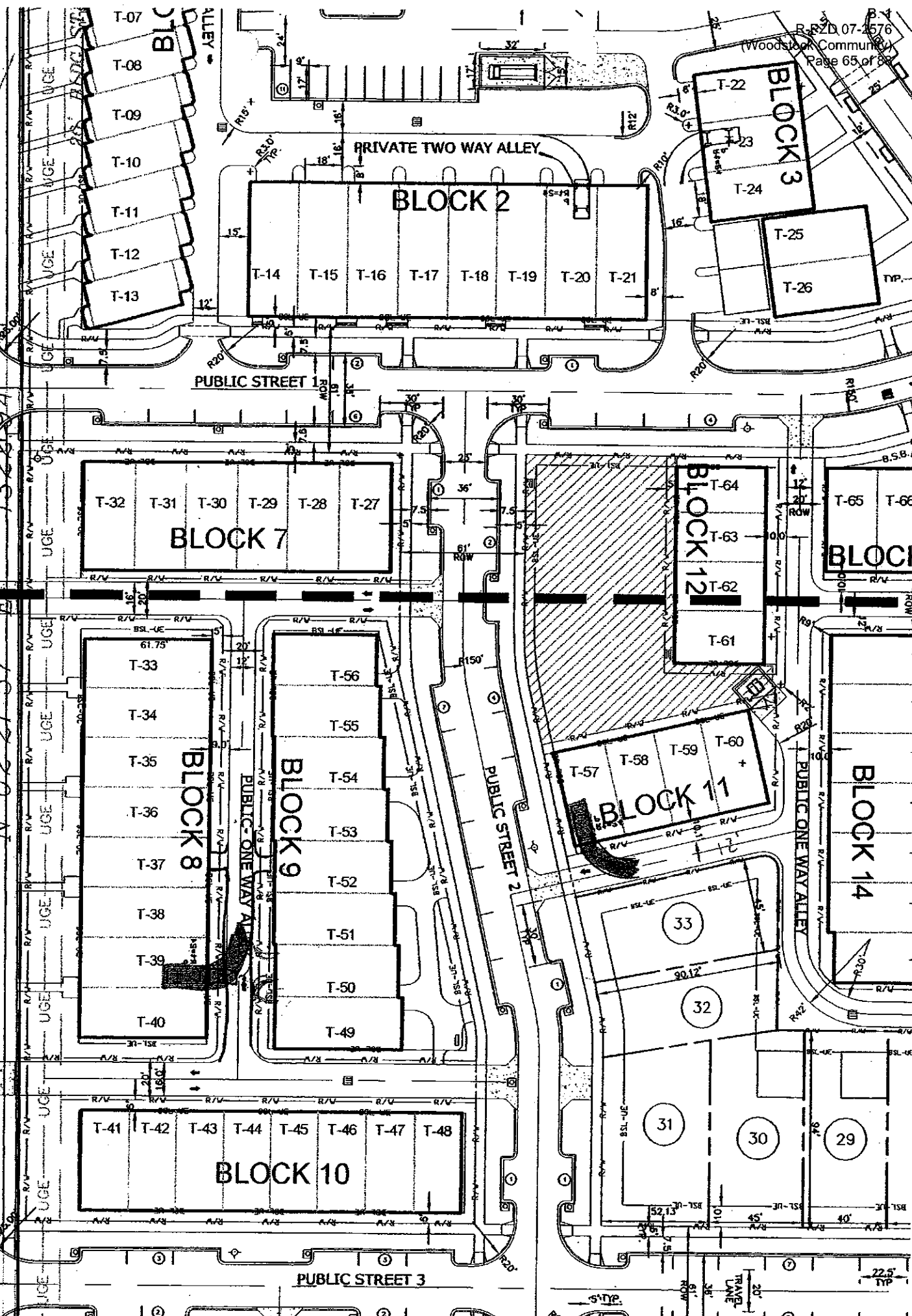


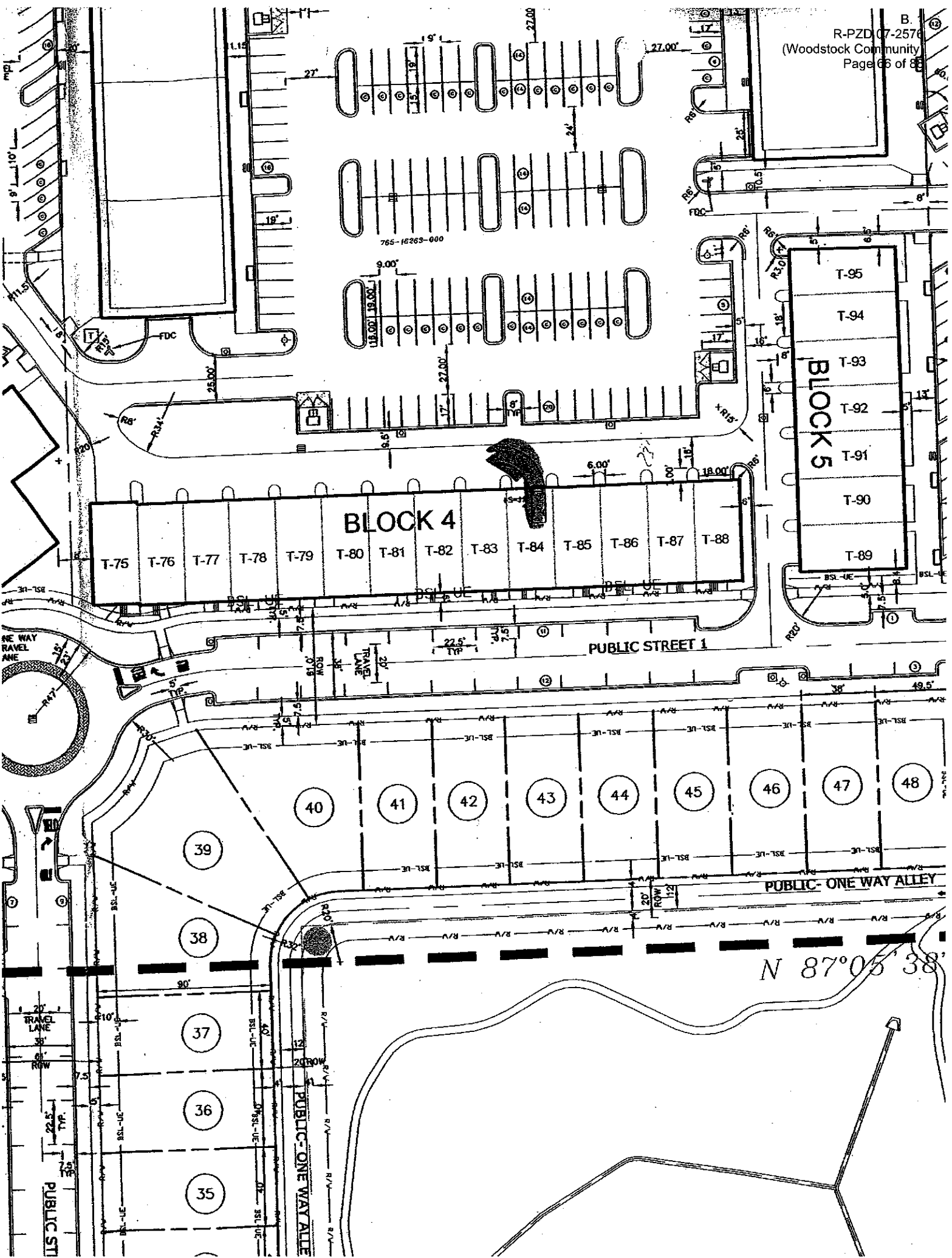
95' Platform Ladder
Vertical Height: 92 ft.
Horizontal Reach: 80.8 ft.
Wheel Base: 245 in.
Vehicle Length: 45 ft. 11 in.
Vehicle Height: 12 ft.
Turning Radius: 40 ft.
Vehicle Weight: 70,000 – 75,000 lbs.

EXISTING 5' SIDEWALK

1322094

N 02°21'55" W





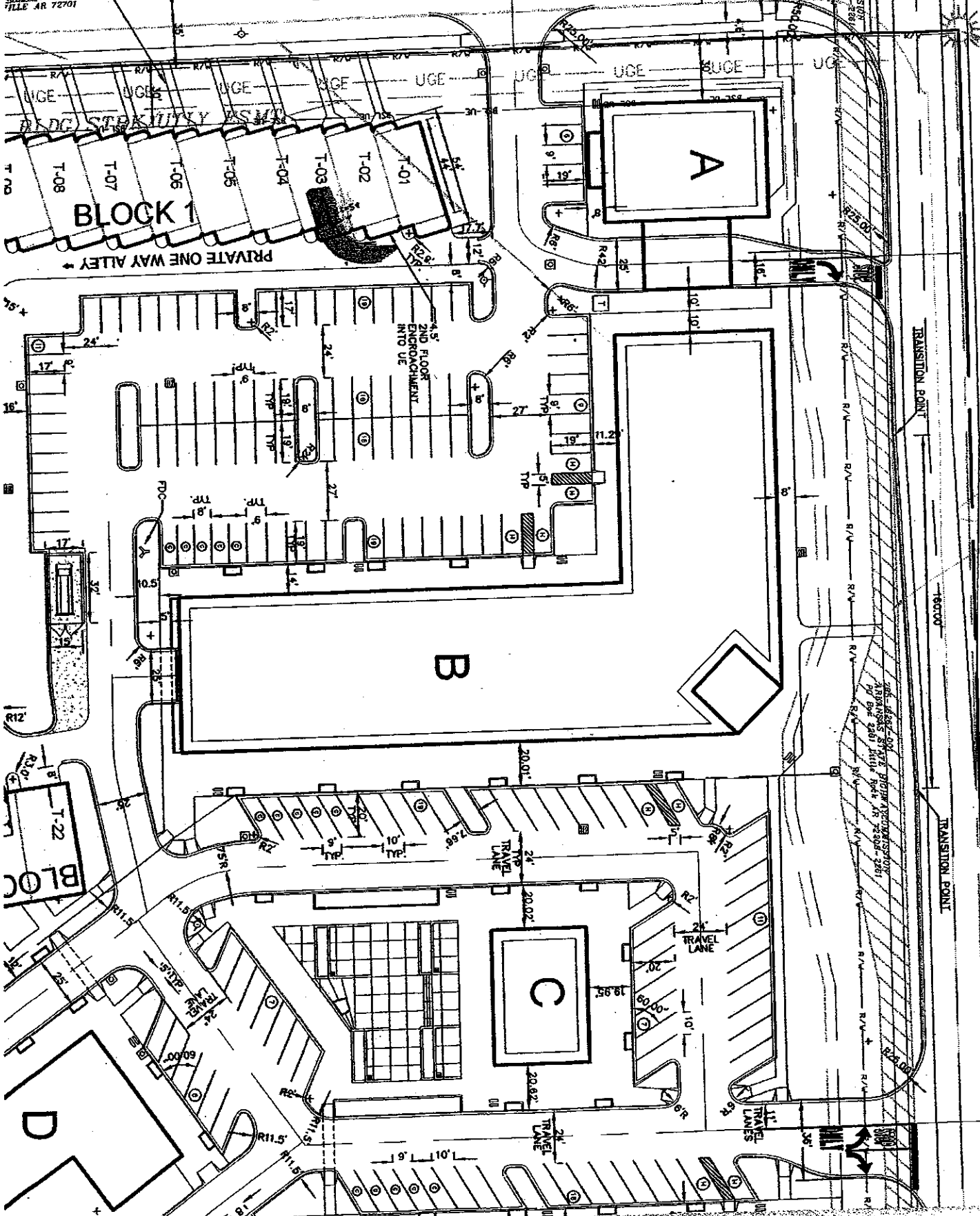
765-0932-101
ARIZONA STATE HIGHWAY COMMISSION
P.O. BOX 2801 LITTLE ROCK, AR 72203-2801

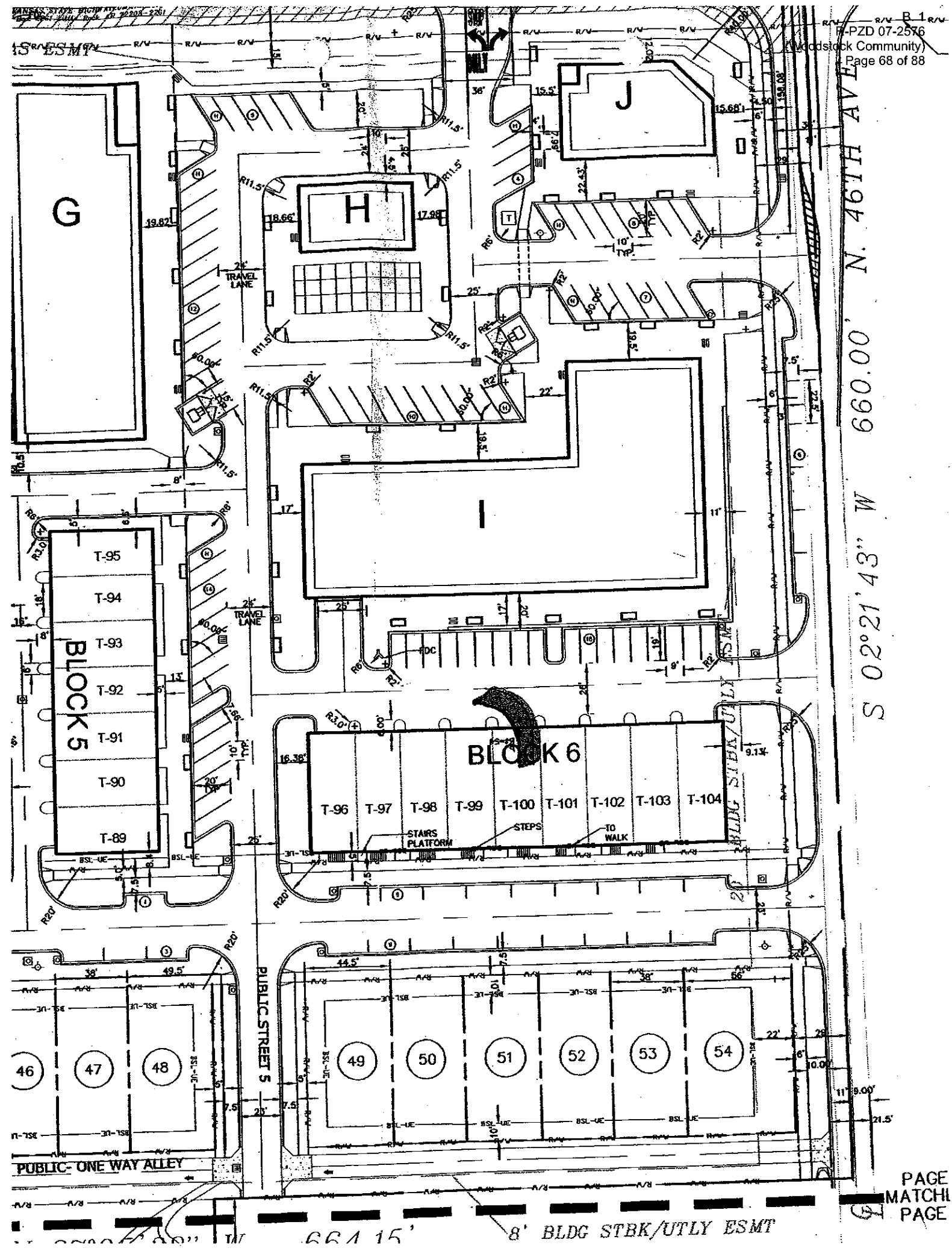
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S 87°05'38" E 1305.70'

SSASA MUNICIPAL CORPORATION
FILE AR 72701

N. BROYLES AVE.







PETERS & ASSOCIATES
ENGINEERS, INC.

July 10, 2007

Mr. Evan Niehues
Appian Centre for Design
1 East Center Street
Fayetteville, AR 72701

Re: P1251
Woodstock Development
Fayetteville, Arkansas
Alley Turning Movement Geometry Comments

Dear Mr. Niehues:

Peters & Associates Engineers, Inc. reviewed the alley turning movement geometry for the proposed Woodstock Development site plan provided by Appian Centre for Design on July 2, 2007. We offer the following recommendations to enable more safe and efficient access to residential units adjacent to the alleys:

- Shift townhouse T-01 south ten feet to allow adequate room to back into the alley without entering the travel lane to the north.
- Change the radii on U-shaped islands between townhouse driveways to three feet. These islands should not obstruct the view on T-01 to T-13.
- Change alley south of TH-27 to TH-29 from one-way to two-way.

It was found that the other alley setbacks will provide adequate access to the residential units they serve.

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

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

Gregory B. Simmons
Vice-President

Traffic Study

FINAL RESULTS: Traffic Signal Warrants Analysis										
Projected Conditions										
Hour warrant was met:										
Major St.: Wedington Drive										
Minor St.: N. 46th Ave.										
HOUR	SUM MAJOR	MAX. MINOR	VOLUME		COMB.		4 Hr.		Peak	
			600	900	480	720				
			150	75	120	60				
			1A	1B	1AB		2		3	
7:00	1431	11	0	0	0	0	0	0	0	0
8:00	958	7	0	0	0	0	0	0	0	0
9:00	951	6	0	0	0	0	0	0	0	0
10:00	998	7	0	0	0	0	0	0	0	0
11:00	965	10	0	0	0	0	0	0	0	0
12:00	996	10	0	0	0	0	0	0	0	0
13:00	1048	10	0	0	0	0	0	0	0	0
14:00	1028	10	0	0	0	0	0	0	0	0
15:00	1219	11	0	0	0	0	0	0	0	0
16:00	1393	11	0	0	0	0	0	0	0	0
17:00	1631	17	0	0	0	0	0	0	0	0
18:00	1316	13	0	0	0	0	0	0	0	0
19:00	1052	11	0	0	0	0	0	0	0	0
20:00	741	8	0	0	0	0	0	0	0	0
21:00	589	8	0	0	0	0	0	0	0	0
			0	0	0		0		0	
This intersection DOES NOT SATISFY the warrants for signalization as outlined in the "M.U.T.C.D."										

Table 7
Traffic Signal Warrants Results
Wedington Drive and
North 46th Avenue
Projected Traffic Conditions.

FINAL RESULTS: Traffic Signal Warrants Analysis										
Projected Conditions										
Hour warrant was met:										
Major St.: Wedington Drive										
Minor St.: Broyles Ave.										
HOUR	SUM MAJOR	MAX. MINOR	VOLUME		COMB.		4 Hr.		Peak	
			600	900	480	720				
			150	75	120	60				
			1A	1B	1AB		2		3	
7:00	1262	26	0	0	0	0	0	0	0	0
8:00	852	16	0	0	0	0	0	0	0	0
9:00	858	14	0	0	0	0	0	0	0	0
10:00	883	19	0	0	0	0	0	0	0	0
11:00	817	22	0	0	0	0	0	0	0	0
12:00	858	25	0	0	0	0	0	0	0	0
13:00	885	23	0	0	0	0	0	0	0	0
14:00	870	23	0	0	0	0	0	0	0	0
15:00	1052	27	0	0	0	0	0	0	0	0
16:00	1207	25	0	0	0	0	0	0	0	0
17:00	1293	33	0	0	0	0	0	0	0	0
18:00	1135	28	0	0	0	0	0	0	0	0
19:00	899	25	0	0	0	0	0	0	0	0
20:00	628	19	0	0	0	0	0	0	0	0
21:00	522	16	0	0	0	0	0	0	0	0
			0	0	0		0		0	
This intersection DOES NOT SATISFY the warrants for signalization as outlined in the "M.U.T.C.D."										

Table 8
Traffic Signal Warrants Results
Wedington Drive and
Broyles Avenue
Projected Traffic Conditions.

RECOMMENDED
SCHEMATIC
LANE GEOMETRIES

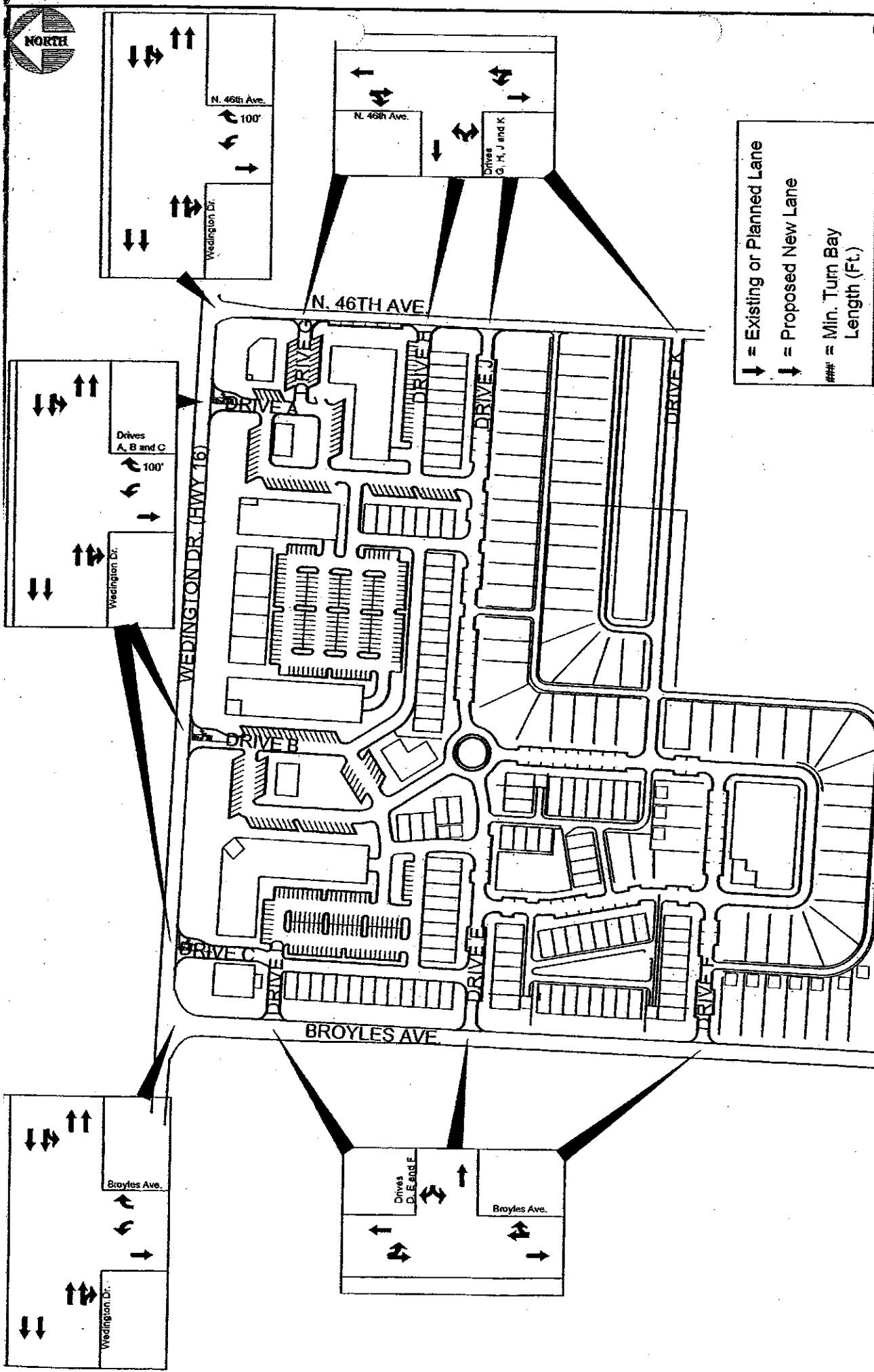
WOODSTOCK COMMUNITY
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1251
DATE: 3-21-2007

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



↓ = Existing or Planned Lane
↓ = Proposed New Lane
= Min. Turn Bay Length (Ft.)

Woodstock Community
07-2576

ADJOINING PROPERTY OWNERS COMMENTSReturn Comments concerning ~~the project described above~~

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:

UNITY CHURCH OF FAYETTEVILLE

Name of Property Owner (Printed)

Robert H. Hodge; BOARD TREAS.

Signature of Property Owner

Gillian Bone - President

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

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

Paul Marinoni

PAUL MARINONI, JR.
4995 WEDINGTON DRIVE
FAYETTEVILLE, AR 72704-5858

R-PZD 07-2576: Planned Zoning District (WOODSTOCK COMMUNITY, 438): Submitted by APPIAN CENTER FOR DESIGN for property located ALONG W. WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 28.90 acres. The request is for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame. The request also includes development approval for a portion of the project at this time.

Andrew Garner, Senior Planner, gave the staff report. He described the request, surrounding land uses and street system. The proposed PZD is to create an urban neighborhood with streets designed to be narrow for safety and pedestrian activity. The property is designated as a City Neighborhood Area on the Future Land Use Plan. Waivers are required for narrow street sections. The project is proposed to be developed in seven phases over eight years. Garner discussed staff's recommended street improvements as described in the staff report, and the revised recommendations on street improvements to that presented to the Subdivision Committee. At the Subdivision Committee eight members of the public spoke and were against the project. The City Neighborhood Designation of the site encourages a variety of residential uses. The proposal is consistent with many of the CityPlan 2025 goals. Garner described the site layout describing that the most intense uses including commercial and mixed use are along Wedington Drive, and that the density and intensity reduces away from Wedington, and that the southern portion of the property is wrapped with single family residential uses adjacent to the existing single family neighborhood to the south. The City Police Department provided a memo consistent with staff's recommendations to limit curb cuts onto Wedington for traffic safety reasons. Staff recommends additional alley width on several of the alleys to ensure adequate turning movement. Garner discussed condition of approval No. 4 regarding recommendations to limit and modify the curb cuts as they are proposed. Staff recommends in favor of Commercial Design Standards. Garner also discussed a requested greenspace waiver and gave staff's recommendation for approval of that waiver. Staff recommends that two conditions of approval be added including: No. 36 that the PZD booklet be revised to add a note for a maximum of 60' building height for PA-1 at the street level instead of 70' as proposed; and No. 37 that the PZD booklet be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.

Commissioner Cabe stated that he is not connected with the development, but has had some business dealings with the development team. These dealings will in no way affect or influence his decision on this project.

Bob Estes (public) had concerns with three main issues: density, infrastructure, and Peters and Associates, Inc. 46th Street is a Local Street and this project will increase traffic on it such that it would be a Collector Street in violation of its current Master Street Plan designation. Density should be based on five factors according to City policy: (1) Density of surrounding development; (2) current zoning designations; (3) urban development goals; (4) natural character of the site; and (5) impact of density on the surrounding properties. This project could meet one out of five of those goals, and would fail on the other four goals. Cannot improve 46th street because it is a Local Street.

Planning Commission
July 23, 2007
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In his experience taking several legal depositions of Peters and Associates (the applicant's consultant for the traffic study for this project), Peter's and Associates has never present himself as a traffic engineering expert.

Commissioner Anthes asked Estes to refrain from making personal comments.

Bassam Ziada (public) lives at 723 46th Street and has lived here since 2000. Background in traffic engineering, civil engineering, member of ITE, member of ITE Advisory Board. He discussed several details in the traffic study. The traffic counts were taken on the week of spring break and are therefore not accurate. 65% of traffic generate from the east will be from 46th Street. The applicant and staff recommend a traffic signal cost share at Broyles/Wedington. May need one at Broyles, but will certainly need one at 46th Street. The applicant is not showing any trips heading south on 46th Street. 46th Street goes south to Persimmon, and will be used to travel south from this development. He requests to table this item until the applicant provided a traffic study that shows accurate traffic movements. The City doesn't know if Wedington is four or five lanes. He assumed a four-lane section. Water that never came from the north will now come through the detention pond in the south portion of this property from the Highway Department improvements. This project is not compatible with the neighborhood. 100,000 square feet of retail/commercial and four-story building will be the highest on the west side of I-540 besides the Holiday Inn. He requests this item be tabled until actually have good information regarding the traffic impacts to Wedington. How many trips will be generated from the Links? 16,000 or 28,000?

Valerie Bandera (public) is a Fieldstone Neighbor to the north. She likes the project, looks like a City neighborhood. But she doesn't want to live near a city neighborhood area, residential fits in best. She is concerned about the commercial development and types of shops, buildings. She doesn't want a replication of Dickson Street with noise and other problems, etc. She is concerned about four stories looking into her backyard. She will have to rely on compassion and mercy of developers to not put in offending business. She realizes a grocery, gas station, apartment complex could go in on 46th Street, a very narrow road. She likes the limited number of curb cuts onto Wedington, in favor of that. Please consider the existing residents.

Jim Gurlock (public) lives on Lofty Wood Drive. Urges to vote against. Wishes all planning commissioners were neighbors. They would feel the same. No affordable housing in this project. Persimmon is a free way. 46th will be a mess with this project.

Craig Hanshell (public) 4555 Wedge Drive. He talked with neighbors and found recurring issues: property value, crime, traffic. Meadowlands at 9 PM – crime. Girls Gone Wild bus was ran out last year. Persimmon Place and Ruppel Row developments. A development like this will strip away the only thing he can call his own. Condominiums for families? He has lived on the west side of town for 13 years, and is an expert. Building an ant hill with this. Persimmon and 46th Street don't have safe passage with sidewalks to get to school. If families are going in, where are students going? Has safety been considered with a police substation? Phasing over 8 years? Persimmon will be a horrible headache. He doesn't understand where traffic is going.

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Ben Fuller (public) 620 Mulligan. Wants to voice opposition because of resale value. He saw growth of the school and other development in this area. What better place to live than this area of Fayetteville? The west side of town has always been considered the rental side of town. If assurance could be given that no dwelling would be leased, go for it. But that won't happen.

Public comment was closed.

Hank Broyles (applicant) is a partner in Nock-Broyles Land Development, owners of the project. The city decided with the 2025 plan not to continue RSF-4 and annexing 20,000 acres. They specifically selected this site because of its adjacency to Highway 16, to feed people onto the highway instead of neighborhood streets. They are alley loaded so the streets won't have driveways to create a nice streetscape that will be pedestrian friendly. They need 62 feet for four stories. Have contracted with Live/Learn/Work/Play, Inc. to see what type of mix of uses should be at this site. No strip clubs, adult book stores, etc. Expect one large commercial retail grocery store 20 – 25,000 square feet. All of the other shops will be small (800-1,000 square feet) such as a deli, bakery, clothing stores, cafes, pizza place, banker, dry cleaner. They will target essentials you need to shop for. Research show that these types of developments are attractive to couples, empty nesters, 25-44 year old age group.

Todd Jacobs (applicant) discussed the site location. Need parks system on west side like Wilson Park. They are trying to contribute to that along Owl Creek for a 26-acre park. This development will be with 1/3 mile of a trail linkage to that park, which is within walking distance. They could have proposed a standard strip mall, but wanted to approach the development differently, with deference to the surrounding neighborhood and City Plan 2025. They agree to limit this development to two curb cuts onto Wedington as recommended by staff, when a standard strip commercial would likely have had 6-7 curb cuts. Jacobs presented a powerpoint presentation describing the project.

Commissioner Myres interrupted and asked about the setback off of Wedington and it was clarified by Andrew Garner (senior planner) that the setback is 14' from the edge of the right-of-way.

Jacobs continued that based on research across the country in the past year and a half, this type of development has brought up property values more than any other type of project. This project will improve 46th Street from Wedington south to existing improved street, and will contribute half of the assessment amount for a traffic signal as recommended by staff. It took a lot of work to bring a different type of project, but it is better quality and has hit almost all of the City's guiding policies. They believe this project will benefit that side of town, if not the City as a whole.

Commissioner Lack stated he doesn't see entrances to parking garages on the elevations.

Jacobs discussed grading and how the buildings access to parking garages underground.

Commissioner Trumbo asked about the traffic projected.

Jeremy Pate, Director of Current Planning, stated this development will generate 5,044 average daily trips, based on the traffic study numbers.

Glenn Newman, Staff Engineer, discussed that with the projected traffic for development in the area the vehicle trips will exceed the design service volume of a five-lane roadway, as indicated in the Master Street Plan.

Commissioner Trumbo asked staff to explain a Local Street.

Pate explained that a Local Street can be and usually is a through street. Cut-through traffic should be discouraged. Nothing in City policy or ordinance forbids a Local Street from being a through street. Pate described that streets in a typical subdivision are usually Local Streets.

Kit Williams, City Attorney, stated that the Master Street Plan is a moving and changing document. Local Streets can still function to a higher level than their designation.

Commissioner Graves discussed speed humps. He doesn't know about 46th Street enough to know if speed humps are needed, but it is an option to prevent cut through traffic.

Pate discussed that speed tables are used when determined by Street Committee/Engineering Division to be needed; there is an established City Council policy for installation of speed tables.

Commissioner Anthes discussed revisions that needed to be included in the PZD booklet: on-street parking on page 5; page 8 sidewalk cafes should be a conditional use; text on the alley on page 32 is duplicate text. She asked about the alley comments from staff.

Pate discussed that more information is needed to make a recommendation on alley widths as proposed.

Commissioner Anthes asked about custom street lights, spacing, and height of the proposed lights.

Pate responded that a development may use custom street lights, but the City does not pay for electricity or maintenance, etc.

Jacobs stated that they understand the additional cost of installation, etc., and that the street lights, if they are custom, would meet the lighting ordinance.

Commissioner Anthes asked about connectivity with a potential stub-out east at lot 5.

Pate answered that there is alley connection all the way to the right-of-way line if the adjacent property is developed they could tie in to the alley.

Jacobs explained the street connection from Street 5 to the north.

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Commissioner Anthes asked about stormwater treatment.

Jacobs responded that City streets don't have a lot of flexibility in stormwater treatment, but that in the private portion of the development, bioswales would be used and pervious spaces would be used to capture and treat runoff. They are looking at both volume and quality of stormwater treatment.

Commissioner Anthes asked to confirm if traffic counts were over spring break.

Newman responded the date listed on the document is March 21, 2007 and doesn't know if that was during spring break. It may or may not have an impact on the counts.

Jacobs stated that they typically hire a traffic consultant when asked for a traffic study by the City. This study looks at a two year growth period for all projects on this side of town and incorporated additional growth based on this project.

Commissioner Anthes asked about the designation of 46th Street, would the right-of-way dedication limit this road to a Local Street in the future.

Pate compared a Local/Collector streets and their function. Persimmon/Broyles are Collector Streets and have a very different function than 46th Street. To answer the question, 46th street will likely stay as a local street.

Commissioner Anthes went through all of the conditions of approval with the other commissioners.

No. 3.b.i. – **Pate** described the concerns with narrow alley cross sections and functional turning movements. **Commissioner Anthes** described concerns with a zero-lot line garages on narrow alleys. **Commissioner Lack** stated that if there is 24' right-of-way the pavement width could vary and could be adequate. **Pate** discussed that certain turning movement scenarios will not work and we want to make sure we're recommending something that works. **Commissioner Lack** stated that he is fine with staff working the alley widths out with the applicant prior to City Council, but that it would need to be resolved.

Commissioner Lack discussed that the elevations meet commercial design standards, but had concerns that the elevations don't accurately represent the grade, and that the elevations don't exactly match the plans.

Commissioner Anthes asked about building height where the book specifies 70' height, staff recommends 60', and the applicant stated in their presentation that 62' height is needed.

Garner clarified that 60' maximum height is recommended only on the street side elevation.

Todd Jacobs (applicant) stated that the maximum building height would be 56', with an additional 6' needed for the parapet wall, making the total 62'.

Planning Commission
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Pate discussed that the maximum height in the Downtown General zoning classification is 56' to the top of the building/roof, and that parapets are not typically included in the building height calculation.

Commissioner Myres stated that she is okay with 62'.

Motion:

Commissioner Myres made a motion to amend the new recommended condition by staff, (No. 36) to limit the height to 62' in PA-1 (four story building not to exceed 62' height total, including parapet). **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed 8-0-0.**

Commissioner Lack discussed that any difference in the elevations due to grade would not cause the buildings to be outside of commercial design standards. He can have faith because of that.

Commissioner Anthes stated that for the benefit of the neighbors could the Planning Commission discuss transition of the development and how it related to the surroundings.

Commissioner Myres discussed that she has no issues with the surrounding land uses adjacent to this development. The development proposes single family residential adjacent to single family residential. There is much residential development mixed throughout the commercial areas. The streetscape is at the pedestrian level. The development transitions back from Wedington to single family neighborhoods nicely. The non-residential uses face onto Wedington.

Commissioner Lack discussed height, transition, and density of the development. He stated he believes this project can be a good neighbor and can contribute to where we're going in Fayetteville. He does have pause about four-story buildings right across from Wedington, more so than the southern portion of the development. The higher density in the multi-family residential is viewed as somewhat of a spot zone because of the magnitude of change with the surrounding land uses. It would be more consistent if it were closer to the center and other city services.

Commissioner Anthes also discussed agreement with Commissioner Lack's comment that she would prefer this density further in the interior portion of the city. However, land is not available to do this type of density and development in the interior portion of the city. This is in close proximity to Ruppel Road. There is a vast amount of RSF-4 both built and un-built. Services are needed without driving to the mall or downtown. Higher density and mixed use could help in this area, by allowing residents not to drive so far. She has some concerns about a height of 4 stories, but not enough to withhold support.

Commissioner Trumbo stated that this is in his backyard. This project has really hit home for him. It has been insinuated that he can sell his home, or that he has ties to the developer, which he does not. However, it is a good project here, or anywhere, and he won't have to get out of the neighborhood for services. He would vote for this project anywhere in Fayetteville, because it meets the City's adopted goals.

Planning Commission
July 23, 2007
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Commissioner Anthes discussed Condition No. 19 for the landscape waiver and there was general agreement from the Planning Commission.

Motion:

Commissioner Lack made a motion to forward the project to City Council with a recommendation for approval, **Commissioner Myres** seconded the motion.

Garner asked to clarify the recommendation on alley width.

Commissioner Lack stated that he would be comfortable leaving the alley widths up to staff to work out with the applicant and come up with a recommendation for City Council. However, it would need to be resolved prior to City Council consideration.

Commissioner Graves asked the motioner if commercial design standards needed to be straightened out before City Council.

Commissioner Lack responded that if it is changed dramatically at building permit staff would bring it forward as a Major Modification. He also stated that would like to add to his motion to condition No. 8 that the applicant shall provide revised elevations to City Council to show grading/garage entries from underneath.

Commissioner Graves also asked about the changes to the PZD booklet that **Commissioner Anthes** noted earlier.

Pate read through the items **Anthes** mentioned earlier.

Commissioner Lack added condition No. 38 that the list of items to the PZD booklet noted by **Commissioner Anthes** be addressed.

Commissioner Graves asked about overloading schools, and how should we deal with that issue.

Williams responded that the City doesn't have authority over the school board or school district. The school is a state agency and handles those issues. The City can't make decisions based on schools, whether they are crowded or not because the City can't control those issues.

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

ANNOUNCEMENTS:

No Subdivision Committee this week.

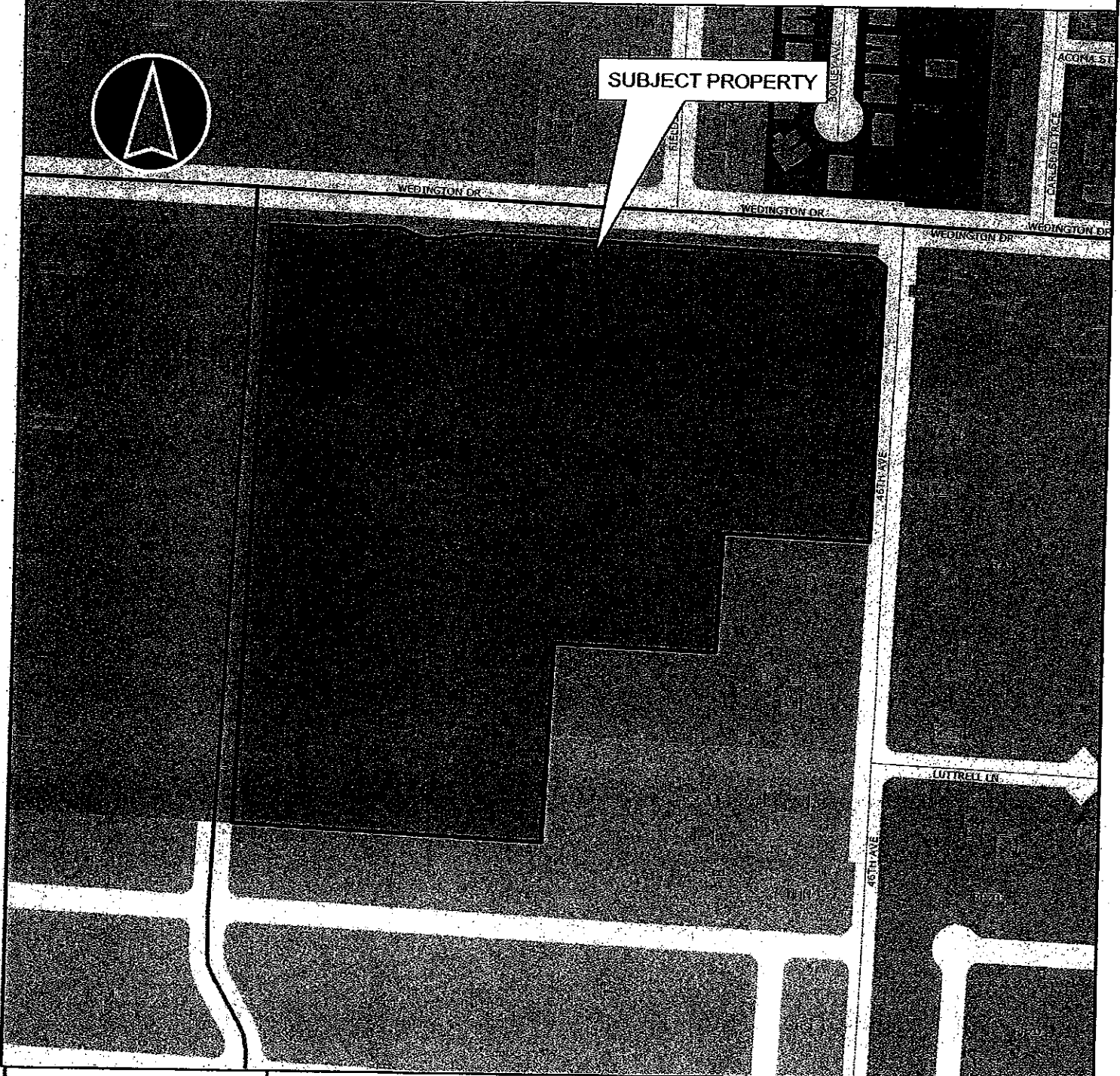
RPZD07-2576

Close Up View

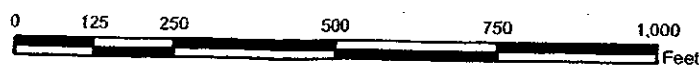
WOODSTOCK COMMUNITY



SUBJECT PROPERTY



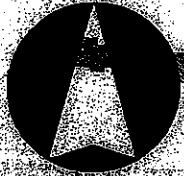
Overview



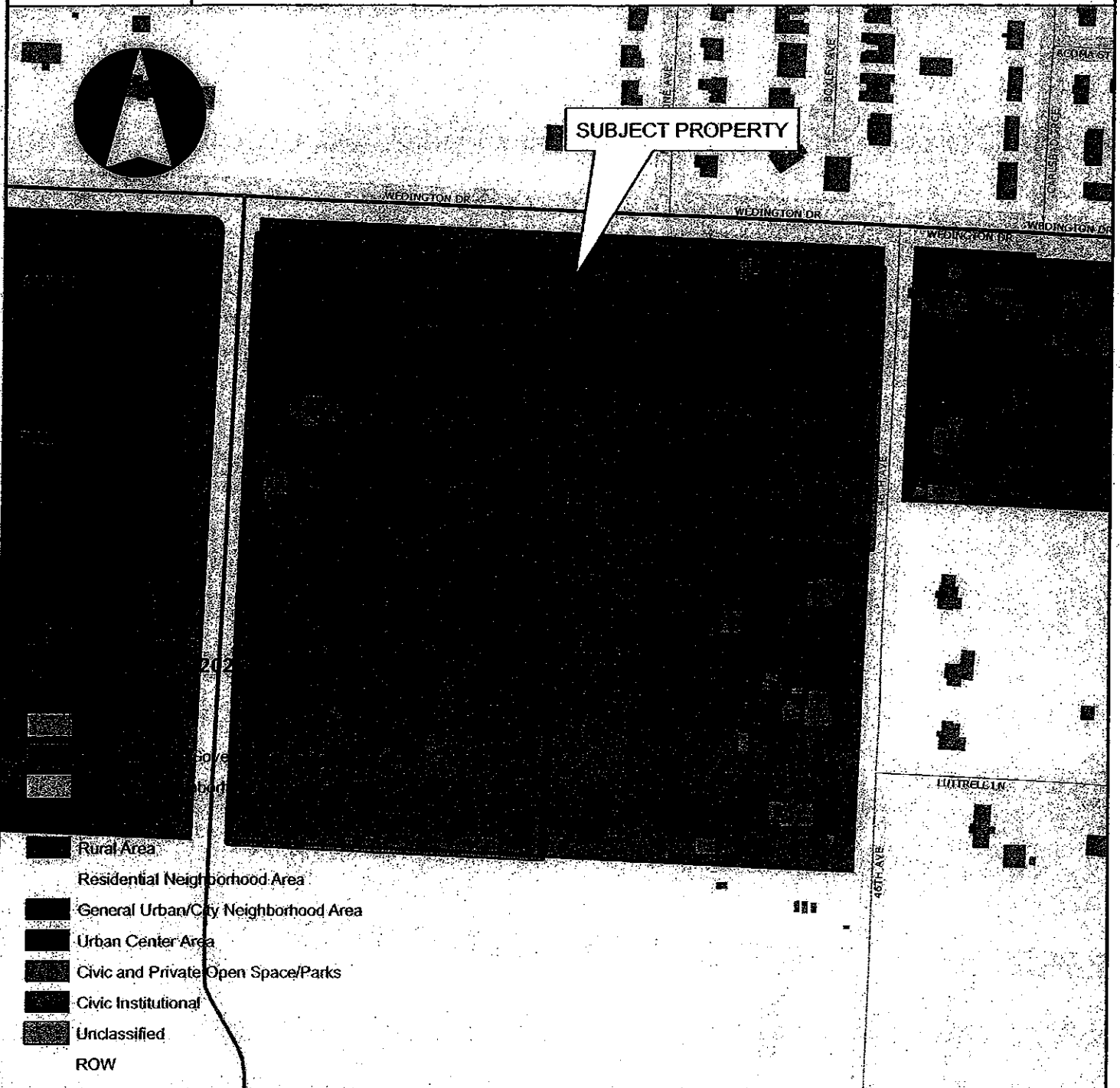
RPZD07-2576

WOODSTOCK COMMUNITY

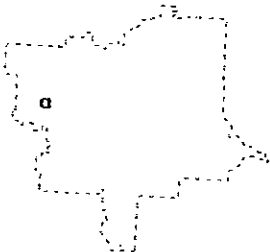
Future Land Use



SUBJECT PROPERTY



Overview



Legend

Subject Property

RPZD07-2576

Boundary

- Planning Area
- Overlay District
- Outside City

Streets

- Existing
- Planned

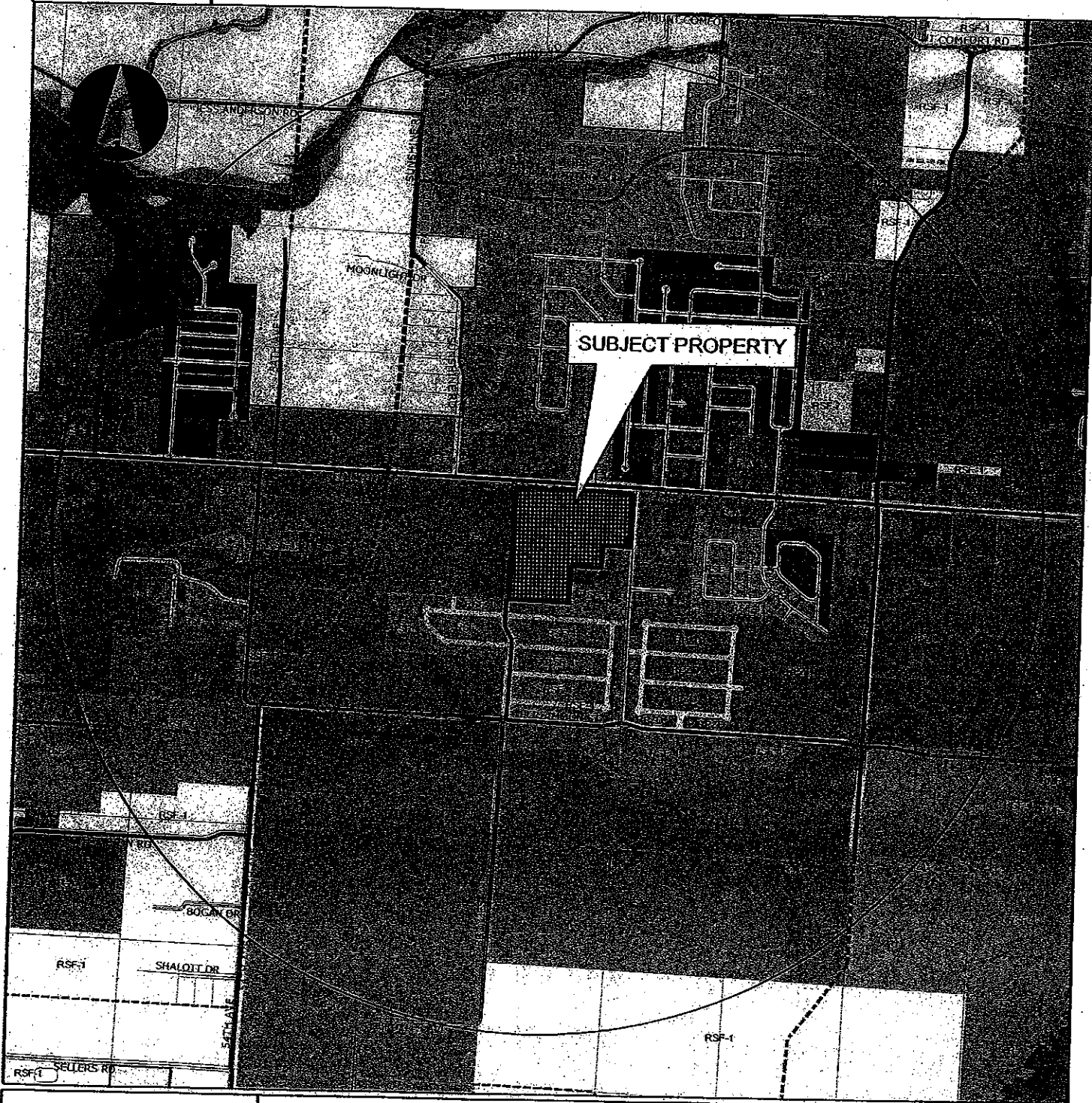
Legend



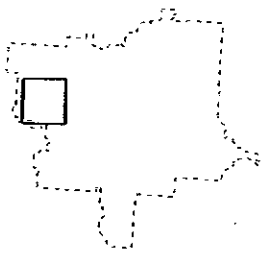
RPZD07-2576

One Mile View

WOODSTOCK COMMUNITY



Overview



Legend

Subject Property

RPZD07-2576

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5

1

Miles

9-4-07

City Clerk's office

718-7695

Please give this letter to
all Council Members & Mayor
Coady, for tonight's Meeting.

Thank You

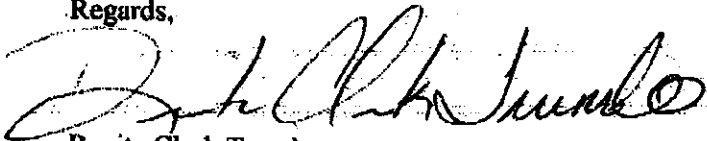
To Whom It May Concern:

In regard to Woodstock Development located at 4847 Wedington Road. As a resident of Cross Keys Subdivision, I believe it is my duty to respond to the controversy surrounding this positive development by lending my support.

There are many positive outcomes Woodstock will bring to the community, as well as the residents who will live on the property and around the property. One of the most important points will be that this development discourages suburban sprawl by integrating commercial with residential real estate. By mixing these two types of real estate it allows the residents of the property to eat, work and purchase goods without ever getting into there car. It will also provide services to current residents who live in other subdivisions in the area like myself. Woodstock is one of the few traditional subdivisions in our community where the homes face toward the street with rear loading garages. Traditional neighborhoods give a feeling of simple pleasures and the idea that we can all enjoy a place built on values.

I thank you for allowing me to express heart felt thoughts.

Regards,



Renita Clark Trumpo



BASSETT MIX

AND ASSOCIATES, INC.

FAX TRANSMISSION COVER SHEET

To: City Club
Company: _____

Fax No. 718-7695

Tel. No. _____

From: Mary Bassett

Fax No. 479-521-3259

Tel. No. 479-521-5600

Date: 9-4-07

Time: 2:00

Number of Pages, including cover: (2)

Comment:

Please pass-out to City Council
Members and Mayor Cordy for
tonight's meeting. (Attached Letter)

Thank You, Mary Bassett

Thank you,

Mary Bassett

Confidentiality Alert:

The information being transmitted is intended for the exclusive use of the addressee named above and may constitute information that is privileged or confidential, or otherwise legally exempt from disclosure. If you are not named addressee or an employee or agent responsible for delivering this message to the named addressee, you are not authorized to retain, read, copy or disseminate this message or any part of it. If you have received this facsimile message in error, please notify us immediately by telephone. Thank you.

Bassett Mix and Associates, Inc.

3263 N. College

Fayetteville, AR 72704

E-mail: mary@bassettmix.com

Website: www.bassettmix.com

THE STANDARD OF EXCELLENCE

Working For You



September 4, 2007

~~Fayetteville City Council~~

Dear Council Members and Mayor Coody,

I own several properties in Fayetteville. Three of them are located in Ward 4. The addresses are as follows: 1527 Markham, 2126 Berry Lane and 814 Sunset. Two of these properties are located just off Wedington Road.

I am writing this letter in favor of re-zoning and large scale development of the property represented by John Nock and Hank Broyles. The mixed use development will be called Woodstock.

I believe this project will enhance West Fayetteville and be an asset for all residents.

I encourage your support and approval for the Woodstock Development.

Highest Personal Regards,



Mary Bassett

AGENDA REQUEST

This item
Amended Chapter 96 Noise Ordinance
B.2
Page 1 of 6
Added to the
September 4, 2007
City Council meeting.

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
GREG TABOR, POLICE CHIEF

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §96.05 Motor Vehicle And Motorcycle Sound Limit By Adding A New Subsection (E) To Prohibit Excessive Engine Revving

APPROVED FOR AGENDA:

Greg Tabor

Police Chief

7-23-07

Date

K. J. [Signature]

City Attorney

7-20-07

Date

Sam Coody

Mayor

7/23/07

Date



Tabled to September 18, 2007 mtg
9/4/07
This item failed on 8/7/07

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor 

DATE: July 11, 2007

SUBJECT: Amendment of Noise Ordinance Chapter 96

Recommendation:

City Council amends Noise Ordinance Chapter 96 to simplify enforcement in relation to excessive noise from motor vehicles and motorcycles.

Background:

Currently, Ordinance 96.05 requires officers to obtain noise level readings to determine if the noise is in violation as listed in Ordinance 96.05 Table II. This section does not specifically address excessive noise created by rapid throttle advancement (revving an engine).

Discussion:

The Fayetteville Police Department would like the amendment made to this ordinance to become more efficient in enforcement. The current noise ordinance does not specifically address rapid engine advancement (revving) which has become a complaint with citizens in recent years. In summary this amendment would make violation determination and enforcement much simpler.

Budget Impact:

There would be no budget impact in this amendment.

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Kit Williams
FROM:  Captain Kenny Yates
DATE: July 19, 2007
SUBJECT: City Noise Ordinance Chapter 96

The Fayetteville Police Department would like to request an amendment be made to Fayetteville City Ordinance Chapter 96 concerning noise from motor vehicles. Noise from motor vehicles and motorcycles is currently addressed in Fayetteville City Ordinance 96.05 Table II. The current ordinance does not specifically address rapid throttle advancement, which has become a complaint in recent years.

We would like to see the following terminology or similar added to some portion of Chapter 96: "It shall be prohibited to permit or cause excessive noise by rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine".

Thank you for your consideration in helping us make this amendment.

FAYETTEVILLE

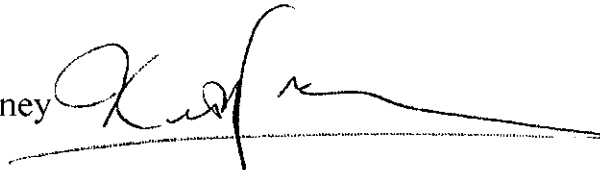
THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

TO: **Dan Coody, Mayor**
City Council
Chief Tabor
Captain Yates

FROM: **Kit Williams, City Attorney**



DATE: **July 20, 2007**

RE: **Proposed Noise Ordinance amendment
to prohibit loudly revving an engine**

The police have requested that we simplify enforcement of the Noise Ordinance by permitting the arrest and prosecution of persons loudly revving their cars or motorcycles without having to prove a decibel level by use of a noise meter. I, therefore, have crafted subsection (E) to §96.05 **Motor Vehicle And Motorcycle Sound Limit**.

My proposal uses existing definitions within the Code of "noise disturbance" to describe the conduct which the police seek to prohibit. "Stationary Run-up" above 78 dB measured 25 feet from the motor vehicle is already banned by §96.05. Unfortunately, this requires an officer trained for and using one of our noise meters at the right distance for the right length of time which is very difficult to achieve in the real world.

This new subsection is more subjective, but mirrors the current prohibition in §96.02 against a "noise disturbance" which is defined in §96.01. I will leave it to Captain Kenny Yates (his memo is attached) or Chief Tabor to explain why the Police Department asked for this change in the law.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §96.05 MOTOR VEHICLE AND
MOTORCYCLE SOUND LIMIT BY ADDING A NEW SUBSECTION
(E) TO PROHIBIT EXCESSIVE ENGINE REVVING

WHEREAS, unnecessary rapid throttle advance (revving) of a car or motorcycle engine can annoy or disturb a reasonable person of normal sensitivity.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §96.05 **Motor Vehicle and Motorcycle Sound Limit** by enacting a new subsection (E) as follows:

"(E) No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs."

PASSED and APPROVED this 4th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville Staff Review Form

C. 1
Raze and Removal at 1989 E. Mission
Page 1 of 12City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 1989 E. Mission.

Cost of this request

1010.6420.5315.04

Account Number

Project Number

\$

Category / Project Budget

\$

Funds Used to Date

\$

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office

ENTERED

8-31-07

Finance and Internal Service Director

Date

Received in
Mayor's Office

ENTERED

9/14/07
PH

Mayor

Date

Comments: Staff recommends Raze and Removal of the structure

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, Community Resources Director
Date: September 5, 2007
Subject: Raze & Removal of structure on 1989 E. Mission Blvd.

BACKGROUND

Service Request # 49218, Case #6034: Code Compliance responded to a complaint concerning the structure located at 1989 E. Mission Blvd. The structure appeared to possibly be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

An Unsafe Building Notice of Violation was sent by Certified Mail to the property owner on April 5, 2007. An agent for the property owner signed the Certified Mail receipt on April 6, 2007. By ordinance, the owner was given until May 7, 2007 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains one story single family dwelling. The building is not secured, has significant fire damage, and has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends approval of a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$6,000. A Raze and Removal account balance in the amount of \$6,350 is available from a previous project, 1762 Stirman. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY THE HEIGHTS, LLC LOCATED AT 1989 EAST MISSION BOULEVARD IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, The Heights, LLC is the record owner of the real property situated at 1989 East Mission Boulevard, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-13363-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, The Heights, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, The Heights, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if The Heights, LLC does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

**By: _____
DAN COODY, Mayor**

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

April 05, 2007

Owner THE HEIGHTS, LLC
C/O: MITCHELL MASSEY
397 W. POPLAR ST.
FAYETTEVILLE, AR 72701

RE: Property @ 1989 E MISSION BLVD, Fayetteville, AR

WC Parcel # 765-13363-000

Case # 6034

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8232.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

DREW DICKEY
Code Compliance Officer

Cc: file

7005 1820 0001 9764 9744

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For delivery information visit our website at www.usps.com	
OFFICIAL USE	
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Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <u>6034 DD</u>	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, June 2002 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <u>[Signature]</u> ☐ Agent ☐ Addressee B. Received by (Printed Name) <u>Joe Hing</u> C. Date of Delivery <u>APR 09 2007</u> D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
1. Article Addressed to: THE HEIGHTS, LLC C/O MITCHELL MASSEY 397 W. POPLAR ST. FAYETTEVILLE, AR 72701		RECEIVED APR 09 2007 CRCC	
2. Article Number (Transfer from service label) 7005 1820 0001 9764 9744		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, February 2004		Domestic Return Receipt 6034 DD 102595-02-M-1540	



COPY

City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

August 28, 2007

The Heights, LLC
c/o Mitchell Massey
397 W. Poplar St.
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 1989 E. Mission Blvd. (Parcel #765-13363-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on September 18, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

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

Chad Ball
Code Compliance Administrator

Cc: file

Parcel Number: **765-13363-000** Prev. Parcel Number: **146527-000-00** Type: **RI**
 Location: **1989 E MISSION BLVD**
 Owner Name: **THE HEIGHTS, LLC**
 Mailing Address: **397 W Poplar St Fayetteville AR 72703-2438**
 Lot: Block: S-T-R: **02-16-30**
 Addition: **2-16-30 FAYETTEVILLE OUTLOTS**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **PT E/2 SE SW 1.16 A.**
 Current Year A79 Credit Status: **V**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	53,100	10,620
Improvement	1,550	310
Total	54,650	10,930

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit Status	A79	Net Total Tax	Total Tax Paid	Payment Status
2006	23,010	\$1,212.63	\$0.00	\$0.00	\$0.00		V	\$1,212.63	\$0.00	
2005										DELINQUENT
2004	13,390	\$694.41	\$0.00	\$0.00	\$0.00	\$300	F	\$394.41	\$394.41	PAID
2003	13,140	\$695.89	\$0.00	\$0.00	\$0.00	\$300	F	\$435.48	\$435.48	PAID
2002	13,140	\$682.75	\$0.00	\$0.00	\$0.00	\$300	F	\$382.75	\$382.75	PAID
2001	13,140	\$682.75	\$0.00	\$0.00	\$0.00	\$300	F	\$382.75	\$382.75	PAID
2000	13,140	\$389.85	\$0.00	\$0.00	\$0.00		O	\$389.85	\$389.85	PAID
1999	13,140	\$672.77	\$0.00	\$0.00	\$0.00			\$672.77	\$672.77	PAID
1998	13,140	\$674.08	\$0.00	\$0.00	\$0.00			\$674.08	\$674.08	PAID
1997	13,140	\$674.08	\$0.00	\$0.00	\$0.00			\$674.08	\$674.08	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2004	39379	5/10/2005	\$394.41	\$0.00	\$0.00	\$0.00	\$0.00	\$394.41
2003	118710	10/15/2004	\$395.89	\$0.00	\$0.00	\$0.00	\$39.59	\$435.48
2002	69573	9/11/2003	\$382.75	\$0.00	\$0.00	\$0.00	\$0.00	\$382.75
2001	107599	10/23/2002	\$382.75	\$0.00	\$0.00	\$0.00	\$0.00	\$382.75
2000	17979	10/11/2001	\$389.85	\$0.00	\$0.00	\$0.00	\$0.00	\$389.85
1999	6035	10/19/2000	\$672.77	\$0.00	\$0.00	\$0.00	\$0.00	\$672.77
1998	6386	10/1/1999	\$674.08	\$0.00	\$0.00	\$0.00	\$0.00	\$674.08
1997	14023	10/9/1998	\$674.08	\$0.00	\$0.00	\$0.00	\$0.00	\$674.08

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/7/2005	2005	45159	THE HEIGHTS, LLC		WD	200,000	660.00
			SN 2005-45159 WD \$660 REV(200M)				
5/1/2005	2005	19860	CURTIS, RANDY		WD	140,000	462.00
			BJF WD 2005 19860 \$462 REV(140M)				
8/15/2001	2001	22207	WEYGANDT, PAULINE		QT	0	0.00

PML 2001-22207 QT QUIET TITLE E-2001-1209-4

1/1/1985 585 372

WEYGANDT,
JAMES E.

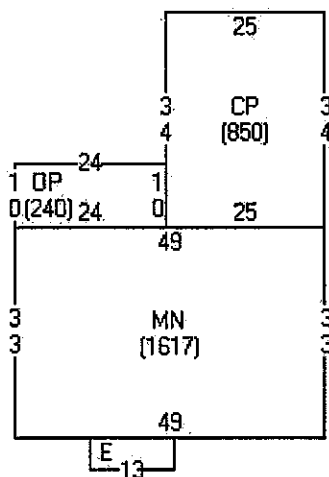
0

0.00

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	MV	1617	1617	1957	

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
4	A	MASONVEN	1SG		50

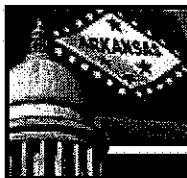
Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	Driveway, asphalt	13x15	
1	Driveway, asphalt	8x85	

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State Capitol, Rm 256
Little Rock, AR 72201
501-682-1010
[Email](#)

 **Search Incorporations, Cooperatives, Banks and Insurance Companies**

Corporation Name	THE HEIGHTS, L.L.C.
Fictitious Names	N/A
Filing #	800056666
Filing Type	Limited Liability Company
Filed under Act	Domestic LLC; 1003 of 1993
Status	Not Current
Principal Address	
Reg. Agent	MITCHELL MASSEY
Agent Address	1925 OLD WIRE ROAD FAYETTEVILLE, AR 72703
Date Filed	04/14/2005
Officers	MORGAN HOOKER , Incorporator/Organizer BRANDON BARBER , Tax Preparer
Foreign Name	N/A
Foreign Address	
State of Origin	N/A

Pay Franchise Tax for this corporation

LLC Member information is now confidential per Act 865 of 2007

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1989 Mission



1989 Mission



City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 1533 S. Duncan.

Cost of this request

1010.6420.5315.04

Account Number

\$

Category / Project Budget

\$

Funds Used to Date

\$

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City
Clerk's Office

ENTERED

8-21-07

EP

Received in
Mayor's Office

ENTERED

9/4/07

Comments: Staff recommends Raze and Removal of the structure and 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: August 31, 2007
Subject: Raze & Removal of structure on 1533 S. Duncan.

BACKGROUND

Service Request # 35373, Case #4708: Code Compliance responded to a complaint concerning the structure located at 1533 S. Duncan. The structure appeared to possibly be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

An Unsafe Building Notice of Violation was sent by Certified Mail to the property owner on May 3, 2007. An agent for the property owner signed the Certified Mail receipt on May 4, 2007. By ordinance, the owner was given until June 4, 2007 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains one story wood frame single family dwelling. The building is not secured and has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends approval of a resolution to order the raze and removal of the structure and a budget adjustment.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$3,000. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC LOCATED AT 1533 SOUTH DUNCAN AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$3,000.00.

WHEREAS, North American Lighthouse Properties, LLC is the record owner of the real property situated at 1533 South Duncan Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-09617-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, North American Lighthouse Properties, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, North American Lighthouse Properties, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if North American Lighthouse Properties, LLC does not comply with this order, the Mayor is hereby directed to cause the

dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$3,000.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



C. 2
Raze and Removal at 1533 S. Duncan
Page 5 of 14
Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

May 03, 2007

Owner HOMESTEAD, INC. & NORTH AMERICA LIGHTHC
C/O MEL REED
P.O. BOX 8440
SPRINGDALE, AR 72762

RE: Property @ 1533 S DUNCAN AVE, Fayetteville, AR

WC Parcel # 765-09617-000

Case # 4708

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8237.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

A handwritten signature in cursive script that reads "Preston Hammons".

PRESTON HAMMONS
Code Compliance Officer

Cc: file

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 (Domestic Mail Only; No Insurance Coverage Provided)

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
Here

NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC

C/O MEL REED
 1127 S. GUTENSOHN SUITE 101
 SPRINGDALE, AR 72762

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC

C/O MEL REED
 1127 S. GUTENSOHN SUITE 101
 SPRINGDALE, AR 72762

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *C. W. Goldstein*

☐ Agent
☐ Addressee

B. Received by (Printed Name)

Christopher Goldstein

C. Date of Delivery

3/4/07

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number
 (Transfer from service label)

7005 1820 0001 9764 8754

PS Form 3811, February 2004

Domestic Return Receipt *ph 4708*

102595-02-M-1540



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

COPY

August 27, 2007

North American Lighthouse Properties, LLC
c/o Mel Reed
1127 S. Gutensohn Suite 101
Springdale, AR 72762

RE: Enforcement of Fayetteville Code 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 1533 S. Duncan Ave. (Parcel #765-09617-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on September 18, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

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

Chad Ball
Code Compliance Administrator

Cc: file

Record 1 of 1 Last Updated 08/28/07

Parcel Number: **765-09617-000** Prev. Parcel Number: **142989-000-00** Type: **RI**
 Location: **1533 S DUNCAN AVE**
 Owner Name: **NORTH AMERICAN LIGHTHOUSE PROPERTIES LLC**
 Mailing Address: **1127 S GUTENSOHN STE 101 SPRINGDALE AR 72762**
 Lot: Block: S-T-R: **21-16-30**
 Addition: **PARKSDALE ADD**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **LOT 7, PT. LOTS 5-6 BLOCK 2**
 Current Year A79 Credit Status: **VF**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	25,000	5,000
Improvement	4,450	890
Total	29,450	5,890

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	3,887	\$204.84	\$0.00	\$0.00	\$0.00		V	\$204.84	\$0.00	
2005	3,588	\$189.09	\$0.00	\$0.00	\$0.00		V	\$189.09	\$189.09	PAID
2004	3,289	\$170.57	\$0.00	\$0.00	\$0.00		V	\$170.57	\$170.57	PAID
2003	2,990	\$158.35	\$0.00	\$0.00	\$0.00		V	\$158.35	\$158.35	PAID
2002	2,990	\$155.36	\$0.00	\$0.00	\$0.00		V	\$155.36	\$155.36	PAID
2001	2,838	\$147.46	\$0.00	\$0.00	\$0.00			\$147.46	\$147.46	PAID
2000	2,580	\$135.45	\$0.00	\$0.00	\$0.00			\$135.45	\$135.45	PAID
1999	4,900	\$250.88	\$0.00	\$0.00	\$0.00			\$250.88	\$250.88	PAID
1998	4,900	\$251.37	\$0.00	\$0.00	\$0.00			\$251.37	\$251.37	PAID
1997	4,900	\$251.37	\$0.00	\$0.00	\$0.00			\$251.37	\$251.37	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	137968	10/17/2006	\$189.09	\$0.00	\$0.00	\$0.00	\$0.00	\$189.09
2004	998028	7/26/2006	\$170.57	\$0.00	\$0.00	\$0.00	\$0.00	\$170.57
2003	998028	7/26/2006	\$158.35	\$0.00	\$0.00	\$0.00	\$0.00	\$158.35
2002	998028	7/26/2006	\$155.36	\$0.00	\$0.00	\$0.00	\$0.00	\$155.36
2001	998028	7/26/2006	\$147.46	\$0.00	\$0.00	\$0.00	\$0.00	\$147.46
2000	6076	4/24/2001	\$135.45	\$0.00	\$0.00	\$0.00	\$0.00	\$135.45
1999	3214	3/29/2000	\$250.88	\$0.00	\$0.00	\$0.00	\$0.00	\$250.88
1998	8721	4/21/1999	\$251.37	\$0.00	\$0.00	\$0.00	\$0.00	\$251.37

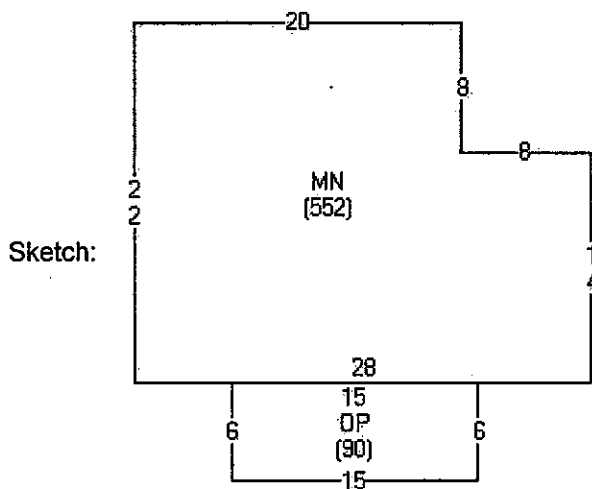
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
7/18/2006	2006	29864	NORTH AMERICAN LIGHTHOUSE	PROPERTIES LLC	LD	0	
WCS 2006-29864 LIMITED WD #163174							
5/30/1995	95	26515	TERHUNE, TRACY L.		WD	29,000	95.70

4/23/1993	93	25767	HANNAN, STEPHEN P & ET AL TRUST	13173 REED RD	WD	0	0.00
NO REV							
5/15/1992	92	24451	HANNAN, STEPHEN P & CHARLOTTE A.		WD	24,000	52.80
10/4/1991	1436	048	BACCHUS, LESLIE D.		WD	22,000	48.40
1/1/1985	743	308	MCBROOM, HOMER J. & BEULAH M.			0	0.00

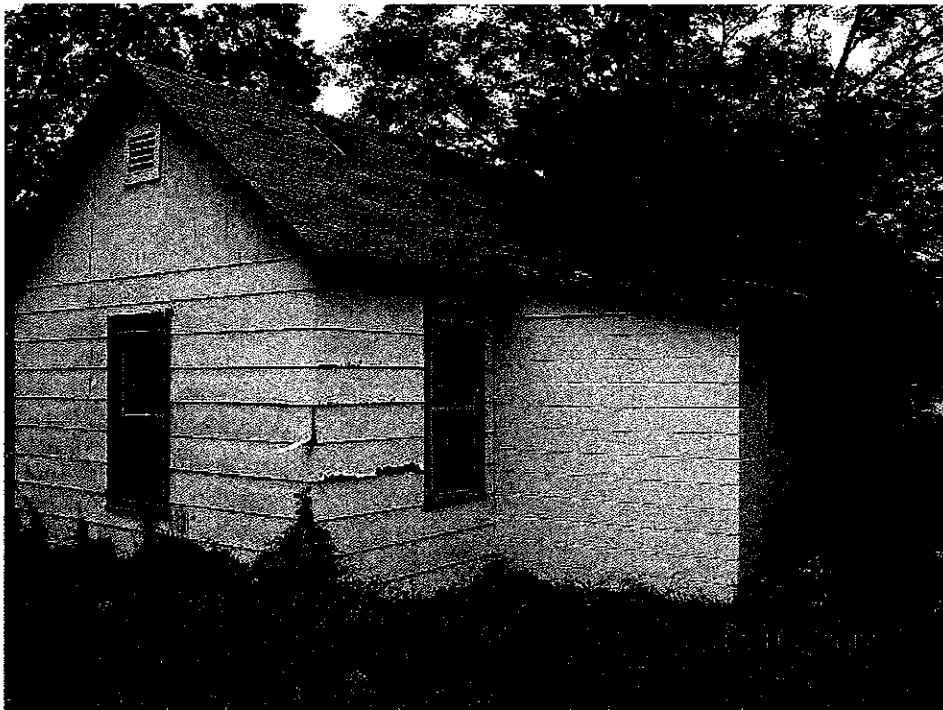
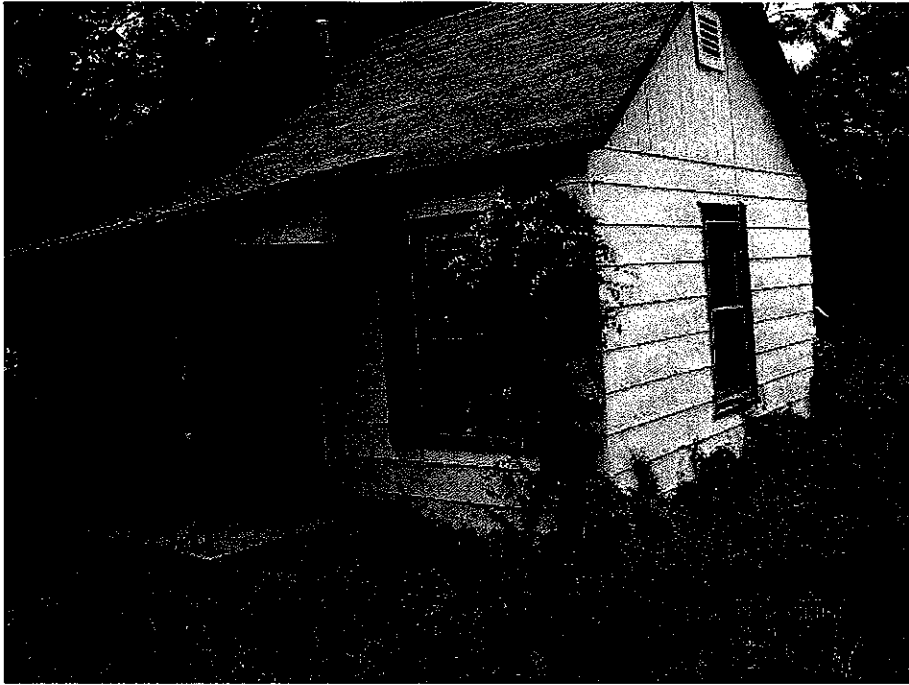
Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	552	552	1951	

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	A	SDNG/SHETH			56



[Next Item](#) |
 [Previous Item](#) |
 [Ledger Card](#) |
 [Prev. Ledger Card](#) |
 [Parcel Map](#) |
 [Return to Search Results](#) |
 [Modify Search](#) |
 [New Search](#)

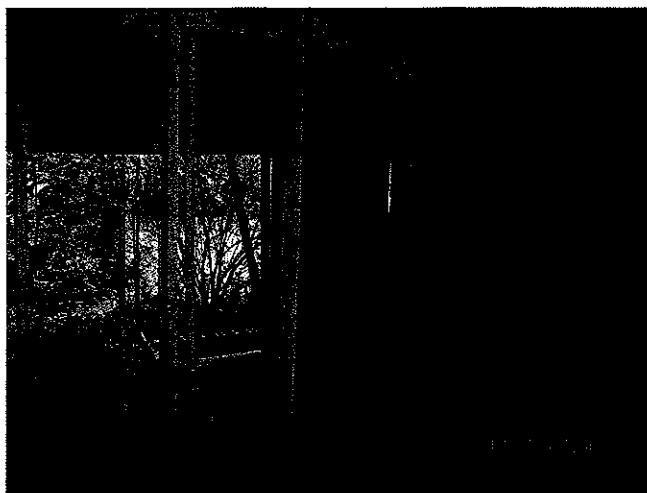
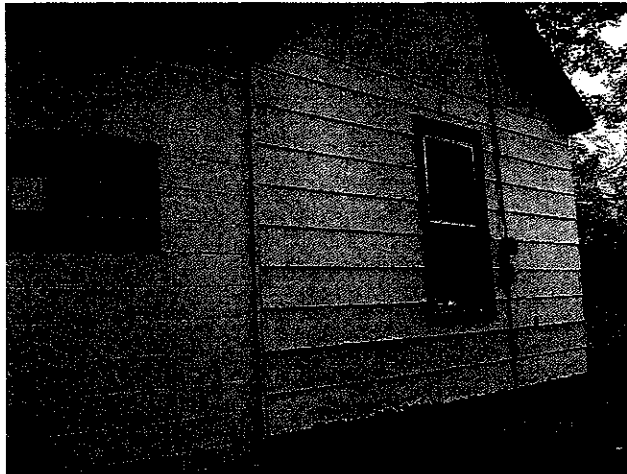
1533 S. Duncan Ave.



1533 S. Duncan Ave.



1533 S. Duncan Ave.



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

C. 2
Raze and Removal at 1533 S. Duncan
Page 14 of 14

Budget Year	Department: Operations	Date Requested	Adjustment Number
2007	Division: Community Resources	9/5/2007	
	Program: Code Compliance		

Project or Item Added/Increased: \$3,000 is requested in Raze and Removal account of the Community Code Enforcement program	Project or Item Deleted/Reduced: \$ 3,000 from Use of Fund Balance
---	--

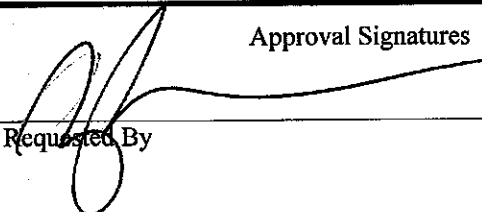
Justification of this Increase: For the raze and removal of the structure on 1533 S. Duncan	Justification of this Decrease: Did not properly allocate funds to this account
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Raze and Removals	1010 6420 5315 04	3,000	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Use of fund balance	1010 0001 4999 99	3,000	

Approval Signatures  Requested By _____ Budget Manager _____ Department Director _____ Finance & Internal Services Director _____ Mayor _____ Date 9/5/07 _____ _____ _____ _____ _____	Budget Office Use Only Type: A B C D E Posted to General Ledger Posted to Project Accounting Entered in Category Log Initial Initial Initial Date Date Date
--	---

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

18-Sep-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2649: College Avenue Townhomes, 291: Submitted by Bates & Associates for property located southeast of College Avenue and Golden Eagle Drive containing approximately 2.34 acres. The request is for re-zoning, land use and development approval of an Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

[Signature]
City Attorney

8-31-07

Original Contract Number: n/a

Paul A. Babin
Finance and Internal Service Director

8-4-07
Date

Received in City Clerk's Office

ENTERED
8-31-07
ED

[Signature]
Mayor

9/4/07
Date

Received in Mayor's Office

ENTERED
9/4/07
PA

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: August 30, 2007

Subject: Residential Planned Zoning District for College Avenue Townhomes (R-PZD 07-2649)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for College Avenue Townhomes, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The proposal is for a residential development consisting of 5 buildings of 4 attached units for a total of 20 multi-family residential dwelling units.

BACKGROUND

The subject property contains 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The majority of the property is zoned C-2; however, the southeastern portion of the site is zoned R-O. The applicant requests rezoning, land use, and large scale development approval for a residential multi-family development within a unique R-PZD zoning district on the subject property. The proposed zoning would allow for a maximum density of 8.54 units/acre.

DISCUSSION

On August 27, 2007 the Planning Commission voted 7-0-0 in favor of forwarding this request to the City Council. Discussion included the fact that through several revisions of this project, it now incorporates all comments recommended by staff, including maintaining the minimum 30% canopy preservation, the addition of sprinklers to all buildings for fire suppression, and modified retaining walls to limit land disturbance as much as possible.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2649, COLLEGE AVENUE TOWNHOMES, LOCATED SOUTHEAST OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE; CONTAINING APPROXIMATELY 2.34 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From C-2, Thoroughfare Commercial and R-O, Residential Office to R-PZD 07-2649, College Avenue Townhomes, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
R-PZD 07-2649

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N87°30'49"W 655.77' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT, RUNNING THENCE S02°01'46"W 441.25' TO A FOUND IRON PIN, THENCE N87°14'36"W 308.88' TO A FOUND IRON PIN, THENCE N13°21'24"E 99.99' TO A FOUND IRON PIN, THENCE N26°09'35"E 216.82' TO A FOUND IRON PIN, THENCE N45°11'12"E 8.58', THENCE N26°47'44"E 150.00', THENCE S87°30'49"E 131.87' TO THE POINT OF BEGINNING. CONTAINING 2.34 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 1 of 3

The Planning Commission and Staff recommend the following conditions of approval associated with R-PZD 07-2649 (College Avenue Townhomes).

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends that a new 6' sidewalk be constructed to current City standards along Golden Eagle Drive from the east property line to N. College Avenue. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.*
2. Planning Commission determination of a waiver to allow a curb radius of 20' on a minor residential street where 30' is required. *Staff recommends in favor of the curb radius of 20', finding that a 20' curb radius on a private street with limited vehicle trips allows for safe and adequate vehicular turning movements for passenger and emergency service vehicles.*
3. The main driveway for the development shall be located within an access easement that extends from Golden Eagle Drive to the south property line to permit cross-access to and from future development to the south. Said easement shall be included on the easement plat document.
4. Parks fees are due in the amount of \$13,600.00 for 20 multi-family dwelling units prior to building permit approval.
5. As noted on the plat, when the adjacent property to the south develops, the owner/developer of the College Avenue Townhomes property shall relocate the dumpster pad to the west side of the turn around/hammerhead and the eastern part of the turn around shall be converted to parking spaces. The parking spaces and dumpster pad/screen shall be reviewed by City staff prior to construction to ensure adequate access is maintained.
6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.
7. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development – Planned Zoning District by the City Council shall also be binding.
8. Phasing: This project is required to obtain all building permits in accordance with the timeframe for LSD's as outlined in Chapter 166 of the Unified Development Code, which allows a 1-year time frame in which all building permits must be obtained. A 1-year extension is possible, subject to the provisions of Chapter 166.20.

Fire Department Conditions of Approval:

9. The fire apparatus access road into the development shall be provided with approved width and turnaround provisions in accordance with the Arkansas Fire Code D103.4 and Table D103.4.
10. All buildings shall be accessible to Fire Department apparatus by way of an approved fire apparatus access road with an asphalt, concrete, or other approved driving surface capable of

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 2 of 3

supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Arkansas Fire Code D102.1.

11. Turning radii on the islands at the upper most parking area must be constructed to allow fire apparatus to make the turn without the risk of hitting either the garbage bin or parked cars.
12. Each of the residential units shall be fitted with NFPA 13R residential sprinklers.

Urban Forester Conditions of Approval:

13. If during construction review process it is determined by the Urban Forester that less than 30% canopy will be preserved, the subject development shall be brought before the Planning Commission for consideration of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage.
14. The area of preserved canopy in the southeast portion of the site shall be placed within a Tree Preservation Area. The extent of which should follow the proposed tree protection fencing for said portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for water, sewer, police and fire shall be paid in accordance with City ordinance.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Any required trash enclosure shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building.** A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Signs are not allowed to be placed in utility easements.
20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened with tall grasses or shrubs. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 3 of 3

21. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance. Manufacturer's cut-sheets are required prior to building permit approval.
22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
23. Large scale development shall be valid for one calendar year.
24. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
25. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
26. 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.
27. Impact fees for water, sewer, police, and fire shall be paid in accordance with City ordinance.



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 20, 2007~~ Updated August 30, 2007

R-PZD 07-2649: Planned Zoning District (COLLEGE AVENUE TOWNHOMES, 291): Submitted by BATES & ASSOCIATES for property located SE OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL AND R-O, RESIDENTIAL OFFICE and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD, Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

Planner: Jesse Fulcher

Findings:

Background: The subject development proposal was heard by the Subdivision Committee on July 12, 2007. The request was tabled by the Subdivision Committee to allow the applicant additional time to work with City staff regarding the tree preservation plan, detention requirements and fire apparatus access. Since the previous review, the applicant has obtained support from the Urban Forester for the tree preservation plan and modified the site plan to address the concerns of the Fire Department.

The Subdivision Committee reviewed the project again on August 02, 2007. Due to some outstanding issues regarding the location and design of some of the retaining walls, which would likely result in modifications to the tree preservation plan, staff recommended that the request be tabled until the August 16, 2007 Subdivision Committee meeting. The applicants have resolved the concerns regarding the retaining walls and maintained 30% of the existing tree canopy, which meets the minimum requirements for the subject development.

The project was forwarded by the Subdivision Committee on August 16, 2007. The outstanding issues discussed at the previous meetings were resolved. Minutes from the meetings are attached to the staff report.

Property Description: The subject property contains 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The majority of the property is zoned C-2; however, the southeastern portion of the site is zoned R-O.

Proposal: The applicant requests rezoning, land use, and large scale development approval for a

residential multi-family development within a unique R-PZD zoning district on the subject property. The proposed zoning would allow for a maximum density of 8.54 units/acre. The density is based on the requested 20 units on 2.34 acres.

The project booklet and the plats provided give the zoning criteria in detail. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Commercial	C-2, Thoroughfare Commercial
South	Undeveloped	C-2, Thoroughfare Commercial
East	Undeveloped	R-O, Residential Office
West	Commercial	C-2, Thoroughfare Commercial

Phasing: The applicant proposes to develop the property in one phase in accordance with the standard timeframe requirements of Chapter 166 of the Unified Development Code. All building permits shall be obtained within one year from the date of City Council approval with a one-year extension available subject to Chapter 166.20 of the Unified Development Code.

Water/Sewer: Water and sewer service are available to the property.

Access: Access to the proposed development would be from Golden Eagle Drive, which intersects N. College Avenue.

Adjacent Master Street Plan Streets: Golden Eagle Drive (Private Street).

Street Improvements: Staff is recommending that the existing sidewalk along Golden Eagle Drive be reconstructed to current City standards from the property to N. College Ave. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.

Tree Preservation:	Existing Tree Canopy:	67.9%
	Tree Canopy Preserved:	30.5%
	Required Tree Canopy:	30.0%
	Mitigation:	Mitigation is not required.

Recommendation: Staff recommends forwarding R-PZD 07-2649 to the City Council with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Staff recommends that a new 6' sidewalk be constructed to current City standards along Golden Eagle Drive from the east property line to N. College Avenue. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.

8-16-07 SUBDIVISION COMMITTEE: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

2. Planning Commission determination of a waiver to allow a curb radius of 20' on a minor residential street where 30' is required. *Staff recommends in favor of the curb radius of 20', finding that a 20' curb radius on a private street with limited vehicle trips allows for safe and adequate vehicular turning movements for passenger and emergency service vehicles.*

8-16-07 SUBDIVISION COMMITTEE: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE REQUESTED WAIVER.

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE REQUESTED WAIVER.

3. The main driveway for the development shall be located within an access easement that extends from Golden Eagle Drive to the south property line to permit cross-access to and from future development to the south. Said easement shall be included on the easement plat document.
4. Parks fees are due in the amount of \$13,600.00 for 20 multi-family dwelling units prior to building permit approval.
5. As noted on the plat, when the adjacent property to the south develops, the owner/developer of the College Avenue Townhomes property shall relocate the dumpster pad to the west side of the turn around/hammerhead and the eastern part of the turn around shall be converted to parking spaces. The parking spaces and dumpster pad/screen shall be reviewed by City staff prior to construction to ensure adequate access is maintained.
6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.
7. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development – Planned Zoning District by the City Council shall also be binding.
8. Phasing: This project is required to obtain all building permits in accordance with the timeframe for LSD's as outlined in Chapter 166 of the Unified Development Code, which allows a 1-year time frame in which all building permits must be obtained. A 1-year extensions is possible, subject to the provisions of Chapter 166.20.

Fire Department Conditions of Approval:

9. The fire apparatus access road into the development shall be provided with approved width and turnaround provisions in accordance with the Arkansas Fire Code D103.4 and Table D103.4.
10. All buildings shall be accessible to Fire Department apparatus by way of an approved fire apparatus access road with an asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Arkansas

Fire Code D102.1.

11. Turning radii on the islands at the upper most parking area must be constructed to allow fire apparatus to make the turn without the risk of hitting either the garbage bin or parked cars.
12. Each of the residential units shall be fitted with NFPA 13R residential sprinklers.

Urban Forester Conditions of Approval:

13. If during construction review process it is determined by the Urban Forester that less than 30% canopy will be preserved, the subject development shall be brought before the Planning Commission for consideration of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage.
14. The area of preserved canopy in the southeast portion of the site shall be placed within a Tree Preservation Area. The extent of which should follow the proposed tree protection fencing for said portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for water, sewer, police and fire shall be paid in accordance with City ordinance.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Any required trash enclosure shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building.** A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Signs are not allowed to be placed in utility easements.
20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened with tall grasses or shrubs. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
21. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance. Manufacturer's cut-sheets are required prior to building permit approval.

22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
23. Large scale development shall be valid for one calendar year.
24. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
25. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
26. 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.
27. Impact fees for water, sewer, police, and fire shall be paid in accordance with City ordinance.

Additional Conditions:

- a. _____
- b. _____

Planning Commission Action: ☒ Forwarded

☐ Denied

☐ Tabled

Motion: Myers

Second: Cabe

Vote: 7-0-0

Meeting Date: August 27, 2007

Comments: _____

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

Signature

Date

Findings associated with R-PZD 07-2649 (College Avenue Townhomes)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as an Urban Center Area. Rezoning this property to R-PZD 07-2649 with multi-family dwelling units is not inconsistent with the land use plan and the surrounding land use. An Urban Center Area is generally described as having the most intense and dense development patterns within the City with a variety of building types and uses. However, given the location of the property within the Hillside/Hilltop Overlay District, staff finds that an intense and dense development pattern would potentially detrimentally affect the hillside and surrounding properties. Additionally, it is appropriate to provide a medium-density residential transition between the thoroughfare commercial uses along College Avenue and the adjoining single-family neighborhood to the east.

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

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The rezoning request, combined with the Master Development Plan, creates a single purpose residential use. Staff finds the proposed use to be appropriate in this transitional area between single-family residences to the east and thoroughfare commercial uses to the west. Additionally, the proposed development utilizes the natural features of the site, including topography and tree canopy, to minimize the visual changes to surrounding properties. As practiced in many areas of the City, transitions in land use between high intensity commercial uses and low intensity single-family uses are often times medium density multi-family residential uses, which is proposed with this project, at 8.54 dwelling

units per acre.

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

FINDING: The site is generally steep with some flat areas along an existing drive and is located within the HHOD. Development of the land utilizing best management practices within the HHOD should provide a development that is compatible with the natural environment. A minimum of 30% of the existing tree canopy is proposed to be preserved within a tree preservation area. Staff finds the proposed use to be much more compatible with the natural environment than development that could potentially occur with the existing commercial zoning.

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

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets; however, the overall number of units (20) should not create an appreciable amount of traffic, especially when compared to the same property is developed under the current C-2 zoning.

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

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the project once constructed.

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: A residential use is a significant change from the existing C-2, Thoroughfare Commercial zoning. Staff finds that the proposal herein does incorporate an acceptable level of compatibility, and development features further the health, safety, amenity and welfare of the community. The density and maximum dwelling units have been addressed for the planning area; a greater percentage of open space will be retained in comparison to the requirements under the C-2 zoning district. Traffic movement is achieved via a private street, with access onto N. College Avenue. The proposed development will work with the natural features and topography of the property and place an emphasis on tree preservation, allowing for a project that enhances the area.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed, though much of the southeast of the site will be naturally screened by the tree preservation area.

- (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: A traffic study was not required with this proposed development. Ingress and egress to the project will be provided from Golden Eagle Drive, which intersects N. College Ave. Staff finds that the proposed twenty units will not create or compound a dangerous traffic condition in the area.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

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

FINDING: This requirement has been met.

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

FINDING: A new 6' sidewalk is to be constructed from the project to N. College Ave.

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

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

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

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. The applicant shall have one year from City Council approval to obtain all necessary permits to begin construction with a one year extension available pursuant to Chapter 166.20.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to preserve 30% of the existing canopy, which shall be placed within a tree preservation easement.

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

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed are not uncommon for the area.

(E) *Revocation.*

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

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

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

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

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

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements. A condition to this effect is included in the staff report.

Sec. 161.25 Planned Zoning District

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

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

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed development incorporates many of the above criteria, as indicated by the transition from commercial land use to multi-family land use; the minimal disruption of existing natural features and amenities; utilization of the site special features, such as geographic location, topography, size and shape; creating a community atmosphere near an arterial street, while providing necessary infrastructure improvements to alleviate any potential impact; and providing a variety of housing types within the same area. Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, common open spaces, and enhancement of existing natural features.

(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: The proposal is single-use residential development, which is more appropriate for a PZD application in this area than a general multi-family residential rezone. The requested R-PZD provides an effective transition between two different land uses and activities on abutting parcels. By clustering more densely and utilizing some of the best management practices available in the HHOD, the natural features of the site and existing tree canopy can be preserved.

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

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

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

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's City Plan 2025;
 - (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 developments are quite varied. There is an existing residential single-family subdivision to the east and developed commercial properties to the west. Land to the north and south is zoned C-2 and R-O and is predominantly undeveloped. The density proposed for this development is appropriate given the transitional nature of the development single-family residential and commercial land uses.

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

FINDING: The lot area minimums and building setbacks for the proposed development are not inconsistent with the bulk and area requirements of the C-2 zoning district. In compliance with HHOD practices, the buildings have been pushed forward towards the private street access with parking areas located behind the buildings.

- (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 for multi-story structures. Staff has recommended a maximum height of 50' as measured from the existing natural grade.

- (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 lower in comparison to a C-2 zoning district, which is appropriate given the location of the property in the HHOD.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 designates this site as an Urban Center Area. Rezoning this property to R-PZD 07-2649, with the associated Master Development Plan, allows the property to be constructed as a residential development. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is consistent with many of the principles and policies in place. The development project creates an internal transition between land uses, while also adding to the existing mixture of land uses and densities in the vicinity. Additionally, the project utilizes many of the best management practices outlined in the City's Hillside/Hilltop Overlay District. These include positioning parking areas behind buildings, utilizing cut slopes with retaining walls to minimize disturbance and separating parking pads.

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

Finding: The proposed zoning is needed in order to develop anything other than those uses allowed within the C-2, Thoroughfare Commercial zoning district. The C-2 zoning district does allow for attached and detached residential dwellings as accessory uses to the permitted uses within the C-2 zoning district. The density limitations are governed by Chapter 161.13 (C), RMF-24, Residential Multi-Family, 24 Units per Acre.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion on surrounding streets given that there are only 20 units proposed. The project will access a private street that intersects N. College Ave., which is a 5-lane roadway.

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

Finding: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: The proposed development has been reviewed for access to public utilities, including water and sewer. Water service is required to be extended to the property. Sewer service is available to the property, although improvements to the sewer systems may be required dependent on the demand placed by subject development.

Police: Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Fire: The subject property is located approximately 2.1 miles from the Fire Station No. 4. Response time to the property is 5.0 minutes.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: PZD 07-2649: Planned Zoning District (College Avenue Townhomes)

Applicable Requirements:

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

Plan Checklist:

Y= submitted by applicant

N=requested by City of Fayetteville

NA= not applicable

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

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

Conditions of Approval:

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



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: R-PZD 07-2649: Planned Zoning District (College Ave. Townhomes)

Requirements Submitted:

	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	2.34
square feet	101,713
Existing Tree Canopy	
acres	1.59
square feet	69,169
percent of site area	68%
Existing Tree Canopy Preserved	
acres	0.71
square feet	31,013
percent of total site area	30.5%
Percent Minimum Canopy Required	30%

FINDINGS:

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

- **This site is a wooded hillside with a mixture of hardwood and evergreen species. A few of the larger trees have been identified as**

post and black oak. As this is a PZD and found within the Hillside Hilltop Overlay District, a high amount of preservation is expected. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will occur on this site with the removal and disturbance of so much tree canopy and land.**

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

- **Adjacent property owners could be affected as canopy will be removed along the east of the property behind businesses and to the north west of the property. The reduction of tree canopy could greatly affect the current stormwater runoff.**

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

- **Hillside Hilltop Overlay Best Management Practices are being utilized for the wide of the drives and location of the parking lots.**

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

- **The size and shape of the lot does not reduce flexibility although topography is very challenging.**

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

- **The overall health of the trees are found to be good.**

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

- **Canopy will be removed within the development area. This will be for the installation of structures, utilities and associated parking. There is a small amount of canopy to the south east and south west that will be attempted to be saved. Staff will recommend this to be placed within a Tree Preservation Area to ensure protection in perpetuity.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Off-site utility easements were required for this development. The area and canopy removed has been added to the total site area and removed canopy to ensure the preserved canopy calculation subsequent mitigation is accurate.**

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

- **There is one drive aisle that does not take into account the steep topography on this site. The utilities are utilizing the disturbed area in all possible locations.**

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

- **Off-site easements are required for utilities on this project. Removed canopy will be mitigation for if the percentage drops below the 30% requirement. Off-site tree protection will also be required to ensure that no further canopy is removed than what was originally approved.**

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

- **Mitigation will not be required on this site as long as the minimum percentage stays above the 30% requirement.**

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

- **The Project is within the Hillside Hilltop Overlay District**

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

- **N/A**

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

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. Mitigation will not be required on this site as the proposed Tree Preservation numbers will stay above the required 30%. If during the construction review process, it is found that less than 30% canopy will be saved; staff will require this project to come back through the review process for approval of a major modification.
2. The area of preserved canopy in the southeast portion of the site will need to be placed within a Tree Preservation Area. The extent should follow the proposed Tree Protection Fencing for that portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

TO: Jesse Fulcher, Planner
FROM: Alison Jumper, Park Planner
DATE: August 14, 2007
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: August 16, 2007
Item: PZD 07-2649 (College Avenue Townhomes, 291)
Park District: NE
Zoned: R-PZD
Billing Name & Address: Broyles Development, 4921 Clear Creek Blvd. Fayetteville, AR 72704

Land Dedication Requirement
Single Family ____ @ .024 acre/ unit = ____ acres
Multi Family ____ @ .017 acre/ unit = ____ acres

Money in Lieu
____ @ \$960 per unit = \$ ____
20 @ \$680 per unit = \$13,600

COMMENTS:

- Parks and Recreation Advisory Board made a recommendation of accepting money in lieu of land for the park land dedication requirement for this development on June 4, 2007.
- Fees are due prior to building permits.

Fayetteville Fire Department

303 W Center

Fayetteville, AR 72701



D. 1
R-PZD 07-2649
College Avenue Townhomes
Page 32 of 40

MEMO

To: Jesse Fulcher, Glen Newman
From: Dale Riggins, Captain
Date: July 6, 2007
Subject: PRZD – College Avenue Townhomes

Dear Mr. Fulcher & Mr. Newman

In regards to the development off of Golden Eagle Drive that Bates & Associates are proposing; without the following conditions being met, the Fire Department can not support this development.

1. The fire apparatus access road, coming into the development, shall be provided with approved width and turnaround provisions in accordance with the *Arkansas Fire Code D103.4 and Table D103.4. (Needs to be shown on plat)*
2. All buildings shall be accessible to fire department apparatus by way of an approved fire apparatus access roads with an asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. *Arkansas Fire Code D102.1 (This is a standard comment and should be met)*
3. Turning radiuses, on the islands at the upper most parking lots, must be reviewed and the radius built to allow apparatus to make the turn without the risk of hitting either the garbage bin or parked cars. *(Turning radiuses have been modified to our approval)*
4. *Arkansas Fire Code D103.2 states that fire apparatus access roads shall not exceed 10 percent in grade. After having our apparatus drive comparable grades, it is my opinion that the grade coming up Golden Eagle Drive, and the 15 percent grade coming into the entrance of this development, will greatly affect the response time that it takes to arrive at the townhomes. I have come up with a few feasible solutions that will help with the Fire Departments approval of this development, if the existing grades cannot be modified to meet the Arkansas Fire Code.*

- a. The turning radius entering into this development must be widened to allow apparatus means of maintaining their momentum as they move towards the 15 percent grade leading to the townhomes. *(They have modified their turning radiuses to met this requirement on the plat)*
- b. We will need assurances that the entrance into this development, and the access road leading to the upper townhomes, will be constructed to allow our apparatus to come up to these grades without dragging either the front or back bumpers. *(They have provided us with a CAD drawing showing us that we are able to maneuver the grade without dragging either the front of rear bumpers)*
- c. Since the grade of Golden Eagle Drive and the development affects our response time, I am recommending that each of the townhomes be fitted with NFPA 13R residential sprinklers. Sprinklers will not only help to control a fire due to our longer response time, but it will help with life safety during times of inclement weather where we may not be able to access the development due to snow, ice, or cars stranded in the roadway. *(They have agreed to install these sprinklers and need to show the FDC locations on the plat)*

Please pass these along to the Sub-Division committee at the upcoming meeting. If all of these recommendations are met and approved by the Fire Marshal's office, then I don't anticipate any problems on having the developer to move forward with this project from the fire safety stand point.

Dale Riggins
Captain
Fayetteville Fire Department

CC: Tony Johnson, Fire Chief
David Williams, Fire Marshal

Date 7/3/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 07-2649: Planned Zoning District (College Avenue Townhomes, 291):** Submitted by **Bates & Associates** for property located **SE of College Avenue and Golden Eagle Drive**, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. **The property is zoned C-2 and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD with 5 buildings of 4 attached units for a total of 20 dwellings units and associated parking.**

It is the opinion of the Fayetteville Police Department that this PZD will not substantially alter the population density and will not create an appreciable or undesirable increase in the load on police services. The PZD will not create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

Bates & Associates, Inc.

Civil Engineering & Surveying

3561 No. College / Fayetteville, AR 72703
PH: 479-442-9350 / FAX: 479-521-9350

July 3, 2007

Chairman of the Board of Adjustments
113 West Mountain
Fayetteville, AR 72701

RE: Driveway Variance for College Ave. Townhomes

Dear Mr. Chair,

This letter is to request a variance from the required driveway radius of 25' along a public street. We are asking to decrease the radius from 25' down to 20' due to the terrain and the amount of grading and/or disturbance that would occur from the larger radius. Since we are in the hillside district, we are trying to minimize disturbance. Also, the ordinance states that the 25' driveway radius is along public streets. Golden Eagle drive is not a public street; it is considered a private street with an access easement. Likewise, the streets throughout this project would be considered private streets and would not have to follow the 25' radius. Also, according to Dale Riggins at the Fayetteville Fire Department the 20' radius is adequate for the maneuvering of fire apparatus.

If you have any questions or require additional information, please feel free to call.

Sincerely,

Bate & Associates, Inc.



Chris Waller, E.I.

Subdivision Committee

August 16, 2007

Page 2 of 14

Old Business:

R-PZD 07-2649: (COLLEGE AVENUE TOWNHOMES, 291): Submitted by BATES & ASSOCIATES for property located SE OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD, Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

Chris Waller, Applicant, described the last meeting and issues they've resolved.

Jesse Fulcher, Current Planner, briefly described the request and the reasons for the previous tabling of the item. The applicant had worked with the Urban Forester and the Engineering Department and resolved all outstanding items. Staff was recommending that the request be forwarded to the Planning Commission with a determination of street improvements and a waiver to allow a 20' curb radius where 30' is required.

Sarah Patterson, Urban Forester, stated that issues with the retaining walls and tree canopy had been resolved, and the applicants were preserving 30% of the existing canopy. If any time the forested area looks like it is going to fall below 30%, the project will be required to come back before the Planning Commission as a major modification.

Glenn Newman, Staff Engineer, stated that he had met with the applicant. The applicants have relocated some of the utility easements and retaining walls to meet Engineering requirements.

Larry Bittle, (public), owns office buildings below property, is concerned about drainage, but not necessarily against the project. He had two questions: will runoff drain into a detention pond, and is the south side going to run off? He stated he was okay with the project as long as drainage is addressed.

Chris Waller, (applicant) stated that project runoff issues so far have met all city requirements. Right now about 3 acres drain down to the property below. With this development, runoff will be caught by the street and drain into storm sewer. The development will help improve the current drainage situation by decreasing the runoff onto property.

Commissioner Trumbo stated that by ordinance there can't be any more runoff than before, and that he has seen this project once before when tree preservation was just below 30%. Preservation has been increased to above 30% and the comments from the Fire Department have been addressed.

Commissioner Myers asked how much excavation will be required, and about retaining walls.

Waller stated that the buildings are as close to natural grade as possible, and that a lot of the tree canopy and slope will be preserved to the south by the retaining walls.

Subdivision Committee

August 16, 2007

Page 3 of 14

Commissioner Myres stated that grading and tree removal will inevitably occur, but it seems like the density is low enough to meet the standards. She stated she has no issues with the project.

Commissioner Winston stated that the dumpster location will be visible and asked if the committee should look into moving that.

Waller stated that Fayetteville Solid Waste requested the dumpster be there for access, but that the dumpster will be screened as required by ordinance.

No public comment was presented.

Motion:

Commissioner Myres made a motion to forward the request finding in favor of Conditions #1 and #2, and with all other conditions of approval. **Commissioner Winston seconded the motion.**

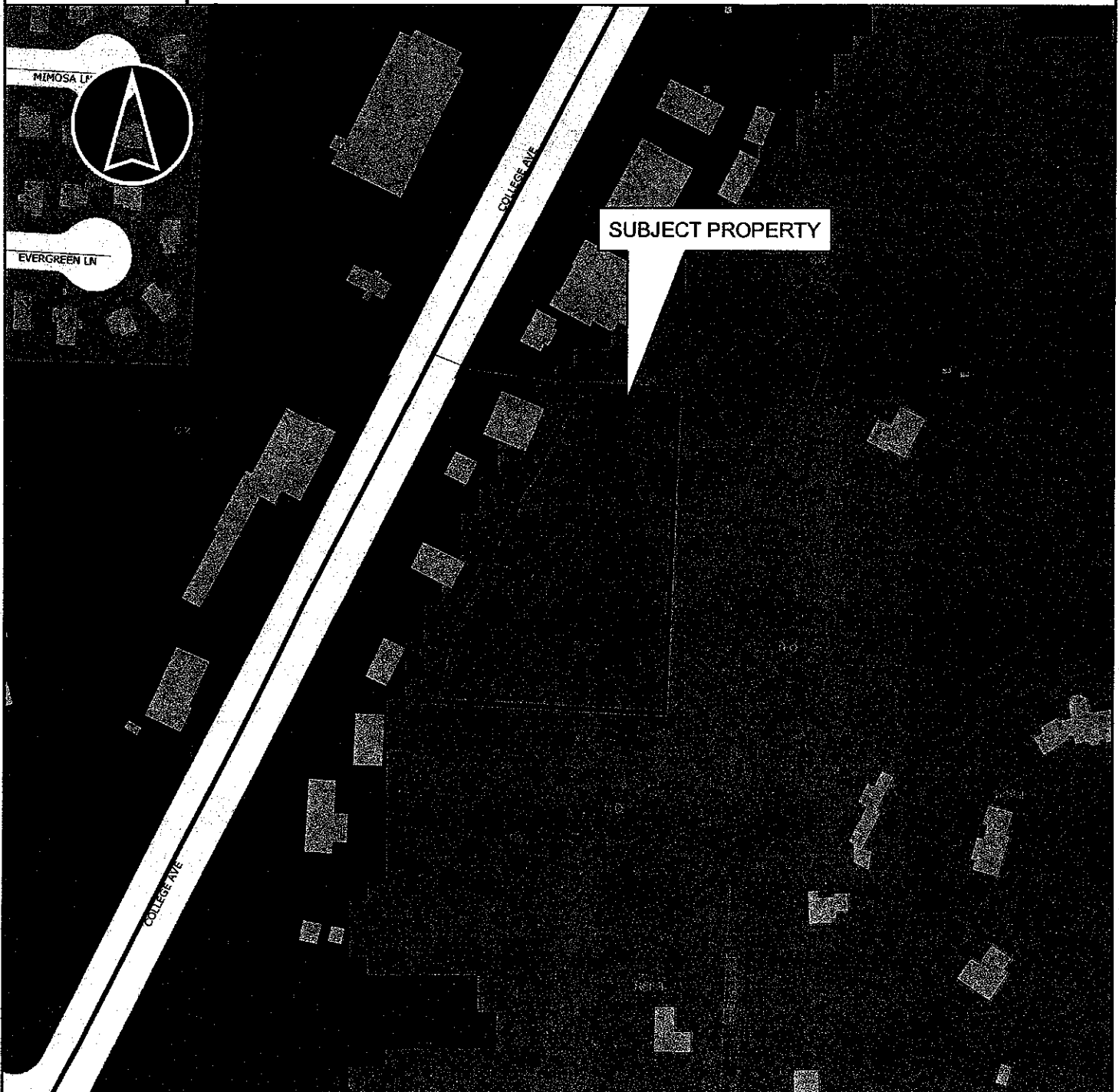
Waller stated he was in agreement with all conditions.

The motion passed with a vote of 3-0-0.

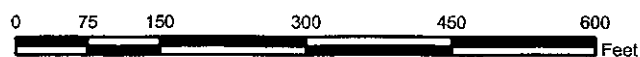
RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



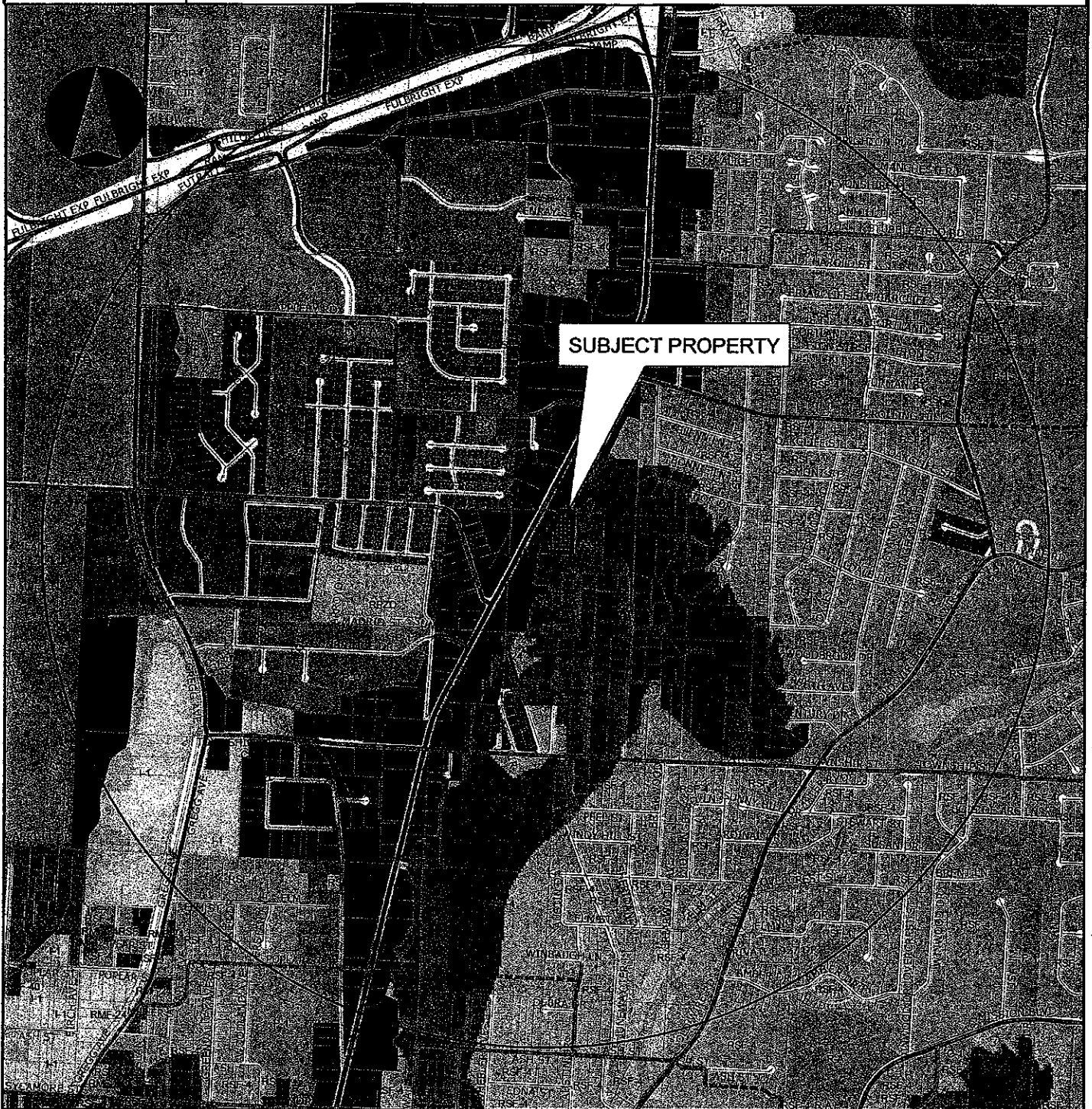
Overview



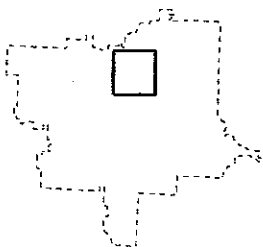
RPZD07-2649

One Mile View

COLLEGE AVENUE TOWNHOMES



Overview



Legend

Subject Property

RPZD07-2649

Boundary

Planning Area

Overlay District

Outside City

Legend

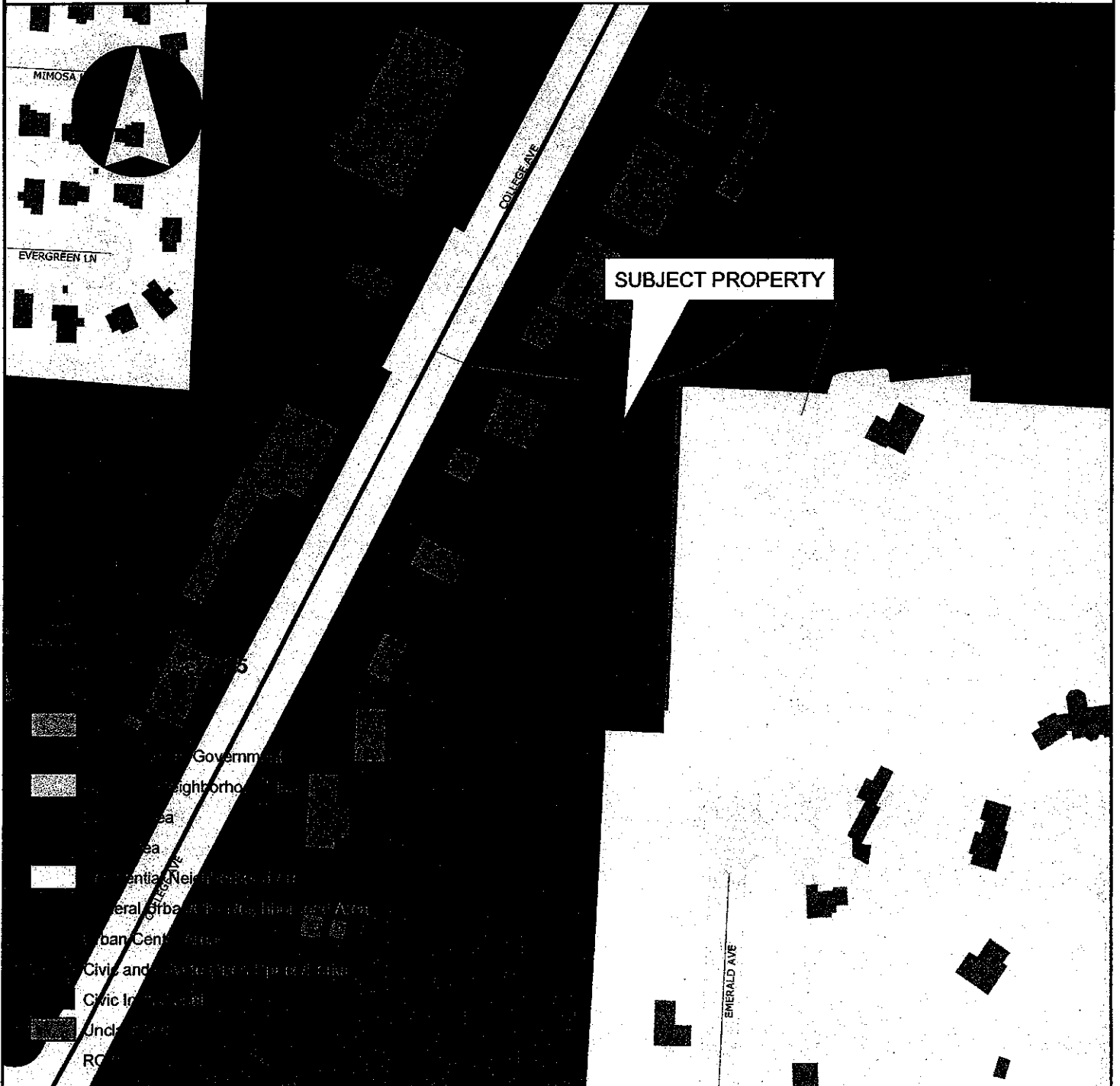
Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

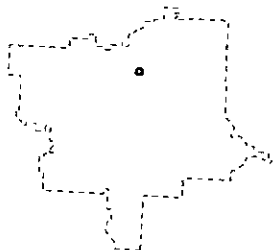
RPZD07-2649

COLLEGE AVENUE TOWNHOMES

Future Land Use



Overview



Legend

Subject Property

RPZD07-2649

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



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

18-Sep-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2680: Arcadian Court, 365: Submitted by Dave Jorgensen for property located at 1631 West Deane Street containing approximately 1.69 acres. The request is for zoning and land use approval only for a Residential Planned Zoning District with 11 single-family units.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

8-31-07

Received in City Clerk's Office

ENTERED
8-31-07

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED
9/4/07

Mayor

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 ^{JK}

Date: August 30, 2007

Subject: Residential Planned Zoning District for Arcadian Court (R-PZD 07-2680)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Arcadian Court, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 1.69 acres located on Deane Street, just east of Lewis Avenue. The proposal is for a residential development consisting of 11 single-family residential dwelling units, with a density of 6.5 units/acre.

BACKGROUND

The subject property is located on Deane Street, just east of Lewis Avenue and is zoned RSF-4. The property contains approximately 1.69 acres and was originally developed with one single-family home. The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 11 single-family lots. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval prior to development.

As noted in the staff report, there have been several rezoning and development requests for the subject property dating back to 2003. None of the previous requests were forwarded by the Planning Commission to the City Council. The most recent application, requesting 16 units in single-family and multi-family buildings, was recommended for denial by staff, and denied by the Planning Commission.

DISCUSSION

On August 27, 2007 the Planning Commission voted 7-0-0 in favor of forwarding this request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2680, ARCADIAN COURT, LOCATED AT 1631 WEST DEANE STREET; CONTAINING APPROXIMATELY 1.69 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From RSF-4, Residential Single Family, 4 units per acre to R-PZD 07-2680, Arcadian Court, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

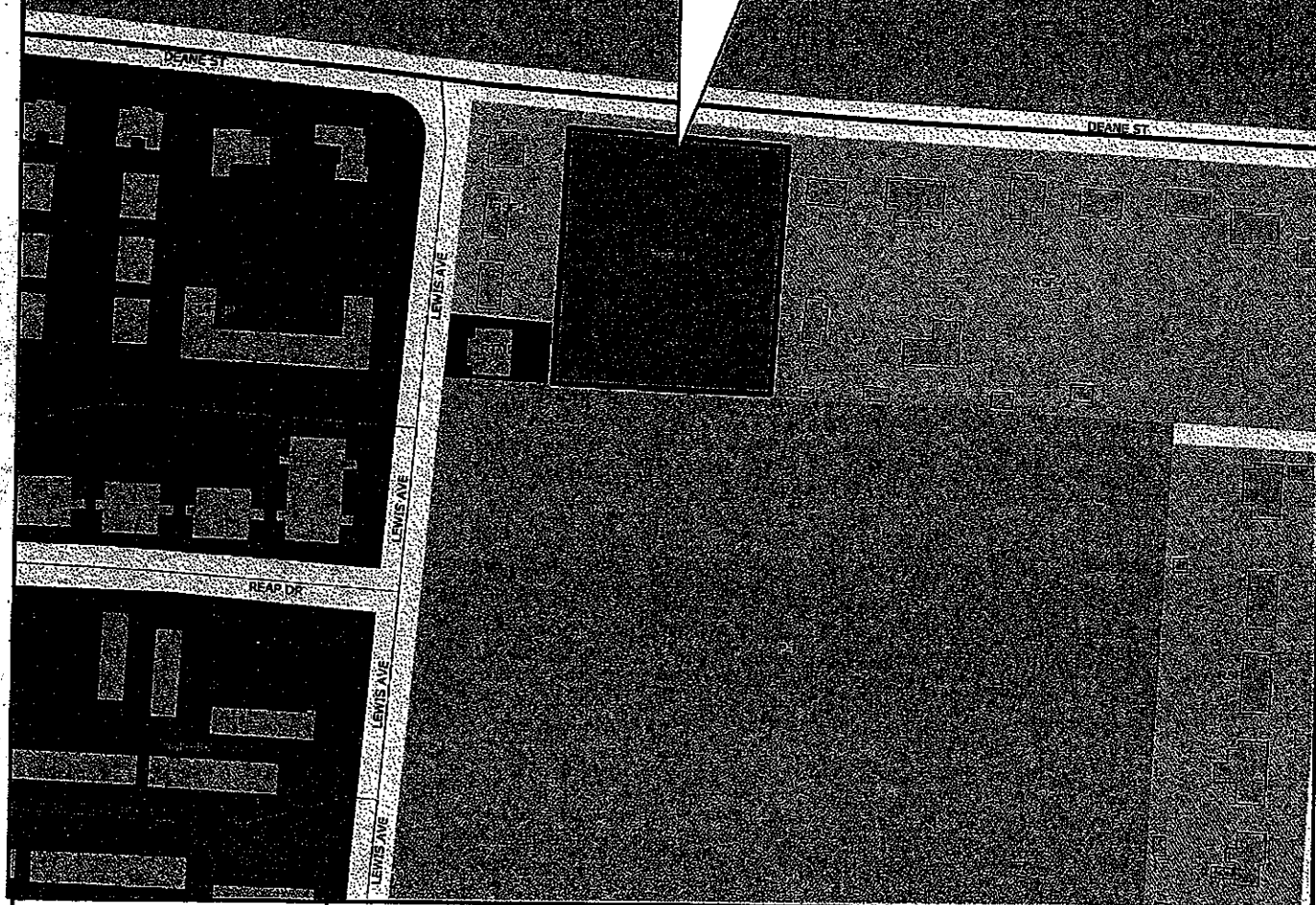
RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



EXHIBIT "B"
R-PZD 07-2680

A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 5, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW1/4, SE1/4 THENCE S86°56'57"E 184.08 FEET TO THE P.O.B., THENCE N03°15'08"E 296.95 FEET, THENCE S84°56'54"E 253.42 FEET, THENCE S03°57'22"W 288.13 FEET, THENCE N86°56'57"W 249.76 FEET TO THE P.O.B.; CONTAINING 1.69 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 1 of 3

The Planning Commission and Staff recommend the following conditions of approval associated with R-PZD 07-2680 (Arcadian Court).

Conditions of Approval:

1. Planning Commission determination of street improvements. The Planning Commission will make final determinations of street improvements at the time of development. At minimum, *staff will recommend that Deane Street be improved 14' from centerline including pavement, curb, gutter, storm drains, and a 6' sidewalk.*
2. Planning Commission determination of adequate connectivity. A single street stub-out is proposed to a large undeveloped property to the south, currently utilized for athletic fields by the City. *Staff recommends in favor of the proposed connectivity finding that the proposed stub-out will allow for a future connection in a logical location.*
3. Curb-cuts shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be increased to 24' at the right-of-way and may be located on the property line. Lots with rear alley access shall be prohibited from having curb-cuts onto the street.
4. This project is required to go through preliminary plat and final plat review and approval prior to construction.
5. The applicant shall dedicate right-of-way for streets pursuant to the Master Street Plan at the time of final plat approval.
6. The project is subject to the project phasing listed in the project booklet. The applicant shall have one year from City Council approval of the Planned Zoning District to obtain all permits necessary, including preliminary plat approval and construction plan approval, to begin construction and three years to obtain final plat approval. A one-time, one year time extension is available for each specific time limit subject to Chapter 166.20 of the Unified Development Code.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat and building permit to ensure compliance. All homes shall be designed with a "front façade" facing onto adjacent public streets, when present, and to have varied facades to provide variety within the overall development.
9. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for RSF-4 zoning districts, which would not allow a sign for the subject development.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 2 of 3

10. 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.
11. 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, subject to approval by the Urban Forester.
12. Prior to preliminary plat submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
13. Landscape requirements as outlined in Chapter 177 shall be required with development plat approval.
14. If required, the two existing utility easements on the property shall be vacated and any existing utility lines relocated at the owner/developers expense prior to construction approval.
15. The following revision(s) shall be made prior to submittal for City Council review:
 - a. Change the building area on the plats from 1,400-1,500 to a maximum of 42%.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
20. 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.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 3 of 3

21. 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.
22. 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



Planning Commission Meeting
August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: August 8, 2007 Updated August 30, 2007

R-PZD 07-2680: Residential Planned Zoning District (ARCADIAN COURT, 365): Submitted by DAVE JORGENSEN for property located at 1631 W. DEANE STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.69 acres. The request is for Zoning and Land Use approval only for a Residential Planned Zoning District with 11 single family units.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located on Deane Street, just east of Lewis Avenue and contains an existing single-family structure. Surrounding land use and zoning are listed in *Table 1*.

(Table 1) Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Vacant-University Farm	R-A, Residential Agriculture
South	Soccer Fields	P-1, Institutional
East	Single-family homes	RSF-4
West	Single-family dwellings/two-family dwelling	RSF-4/RT-12

Proposal: The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 11 single-family lots and 1 lot for detention. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval prior to development.

Adjacent Master Street Plan Streets: Deane Street (Minor Arterial)

Right-of-way to be dedicated: Right-of-way in the amount of 45' from centerline for Deane Street shall be dedicated with approval of the final plat.

Connectivity: Property to the east and west is currently developed for single-family residences, and property to the south is currently undeveloped property owned by the University of Arkansas. Accordingly, a street stub-out is proposed to the south to connect to any future development.

Phasing: The applicant is proposing to develop the property in one phase. The applicant shall have one year from City Council approval to obtain all necessary permits for development and three years to obtain final plat approval with a one year extension available for each time limit pursuant to Chapter 166.20 of the Unified Development Code.

Water & Sewer: Water and sewer lines would be extended to serve the 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, requiring a 25% tree preservation percentage as a baseline.

Public Comment: Staff has received several letters from adjacent property owners who are opposed to the subject development, citing such concerns as density, small lot sizes, reduction in property values, an overabundance of un-sold and rental properties in the area, and the architectural compatibility of the development with the surrounding neighborhood.

In 2003, planning staff recommended denial of a rezoning request to R-1.5 (Residential Two and Three Family) for the subject property and the request failed for lack of a motion by the Planning Commission. Both staff and the Planning Commission recommended the most appropriate action to take for development other than single-family homes at four units per acre was to utilize the PZD process.

In January of 2006, an applicant again requested a rezoning of the subject property to RT-12, Residential Two and Three Family (same designation as previous R-1.5, with a different name) with a Bill of Assurance limiting the development to eight (8) two-family homes (16 units). Staff recommended denial of the rezoning; however the applicant withdrew the rezoning request prior to the Planning Commission meeting.

In June of 2006, an applicant requested a Residential Planned Zoning District on the subject property for a maximum of 16 dwelling units (8 multi-family dwelling units, 4 two-family units and 4 single-family dwelling units). Staff again recommended denial of the request finding that proposed density and land use was not compatible with surrounding properties, which are predominantly single-family. The Planning Commission denied the request 5-1-0 on June 12, 2006.

The property to the southwest was rezoned RT-12 in 1993. The applicant requested the rezoning on the subject property in order to meet the zoning requirements for development of a single duplex. Under the RSF-4 (R-1) zoning, the lot did not meet the lot width and lot area requirements for the construction of a duplex. However, under the RT-12 (R-1.5), a duplex could be constructed on the property, but the size of the lot would prohibit the construction of three or more units. The Planning Commission voted 6-2-0 to recommend approval of the rezoning request to the City Council. The City Council approved the rezoning request 8-0 on May 4, 1993, allowing for single two-family structure to be located on the property.

Recommendation: Finding that the proposed rezoning and development approval meets many of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, staff recommends forwarding **R-PZD 07-2680** to the City Council with a recommendation for approval.

Conditions of Approval:

1. Planning Commission determination of street improvements. The Planning Commission will make final determinations of street improvements at the time of development. At minimum, *staff will recommend that Deane Street be improved 14' from centerline including pavement, curb, gutter, storm drains, and a 6' sidewalk.*
2. Planning Commission determination of adequate connectivity. A single street stub-out is proposed to a large undeveloped property to the south, currently utilized for athletic fields by the City. *Staff recommends in favor of the proposed connectivity finding that the proposed stub-out will allow for a future connection in a logical location.*

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED CONNECTIVITY.

3. Curb-cuts shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be increased to 24' at the right-of-way and may be located on the property line. Lots with rear alley access shall be prohibited from having curb-cuts onto the street.
4. This project is required to go through preliminary plat and final plat review and approval prior to construction.
5. The applicant shall dedicate right-of-way for streets pursuant to the Master Street Plan at the time of final plat approval.
6. The project is subject to the project phasing listed in the project booklet. The applicant shall have one year from City Council approval of the Planned Zoning District to obtain all permits necessary, including preliminary plat approval and construction plan approval, to begin construction and three years to obtain final plat approval. A one-time, one year time extension is available for each specific time limit subject to Chapter 166.20 of the Unified Development Code.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat and building permit to ensure compliance. All homes shall be designed with a "front façade" facing onto adjacent public streets, when present, and to have varied facades to provide variety within the overall development.

9. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for RSF-4 zoning districts, which would not allow a sign for the subject development.
10. 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.
11. 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, subject to approval by the Urban Forester.
12. Prior to preliminary plat submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
13. Landscape requirements as outlined in Chapter 177 shall be required with development plat approval.
14. If required, the two existing utility easements on the property shall be vacated and any existing utility lines relocated at the owner/developers expense prior to construction approval.
15. The following revision(s) shall be made prior to submittal for City Council review:
 - a. Change the building area on the plats from 1,400-1,500 to a maximum of 42%.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
20. 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.

21. 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 Action: ☐ Tabled ☒ Forwarded to C.C. ☐ Denied

Motion: Myers

Second: Cabe

Vote: 7-0-0

Meeting Date: August 27, 2007

Comments: _____

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

Signature

Date

Findings associated with R-PZD 07-2680 (Arcadian Court)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to R-PZD 07-2680 with single-family dwelling units at a density of 6.50 units per acre is consistent with the land use plan and the surrounding land use. Although the proposed lot sizes are smaller than the lot sizes found within the standard RSF-4 developments in the area, staff finds the development to be relatively compatible with these developments. The development will support the goal of providing density (6.50 units/acre) nearby to public services, i.e. schools, sports complexes, retail and commercial goods, etc., while protecting the integrity of the predominantly single-family residential neighborhood to the east and further south.

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

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The proposed development will yield a higher density than the surrounding developed neighborhood, with the exception of the zoning and development west of Lewis Avenue, which is zoned RMF-40. However, an overall density of 6.50 units/acre is compatible with surrounding developments, especially given the fact that the proposal incorporates only single-family detached homes. A harmonious relationship with surrounding development is achieved by utilizing detached single-family dwelling units throughout the development and providing building setbacks that are comparable to the RSF-4 zoning district.

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

FINDING: The property was originally developed with one single-family home that has since been removed. The majority of the tree canopy is found along the edges of the property, which should allow for a high percentage of preservation if proper planning is used in the placement and installation of required utilities.

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

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets; however, the overall density should not create an appreciable amount of traffic above that which can be managed with the streets in the area. Improvements to Deane Street are anticipated to be recommended with preliminary plat approval.

- (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 subject infill development should be compatible with surrounding developments as single-family residences will be the only use permitted. Although located on smaller lots the buildings will have similar building setbacks as those on surrounding properties. Since the proposal is not for development rights a tree preservation plan has not been reviewed. However, the majority of the existing canopy is located along the property lines and with proper planning could be preserved.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
 - (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Four of the properties will front onto Deane Street and will be served by rear access driveways. The remaining lots will be accessed directly from the public street, although a condition of approval has been included in the staff report restricting the width of the curbs to 16' at the right-of-way line unless shared drives are proposed.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

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

FINDING: This requirement has been met.

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

FINDING: A 6' public sidewalk is to be constructed along Deane Street and two 4' sidewalks are to be constructed along either side of the interior street. This requirement will be evaluated fully, in conjunction with the ordinance requirements in place at the time of development submittal.

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

FINDING: Street lights are to be provided at all intersections and with a maximum separation of 300 feet.

(8) *Water*. As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code. Improvements to water services may be required and shall be reviewed at the time of preliminary plat submittal.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. Improvements to sewer services may be required and shall be reviewed at the time of preliminary plat submittal.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

- (a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.
- (b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
 - (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
 - (v) The plat of the planned development shall designate each private street as a "private street."
 - (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third

party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. There are no nonresidential facilities proposed.

- (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. Canopy calculations shall be based upon a minimum 25% canopy preservation required.

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

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding

phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

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

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

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, compatibility with surrounding land uses and integration of a varied housing type and lot size in an infill situation. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, a variety of lot arrangements, lot dimensions and building setbacks.

The following guiding policies within Residential Neighborhood Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Neighborhood Areas:

- a. Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.*
- b. Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.*
- c. Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.*
- d. Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.*
- e. Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.*

(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 R-PZD meets the intent of the PZD ordinance as noted above. The requested R-PZD provides variety and flexibility in land development while also providing a compatible relationship with surrounding land uses.

- (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 100 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 mixed in density with large lot residential properties and platted subdivisions consistent with the RSF-4 zoning district along with multi-family residential to the west of Lewis Avenue. A density of 6.50 units/acre is appropriate given that the project is an infill development that is located near schools, retail and commercial establishments, recreational facilities, meets the urban development goal of the City's City Plan 2025, and will not have a detrimental impact on the site and adjoining properties.

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

FINDING: Lot area minimums and setbacks are varied on this project with structures oriented to the street. Due to the unique nature of this development, it is not possible to conform to existing standards for lot area minimums and setback requirements in a typical single-family district.

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

FINDING: Building heights proposed for this project are typical of single-family development in the surrounding area, and shall not exceed 45'.

- (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 very similar to a RSF-4 zoning district, with a maximum of 42% buildable area permitted.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Neighborhood Areas this proposal meets. Rezoning the property will

accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

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

Finding: The rezoning is needed to allow for an infill development that is somewhat unique in comparison to the residential development pattern in the surrounding neighborhood, while also maintaining a level of compatibility and sensitivity to surrounding properties.

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.

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 does not find that an undesirable increase in load on public services would be created.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: R-PZD 07-2680: Residential Planned Zoning District (Arcadian Court)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required once this development comes through the preliminary plat process.
2. Staff will assess the plans with a minimum canopy cover of at least 25%.
3. Significant trees, canopy within floodway or along riparian areas is found to be a high priority for preservation.

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, etc.

August 1, 2007

Mr. Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

This document is the response to the request for determination of whether the proposed **PZD 07-2680: Planned Zoning District (ARCADIAN COURT, 365)** submitted by **Dave Jorgensen** for property located at **1631 West Deane Street**, would substantially alter the population density and thereby undesirable increase the load in public services or create an appreciable increase in traffic danger and congestion. **The property is zoned RSF-4 and contains approximately 1.69 acres. The request is for zoning and land use approval only for a Residential Planned Zoning District with 11 single-family units.**

It is the opinion of the Fayetteville Police Department that this R-PZD **will not** substantially alter the population density, and **will not create** an appreciable or undesirable increase in the load on police services. This R-PZD **will not create** an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Chief Bud Thompson
From: Captain Dale Riggins
Date: August 31, 2007
Re: Zoning Review – Fire Department Comments

PZD07-2680 (Arcadian Court)

These 1.69 acres is covered by Engine 2 at 700 N Garland.

It is 1.2 miles from the station with an expected response time of 3.75 minutes.

The Fire Department anticipates 4 (2 EMS – 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1565 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

If you have any questions concerning these comments please don't hesitate to call me

Captain Dale Riggins
Fayetteville Fire Department

August 21, 2007

RE: Proposed rezoning of 1631 Deane St.

Dear Planning Staff and Planning Commission,

First, I want to express appreciation for your past concern and attention to this neighborhood (roughly defined as that area between Lewis, Mt. Comfort, Garland, and Deane). You saw its potential to persist as a single-family neighborhood and resisted efforts to rezone this lot for high-density development. That paid off. Since the last rezoning request, 1716 Lewis and 1501 Deane have undergone renovation. Additionally, I purchased 1589 Deane and am in the process of renovating it.

Tim Brisiel is now proposing a development of 11 single-family houses on the subject property. While this is certainly an improvement over the last proposal, it's still problematic. Why? It is completely out of character with the neighborhood on two grounds: density and design.

Density: Brisiel is proposing 11 units on a parcel that could currently subdivide into 7 units and fit well with surrounding uses. This represents a 57% increase over what's allowable by right. It represents an even larger increase over the density of surrounding acreage and the immediate neighborhood (1400 and 1500 block of Deane) to the east.

Design: 1) Brisiel is proposing lots of 5,040 square feet. The 4 lots to the west of the subject property are 15,180 square feet each. The lots to the east of the subject property are 12,445 and 22,139 square feet. Lots in the 1400 and 1500 block of Deane start at 15,000 square feet. 2) To accomplish high-density, Brisiel wants a zero-lot line development, which does not exist in the neighborhood. 3) His proposal involves large houses on small lots, whereas the neighborhood is predominately small houses on large lots. 4) Finally, the proposal is for a homogenous development of dun-colored brick houses with a vertical orientation. In contrast, housing in the neighborhood is eclectic with a horizontal orientation, mostly wood siding and a few--red brick--ranch-style homes.

My concern is that Brisiel's development—in its current form—will represent a virus in the neighborhood, leading slowly to deterioration until it becomes an extension of the hodge-podge development found west of Lewis toward I-540.

Does the subject property have unusual characteristics that render it undevelopable under RSF-4? Absolutely not. Infill can happen here in a way that fits the character of the neighborhood.

Is there a need for higher than usual density? Well, given the inventory of unsold houses on the market and the number of houses that have been temporarily converted into rentals due to poor market conditions, the answer to this appears to be "no."

What would be ideal? I'd like to see the Planning Commission table the request and send Mr. Brisiel to the Community Design Center for consultation. Surely there's a creative way to develop the property so that it fits with the neighborhood while turning a modest profit.

If you are unwilling to do this and want to give Mr. Brisiel a density bonus for some reason, please consider a bonus of only 2 units rather than 4. And please make it contingent on a design that is compatible with surrounding properties via Bill of Assurance. I would also request another item in the Bill of Assurance: retention of all perimeter trees and bushes for screening purposes and replacement of any live screening that is killed by construction.

Most sincerely,

Rebecca Bryant

From: Lisa McClure <lehbab@att.net>
To: <planning@ci.fayetteville.ar.us>
Date: 8/20/2007 11:40 AM
Subject: Rezoning of 1.91 acre lot at Deane/ Lewis - Brisiel

Dear Planning Commission:

I would like to express my concern with the proposed re-zoning of the 1.91 acres at Deane and Lewis from 7 single family dwellings to 11 dwellings. I do not see that there is a reason for the rezoning, as this property can be developed with the current zoning of 7 houses, with no loss in the neighborhood's value. While I'm sure these houses would be more affordable than many of the houses available in Fayetteville, on lots as small as are proposed, they will end up in a few years as low end rentals. This would drop property value for all the neighborhoods around the area, as well as add to the overabundance of rental properties that are prevalent in Fayetteville.

I know that in the 18 years I have been in my neighborhood, we have seen the decline of the area due to houses being torn down and either apartments or duplexes being built. While rentals are needed in our town, it appears that we have plenty at this time, as there are numerous signs for vacancies in the area.

We need to add neighborhoods with affordable homes that have yards for children to play in, yards large enough to have swing sets, outdoor toys, and room to run and play. Houses on such small lots as proposed will not fit this need, as the lot would be filled with the house.

Please deny this request for rezoning and encourage this builder to look for other property to build the other 4 houses on if he wishes to build affordable houses. Fayetteville needs more family neighborhoods where children can grow and have a yard to play in - not the small plot of grass that seem to be the trend in current building practices.

Sincerely,

Lisa McClure
1218 North Maxwell
Fayetteville, AR

From: "T. L. Phelan" <tlphelan@arkansasusa.com>
To: <planning@ci.fayetteville.ar.us>
Date: 8/22/2007 11:17 PM
Subject: objection to rezoning request from Arcadian Court

CC: <joycerichards@hotmail.com>
TO: Jessie Fulcher, Fayetteville planning office
REF: Arcadian Court request (proposal by Tim Brisiel); rezone for 11 single-family houses (or 50% more than currently allowable)

Mr. Fulcher,

This is to follow-up our phone conversation from today and provide you my written OBJECTION TO ANY REZONING EFFORTS WITHIN THE STEPHENS-HENRIX-MAXWELL NEIGHBORHOOD ASSOCIATION. Changing the current low density single-family homes to a higher density classification weakens the integrity of our neighborhood.

As I mentioned in our conversation, you are well aware of the zoning fiascos that the residents in my neighborhood have been saddled with opposing over the last several years. It started with the City making a zoning mistake that opened the door to "spot rezoning" with the objections of the long-term residents of our neighborhood being ignored in favor of those making the request -- NON-residents of our neighborhood -- so that they can make extra profit at the expense of our property values and the character of our neighborhood. Mr. Brisiel/Arcadian can still make a profit with the current zoning and stay within the historical character of the current overall low density zoning. Nothing has changed in our area to justify this kind of incremental destruction of our neighborhood.

I could continue on for several pages, but I believe this is a sufficient voicing of my opinion.

I request that the planning commission and City Council members respect the integrity of our neighborhood and wishes of the residents and keep our zoning as a low density single-family zone.

--- Terri L. Phelan
1171 N. Maxwell Dr.
Fayetteville, AR 72703
tlphelan@arkansasusa.com

From: Michelle Snyder <snydercreativem@sbcglobal.net>
To: <planning@ci.fayetteville.ar.us>
Date: 8/20/2007 4:20 PM
Subject: Proposed development on Deane St.

Mr. Fulcher - please do NOT allow the the developer to add units to be built on the 1.91 acres. I own 1505 Deane St. and feel this will detrimentally affect the neighborhood.

Michelle Snyder
10124 Natural Trail
Maumelle, AR 72113

From: robert barrett <rmb0112382000@yahoo.com>
To: <planning@ci.fayetteville.ar.us>
Date: 8/21/2007 7:25 PM
Subject: 1.91 Acre Lot on Deane St.

Jessie, I oppose rezoning the subject lot to permit 11 units to be built on it. It is presently zoned for 7. Eleven units will change the neighborhood character. There are numerous unsold units. I don't see the reason to build even more than the lot is presently zoned. They will just sit and be unsightly. Please do not rezone the subject lot. Thank you! Bob and Margaret Barrett, 1541 Deane St

Park yourself in front of a world of choices in alternative vehicles. Visit the Yahoo! Auto Green Center.
http://autos.yahoo.com/green_center/

R-PZD 06-2035: Planned Zoning District (THE MAPLES, 365): Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located SE OF DEANE STREET AND LEWIS AVENUE. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 1.91 acres. The request is for a Residential Planned Zoning District with 16 dwelling units.

Graves: Six items, are all items that they're either rezonings or conditional uses proposed. They all would require 5 votes to pass and we only have 6 commissioners here tonight so before I take each item up, and we'll do it as they come up in the order of the agenda. What I would like to do is have the applicant, without making the presentation or anything, advise us of whether they would prefer that we table their item to the next meeting when we have the full commission here. Because as it stands right now it would either have to be a unanimous vote to approve or it would have to be a 5 to 1 vote. If one commissioner opposed an item or wanted to deny an item then it would fail because of the numbers that we have here tonight. And so I will give that option to request a tabling of the item before we hear a staff report or anything on each of those items. And so right now we are on item 8 which is our PZD 06-2035 The Maples. If I could have, first of all the applicant come up, first of all introduce yourself for the record and then let us know if you would prefer that this be taken up by a fuller commission then what we have available tonight or whether you would rather us go ahead and take this up knowing that you would either have to have a unanimous or five one vote approve it.

Kemmet: Good evening. I am Bruce Kemmet with Project Design Consultants representing the developer. We already ran this option pass the developer and he would like to move forward and get a vote tonight.

Graves: Ok. Thank you. If we could have the staff report on this item.

Fulcher: Good evening. This PZD request is for approximately 1.6 acres located southeast of Lewis Avenue and Deane Street. Surrounding properties consist of a single duplex, single family homes, the University Farm to the north, and to the south the are soccer fields leased to the city by the University. The applicant is proposing a development for 16 dwelling units, 8 of which will be multi-family, 4 will be single family and 4 will be 2 family units. This item has a great deal of history, I should say the property has a great deal of history, which is outlined in the staff report. There have been numerous rezoning requests as well as some variations of this PZD request. This one was heard at subdivision committee approximately a month ago at which time the applicant requested the item be tabled so they could reword some of the density and street layouts of the project as well as green space and building location. Since that time to the previous subdivision committee we did a month ago they did work out

some of those items staff had concerns with and now are here before the Planning Commission after they were forwarded from the subdivision committee without a recommendation. The density proposed is approximately 9.5 units per regular which is a little over 2 times above the allowance for which it is currently zoned. Staff has stated many times that we are opposed to densities higher than 4 units per acre. Given the location of this property in relation to some major roadways, park plans, schools, the university, provides an opportunity to have something higher than 4 units per acre. However, in looking at the divided line that Lewis Avenue has been historically between multi-family developments to the west, single-family developments to the east there is a line that we're trying to find there and we just felt that 9.5 units per acre with a good deal of multi-family units was not compatible with the single-family units located immediately around it. Staff would recommend that possibly removing some of the multi-family units along the frontage of this property would not only reduce the density thus making it more compatible with the surrounding land uses but also change the building uses to a use that is more compatible to the surrounding land uses. Staff has consistently recommended denial of a density request of 16 units or more per acre or 16 units total on this property in the past. Again tonight we are recommending denial of this request. Should the Planning Commission decide to forward this item to the city council we have included conditions of approval. I think that covers all of staff's comments and findings tonight if you have any questions please ask.

Graves: Thank you. Do we have any member of the public who would like address R-PZD 06-2035 The Maples. If you would come forward and introduce yourself and make your comments.

Bryant: My name is Rebecca Bryant. I'm an adjacent property owner. I know there are other owners here I don't know if they will stand up and speak or not. I am really impressed by the quality and the depth of the discussion tonight. So, I feel like we are in good hands with this commission. As you know, as Jesse said, they are requesting almost 2 and a half times the density that's allowable in our properties, residential, I'm getting a little confused. RSF-4 ok, and all the properties adjacent, all the residential properties adjacent to this are single family homes at this time and some of those are unoccupied. What I ask myself is why should the Planning Commission grant this, I can't really come up with a good reason. I mean they are not doing anything at all here it's not like the great presentation we saw earlier for someone who was really trying to do something special with traditional neighborhood development. They are, the city is against it, the neighborhood is against, you know I just hope you deny it. Thank you.

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Graves: Thank you. Would any other member of the public like to make, I want to stress non-cumulative comments, if you have something additional that hasn't already been stated by other members of the public then please come forward.

Richards: Joyce Richards and I live to the east of the property, a couple blocks I guess down the fifth row. And I've written you a couple of e-mails and I just wanted to get up and say that I'm with Rebecca, please deny it. There is enough there with the zoning as it is for them to put a dwelling and I don't think it needs to be anymore. We don't need more built than what's already allowed. Thank you.

Graves: Thank you. Would any other member of the public like to address this item? Seeing none I will hear the applicant's presentation at this point.

Kemmet: Good evening. Bruce Kemmet, Project Design Consultants. We've been through several other arrangements with this residential plan development in attempt to go along with staff and satisfy the goals of the PZD. We've reduced to what was 17 units to 16 units. As stated earlier it was 4 family homes. We've removed those and we now have 8 single family homes and 8 town homes. The town homes are fronted along Deane Street, if you will look to the colored building elevations you will see that it is a very nice building. Probably the nicest building in the neighborhood or proposed building. I would like to point out that this neighborhood isn't primarily single family. Just to the west is primarily multi-family. Immediately to the west is a duplex which is zoned RT-12 and immediately to the west are 3 homes of which 2 of them are rented out. Immediately to the east are 2 single family homes, one of which is rented out and one of which is owned by the lady that was speaking earlier. We are proposing to maintain 16% of the tree canopy. We are proposing screening in the means of the existing trees as well as a privacy fence along the property line. The houses that you see are very nice craftsmanship construction. The town homes are upscale town homes, 15 hundred square feet or more. The town homes are proposing rear access from an alley so that you have a community, sense of community along Deane Street with not having the driveways facing the street that you can see fronting the street. And we are proposing an open space that will have an area for the community to use for functions, for neighborhood functions which will also have a gazebo that can be used for those functions. This property, although it's zoned RSF-4, is not marketed as RSF-4, as you know the price of property is very high and you'd probably never receive that zone in that area. In order to have this feasible this count, this number, this density is what is going to be required to make it worthwhile. I'm sure that Miss Bryant would prefer to just not have it developed but we actually want it developed. I would like to point out that this property is just under 2 acres, however we

need more right-of-way for a minor arterial of Deane Street, a 25' strip of property is required to be donated to street right-of-way as part of the Master Street Plan requirements. So, that significantly reduces the total acreage which gives you a density number that's actually higher than what is actually spaced out there in existing property. Other than that I'm subject to your questions.

Graves: Thank you. Then I'll bring it to the commission. Commissioners this is a rezoning request. That's what it boils down to. Although it is a request to rezone a PZD it is a rezoning request. I would ask staff or legal, just briefly remind us what we are reviewing on a rezoning request.

Pate: As you mentioned this is a rezoning and development request. As a residential planned zoning district therefore the applicant has provided you both their version of findings of fact as well as staff's version. If you agree with staff's you would recommend denial of this project. If you agree with the applicant's, obviously you would forward this to the city council. The findings that you make for a general rezoning begin on page 18 of 82 of the staff report. They include in this proposed rezoning consistent with the land use, planning objective principles policies land use zoning plans? Is it justified and needed at the time it is proposed? Does it create or appreciably increase traffic danger and congestion or alter population density thereby undesirably increase load on public services? Those are the essentials for findings the Planning Commission reviews with regard to zoning. A planned zoning district however has many more findings that you'll see on page 82 of the staff report. The findings that begin on page 7 of 82 and go through page 18. Those include does this application in compliance with the requirements of Unified Development Code and the general plan 2020, the overall stated use? Is it compatible with adjacent property? That's one of the primary findings that rezonings take a look at typically by state law and by our own ordinances whether the zoning is compatible with the surrounding land uses. Is it suitable for intended use and compatible with the natural environment? I could read all of those for you a lot of those just go into more detailed development questions, but those are the essential ingredients of a zoning request and in this case a planned zoning district request. Making those findings the staff could not support this particular request.

Graves: Commissioners?

Clark: Mister Chair?

Graves: Commissioner Clark.

Clark: I would be happy to start off. Since I've been with commission 2 years I think I've seen this before and it does have a lot of history with our 82 pages of staff report. A lot of reiteration of the times this property has been denied rezoning and as I look back at this material I don't find that a lot has changed in the conditions. I do believe that as said in subdivision this property is too dense. This proposal is too dense for the property. I don't think it's compatible with surrounding development. I don't think the neighborhood is in favor of it. I see traffic issues, there is only one way in and one way out and that concerns me greatly. I don't think that the multi-family in front of the property, I agree with staff's finding that if it was single family or maybe even duplexes that might sway my opinion. I had hoped maybe for some modifications before it got to Planning Commission but seeing none I will restate my objection and lack of support for this project.

Graves: Thank you Commissioner Clark and perhaps a sort of summary of what happened at subdivision on the side maybe appropriate at this point. If you don't mind giving us that. I think we've heard what you've said at subdivision but if anyone else would like to chime in or if you would like to report on it.

Clark: We have had an indication that the property owner association in that area was in favor and I didn't have a problem with it but that turned out to be a little overstated according to what is in the packet today. I think there were concerns about density and any of you try and jump in because I'm not as clear on this one. I know we had concerns about emergency traffic, emergency vehicle access and entrance and exit because there is no way out. The way in is the way out. So, there were safety issues we talked about, compatibility, density issues. What else did we talk about?

Harris: Commissioner Clark I'm not helping you because I think that pretty much sums it up. We were concerned about density issues. My understanding from the packet and also Mr. Pate as I listened to you before, would you mind reviewing what you said to me about the number of units now is really where we started a few months ago. Do you mind just reviewing that for me now?

Pate: In brief there was a request in 2003 for RT-12 or 1.5 for this property which is an RT-12 now. The request was again proposed before the Planning Commission though the applicant withdrew earlier this year, January or February of this year for RT-12. Staff did not support that request finding that the density was not appropriate in this area although there was bullet of assurance for duplexes I believe. In the, looking at the minutes and the report of the minutes to the applicant from the previous Planning Commission meetings there was discussion of a planned zoning

district and perhaps the density and the concerns voiced by neighbors could be accommodated by a zoning district request. However, it does not mean that this was staff stated at subdivision committee that any planned zoning district proposed would come with staff recommendation. The initial request that we received had 22 units per acre which again, January there was a request for 16, so it jumped up a good 6 units with the original request. Staff did not support that. It came down to 19 I believe and now 16 that was proposed at subdivision committee of the Planning Commission. So, that's kind of the history of where it came from 22 down to 16 so we are essentially back at where we were in January, February with our recommendation of density. We do have a benefit, obviously, to the applicant's credit, a plan to review. The Planning Commission does have something to look at to see where the 16 units are located and I think that's part of the role of the planned zoning district is to allow neighborhoods, Commissioners, and those concerned to review an actual plan. It does not meet all of our concerns however and staff felt that, I'll just reiterate what I said in subdivision committee in our recommendation, the applicant stated that there is a lot of multi-family in this area. It was our finding that Lewis Street has historically been that dividing line. Scholar Place is a typical example of that multi-family development in this area just west of Lewis Street. To the east of Lewis Street is you look at your city maps, to a larger degree almost all the property east to Garland and south to Mt. Comfort is primarily RSF-4 developed single family residential neighborhoods. That's the case with the property adjacent to this with the exception of course to the northeast agricultural park. South is the agricultural farm and to the south is the soccer fields in that area. So, we felt that this is not necessarily a transition area in terms of land use. As primarily single-family, transition really is on this street between multi-family to west and single-family to the east.

Harris: Thank you.

Graves: Any other discussion in regard to this item?

Lack: Mr. Chair?

Graves: Commissioner Lack.

Lack: I think that in looking at this project and what it first, I think even the first time that we saw the request in a previous forum I think that there were, there is an idea that this area is largely multi-family and there are a lot of parts along Deane Street. But in reviewing the actual site, going to see the site and understanding the nature of the neighborhood, I think that that Lewis Street division Mr. Pate talks about is very real. I think that there is a transition to single-family residential which along Deane Street could be

subject to change or not depending on the investment in current residents there. But I think that with that division this area is well recognized as a RSF-4 type area and to change the zoning this dramatically would be nestling in a very, very different use. I would encourage that if mixed-use makes density, I don't know that adding less than 2 acres in this case 1.6 acres a higher density into the middle of an existing RSF-4 neighborhood would achieve that goal. And with that I would not be in support of this item.

Graves: Thank you Commissioner Lack. Any other comments?

Harris: Mr. Chair?

Graves: Commissioner Harris.

Harris: It's all coming back to me all of a sudden. It came like a flood it happened. I remember asking at that time in subdivision committee, Mr. Pate, this notion of infill and density and again going back to that process that the city has just been through in terms of the kind of neighborhoods we are going to develop and so forth. I'm also, I'll come to that in a moment, I'm very aware, as is the developer I'm sure, that dirt is very expensive. I'm not exactly sure what density will be profitable at this site. And density does have to happen somewhere in someone's backyard including my own. At the same time I am not convinced at this point that this is appropriate density infill for this particular neighborhood for the reasons that have already been stated and then some I will restate them. I am also concerned with the actual layout of this particular proposal. The eastern stub out among my concerns so at this point I will not be able to support this particular proposal.

Graves: Thank you Commission Harris. Any other comments? Motions? And we'll add just for clarification if there is a motion to deny is that a motion to recommend denial to the city council or is it just a denial at this point?

Williams: You would still recommend, a recommendation to the city council for denial.

Graves: Ok. So, if we had a motion and it's for denial then that would be the way to state the motion.

Clark: Commissioner Chair. I would like to recommend denial of R-PZD 06-2035.

Planning Commission

June 12, 2006

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Graves: Thank you. There has been a motion by Commissioner Clark to deny of R-PZD 06-2035 or actually to recommend denial to the city council is there a second?

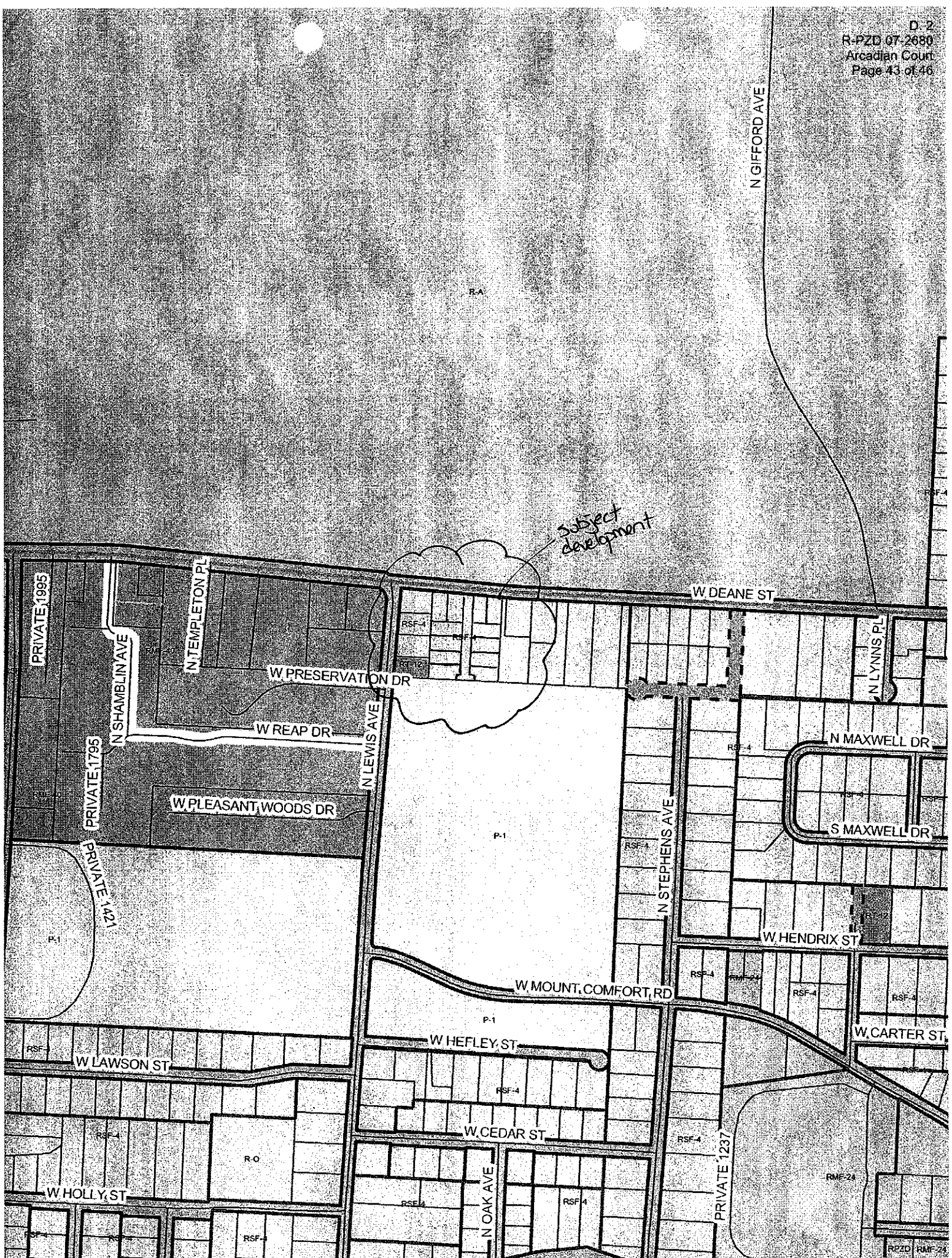
Lack: I'll second that.

Graves: Second by Commissioner Lack. Is there any further discussion of the motion? Take the vote.

Roll Call: The motion to deny R-PZD 06-2035 carries with a vote of 5-1-0.

Williams: I should note for the developer that this doesn't automatically go to the City Council at this level. You would have to file a written appeal to the City Clerk within ten business days.

Kemmet: Thank you.



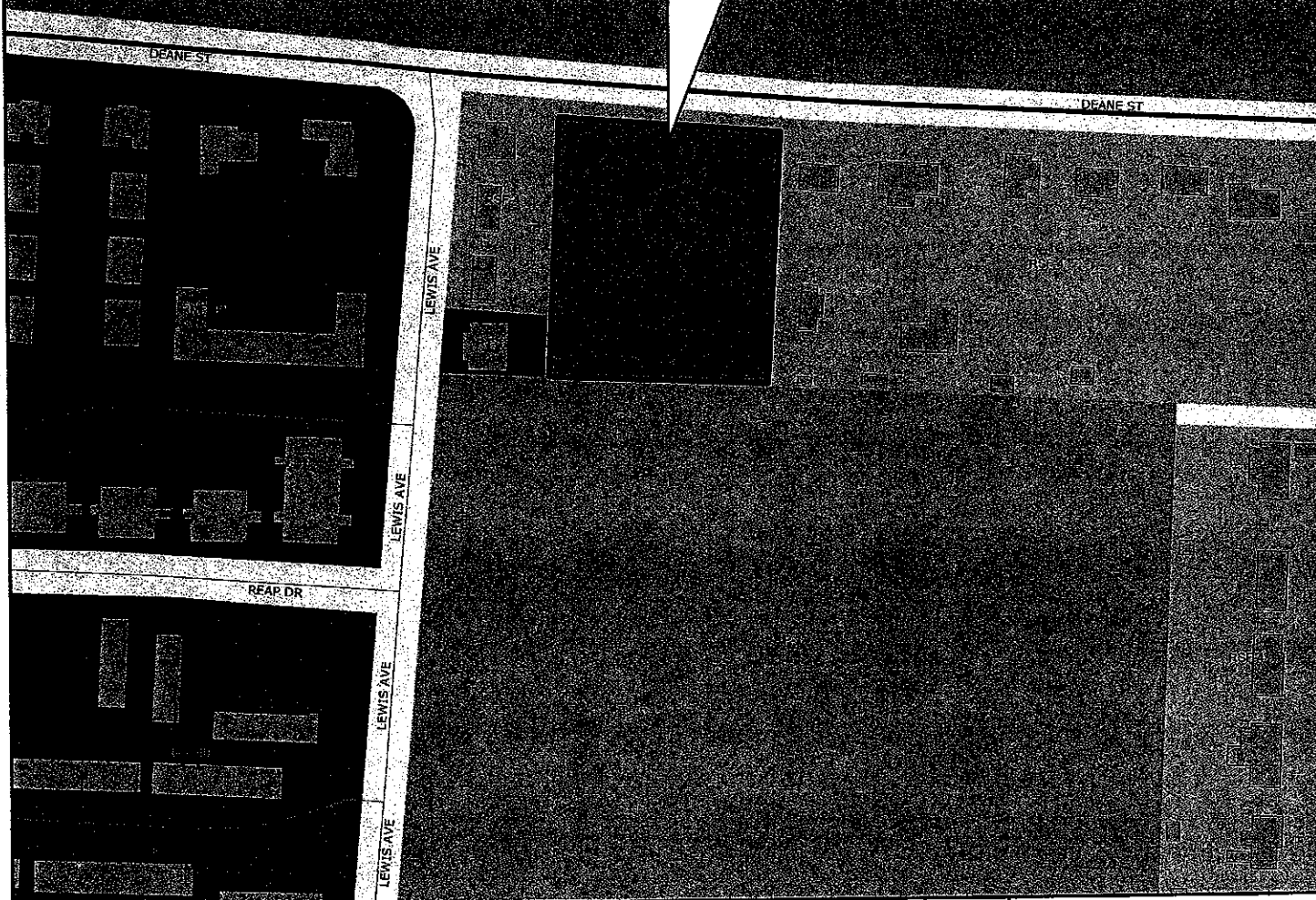
RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



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

18-Sep-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2688: (Walgreens, 558): Submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road. The request is to vacate a utility easement on the subject property.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

[Signature]
City Attorney

8-31-07

Original Contract Number: n/a

Paul A. Becker
Finance and Internal Service Director

9-4-07
Date

Received in City Clerk's Office

ENTERED

8-31-07

[Signature]
Mayor

9/4/07
Date

Received in Mayor's Office

ENTERED

9/4/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

From: Jeremy C. Pate, Director of Current Planning 

Date: August 31, 2007

Subject: Easement Vacation for Walgreens at One Mile Road (VAC 07-2688)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a utility easement located at the northeast corner of One Mile Road and 6th Street.

BACKGROUND

The subject property is located at the northeast corner of One Mile Road and 6th Street. The Planning Commission approved a large scale development for Walgreens on August 13, 2007. As a condition of approval, the applicants are required to vacate the subject utility easement so as to increase the percentage of preserved canopy on the property. Denial of the easement vacation will require the applicants to request a major modification to the approved large scale development.

The applicant requests vacating a 15' utility easement to allow the existing canopy located within said easement to count as preserved canopy for purposes of the approved large scale development.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City. This item was heard on consent at the regular Planning Commission meeting on August 27, 2007. The Planning Commission voted 5-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2688 SUBMITTED BY SPRINGFIELD HOLDING GROUP, LLC FOR PROPERTY LOCATED AT THE NORTHEAST CORNER OF 6th STREET (HWY 62W) AND ONE MILE ROAD TO VACATE A UTILITY EASEMENT ON THE SUBJECT PROPERTY.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. The proposed easement vacation shall apply to the 15' utility easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

PASSED and APPROVED this day of , 2007.

APPROVED:

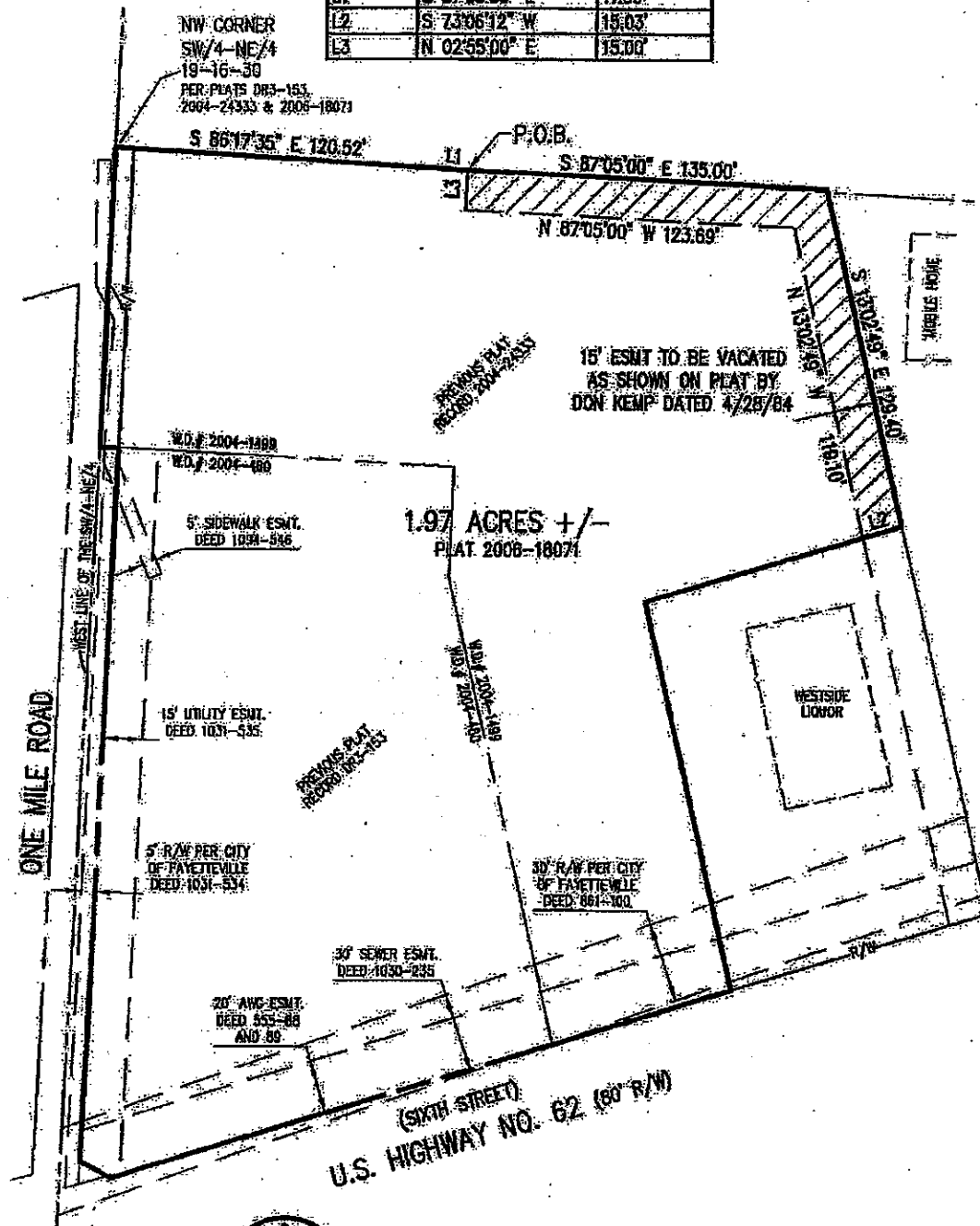
ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

LINE TABLE

NUMBER	BEARING	DISTANCE
L1	S 87°05'00" E	11.60'
L2	S 73°06'12" W	15.03'
L3	N 02°55'00" E	15.00'



**BASIS OF BEARINGS: ARKANSAS STATE
PLANE COORDINATE SYSTEM**

THIS IS NOT A PLAT



Crafton Tull Sparks

901 N. 47th Street, Suite 200
Rogers, AR 72756
479.636.4838 FAX: 479.631.6224
www.craftonhullsparks.com

architecture | engineering

©2007 Cralton, Tull, Sparks & Associates, Inc. VAC 07-2688 Walgreens @ 6th/One Mile Rd

August 27, 2007

Office of the Commissioner

6th/One Mile Flc

Agenda Item 2

Page 4 of 18

DRAWING FILE NAME AND LOCATION: G:\070214\07021400\07021400.dwg, V:\ascdwg, LAYOUT: TABS, LAYOUT1
 LAST SAVED BY: SUREB, 6/14/2007 8:41:52 AM
 PLOTTED BY: JEAN JOHNSON (ONLY VALID ON HARD COPY)
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EXHIBIT "B"
VAC 07-2688

AN EXISTING EASEMENT LOCATED OVER A PORTION OF THE NORTH AND EAST SIDES OF A TRACT OF LAND AS DESCRIBED ON AN ALTA/ACSM LAND TITLE SURVEY PLAT AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2006-18071, BEING A PART OF THE SW ¼ OF THE NE ¼ OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM A FOUND IRON PIN ON THE EAST SIDE OF ONE MILE ROAD AS SHOWN ON PLAT RECORDS 2004-24333 AND DR3-153, THAT IS S02°15'33"W 1312.88 FEET FROM THE ALUMINUM MONUMENT MARKING THE NORTH QUARTER CORNER OF SAID SECTION 19; THENCE ALONG THE NORTH LINE OF PLAT RECORD 2006-18071, S86°17'35"E 120.52 FEET; THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 11.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 135.00 FEET TO THE NORTHEAST CORNER OF PLAT RECORD 2006-18071; THENCE ALONG THE EAST LINE THEREOF S13°02'49"E 129.40 FEET; THENCE LEAVING SAID EAST LINE S73°06'12"W 15.03 FEET; THENCE N13°02'49"W 119.10 FEET; THENCE N87°05'00"W 123.69 FEET; THENCE N02°55'00"E 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3804.0 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 21, 2007~~ Updated August 31, 2007

VAC 07-2688: (WALGREENS @ 6TH & ONE MILE RD., 558): Submitted by SPRINGFIELD HOLDING GROUP, LLC for property located at NE CORNER OF HWY 62W AND ONE MILE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.97 acres. The request is to vacate a utility easement on the subject property.

Planner: JESSE FULCHER

Findings:

Property Description: The subject property is located at the northeast corner of One Mile Road and 6th Street. The Planning Commission approved a large scale development for Walgreens on August 13, 2007. As a condition of approval, the applicants are required to vacate the subject utility easement so as to increase the percentage of preserved canopy on the property. Denial of the easement vacation will require the applicants to request a major modification to the approved large scale development.

Request: The applicant requests vacating a 15' utility easement to allow the existing canopy located within said easement to count as preserved canopy for purposes of the approved large scale development.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric	No Objections.
Cox Communications	No Objections.
Southwestern Electric Power Company	No objections.
Arkansas Western Gas	No Objections. The existing utility

easements along the south and west
property lines shall remain.

Southwestern Bell Telephone

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections.

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding (VAC 07-2688) to the City Council with a recommendation for approval with the following conditions.

Conditions of Approval:

1. The proposed easement vacation shall apply to the 15' utility easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: August 27, 2007

Motion: Graves

Second: Cabe

Vote: 5-0-0

Comments: _____

Petition To Vacate Easement

**Petition to Vacate an easement located near the northeast corner of Sixth Street and One Mile Road,
City of Fayetteville, Arkansas.**

To: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being the authorized representative of the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of 19-16-30 West, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

(See attached Exhibit)

That the easement has never been used for any public purpose and that the public interest and welfare would not be adversely affected by the abandonment and vacation of the easement, and that the abandonment and vacation of the easement will assist in protection and preservation of mature hardwoods.

The petitioners ask that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate vesting all rights to the fee owner of the real estate.

WHEREFORE, the undersigned petitioners respectfully ask that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that as to that particular land, the owners be free from the easements of the public for the use of said land.

Dated this 15th day of June, 2007

Jeff Nicholas, Springfield Holdings Group, LLC

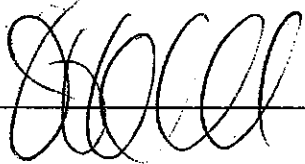
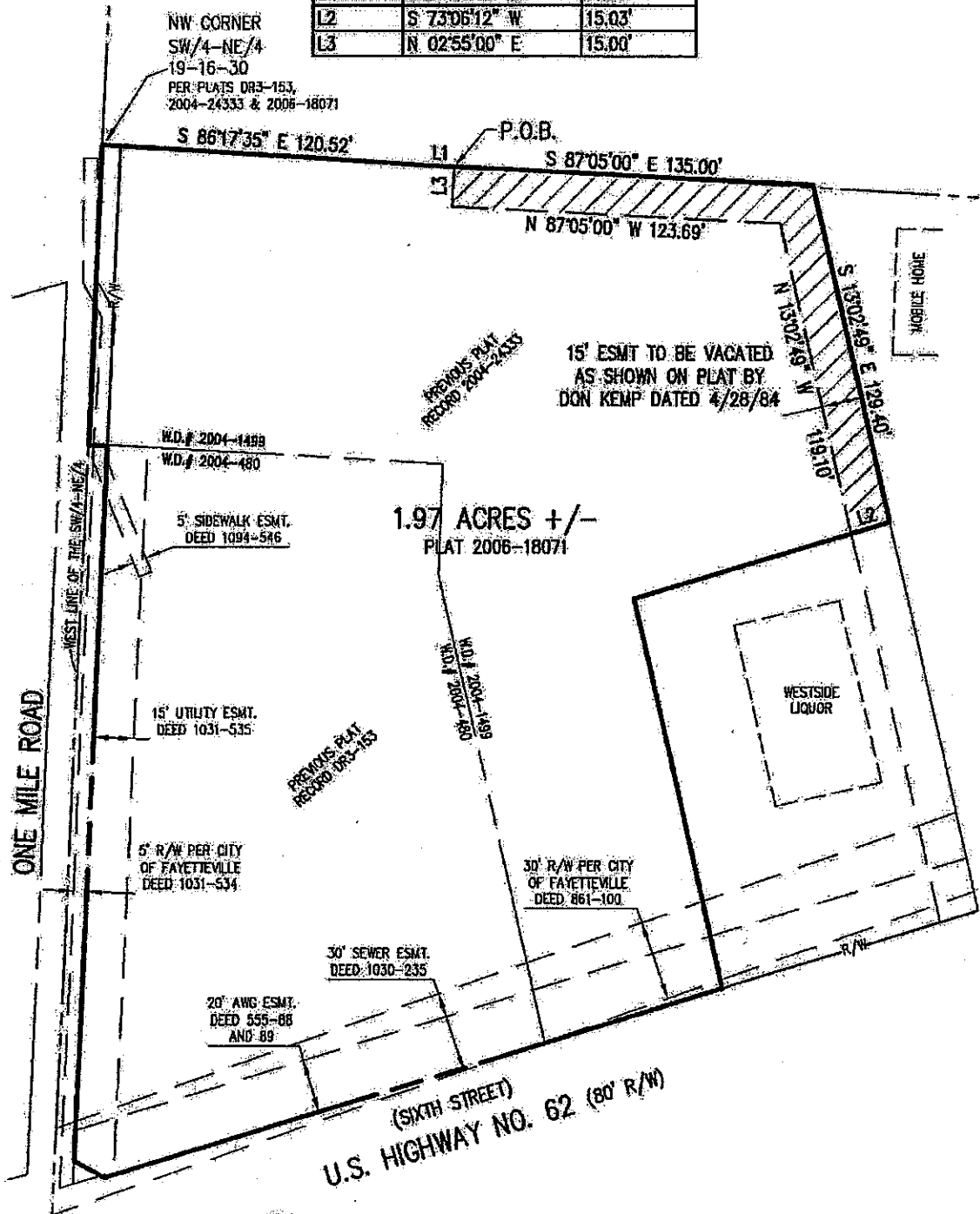


EXHIBIT A

LINE TABLE

NUMBER	BEARING	DISTANCE
L1	S 87°05'00" E	11.60'
L2	S 73°06'12" W	15.03'
L3	N 02°55'00" E	15.00'



BASIS OF BEARINGS: ARKANSAS STATE
PLANE COORDINATE SYSTEM

THIS IS NOT A PLAT



Crafton Tull Sparks

901 N. 47th Street, Suite 200
Rogers, AR 72756
479.636.4838 FAX: 479.631.6224
www.craftontullsparks.com

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DRAWING FILE NAME AND LOCATION: S:\070214\00\sur\pl077021-00 Esmt to be Vacated.DWG; LAYOUT TAB: LAYOUT1
LAST SAVED BY: SJBR: 5/14/2007 8:41:32 AM
PLOTTED BY: SEAN JOHNSON (ONLY VALID ON HARD COPY)
© 2007 Crafton, Tull, Sparks & Associates, Inc.

DESCRIPTION: EASEMENT TO BE VACATED

AN EXISTING EASEMENT LOCATED OVER A PORTION OF THE NORTH AND EAST SIDES OF A TRACT OF LAND AS DESCRIBED ON AN ALTA/ACSM LAND TITLE SURVEY PLAT AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2006-18071, BEING A PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM A FOUND IRON PIN ON THE EAST SIDE OF ONE MILE ROAD AS SHOWN ON PLAT RECORDS 2004-24333 AND DR3-153, THAT IS S02°15'33"W 1312.88 FEET FROM THE ALUMINUM MONUMENT MARKING THE NORTH QUARTER CORNER OF SAID SECTION 19;
THENCE ALONG THE NORTH LINE OF PLAT RECORD 2006-18071, S86°17'35"E 120.52 FEET;
THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 11.60 FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 135.00 FEET TO THE NORTHEAST CORNER OF PLAT RECORD 2006-18071;
THENCE ALONG THE EAST LINE THEREOF S13°02'49"E 129.40 FEET;
THENCE LEAVING SAID EAST LINE S73°06'12"W 15.03 FEET;
THENCE N13°02'49"W 119.10 FEET;
THENCE N87°05'00"W 123.69 FEET;
THENCE N02°55'00"E 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3804.0 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 6-20-07UTILITY COMPANY: OZARKS ELECTRICAPPLICANT NAME: Crafton Tull Sparks APPLICANT PHONE: _____
REQUESTED VACATION (applicant must check all that apply):

Utility Easement

~

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~

Alley

~

Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NE corner of Hwy 62 and one mile Road

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:



No objections to the vacation(s) described above.

- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

[Signature]
Signature of Utility Company RepresentativeLead Staking Tech
Title

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 6-15-07UTILITY COMPANY: Cox CommunicationsAPPLICANT NAME: Jeff Nicholas - Springfield Holdings APPLICANT PHONE: 580/234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement ✓
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NEC C&H & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Michael Smither
Signature of Utility Company RepresentativeSurveyor
Title

Jul. 19. 2007 9:54AM Trans ROW Tulsa
Jul. 21. 2007 4:18PM

No. 0476 P. 2
No. 3033 P. 1



No. 3210 P. 1

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: SWEPCO

APPLICANT NAME: Jeff Nichols - Springfield Holdings APPLICANT PHONE: 560-234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NEC QTH & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)
- ☐ No objections provided the following conditions are met:

James Burt 7-19-07
Signature of Utility Company Representative

Engineer III
Title

Jul. 19. 2007 10:52AM

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: Arkansas Western Gas Co

APPLICANT NAME: Jeff Nicholas - Springfield Holdings APPLICANT PHONE: 580/234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** Nec 1/4th & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No utility are in the area to be vacated. We will
retain easements on the South & West property lines

- No objections provided the following conditions are met:

Randy Rube
Signature of Utility Company Representative

John R. B. B.

Construction Coordinator
Title

INDEPENDENT ASSISTANT
OPERATING MANAGER

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY
AND UTILITY EASEMENT VACATIONS

DATE: 07/17/07

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

UTILITY EASEMENT

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

All that part of an existing easement located over a portion of the north and east sides of a tract of land as described on an ALTA/ACSM Land Title Survey Plat as recorded in the Circuit Clerk's office for Washington County, Arkansas, at Plat Record 2006-18071, being part of the SW ¼ of the NE ¼ of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing from a found iron pin on the east side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S02°15'33"W 1312.88 feet from the aluminum monument marking the north quarter corner of said Section 19; thence along the north line of Plat Record 2006-18071, S86°17'35"E 120.52 feet; thence continuing along said north line S87°05'00"E 11.60 feet to the Point of Beginning; thence continuing along said north line S87°05'00"E 135.00 feet to the northeast corner of Plat Record 2006-18071; thence along the east line thereof S13°02'49"E 129.40 feet; thence leaving said east line S73°06'12"W 15.03 feet; thence N13°02'49"W 119.10 feet; thence N87°05'00"W 123.69 feet; thence N02°55'00"E 15.00 feet to the Point of Beginning, containing 3804.0 square feet or 0.09 acres, more or less.

→ UTILITY COMPANY COMMENTS:

→ No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

COPY



**CONCURRENCE TO CLOSE
A DEDICATED UTILITY EASEMENT**

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the vacation of a dedicated utility easement in Fayetteville, Washington County, Arkansas, described as follows:

All that part of an existing easement located over a portion of the north and east sides of a tract of land as described on an ALTA/ACSM Land Title Survey Plat as recorded in the Circuit Clerk's office for Washington County, Arkansas, at Plat Record 2006-18071, being part of the SW ¼ of the NE ¼ of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing from a found iron pin on the east side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S02°15'33"W 1312.88 feet from the aluminum monument marking the north quarter corner of said Section 19; thence along the north line of Plat Record 2006-18071, S86°17'35"E 120.52 feet; thence continuing along said north line S87°05'00"E 11.60 feet to the Point of Beginning; thence continuing along said north line S87°05'00"E 135.00 feet to the northeast corner of Plat Record 2006-18071; thence along the east line thereof S13°02'49"E 129.40 feet; thence leaving said east line S73°06'12"W 15.03 feet; thence N13°02'49"W 119.10 feet; thence N87°05'00"W 123.69 feet; thence N02°55'00"E 15.00 feet to the Point of Beginning, containing 3804.0 square feet or 0.09 acres, more or less.

Signed and executed this 23rd day of July, 2007.

By: _____

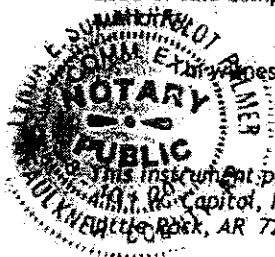
F. Jean Davis
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 23 day of July, 2007, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due

and without duress whereof I hereunto set my hand and official seal.



This instrument prepared by AT&T
AT&T, Rm. 941
Ark. Capitol Bldg., AR 72201 (501-373-5255)

Lynne E. Sommerfeldt Palmer
Lynne E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: _____

UTILITY COMPANY: WVS

APPLICANT NAME: _____ APPLICANT PHONE: _____

REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

**** NE corner 6th & One mile Rd.**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections

- ☐ No objections provided the following conditions are met:

8-2-07
Signature of Utility Company Representative

Water & Sewer Operations mgr.
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: Transportation Department

APPLICANT NAME: Jeff Nicholas, Springfield Holdings Group, LLC APPLICANT PHONE: 580-234-8687

REQUESTED VACATION (*applicant must check all that apply*):

- XX~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

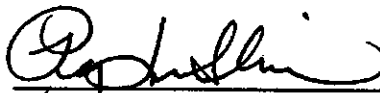
**NEC 6th and One Mile

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

 7/11/07

Signature of Utility Company Representative
Title Transportation Superintendent
Transportation Division
Operations Dept
City of Fayetteville
575 8227

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND UTILITY EASEMENT VACATIONS

DATE: 6-19-07

UTILITY COMPANY: Solid waste

APPLICANT NAME: _____ APPLICANT PHONE: _____
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** Northeast corner of 6th St. + One Mile Rd.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Brian Pugh

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

Urban Forester Conditions of Approval:

Condition of Approval from LSD 07-2633 (Walgreen's)
Approved Aug 13, 2007

12. Should the vacation of the existing utility easement along the north property line not be vacated by the City Council, the subject development shall be brought before the Planning Commission for approval of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage if the easement is not vacated. The easement vacation decision shall be final prior to issuance of a grading permit. ←
13. Mitigation is required in the amount of 15 (2) inch caliper, large species trees, which shall be planted on-site.
14. A 3-year bond, letter of credit, or check in the amount of \$3,750.00 shall be submitted to the City of Fayetteville prior to issuance of a Certificate of Occupancy.
15. At the time of construction drawings the landscape plan shall be stamped by a licensed landscape architect.

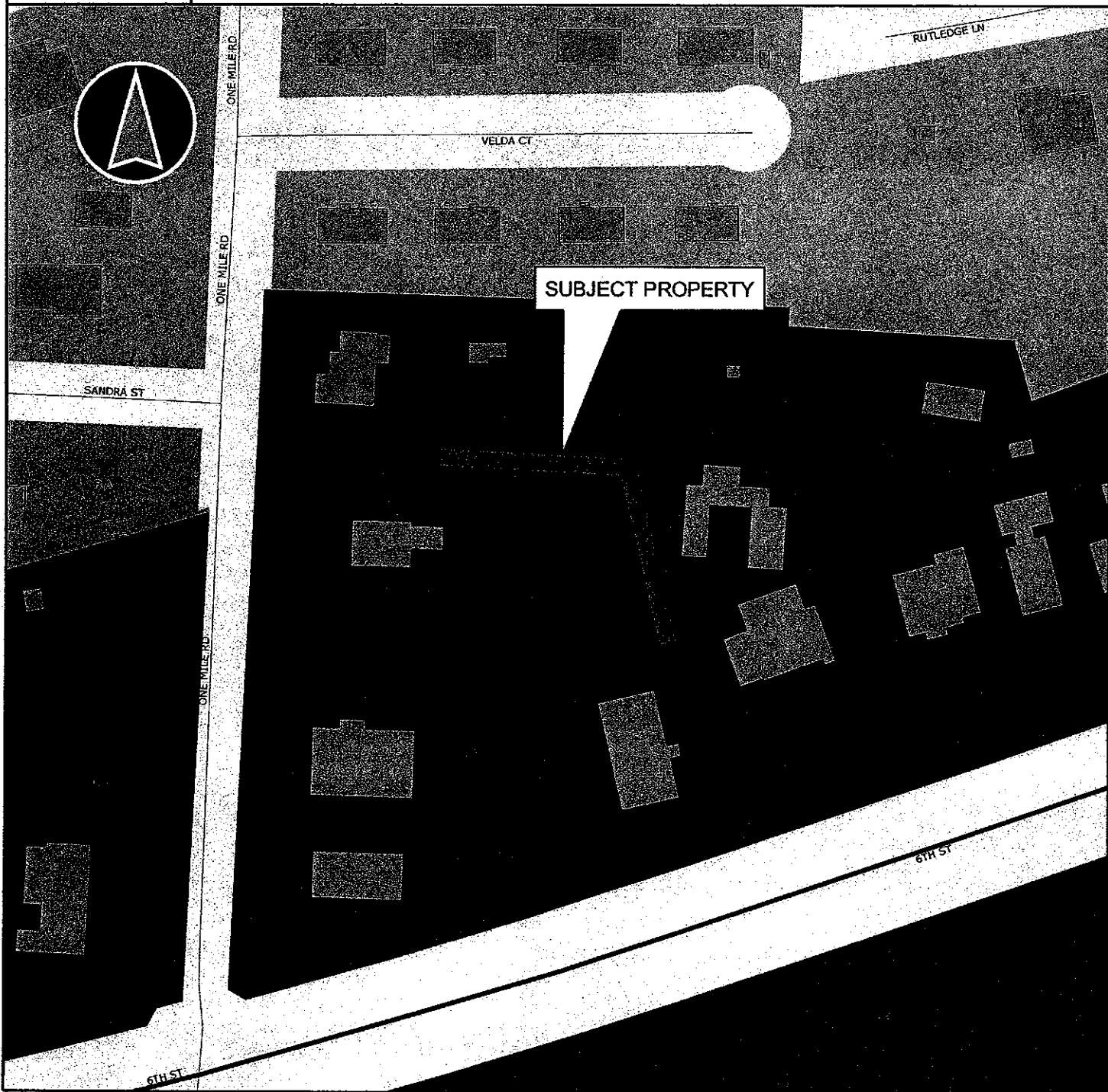
Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Any required trash enclosure shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building.** A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
19. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
20. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance.
21. Large scale development shall be valid for one calendar year.
22. Prior to building permit, a cost estimate for all required landscaping is to be submitted to

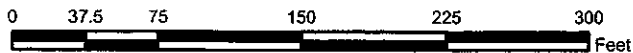
VAC07-2688

Close Up View

WALGREENS @6TH AND ONE MILE RD



Overview



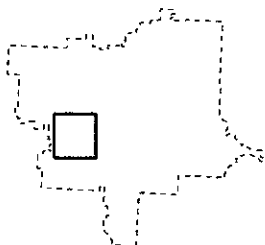
VAC07-2688

One Mile View

WALGREENS @6TH AND ONE MILE RD



Overview



Legend

Subject Property

VAC07-2688

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



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

D. 4
ADM 07-2725
Southern View II Amendments
Page 1 of 30

18-Sep-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 07-2725: Southern View II PZD Amendment: Submitted by Lindsey Management Company, Inc. for property located on Futral Drive and Old Farmington Road, east of I-540. The request is to approve an ordinance amending the approved R-PZD 04-1.00, Southern View II, to permit Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use on the subject property

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 8-29-07
Department Director Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

[Signature] 8-29-07
City Attorney

Original Contract Number: n/a

Paul A. Bech 8-29-07
Finance and Internal Service Director Date

Received in City Clerk's Office



[Signature] 8/29/07
Mayor Date

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 29, 2007

Subject: Amendment to R-PZD 04-1.00 (Southern View II), to permit Use Unit #14

RECOMMENDATION

Staff recommends approval of an ordinance amending the Residential Planned Zoning District for Southern View II (R-PZD 04-1.00), permitting Use Unit #14, Hotel, Motel and Amusement Facilities, as a use by right. Staff has proposed conditions within the draft ordinance that do not match exactly the applicant's proposal, but feel are important for the Council to consider, given one of the primary reasons the project was approved was to provide a mixture of uses on the property.

BACKGROUND

Lindsey Management Company, Inc. has submitted a request to amend the approved (and substantially constructed) R-PZD 04-1.00, Residential Planned Zoning District for Southern View II. The project consists of a mixed-use development in six buildings. Each building contains 6,733 SF of retail space (on the first floor only) and 19 multi-family units within the three-story structures, for a total of 40,398 SF of retail and 114 dwelling units. The request is to allow for much of the retail space to be converted to an extended stay motel type use, which is only permitted under Use Unit #14, Hotel, Motel and Amusement Facilities. When the PZD was approved, it did not include this use as a permitted or conditional use on the property.

The applicant states that only the first floor of the buildings would be affected, as the second and third floors are purely residential. Additionally, the applicant has removed the permitted use rights of Use Unit #14 from the south side of Building 3 and the west side of Building 4 (which have visual frontage onto I-540), as indicated in the attached diagrams. All of the other non-residential space would be converted to the extended stay hotel/motel use.

Staff finds in favor of the proposed concept to add Use Unit #14, finding that a hotel/motel use would be a compatible and complementary use in this area. However, in a review of the original project proposal, which rezoned C-2, Thoroughfare Commercial land to a primarily residential project, it is evident from staff's comments and minutes of meetings that a concern with converting this highly visible commercial property to residential was discussed. Staff's recommendation for this project was based on the development providing a true mixed-use project, wherein users of the residential units and others visiting or residing in the area would have the opportunity to utilize the retail, restaurant and other commercial services proposed. It is staff's finding that limiting the proposed hotel/motel use to 50% of the non-

residential floor area on this site is more in keeping with the original recommendation and approval of the Planned Zoning District by the Planning Commission and City Council. This would allow for the flexibility of use in the other non-residential areas to provide a mixture of retail, restaurant and other services for nearby residents, especially the 400-plus dwellings approved in Southern View Phases I and II. Staff has also proposed a condition that limits the time a room can be occupied to a maximum of 30 days, in order for the space to not become a residential use. Additionally, as proposed by the applicant, a condition states that the hotel/motel floor area will be operated as an extended stay motel type operation and shall remit sales and HMR taxes accordingly.

DISCUSSION

This item was not considered by the Planning Commission. Minutes from previous meetings have been included, as has the staff report from the original Planned Zoning District approval.

BUDGET IMPACT

None.

Uses Currently Permitted in Southern View II:

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupation
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Additional Use Proposed in Southern View II:

(N) *Unit 14. Hotel, motel, and amusement facilities.*

(1) *Description.* Unit 14 consists of hotels, motels, and certain types of amusement facilities.

(2) *Included uses.*

Hotel
Membership lodge
Motel
Motion picture theater
Night club, not providing dancing or outdoor music
Tavern, not providing dancing or outdoor music

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 04-01.00, SOUTHERN VIEW II, LOCATED AT FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540, CONTAINING APPROXIMATELY 6.7 ACRES, TO ALLOW THE ADDITION OF USE UNIT #14, HOTEL, MOTEL AND AMUSEMENT FACILITIES AS A PERMITTED USE, AS DESCRIBED HEREIN.

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

Section 1. That Use Unit #14, Hotel, Motel and Amusement Facilities, as defined by the City of Fayetteville Unified Development Code, is hereby approved as a permitted use and reflected in the Planned Zoning District zoning criteria for R-PZD 04-1.00, Southern View II.

Section 2. That the approval of Use Unit #14 as a permitted use on the subject property shall be conditioned upon the following:

1. Use Unit #14 shall be limited to a maximum of 50% of the overall non-residential square feet on the property, in order to retain a true mixture of retail uses, as proposed and approved with the original Planned Zoning District for Southern View II.
2. Any portion of the property or structures designated for non-residential use and hereby approved for Use Unit #14 shall not be converted to residential use, and shall remit sales and HMR taxes accordingly. An occupant's stay within any one hotel/motel room shall be limited to a maximum of 30 days.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the Planned Zoning District have been met.

Section 4. That the Planned Zoning District ordinance and official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Lindsey Management Co., Inc.

1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

RECEIVED

AUG 28 2007

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

August 28, 2007

Mr. Jeremy Pate
Director of Current Planning
113 West Mountain Street
Fayetteville, AR 72701

RE: Modification Southern View PZD, Phase II

Dear Mr. Pate:

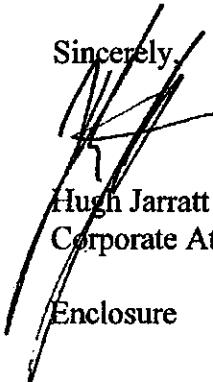
Lindsey Management Company, Inc., (Lindsey Company) on behalf of Southern View Phase II, a Limited Partnership, would like to request a modification of the Southern View PZD, Phase II, to allow Use Unit 14, Hotel, Motel, and Amusement facilities as a permitted use for a certain part of the nonresidential portion of the project. The Lindsey Company is requesting proper zoning to convert a certain portion of the first floor of the buildings into an extended stay motel type use. Attached to this letter are diagrams which show the areas of the first floor which we would like to allow Use Unit 14 along with which buildings we are seeking to include as an extended stay motel type use. With the exception of previously approved apartment units located on the first floor, this area would be operated as an extended stay motel type operation and would thereby pay sales and HMR taxes.

The only part of these buildings that will be affected by the additional use will be a portion of the first floor only. No changes are being sought for the second or third floors. The Lindsey Company is committed to the mixed use concept which has been promoted by the City of Fayetteville, and we look forward to working with the City to make these type developments economically and aesthetically successful.

If there is any other information that can be provided, or any way that I can help, please let me know.

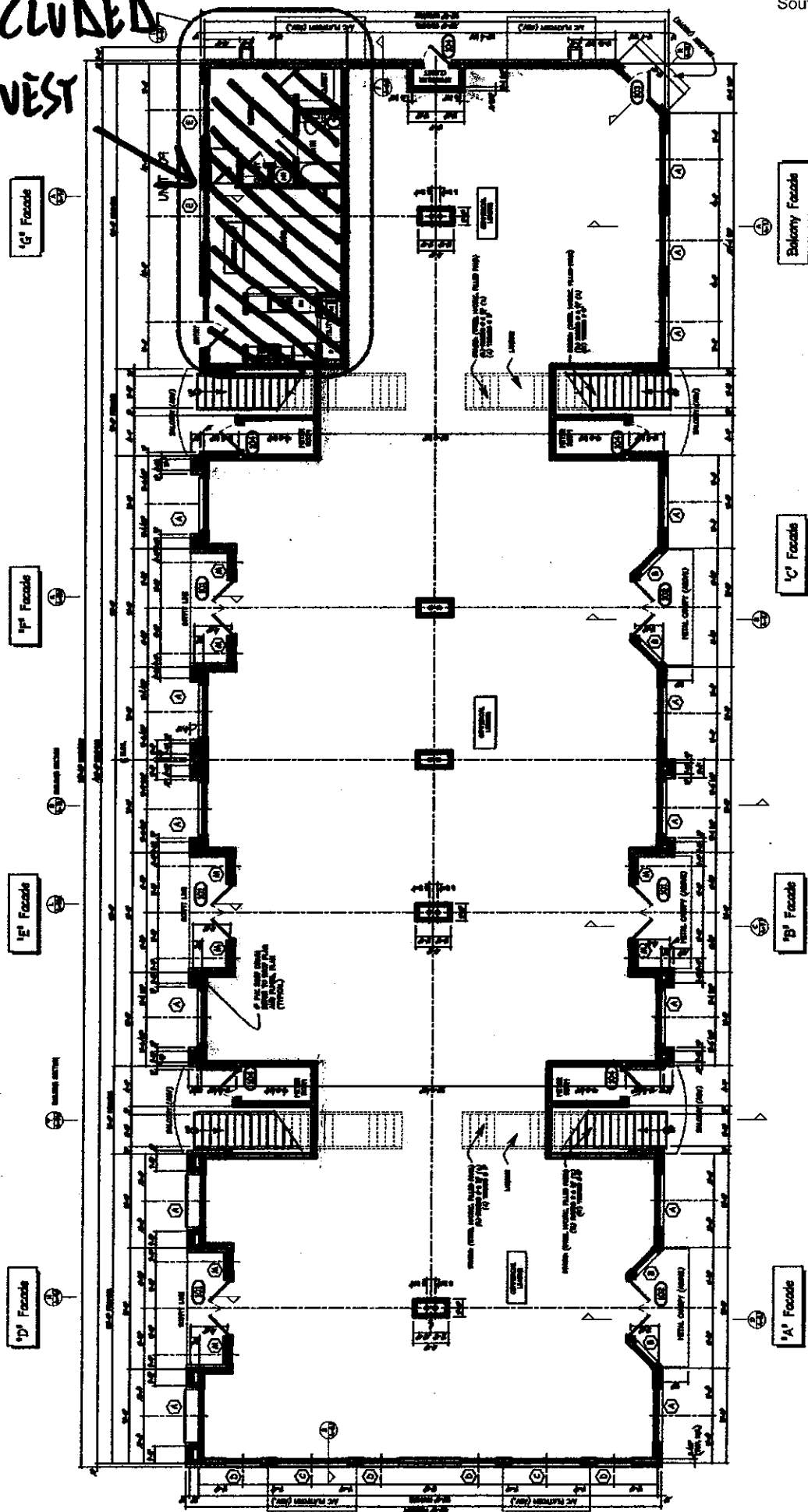
Thank you.

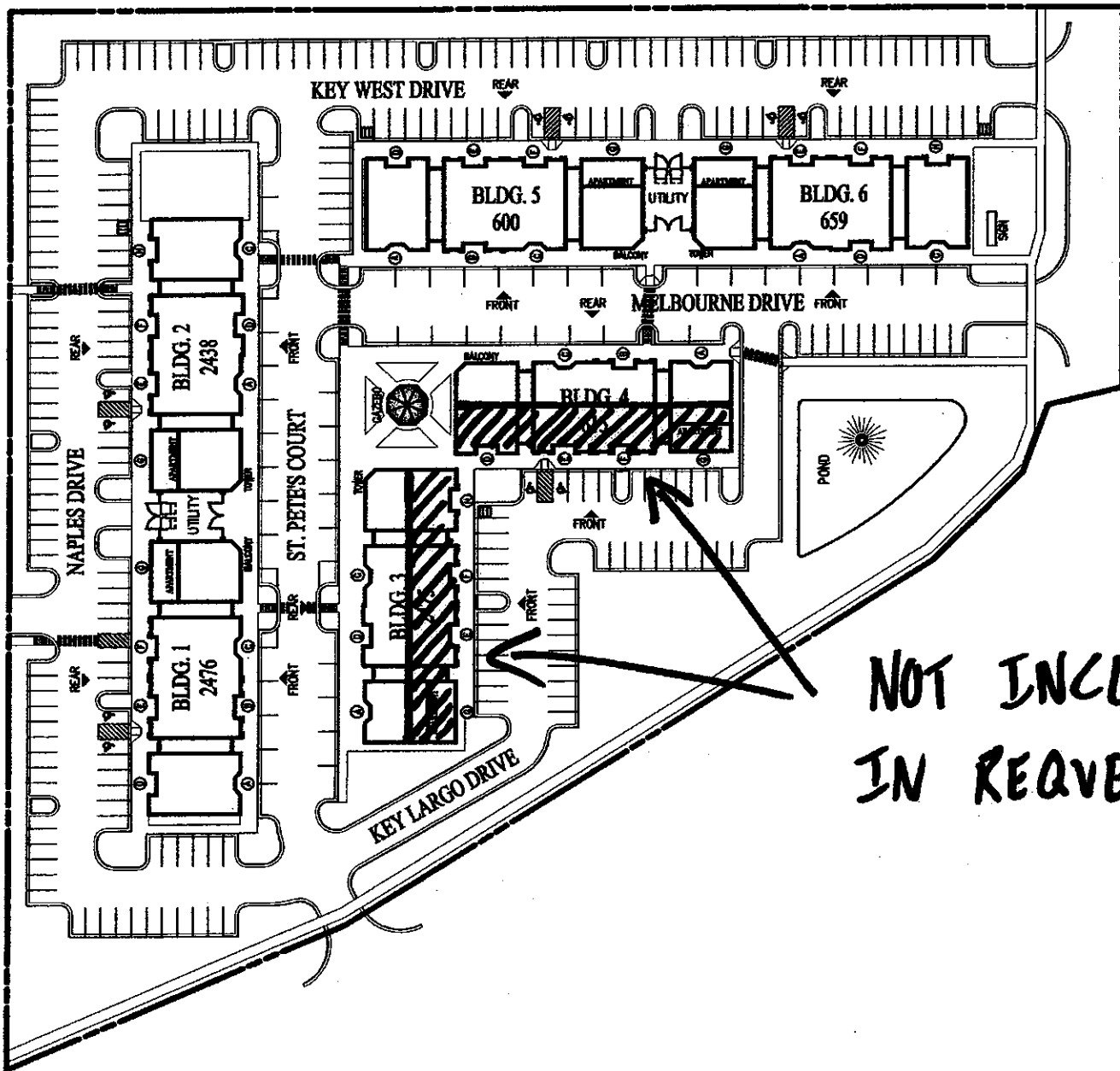
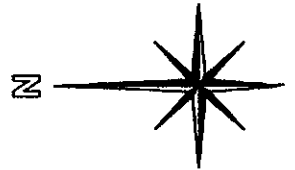
Sincerely,


Hugh Jarratt
Corporate Attorney

Enclosure

D. 4
ADM 07-2725
Southern View II Amendments
Page 8 of 30





NOT INCLUDED
IN REQUEST

ORDINANCE NO. 4543

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 04-01.00) LOCATED ON FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540 CONTAINING 6.713 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From C-2, Thoroughfare Commercial to R-PZD 04-01.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on January 12, 2004.

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

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

PASSED and APPROVED this the 17th day of February, 2004.

APPROVED:

By:

Dan Coody
DAN COODY, Mayor

By:

Sondra Smith
SONDRA SMITH, City Clerk



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of January 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: January 06, 2004

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 114 dwelling units and 40,398 SF of commercial space proposed. Planner: Jeremy Pate

Proposal: The request is for a Residential Planned Zoning District on 6.71 acres currently zoned C-2, Thoroughfare Commercial, directly south of the constructed Southern View Phase I multi-family development. The applicant requests a rezoning and Large Scale Development approval for a mixed use development consisting of six buildings. Each of the proposed buildings will contain 6,733 SF of retail space, 14 2-Bedroom dwelling units and 3 1-Bedroom units.

Proposed Development:

R-PZD, Residential Planned Zoning District

	Land Use	Square Feet	# of Units	# of Bedrooms	Parking Required
Bldgs 1-6	Commercial/Retail	6,733 SF	N/A	N/A	27 spaces
Bldgs 1-6	Multi-Family Residential 2-Bedroom	N/A	12	24	24 spaces
Bldgs 1-6	Multi-Family Residential 1-Bedroom	N/A	7	7	7 spaces
Individual Total	Mixed-Use Retail/Multi-family Residential	6,733 SF Retail	19	31	58 spaces
TOTAL (x 6 Bldgs)	Mixed-Use Retail/Multi-family Residential	40,398 SF Retail	114	186	348*

*The applicant proposes 302 parking spaces, which is within the 30% +/- ordinance requirement.

Total proposed dwelling units on the 6.71 acres numbers 114, therefore the proposed density for the R-PZD is 16.9 DU/acre.

Access: The development is proposed to have four means of access, two from Old Farmington Road, one from Futrall Drive and one from the existing Southern View Phase I development to the north. A pedestrian access has been added from the existing Southern View I apartments, pursuant to Subdivision Committee discussion. A formal waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut has been submitted by the developer. Staff is in support of the request for the proposed curb cuts along Old Farmington Road. The two entrances fulfill the intent of providing an enhanced "Main Street" streetscape, along with providing needed parking in the "rear" to meet ordinance requirements. Access on both sides of the building is desirable for fire protection and emergency vehicles.

Buildings and parking in the development have been situated to create a desirable, pedestrian-oriented streetscape along the two primary entrances east from Futrall Drive and north from Old Farmington Road. Parallel parking and 10-foot wide sidewalks are incorporated with the primary interior streets, and the majority of parking is located to the rear of the structures. Additionally, a landscape buffer is proposed along Futrall Drive to ameliorate the impacts of proposed parking lots.

Elevations of the proposed structures have been submitted for Planning Commission review. The development is proposed to be under single ownership, with dwelling units rented and retail space leased. All interior streets, landscaping, common areas and buildings will be maintained by the developer.

Existing Development: The site is currently vacant.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Southern View Phase I Multi-family dwellings	RMF-18, Res. Multifamily, 18 DU/acre
South	Sines AutoBody Shop	C-2, Thoroughfare Commercial
East	Fayetteville Public Schools	P-1, Institutional
West	Futrall Drive, I-540	N/A

Water & Sewer: Water and sewer lines are available to the site.

Phasing: Phase lines are shown in bold on the site plan, dividing the project construction into two phases, the first of which will incorporate all street infrastructure, landscaping, sidewalks and buildings 2 and 5.

Street Improvements Proposed: Improvements to Old Farmington Road a minimum of 14' from centerline including curb & gutter, pavement etc. Six-foot sidewalks are required to be constructed along both Futrall Drive and Old Farmington Road.

Adjacent Master Street Plan Streets: Futrall Drive (Collector), minimum of 35 feet from centerline; Old Farmington Road (Local), minimum of 25 feet from centerline

Tree Preservation: There are no existing trees on-site.

Design Overlay District:

- **Greenspace:** The applicant has complied with the 25' greenspace requirement along the rights-of-way.
- **Signage:**

Monument Sign: The applicant is indicating one (1) monument sign along Old Farmington Road, to be compliance with DOD requirements. All sign illumination is to utilize indirect lighting.

Wall Sign: Wall signage is to be determined by tenant occupancy of the leased Commercial/Retail space. Two wall signs may be installed per business (two right-of-way frontages), not to exceed 20% of that wall area or 200 SF, whichever is less.
- **Curb Cuts:** **The applicant requests a waiver of the 250 feet required from an intersection to a curb cut.** The original lot configuration does not have adequate depth to satisfy the DOD requirement. Staff is in support of this request.
- **Lighting:** The applicant shall comply with the requirement for 35-foot maximum height, utilizing full cut-off lighting fixtures that are shielded and directed downward to the parking lot and light spread not to reflect into the adjacent properties.
- **Exterior appearance:** Elevations have been submitted for all four sides of the building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.
- **Building Material:** Materials samples have been submitted, indicating the proposed brick colors, etc.
- **Site Coverage:** Approximately 31% of the site has been left in open space.
- **Fencing:** Fencing is not proposed with this development.
- **Outdoor Storage:** N/A
- **Access:** Pedestrian access is being provided with new 6-foot sidewalks along Futrall Drive and Old Farmington Road. Bicycle racks are being provided within the development, as are 10-foot sidewalks along buildings to allow for spillover and outdoor shopping space.

Background: The proposal was first heard at Technical Plat Review on May 28, 2003 and in subsequent meetings tabled by staff due to concerns with site development plans. The proposal was resubmitted and heard at Technical Plat Review on December 17, 2003. The revisions produced from that meeting and a subsequent meeting with staff were presented before the Subdivision Committee on December 30, 2003. Discussion at that meeting included breezeways between buildings, "placemaking" on the empty corner between Bld 3&4, trees along the "Main Street", pedestrian access to Southern View I, and graphic treatment of the building elevations.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning to R-PZD 04-01.00.

Planning Commission approval of the proposed Large Scale Development plan R-PZD 04-01.00 subject to the following conditions:

Conditions of Approval:

- ✓1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district **R-PZD 04-01.00** with all conditions of approval as determined by the Planning Commission.
- ✓2. An ordinance creating this R-PZD shall be approved by City Council.
3. Planning Commission determination of Commercial Design Standards. *Staff finds the structures fully meet all aspects of Commercial Design Standards. *Addition to Condition w/Planning Commission approval: No two facades shall be constructed next to or across from one another. The end facades shall be addressed to more fully comply with Commercial Design Standards. The tower element shall not be used more than three times within the development.*
- ✓4. Planning Commission determination of a waiver request for the proposed building within the 100-foot setback of the 100-year water surface elevation of the proposed retention pond. *Staff is in support of this request.*
- ✓5. Planning Commission determination of a waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut, along Old Farmington Road. Approximately 110 feet is the proposed distance from the Futrall Drive intersection to the first entrance curb cut along Old Farmington Road. *Staff is in support of the waiver request.*
6. All setbacks, protective easements, and designated uses are binding with the approval of the R-PZD. Submitted building elevations are likewise binding to the project.
7. An AHTD permit is required for any work done within the Highway Department right-of-

way.

8. Street improvements to Old Farmington Road shall include 14 feet from centerline including curb, gutter, pavement and 6-foot sidewalks. Six-foot sidewalks are also required along Futrall Drive, at the right-of-way line.
9. No fences shall be allowed within the utility easements along Futrall Drive and Old Farmington Road.
10. All parking lot lights are to be shielded, directed downward and away from adjacent properties utilizing full cut-off sodium lighting fixtures.
11. All signage shall comply with Design Overlay District requirements.
12. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.
13. All utilities shall be screened with materials complementary to the proposed buildings.
14. Each building shall be constructed to provide a mixture of facades as viewed from surrounding drives and streets.
15. The building permit process for Phase II of the current proposal shall begin within one (1) year from the final Certificate of Occupancy issued for Phase I.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Payment of parks fees in the amount of \$40,086 shall be required prior to building permit. Prior to R-PZD approval, this amount shall be considered and approved by City Council to meet ordinance requirements for over 100 residential units (*scheduled for the February 03, 2004 meeting*).
19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

- (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: The applicant's proposed development introduces flexible land use in this area, allowing for residential and commercial uses to coincide. Commercial uses are highly desired in this area, and the 40,398 SF proposed will serve both residents living immediately adjacent to and citizens visiting the area. The mixed-use development promotes a harmony of residential and retail, in the traditional sense of neighborhood development. The housing type proposed will provide a variety from Southern View I, to the north, and will not have a negative impact future development in the area.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

- 9.8a Utilize principles of traditional residential urban design to create compatible, livable and accessible neighborhoods.**
- 9.8.e Utilize more intense development patterns downtown, where appropriate, and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity.**
- 9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.**

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Community Commercial areas which are:

9.10.a Provide centers that are accessible and compatible with adjacent residential development.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Mixed Use Areas which is:

9.14.a Allow mixing of uses and integration of design through the planning process.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Community Character which is:

9.19.f Allow compatible commercial development within and adjacent to residential development.

(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: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. This ordinance will be forwarded to the City Council for approval.*

(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 General Plan 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: The R-PZD proposed is consistent with the City's General Plan for mixed-use development, and allows a more flexible means of development to better accommodate the need for commercial and residential land use. The harmonious relationship of different land uses and activities in a single development is promoted by the City's General Plan. Land use incompatibility is minimized, and public infrastructure improvements will benefit the City.

(2) Permitted uses.

Unit 1	City-wide uses by right	
Unit 2	City-wide uses by conditional use permit	
Unit 3	Public protection and utility facilities	
Unit 4	Cultural and recreational facilities	
Unit 5	Government facilities	
Unit 8	Single-family dwellings	REMOVED BY APPLICANT
Unit 9	Two-family dwellings	REMOVED BY APPLICANT
Unit 10	Three-family dwellings	REMOVED BY APPLICANT
Unit 12	Offices, studios and related services	
Unit 13	Eating places	
Unit 15	Neighborhood shopping	
Unit 19	Commercial recreation, small sites	
Unit 24	Home occupations	
Unit 25	Professional offices	
Unit 26	Multi-family dwellings	

Approved Uses

FINDING: The applicant is proposing to retain the use of all Use Units associated with the R-PZD, with the exception of Use Units 8, 9, and 10.

(3) 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: Commercial area totals 40,398 SF; residential units comprise two floors of each building, for a total of 114 units.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Regional Commercial. Rezoning this property to R-PZD 04-01.00 is compatible with surrounding land uses in the area.

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: This area is designated Regional Commercial on the Future Land Use Map. That designation is reflective of the current zoning of the site which is C-2, Thoroughfare Commercial. The property to the north, Southern View I, was rezoned and developed as multi-family residential in 2002-03. Concerns cited by the Planning Commission at the time regarding the loss of prime commercial space are included in the minutes of the Rezoning request (see attached). The R-PZD proposal helps alleviate some of those concerns by providing needed commercial space along a major corridor, with a residential component, which historically provides potential for safer neighborhood shopping and longer business hours. Connectivity of pedestrian and vehicular access routes will satisfy the City's policies of connectivity and providing mixed use areas in appropriate areas.

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

Finding: A desire for commercial land use in this area has been expressed by Planning Commission and City Council, specifically with the Rezoning request of the northern property in 2002. In order to facilitate a development that fulfills the objectives of the city and the needs of the developer, a rezoning request to utilize mixed use development in an R-PZD is justified.

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

Finding: The proposed zoning will increase traffic in the area. The streets surrounding the property are classified as a Collector (Futrell) and a Local (Old Farmington). A Collector Street is designed to carry between 4,000 and 6,000 vehicles per day. A Local Street should carry up to approximately 4,000 vpd. Development on this particular site should help traffic circulation to and from the area, enabling vehicles to travel east along Old Farmington in an effort to get south (Futrell is one-way north) to 6th Street. The proposal will not appreciably increase traffic danger and congestion.

NEW BUSINESS:

Van Scoyoc Associates: A resolution approving a memorandum of agreement with Van Scoyoc Associates and a budget adjustment in the amount of \$85,000.00 to provide consulting legislative services in the amount of \$75,000.00, plus expenses up to \$10,000.00.

Alderman Lucas: Is the travel included in this \$10,000 or would that be over and above the \$10,000.

Collis Garran, Dean of Graduate School for the U of A: The travel is included in the \$10,000, the local travel they are referring to is in D.C., in the three years we have used them they have never used their \$10,000 total allowed amount.

Alderman Lucas: So their travel back and forth to Fayetteville is included in that amount.

Collis Garran: Yes.

Alderman Lucas: I think this is great and I am counting on them to do us a lot of good.

Alderman Marr moved to approve the resolution. Alderman Lucas seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 21-04 as Recorded in the Office of the City Clerk.



R-PZD 04-1.00 – Southern View II: An ordinance establishing a residential planned zoning district titled (R-PZD 04-1.00) located on Futrall Drive and Old Farmington Road east of I-540 containing 6.713 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Jerry Kelso, Crafton, Tull and Associates gave a brief presentation on the project. This is a mixed used development with commercial on the bottom floor and residential units on the second and third floor. The total proposed residential units is 113, the total square feet of commercial is roughly 42,000 square feet.

Kim Fugitt, Project Architect gave a brief description of the exterior of the buildings and the project. There will be six of the buildings on the six acres; each building will have 19 apartment units and approximately 7,000 square feet of commercial space on the ground floor. There are twelve two bedroom apartments and seven one bedroom apartments; one apartment is on the ground floor to provide any kind of accessible living units for those that may be unable to reach the second and third floor.

A discussion followed on the ground level apartment and the apartments to the north of this proposed project.

Alderman Thiel: Did this go through the commercial design standard process?

Dawn Warrick: Any Planned Zoning District which has commercial components is required to be review for commercial design standards and it was approved by the Planning Commission for those standards.

A discussion followed on the project.

Jim Lindsey spoke about the project.

Mayor Coody: I want to thank you and your staff for being willing to try something that is way outside your box.

A discussion followed on the project.

Alderman Cook: As a PZD is that locked in that the first floor must remain as commercial or at some point in the future could that be turned into apartment space or what ever?

Tim Conklin: What has been shown and proposed is to lock in the first floor excluding the one assessable unit as commercial.

Alderman Reynolds: I want to thank you for jumping into this venture. I really like it, I think it will cheer up the neighborhood out there and that new traffic light alignment will help you.

Alderman Jordan: Traffic Count?

Dawn Warrick handed out the traffic counts that were taken by the city's Transportation Division.

Alderman Thiel: There are 114 new apartment units in this project.

Tim Conklin: There is 6,733 square feet of retail per building for a total of 40,398 square feet of retail.

Alderman Thiel: How many units did we add whenever the property north of there, which was commercially zoned, was rezoned multi-family, how many units are in that complex?

Tim Conklin: 300 units.

Alderman Thiel: I am concerned about the amount of apartments we are adding right now when construction has not even started on the new treatment plant. I think this a great effort on Mr. Lindsey's part. I feel 540 has a lot of apartments and that is the front door into this city, I would like to see more of it developed commercially. Even though this is mixed and it does have the commercial, it still adds 114 more units. I have reservations about how this is going to look from 540.

Alderman Marr: What is your current occupancy of the 300 apartments that you have recently built?

Mr. Lindsey: Companywide in Fayetteville we are at 97%. That project is new and it was built after the kids came back to school and we have just finished the last building in the last few weeks. That project is right now at 50%. I would say by May we would be in the 80% to 85% and by next August that project will be 100% rented.

Alderman Marr discussed housing for students and housing close to the university. He spoke about the continued same look of apartments at every intersection. There is a lot about this project that he likes, that we are having a major developer in our area try something new that is a very different look. He thinks it is very hard to argue for urban infill and mixed use and not be willing to step out and have someone who is willing to take a little bit of risk with you do that.

I appreciate that very much, I like the concept. Part of the appeal to me is the fact that it may visually hide some of the things that are repetitive on 540 when this development gets built. I am excited about some commercial in this area.

This Ordinance was left on the First Reading.

Southern View Phase II, Money in Lieu of Land: A resolution accepting the parks and Recreation Advisory Board's recommendation to accept \$40,086.00 cash in lieu of the required park land dedication for Southern View Phase II.

Alderman Jordan moved to table the Resolution until the February 17, 2004 City Council meeting. Alderman Cook seconded. Upon roll call the motion to table passed 7-0. Alderman Davis was absent.

Re-budget 2003 Budget Items: A resolution approving a budget adjustment to re-appropriate \$58,605,226.00 in order to retain project funding for identified and scheduled capital improvements and fund increased workers compensation premiums.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 22-04 as Recorded in the Office of the City Clerk.

ADM 03-29.00 - Chapter 167 Tree Preservation Amendment: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide amendments to and clarification of various provisions concerning tree preservation and protection.

Mr. Williams read the ordinance.

Alderman Thiel: Is the Tree and Landscape Committee in favor of this?

Audience: They have reviewed this for several months, they have reviewed this amendment and they are in full support.

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and 40,398 SF of commercial space proposed.

Hoover: On to item number three, R-PZD 04-01.00 for Southern View Phase II for property at Futrall Drive and Old Farmington Road. Jeremy?

Pate: Item four is a Residential Planned Zoning District for Southern View II located at Futrall Drive and Old Farmington Road east of I-540. This is directly south of the Southern View apartment complex which is known as Southern View I which was recently completed. The subject property is currently zoned C-2, Thoroughfare Commercial and designated Regional Commercial on our future land use plan. It contains approximately 6.7 acres. The request tonight is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and approximately 40,398 sq.ft. of commercial retail type space proposed. On page 3.1 of your staff reports, the first page, the staff has broken down the numbers of buildings and the number of bedrooms/units. Approximately 17 units per building with 31 bedrooms. There is a mixture of two bedroom and one bedroom units on primarily the second and third floors of each of the six buildings with a retail being along the first floor. There are 348 spaces required by ordinance, the applicant is proposing 302 which is within the 30% +/- portion of the ordinance for parking requirements. The proposed density with 102 units therefore, is 15.2 dwelling units per acre. The development is proposed to have four means of access, two south onto Old Farmington Road, which is a two way going east/west, one onto Futrall Drive which is one way going north and then there is another entrance also into the Southern View I apartment complex which accesses I believe it is Stone Street, which is also two way going east and west. There is a waiver request with regard to access, the 250' required between an intersection and a curb cut in the Design Overlay District. That is along Old Farmington Road, I believe it is 110' approximately that is requested. Staff is in support of this waiver request from the Design Overlay District. Additionally, this entire site is in the Overlay District. A landscape buffer is proposed along Futrall Drive to ameliorate the impacts of the proposed parking lot that is on your site plan. Elevations, as you can see, have been submitted and I believe there are some revised ones. I'm not for sure if they have made it here yet. The ones on the bottom here in black and white do call out some of the materials of those structures. Surrounding properties are zoned a number of things. To the north, of course, is Southern View I which is RMF-18,

to the south is C-2, Thoroughfare Commercial, this is Sines Auto Body Shop. To the east is the Fayetteville Public Schools which is P-1, Institutional and to the west is of course Futrall Drive and I-540. There are some phase lines shown on your plats as well with the dark dashed line. I believe it is buildings two and six I think if memory serves me correctly, that are being proposed to be developed in Phase I as well as all the infrastructure for all of this development with regard to streets and water and sewer lines. With regard to findings for the Planned Zoning District, in pages 3.7 through 3.15 I won't go over all of those, a couple of pertinent ones are included. The proposal is consistent with the General Plan in a number of areas, including residential areas. It is utilizing some of the principles of traditional residential urban design to create livable and accessible neighborhoods, both in a vehicular and pedestrian manner. It is also citing residential areas accessible to roadways and alternative transportation modes, infrastructure, retail and goods. It also meets the guiding policies for community commercial areas and providing centers that are accessible and compatible with adjacent residential development. Again, as I mentioned, this area is designated Regional Commercial on the Future Land Use Map. I included some minutes from the initial rezoning of this project. There were some concerns by both the Planning Commission and the City Council. With regard to amount of commercial space which is being lost here and a site which is very visible and has access. There is 30,000 sq.ft. or a little more of commercial space proposed in this area. Just in comparison, a typical Walgreen's for instance, is approximately 15,000 sq.ft., a grocery store, for instance, like an IGA or Harps is around 40,000 sq.ft. The Lowe's approved west of town on 6th Street is about 130,000 sq.ft. and the associated retail was about 50,000 so that is just sort of giving you an idea the amount of commercial that is being proposed here. I included some traffic counts. I just handed those out. I believe there are approximately 1,180 vehicle trips per day on average of a 24 hour span. Commissioner Graves actually asked me to produce that for the Commission to see for the traffic amounts generated by this proposed development. It is broken up into a certain amount of square footage for retail, for office and for residential uses as shown on your printout there. Again, there are four ways in and out of this development. Old Farmington and Futrall and to the north to Stone Street, three ways. Staff is recommending approval of this Residential Planned Zoning District with 19 conditions, three of which Planning Commission does need to make specific findings on tonight. Planning Commission determination of Commercial Design Standards for that portion of the site that is commercially developed. Item four, Planning Commission determination of a waiver request for a proposed building within the 100 foot setback of the 100-year water surface elevation of the proposed detention pond. Item five, Planning Commission determination of a waiver request for the Design Overlay District requirement of 250'

between intersection and a curb cut. I would also mention condition number fifteen, the building permit process for Phase II of this proposal shall begin within one year from the final Certificates of Occupancy issued for Phase I. Staff felt it appropriate that Phase II should follow after Phase I for the permitting process in a timely manner.

Hoover: Thank you. Would the applicant come forward please?

Kelso: Thank you Madam Chair. My name is Jerry Kelso, I'm with Crafton, Tull & Associates, the engineer of record on this piece of property and on this project. Jeremy has pretty much went over the overview of the thing. I just want to make a few points. We started this project based upon meetings that we have had with the city and the city's leadership to develop this type of a project. Obviously, what you see is a true mixed use type development. Commercial is on the bottom floor with residential on the second and the third floors to make a true community where you have both residential and commercial on the same tract of land. We went through several iterations with the actual building itself along with the site plan to get where we're at today. We have worked diligently with the city staff. If you look at your site plan what we've done is we've tried to create a streetscape through the middle of this thing what buildings located on both sides to create that unique design that I think is the vision of the City of Fayetteville. A couple of things I also wanted to point out, we added since Subdivision Committee if Subdivision Committee members remember. We did go ahead and add the pedestrian access to the north that was requested. Between the buildings we have created a fence so it looks like we've got a solid row of buildings along with fences straight through. There at the corner between buildings three and five we've got the gazebo and tried to spruce it up with some gardens and kind of making a nice meeting area centralizing this development. Those are some of the things that we've tried to do along the way and work with city staff, the Planning Commission and the leadership of Fayetteville to come up with what we've got. I will try to entertain any questions that you might have. Again, Kim Fugitt is the architect on these buildings if you have any building specific questions. Thank you.

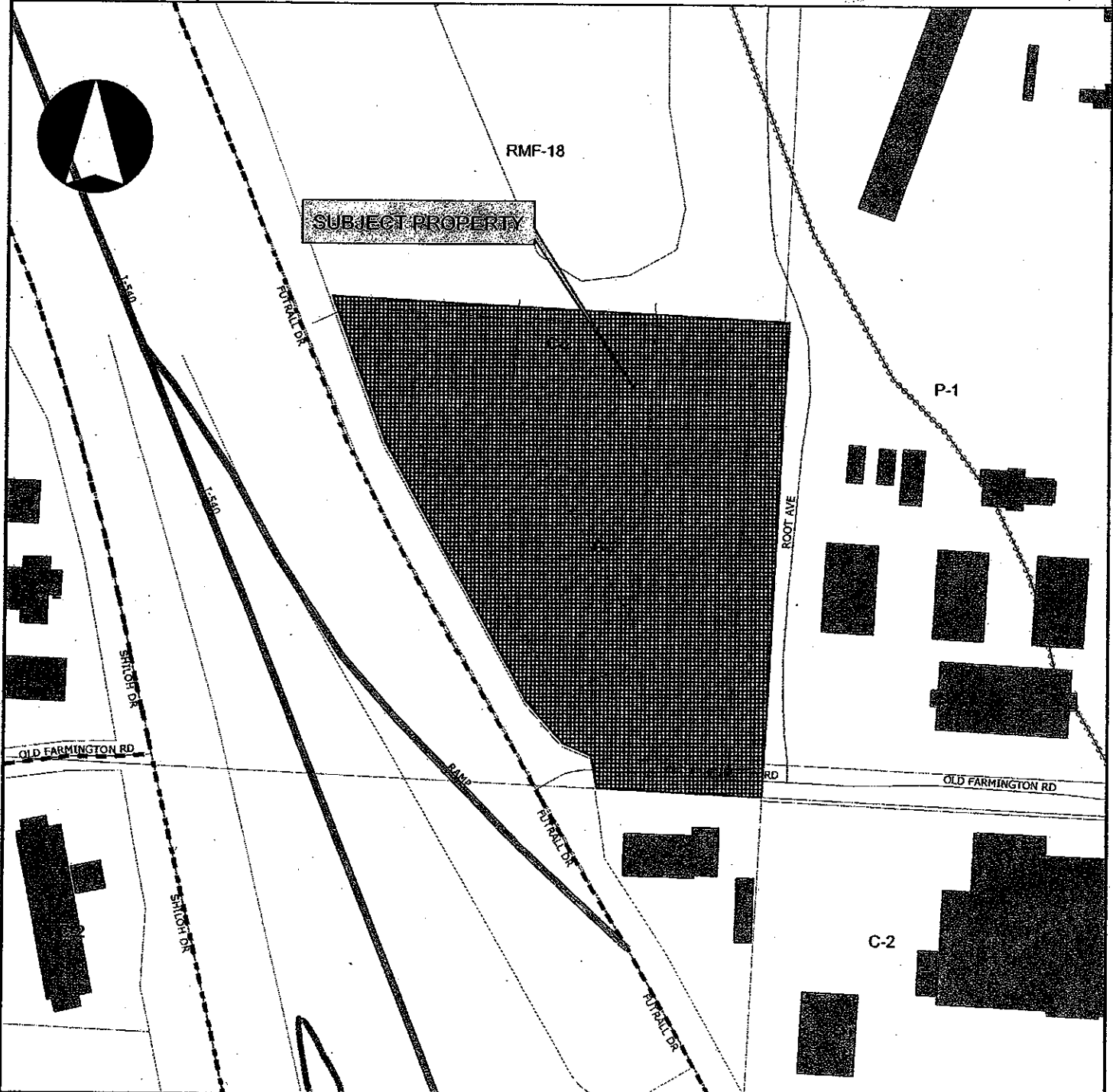
Hoover: At this time we will open up this R-PZD 04-01.00 for public comment. Is there anyone in the audience that would like to address this project? Seeing none, I will bring it back to the Commission. I think we might go ahead, can we go ahead and start with the architect giving his presentation? I think that would be helpful.

Fugitt: My name is Kim Fugitt, I am the project architect, did you have some questions?

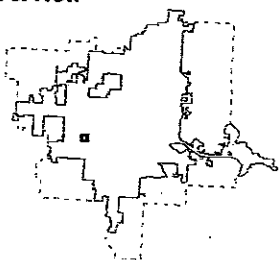
R-PZD04-01.00

Close Up View

SOUTHERN VIEW II

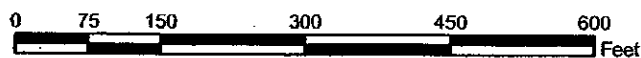


Overview



Legend

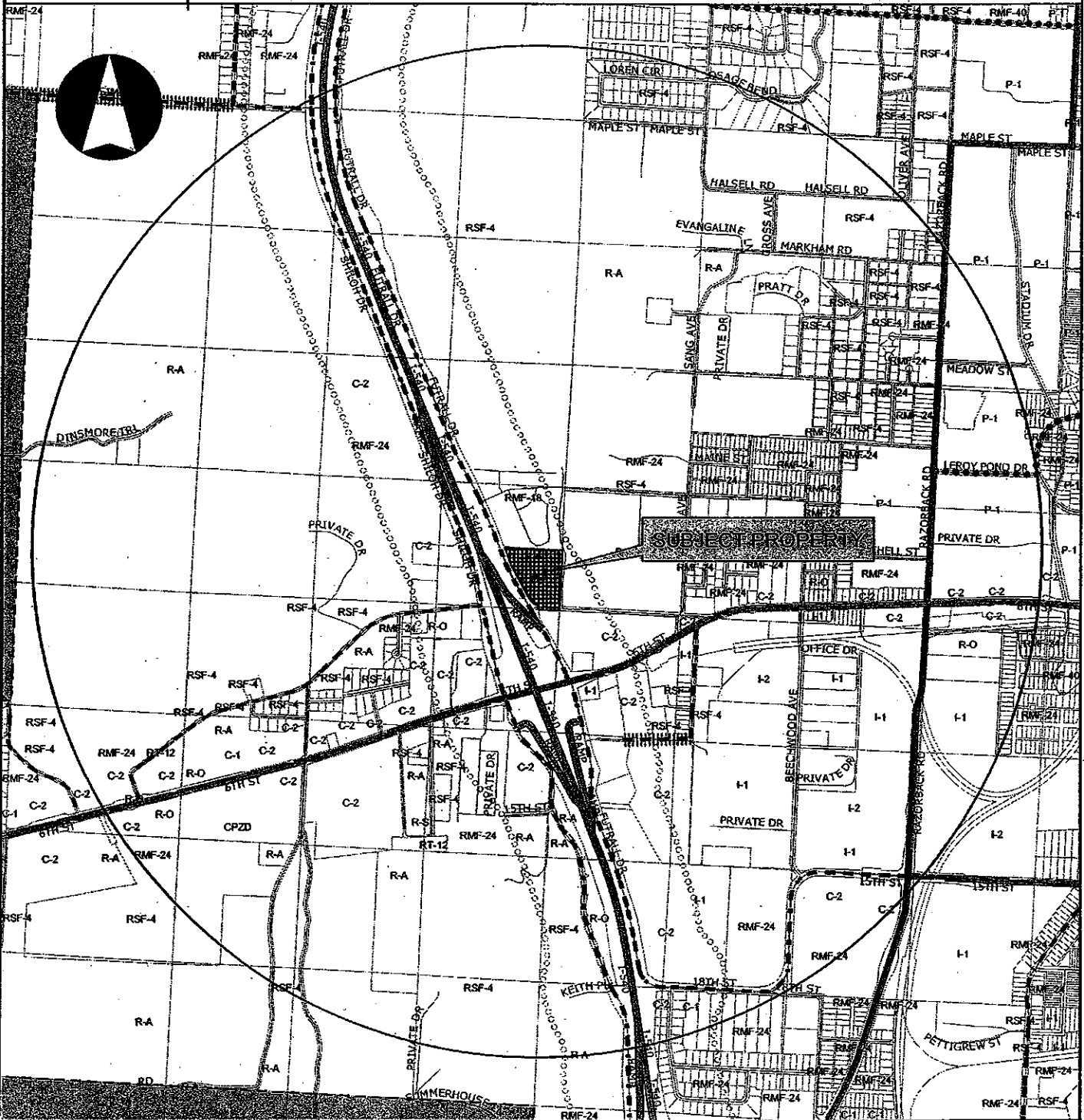
- | | | |
|---|--|---|
| <ul style="list-style-type: none"> FLOODWAY 100 YEAR 500 YEAR LIMIT OF STUDY BaseLine Profile R-PZD04-01.00 | <ul style="list-style-type: none"> Overlay District Master Street Plan | <h3>Master Street Plan</h3> <ul style="list-style-type: none"> Freeway/Expressway Principal Arterial Minor Arterial Collector Historic Collector Planning Area City Limits Outside City |
|---|--|---|



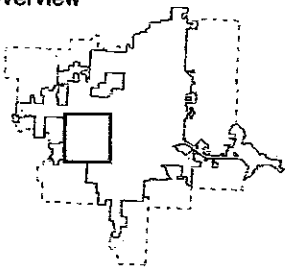
R-PZD04-01.00

One Mile View

SOUTHERN VIEW II



Overview



Legend

Subject Property

R-PZD04-01.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Lindsey Management Co., Inc.

1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

RECEIVED

August 28, 2007

AUG 28 2007

Mr. Jeremy Pate
Director of Current Planning
113 West Mountain Street
Fayetteville, AR 72701

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

RE: Modification Southern View PZD, Phase II

Dear Mr. Pate:

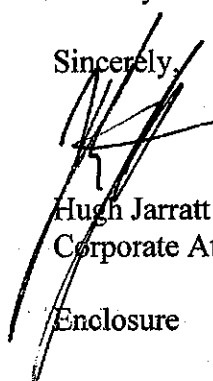
Lindsey Management Company, Inc., (Lindsey Company) on behalf of Southern View Phase II, a Limited Partnership, would like to request a modification of the Southern View PZD, Phase II, to allow Use Unit 14, Hotel, Motel, and Amusement facilities as a permitted use for a certain part of the nonresidential portion of the project. The Lindsey Company is requesting proper zoning to convert a certain portion of the first floor of the buildings into an extended stay motel type use. Attached to this letter are diagrams which show the areas of the first floor which we would like to allow Use Unit 14 along with which buildings we are seeking to include as an extended stay motel type use. With the exception of previously approved apartment units located on the first floor, this area would be operated as an extended stay motel type operation and would thereby pay sales and HMR taxes.

The only part of these buildings that will be affected by the additional use will be a portion of the first floor only. No changes are being sought for the second or third floors. The Lindsey Company is committed to the mixed use concept which has been promoted by the City of Fayetteville, and we look forward to working with the City to make these type developments economically and aesthetically successful.

If there is any other information that can be provided, or any way that I can help, please let me know.

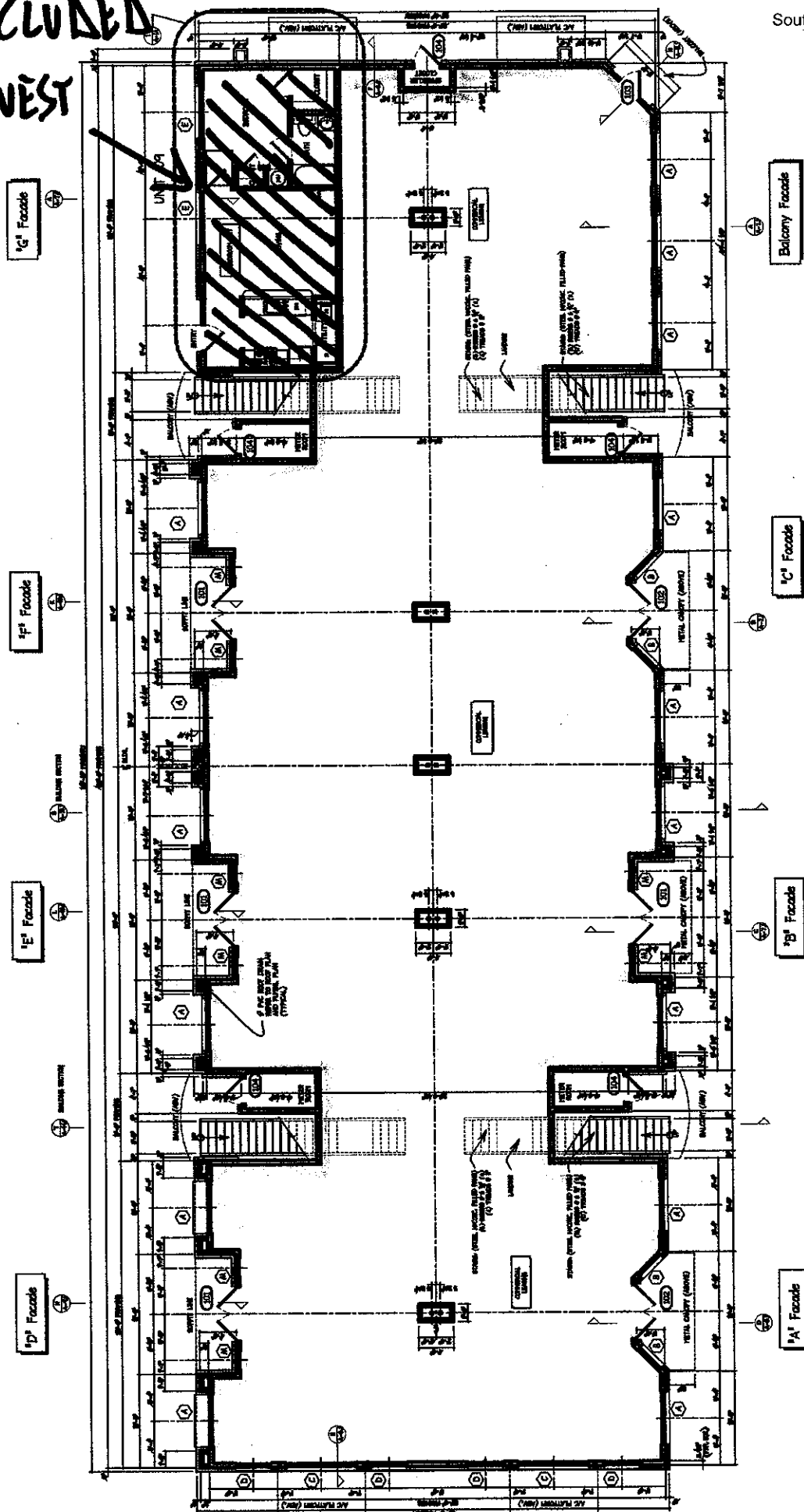
Thank you.

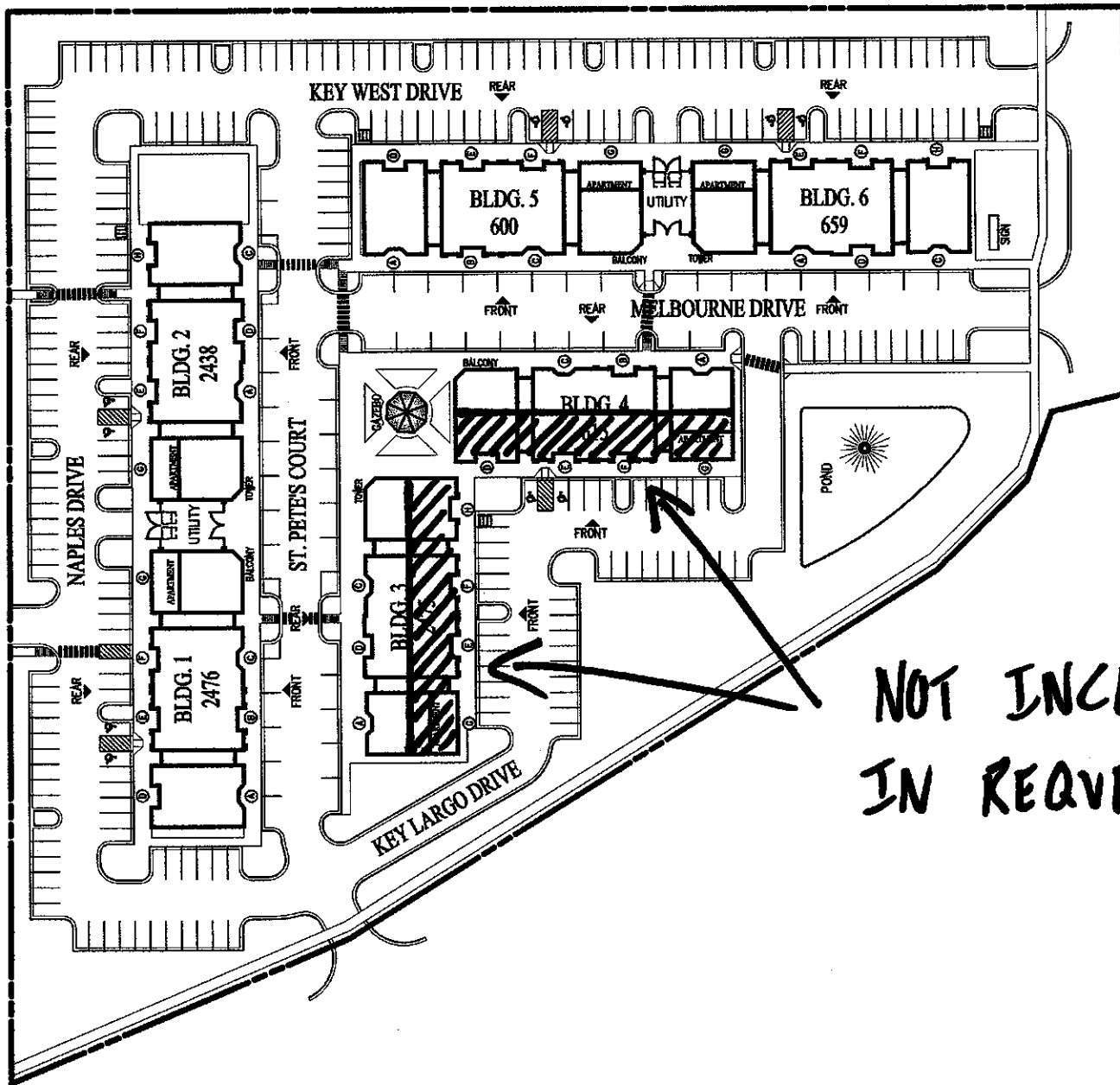
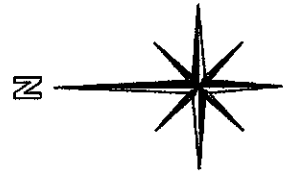
Sincerely,


Hugh Jarratt
Corporate Attorney

Enclosure

D. 4
ADM 07-2725
Southern View II Amendments
Page 29 of 30





NOT INCLUDED
IN REQUEST

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

D. 5
Amend Chapter 174 Signs
Page 1 of 8

18-Sep-07

City Council Meeting Date

Jeremy Pate JP
Submitted By

Planning
Division

Operations
Department

Action Required:

An ordinance to repeal and replace the Unified Development Code Ch. 174.12, Wall Signs.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

[Signature]
City Attorney

9-4-07

Original Contract Number: n/a

Paul A. Beck
Finance and Internal Service Director

9-4-07
Date

Received in City Clerk's Office

ENTERED
8-31-07

[Signature]
Mayor

9/4/07
Date

Received in Mayor's Office

ENTERED
9/4/07

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Planning and Development Management Director
Gary Dumas, Director of Operations

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

Date: August 30, 2007

Subject: Ordinance to repeal and replace Ch. 174.12 Wall Signs of the Unified Development Code, to amend and clarify regulations regarding multi-tenant wall signs.

RECOMMENDATION

Planning Staff recommends approval of an ordinance amending the Unified Development Code Chapter 174.12 Wall Signs, to amend and clarify regulations regarding multi-tenant wall signs.

BACKGROUND

Wall signage for single tenant businesses and multi-tenant businesses are both regulated through Ch. 174.12 Wall Signs. This chapter regulates the number, size and placement of signs as they related to the zoning district in which the property is located. A single tenant business is permitted four wall signs; the four signs can be placed anywhere on the building that tenant desires, so long as they meet the size limitations imposed by the display surface area. A multi-tenant business, however, is currently restricted to one wall sign on the front façade near the primary entrance to that business. If a tenant in a multi-tenant structure happens to be on the end of the building, that tenant is allowed another sign on the end and another on the rear, so long as the tenant is renting space adjoining the wall face on which the sign is located.

Staff finds this to be a rather cumbersome and difficult regulation to administer, especially for larger tenants of a multi-tenant structure, such as a medical office complex or shopping center, when compared to the less restrictive regulations regarding the placement of signs for single tenant structures. The Planning Division proposes to return to a previous manner by which multi-tenant wall signage was administered, before it was amended by ordinance #4972, with some slight changes. A synopsis of the amendments to wall sign regulations for multi-tenants is as follows:

- Permit a maximum of 1 wall sign per business on each wall, with a maximum of four wall signs. No business is allowed more than one sign on any one wall.
- Remove the restriction that states a business has to be on the "end" or "side" of the building to receive additional signs on the side or rear exterior walls, and insert the regulation noted above.

- Added the "RT" (Residential Two and Three family) to the restrictions for RMF (Residential Multi-family) regulations, as these are similar uses
- Separated the RMF/RT and R-O (Residential Office) limitations sections. Residential Office districts should still be limited in sizes and number of signs, in staff's opinion, because they are often districts that are directly adjacent to or near residential neighborhoods. These zoning districts do not typically have high volume traffic, such as retail, restaurants, etc., and are more often office environments. Therefore, advertising to the degree of commercial areas is not as necessary and not as appropriate in the direct vicinity of residential neighborhoods.
- R-O districts are proposed to be allowed two on-site wall signs per business per building – compared to one sign per business per building in RMF/RT districts and four signs per business per building in commercial districts.

Staff recommends these ordinance amendments to the City Council for consideration of adoption.

BUDGET IMPACT

None.

ORDINANCE NO.

**AN ORDINANCE REPEALING AND REPLACING §174.12
WALL SIGNS OF THE UNIFIED DEVELOPMENT CODE.**

WHEREAS, clarifications of certain sections of the Unified Development Code §174.12 **Wall Signs** are needed to ensure fair and equitable treatment to all citizens wishing to appropriately erect signs within the City of Fayetteville; and

WHEREAS, §174.12 Wall Signs of the Unified Development Code contains regulations that have the unintended consequence of unnecessarily limiting the number of signs for multi-tenant buildings; and

WHEREAS, the proposed amendments will result in a more consistent ordinance for staff to apply to applicants of sign permits, and will further the goals and intent of the adopted Sign Ordinance of the City 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 repeals Ch. 174.12 Wall Signs of the Unified Development Code in its entirety and enacts a new Ch. 174.12 in its stead as shown on Exhibit "A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Exhibit "A"

174.12 Wall Signs

(A) Projection.

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to a maximum of one wall sign per business on each wall of the building, with a maximum of four (4) total wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.
- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's allowable wall sign(s) shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on

any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in RMF and RT zoning districts.* In RMF and RT zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

- (F) *Limitations in R-O zoning districts.* In R-O, Residential Office zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of two on-site wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

Cross reference(s)—Boards and Commissions, Ch. 33; General Provisions, Ch. 150; Definitions, Ch. 151; Enforcement, Ch. 153; Appeals, Ch. 155; Variances, Ch. 156; Fees, Ch. 159.

Proposed Amendments to Ch. 174, Signs of the Unified Development Code

Draft showing Mark-up

174.12 Wall Signs

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- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to a maximum of one wall sign per business on each wall of the building, with a maximum of four (4) total wall signs per business per building, on the front façade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall. In no case shall a business have more than one wall sign on any wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.

- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign(s) shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in RMF and RT residential zoning districts.* In RMF and RT R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

- (F) *Limitations in R-O zoning districts.* In R-O Residential Office zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of two on-site wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

08-30-2007 Existing Ordinance (as amended by Ord. #4972)

174.12 Wall Signs

(A) Projection.

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to one wall sign on the front façade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.

- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In RMF and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

Ordinance Prior to Ord. #4972

174.12 Wall Signs

(A) *Projection.*

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) *Number of signs.*

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.

(2) *Multiple tenants.* Where a building houses more than one (1) business, wall signs shall be limited in number to one (1) wall sign per business on each wall with a limit of four (4) wall signs per business per building.

(C) *Display surface area.*

- (1) *All signs.* The display surface area of all wall signs on any one wall shall not exceed 150 square feet or 20% of the area of the wall on which they are located, whichever is greater.

(2) *Multiple tenants.* In the event a building which houses multiple tenants does not front on the street or highway from which principal access to the building is obtained, the display surface area of each sign on a wall shall not exceed 150 square feet or 20% of the area of the wall and the display surface area of all wall signs on the wall facing said street or highway shall not exceed the area of the wall.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In R and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98)

From: "Don Wilson" <don@dewilsonlaw.com>
To: <city_clerk@ci.fayetteville.ar.us>
CC: "Tricia Pearce" <tpearce@coldwellbanker.com>
Date: 8/17/2007 11:59 AM
Subject: RZN 07-2667 (Hobson, Inc.) Appeal to City Council

RECEIVED

AUG 17 2007

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

Ms. Smith, per our telephone conversation this morning, please accept this communication as my request for an appeal of the decision of the Planning Commission held on August 13, 2007, on the rezoning for the property located at 7613 Wedington (12611 Hwy 16W), RZN 07-2667 (Hobson Inc., 433).

The property in question is located within the newly annexed area brought into the city limits in 2006 as R-A Zoning. The request for rezoning to C-2 was made so that the property could be used for its historical use for commercial trades, as a permitted use under C-2. The Planning Commission acted on recommendation of city planning staff that the broad impact of a C-2 rezoning had the potential to bring other impact uses into the area without adequate services to support urban development. The potential to bring other impact uses can be resolved by limiting the use to its historical use through the use of a bill of assurance. The subject property has been commercial property for more than 30 years for various trades, and is not compatible with the current R-A zoning. This is an important issue to the owners of the property, and denial of the use of the property for use as has existed for 30 years would subject the owners to economic hardship.

The appeal to the City Council is requested for the above-stated reasons. I would request this matter be placed on the agenda of the September 18, 2007 meeting of the City Council.

I appreciate your assistance, and would also appreciate your confirmation of this email. Please do not hesitate to call if you have any questions. Thanks.

Donald E. Wilson

Attorney at Law

P.O. Box 1285

Fayetteville, AR 72702-1285

(479) 443-2249

(479) 443-8016 (fax)

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 24, 2007

Subject: Rezoning for Hobson, Inc. (RZN 07-2667)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville. The applicant has appealed the Planning Commission's decision to the City Council.

BACKGROUND

The subject property contains two parcels of property containing 2.38 acres. The property is located at 7613 Wedington Road. There are two buildings on the property, an office and a shop. The property is currently being used for Bud's Auto Repair shop. The backyard is currently being used to park cars that are being repaired in the shop. This property was annexed into the City as part of the general election in October 2006. The property has been used for various non-residential uses for several decades, and was most recently used as a custom cabinet shop starting in 2005. The building sustained fire damage in June 2006 and was completely remodeled. In approximately January 2007 the property was converted and opened as Bud's Auto Repair shop. The property is surrounded by rural residential properties all zoned R-A. Staff advised the owner and applicant that since the car repair shop is a change in non-conforming use a conditional use permit could be issued by the Planning Commission to allow the car repair shop to continue, or the property would have to be rezoned to C-2. Staff and the Planning Commission both recommended the applicant pursue a conditional use for the use of the property, as opposed to rezoning this property to C-2, which would constitute spot zoning and could lead to incompatible uses.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 13, 2007. The Planning Commission voted 7-0-0 to recommend denial of this rezoning request. The main issues discussed included the historic nature of non-residential use at this property and the potential for incompatible uses under the proposed C-2 zoning. Minutes from this meeting are included in the report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2667, FOR APPROXIMATELY 2.38 ACRES, LOCATED AT 7613 WEDINGTON FROM R-A, RESIDENTIAL AGRICULTURAL, TO C-2, THOROUGHFARE COMMERCIAL

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

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

From R-A, Residential Agricultural acre to C-2, Thoroughfare Commercial, as shown and described on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2667

HOBSON INC.

Close Up View



SUBJECT PROPERTY

HIGHWAY 16

Overview

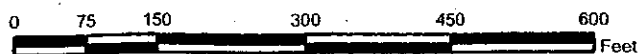


EXHIBIT "B"
RZN 07-2667

A PART OF THE SW ¼, OF THE SE ¼, SECTION 9, T-16-N, R-31-W DESCRIBED AS BEGINNING AT A POINT S1°17'49"W 39.12 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 16; THENCE S1°17'49" W 146.88 FEET; THENCE ALONG A FENCE S89°10'35" W 61.88 FEET; THENCE N0°40'45" E 148.25 FEET, TO THE SAID HIGHWAY RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY S89°33'25" E 63.44 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.21 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO A 18.00 FOOT ROAD EASEMENT ALONG THE EAST SIDE THEREOF.

-AND-

A PART OF THE SW ¼, OF THE SE ¼, SECTION 9, T-16-N, R-31-W DESCRIBED AS BEGINNING AT A POINT S1°17'49" W 186.00 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S1°17'49" W 381.00 FEET; THENCE N89°32'06" W 250.00 FEET; THENCE N1°17'49" E 373.33 FEET; THENCE ALONG A FENCE N88°41'34" E 188.33 FEET, N89°10'35" E 61.88 FEET, TO THE POINT OF BEGINNING, CONTAINING 2.17 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO: AN 18.00 FOOT ROAD EASEMENT ALONG THE EAST SIDE THEREOF.

RZN 07-2667: (HOBSON INC., 433): Submitted by DONALD E. WILSON for property located at 7613 WEDINGTON (12611 HWY 16W). The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.38 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Andrew Garner, Senior Planner, gave the staff report. Garner discussed that the property has been used for non-residential uses since the structures on the property were first constructed. The property had been used for a cabinet shop prior to the current use as Bud's Auto Repair Shop. The cabinet shop was damaged by fire, remodeled and occupied by Bud's Auto Shop in approximately January 2007. Concerned property owners have contacted staff regarding the use of the property for auto salvage uses. Garner discussed with the applicant the option to allow for the business by a Conditional Use Permit (CUP) as a change in the nonconforming use, instead of rezoning. Staff finds that C-2 zoning would be incompatible and would not be consistent with the City's land use planning objectives and policies.

Donald Wilson (representative for the applicant) discussed that the property has been used by Hobson, Inc. since 1976. The property has been commercially used for years, and the owner has been paying commercial taxes. The current use is not auto salvage but auto repair. The owner has not received any complaints from neighbors. This property is part of an already urban area. The business in this location has always been used as a trade-type of business. Trade-type businesses are not allowed in the R-A zoning. The CUP would tie us to the Bud's Auto Repair Shop, which would limit the ability for future tenants. The proposed C-2 zoning fits this site for what has been used since 1976.

No public comment was presented.

Commissioner Winston asked if certain use units can be removed from the requested zoning.

Jeremy Pate, Director of Current Planning, responded that only the applicant can offer that use units be removed through a Bill of Assurance.

Kit Williams, City Attorney, explained what a Bill of Assurance is, and gave the example of Pop's Barbeque on 15th Street, discussing that the Planning Commission denied the request for C-2, and that the applicant subsequently appealed the decision to the City Council and offered a Bill of Assurance limiting some of the potentially objectionable uses, and that the City Council approved the request with the Bill of Assurance.

Commissioner Anthes asked when the Bud's Auto Repair Shop started operation on the property.

Pate stated January 2007.

Commissioner Myres asked if a CUP in the R-A zoning district would allow for trades and services.

Pate responded that trades and services are not allowed under the R-A zoning regulations. However

an existing nonconforming use may be changed to another nonconforming use by CUP permit. He discussed that staff tries to facilitate the use of the property. Pate discussed that a proposed C-1 zoning was debated extensively at the corner of Harmon Road and Hwy 16; this is a request for a much more intense use than that zoning, and is not located a corner.

Commissioner Myres stated agreement with staff's findings and that she cannot support the request as the C-2 zoning is too intense for this area, and that she hopes the applicant can bring forward a CUP application.

Commissioner Anthes asked if the property is two parcels.

Wilson stated that yes, the property is two parcels and that both parcels are needed to allow for the operation of a business.

Commissioner Winston asked if a CUP may be approved to allow for general trades and services, and not be specific.

Pate responded that in general, a CUP needs to be requested for specific uses to allow for staff to make a recommendation on that specific use. Pate read all of the uses allowed in the UDC under Use Unit 17, Trades and Services.

Commissioner Winston asked if the Planning Commission could approve a CUP to allow for Use Unit 17.

Pate responded that he had never seen a CUP of that nature, but that he supposed it was possible for the Planning Commission to approve such a request. It would be hard to make individual findings, though.

Commissioner Cabe asked if the rezoning request were denied, could the applicant return to the Planning Commission for a CUP request.

Pate replied, yes.

Motion:

Commissioner Cabe made a motion to deny the request. **Commissioner Myres** seconded the motion.

Commissioner Ostner discussed that if the rezoning request were denied, the applicant may appeal the decision to City Council, and that they may offer a Bill of Assurance at that time if they wish.

Pate stated that it must be appealed to the City Council within 10 days from the Planning Commission's decision.

Commissioner Anthes stated that the Planning Commission would rather see a CUP than a rezoning to C-2 in this area.

Upon roll call, the motion to deny passed 7-0-0.



PC Meeting of August 13, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: August 7, 2007 Updated August 21, 2007

RZN 07-2667: (HOBSON INC., 433): Submitted by DONALD E. WILSON for property located at 7613 WEDINGTON (12611 HWY 16W). The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.38 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Property Owner: Hobson, Inc.
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends denial of the requested rezoning request from R-A to C-2 based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☐ Forward to City Council (recommend approval)	<u>X</u> Denied
Date: <u>August 13, 2007</u>			
Motion: <u>Cabe</u>			
Second: <u>Myres</u>			
Vote: <u>7-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>September 4, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains two parcels of property containing 2.38 acres. The property is located at 7613 Wedington Road. There are two buildings on the property, an office and a shop. The backyard is currently being used to park cars that are being repaired in the shop. The property is currently being used for Bud's Auto Repair shop. This property was annexed into the City as part of the general election in October 2006. The property has been used for various non-residential uses for several decades, and was most recently used as a custom cabinet shop starting in 2005. The building sustained fire damage in June 2006 and was completely remodeled. In approximately January 2007 the property was converted and opened as Bud's Auto Repair shop. Photos of the property are attached to this report. Staff advised the owner and applicant that since the car repair shop is a change in non-conforming use a conditional use permit is required to be issued by the Planning Commission to allow the car repair shop to continue, or the property would have to be re-zoned to C-2. It should be noted that per UDC Section 164.12(E)(5), when a nonconforming use of a structure is discontinued for six consecutive months, the structure shall not thereafter be used except in conformity with the regulations of the district in which it is located.

Public Comment: Staff has received several complaints from neighbors about the auto repair shop, stating that it should not be allowed, and that the property is being used as an auto salvage yard and not an auto repair shop.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North, South, East, and West	Rural Residential	R-A

Proposal: The applicant proposes to rezone the 2.38 acre property from R-A to C-2 to bring the historic non-residential uses, and current nonconforming auto repair use into compliance. The applicant discussed with staff that they do not want to apply for a conditional use permit for the auto repair shop, though it would be permitted by conditional use permit as a change in nonconforming use. The zoning criteria for R-A and C-2 are attached to this report.

INFRASTRUCTURE:

Streets: The site has access to Wedington Road/State Highway 16. Wedington Road is currently being widened by the Arkansas Highway Transportation Department to be a five-lane state highway up to Double Springs Road. The improvements do not extend west as far as the subject property. Wedington at this site is a two-lane state highway.

Water: Public water is located adjacent to the site. However this property is served by the Washington Water Authority instead of the City of Fayetteville.

Sewer: Sanitary sewer is not available on the site. The nearest public sewer main is at the intersection of Wedington/Double Springs Road, which is approximately 6,000 feet to the east of this site.

Fire: These 2.38 acres are covered by Engine 7 located at 835 Ruppel Road. It is 3.4 miles from the station with an anticipated response time of 5.75 minutes. There are no recorded hydrant flows in this area. The Fire Department does not figure calls for service for developments rezoning to C-2, Thoroughfare Commercial, but typically this type of development does not result in any increase in calls for service.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Rural Area**. Rezoning this one specific property to C-2 would not encourage conservation and preservation, and could encourage suburban sprawl, in contrast to the currently adopted land use plan policies. While staff generally supports bringing non-conforming uses into compliance, a rezoning to C-2 has the potential to bring other higher impact uses into the area without adequate services to support urban development. Additionally, being that non-residential uses have been a historic use on this property for almost 30 years, the current auto repair use may become conforming with a conditional use permit. Rezoning the property to C-2 is not consistent with the land use plan, and long-range planning objectives for this area of the City.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is not consistent with future land use planning objectives, principles, and policies for Rural Areas. The Future Land Use plan identifies these areas to:

“...encourage conservation and preservation in any development pattern.”

“If developed, encourage alternative development patterns to achieve compatibility with surrounding rural areas.”

It is acknowledged that commercial uses as allowed in the proposed C-2 zoning district have been used on this property for several decades, prior to this property being annexed into the City. However, rezoning the property to C-2 does not assure the City that this property would be integrated into a compatible development pattern with the surrounding rural-residential uses.

The proposed C-2 zoning does not provide the City the assurance that the development would be compatible with the surrounding rural residential uses. In fact, staff has received several phone calls and in-person visits from neighbors in the vicinity complaining that the new auto shop on the property is not compatible, and is conducting auto salvage operations on the property. Staff has concerns with the compatibility of the existing auto shop and other commercial uses that would be allowed under the proposed C-2 zoning at this location. There are several non-conforming uses along this area of Wedington as a result of general election annexation into the City in 2006. Staff finds the potential to support a change in some of the nonconforming non-residential uses along Wedington Road through the conditional use process to ensure compatibility of those uses. However allowing a C-2, Thoroughfare Commercial zoning district adjacent to rural residential uses on the outskirts of the City is not consistent with the Future Land Use Plan guiding policies and strategies. As the City Plan 2025, indicates this vicinity is designated as a Rural Area.

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

Finding: The proposed zoning is not justified. The applicant's stated intent is to rezone the property to bring the non-conforming use into compliance and to recognize the historic commercial use on the property. While staff recognizes that this property has been historically used for non-residential uses, staff would recommend a Conditional Use Permit to allow for a change in the non-conforming use if desired. A C-2 zoning allows several intense uses that are more appropriate in urban centers and at designated commercial nodes, and may be objectionable to surrounding rural residential uses.

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

Finding: The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 2.38 acres. Planning of any future commercial development on this site must address safe access concerns. At the time of development, improvement to this street may be required; and ingress/egress evaluated carefully.

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

Finding: The proposed zoning would not increase population density.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. The site does not have access to City water or sewer, and the property is located on an unimproved two-lane highway. The existing infrastructure is a concern with the urban uses that would be allowed under the proposed C-2 zoning.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
----------------	----------

(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.18 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07)

Fayetteville Unified Development Code Chapter 162

(Q) Unit 17 Trades and Services

(1) *Description.* Unit 17 consists of establishments engaged primarily in providing household and automotive maintenance and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage.

(2) *Included uses.*

Retail trade establishments, general:	•Automotive sales, service and repair, including body shop * •Buses •Manufactured home sales •Motorcycle sales, including service and repair •Truck sales, including service and repair •Trailer sales, camping, hauling, travel •Used car lots •Farm supplies and equipment and repair
General merchandise establishment:	•Direct selling
Merchandise vending machine operations	
Institutional furniture and furnishings	
Marine craft, sales & service:	•Boats and accessories
Medical and orthopedic appliances	
Personal help:	•Animal hospital •Auctioneer •Bindery •Body piercing •Cabinetmaker •Frozen food locker •Drapery service •Linen supply and industrial laundry •Packing and crating •Rug cleaning •Tattoo services •Taxidermist •Tool sharpening repair service •Armature rewinding •Auto wash •Electrical repair service •Furniture repair •Motor repair •Radio and television repair •Reupholstery •Rug repair

The subject property is part of 1,419.30 acres in the Highway 16 corridor annexed into the City in 2006, and zoned Residential Agricultural (R-A) upon annexation.

The subject property is located along and adjacent to Highway 16 West, approximately four miles west of the Interstate 540/Highway 62 intersection. There is one commercial building on the real property, which is believed to have been built in or about 1976. The present owners purchased the property in 1984. Prior to 1984, the building had been used as a television repair shop, a custom drapery shop, and a used furniture store. From 1984 until 2001, the present owners operated a printing business at the location. In 2002, the building was used as a cheerleading training school. In 2003 and part of 2004, the building was used as warehouse for a moving and storage operation. In 2005, it was the location of a custom cabinet shop. The building sustained fire damage in June 2006 and was completely remodeled. The property has now been leased to Bud's Foreign Car Repair. The present owners do not anticipate there will be any significant change or adverse affect on surrounding properties.

The reason for requesting the zoning change is to conform the property to its most compatible historical use following annexation into the Fayetteville city limits.

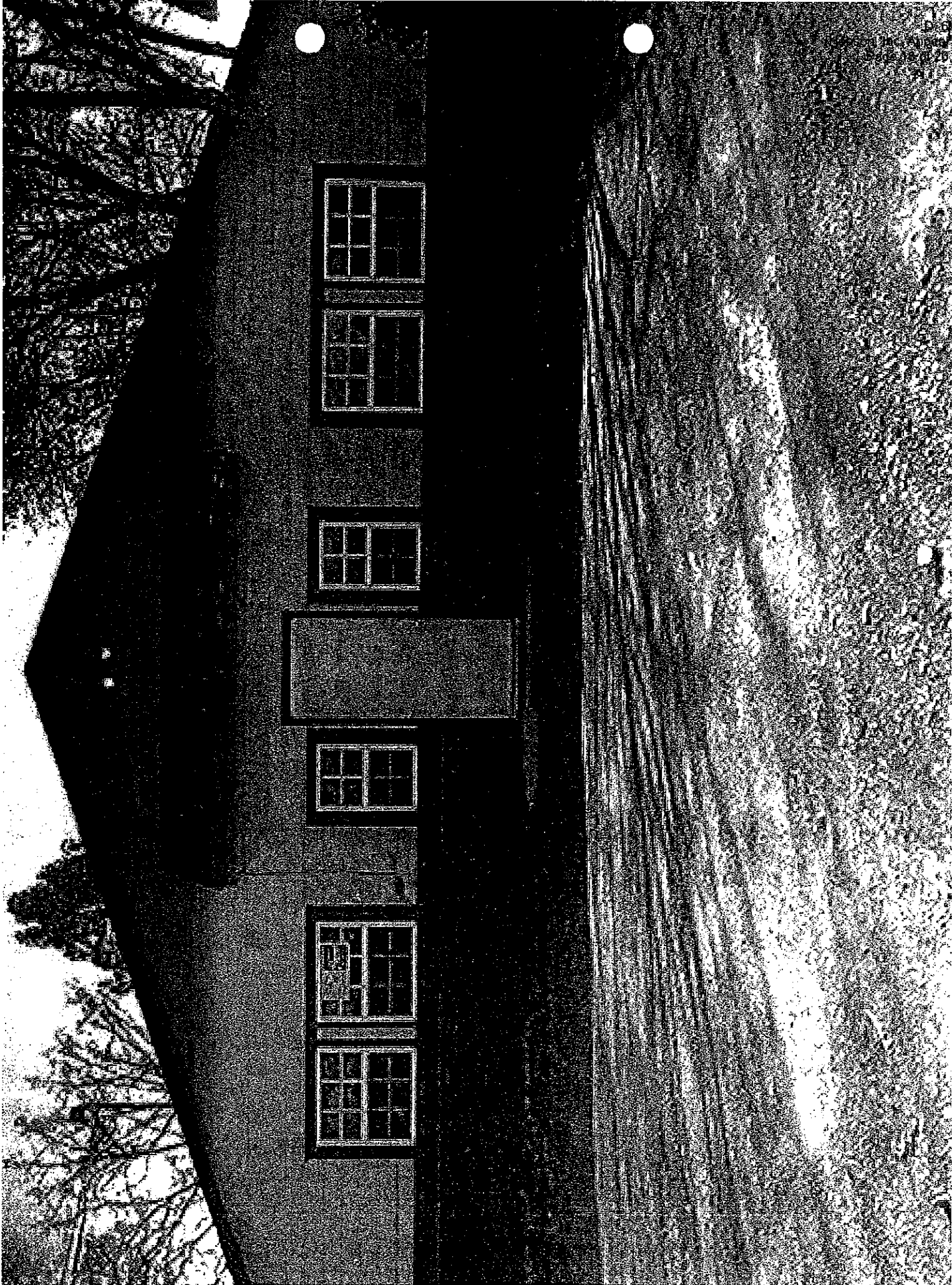
The present owners believe that under the Zoning Districts Code adopted by the City of Fayetteville, a C-2 classification would be the most compatible to the pre-annexation and historical uses of the property, and the classification that is most consistent with its pre-annexation and present use. A zoning classification is also compatible with the surrounding area and other businesses in the area along the Highway 16 corridor. The property is adjacent to and contains highway frontage along Highway 16. Highway 16 is a major highway access artery to Fayetteville on the Fayetteville Master Street Plan, and the subject property caters to the highway traveler. Numerous businesses are located along Highway 16 on both sides of the subject property, including a used auto sales business, an automobile service business, a machine shop business, and a heavy equipment sales business.

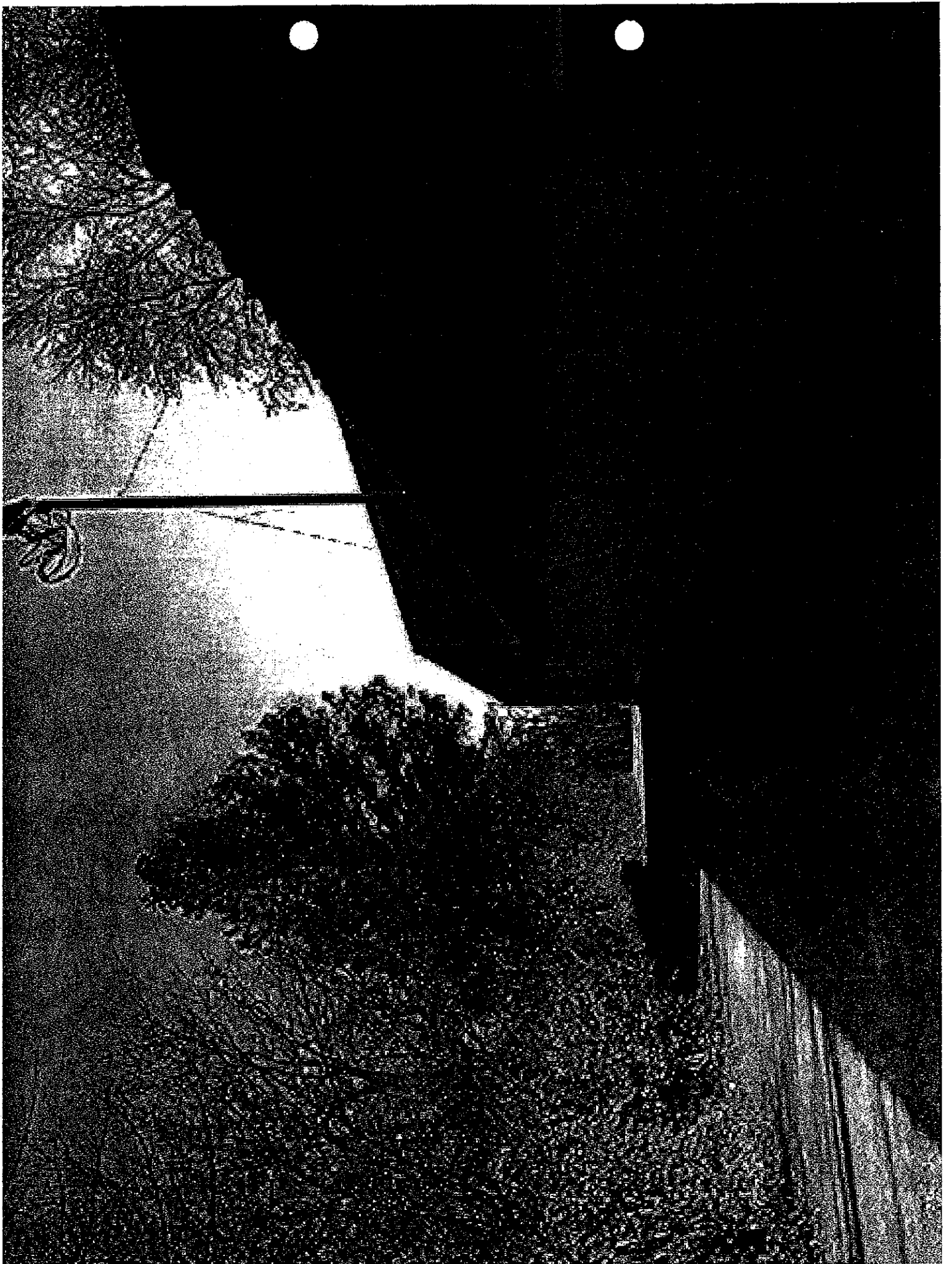
At the time of the City's annexation of the property in 2006, water was provided to the subject property through the ~~through the~~ Washington County Water Authority. As of the date of this application, the City of Fayetteville has not taken over responsibility for providing water, nor is sewer service provided by the City of Fayetteville.

Attached hereto are two photographs, the first being a view of the front of the building with highway frontage along Highway 16, and the second being a view along the east side of said building. Both photographs are viewed from the perspective of Highway 16.

There are no pending sales for the property, and it is anticipated there will be no change or adverse affect upon surrounding properties.

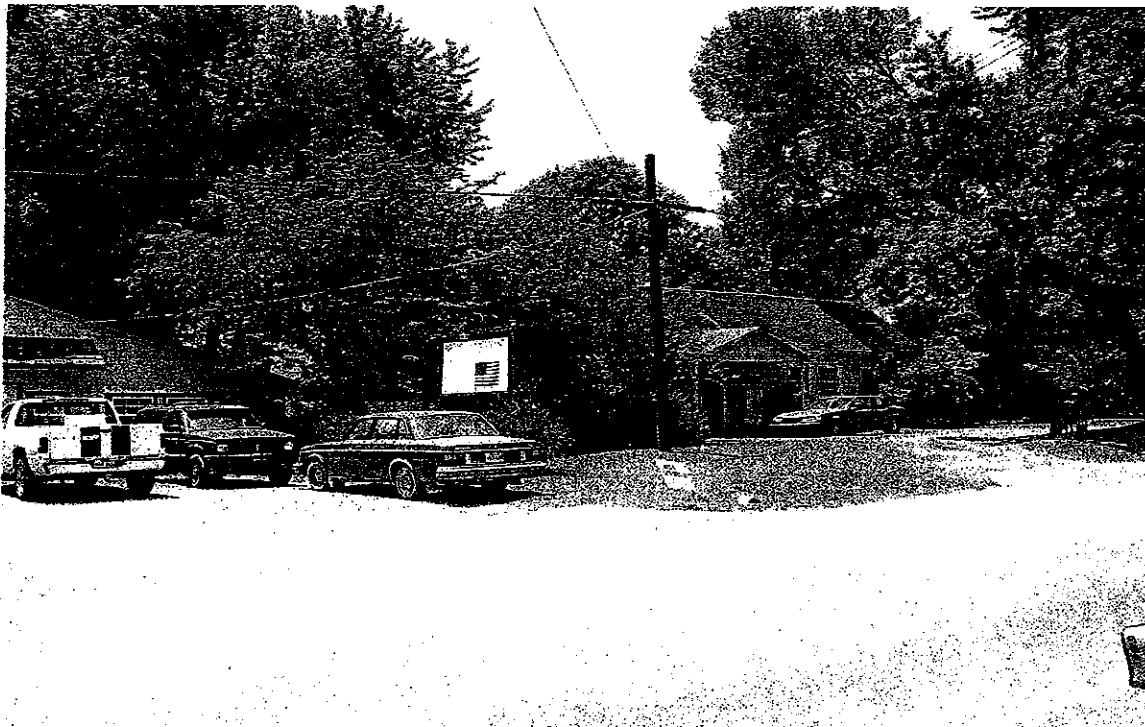
Accordingly, the present owners request re-zoning of the subject property from its present annexed zoning classification to its more compatible use of C-2.







1. View from Wedington looking south at the subject property.



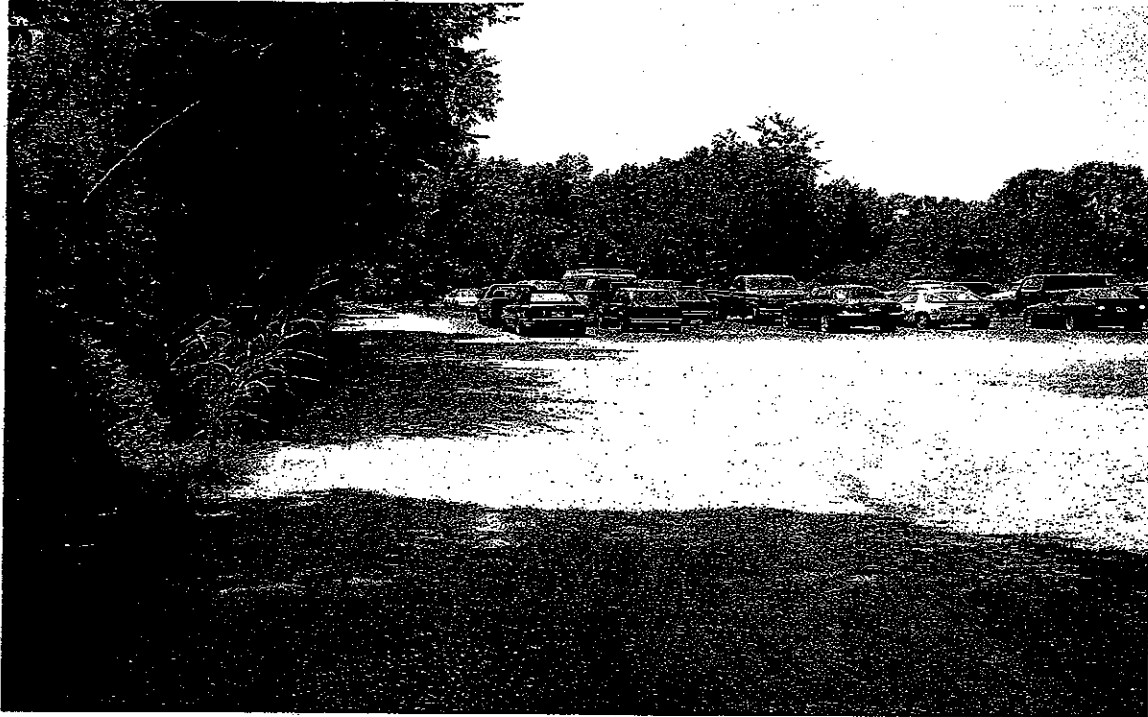
2. View from Wedington looking southwest at the subject property and the adjacent single family residence to the west.



3. View from Wedington looking south at the entrance into the rural residential property adjacent to the east of the subject property.



4. View from Wedington looking north at the adjacent rural residential use across Wedington from the subject property.



5. View of the backyard on the subject property.



6. View looking north at the rear of the shop on the subject property.

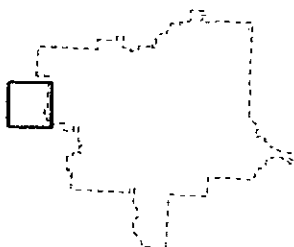
RZN07-2667

HOBSON INC.

One Mile View

SUBJECT PROPERTY

Overview



Legend

Subject Property

 RZN07-2667

Boundary

Legend

0 0.25 0.5 1
 Miles

RZN07-2667

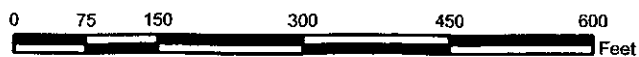
Close Up View

HOBSON INC.



SUBJECT PROPERTY

Overview



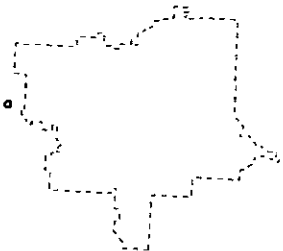
RZN07-2667

Future Land Use

HOBSON INC.

SUBJECT PROPERTY

Overview



Legend

Subject Property

 RZN07-2667

Streets

 Existing

 Planned

Boundary

 Planning Area

 Overlay District

Legend

0 75 150 300 450 600
 Feet

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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

- 1. Approval of the August 23, 2007 City Council meeting minutes.**
- 2. Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.
- 3. Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.
- 4. Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.
- 5. Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

B. UNFINISHED BUSINESS:

- 1. R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*
- 2. Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and Tabled to the September 18, 2007 City Council meeting.*

C. PUBLIC HEARINGS:

- 1. Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$5,000.00.
- 2. Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

- 1. R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 2. R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- 3. VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.
- 4. ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

- 5. Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.
- 6. Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

City of Fayetteville Staff Review Form

A. 2
Littler Mendelson, P.C. Contract
Page 1 of 48City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Missy Leflar

Submitted By

Human Resources

Division

Operations

Department

Action Required:

Staff requests Council Approval of the attached contract for Employment and Labor Law Legal Services. The purpose is to have an employment law firm at the ready should the City ever have employment law trial litigation (typically involves 20 calendar days to file a response) or similar non-routine type matter for which the City Attorney's office and the HR Division determines in house handling would not be appropriate. This is not a specifically budgeted item. Therefore, Council might be asked to approve supplemental funding.

None at this time

Cost of this request

\$

287,740.00

Category / Project Budget

Services & Charges

Program Category / Project Name

1010.1210.5314.01

Account Number

\$

182,464.00

Funds Used to Date

Human Resources

Program / Project Category Name

\$

105,276.00

Remaining Balance

General

Fund Name

Project Number

Budgeted Item

☒

Budget Adjustment Attached

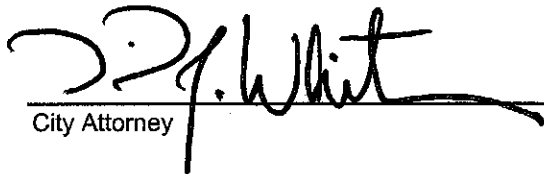
☐


Department Director

8-29-07

Date

Previous Ordinance or Resolution #



City Attorney

8/31/07

Date

Original Contract Date:

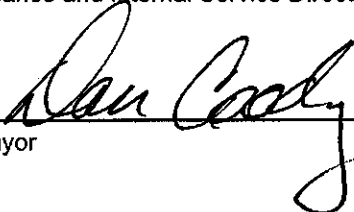
Original Contract Number:



Finance and Internal Service Director

9-4-07

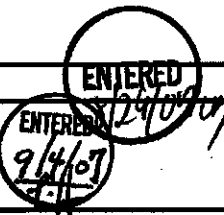
Date

Received in City
Clerk's Office


Mayor

9/4/07

Date

Received in
Mayor's Office


Comments:

CITY COUNCIL AGENDA MEMO

TO: Mayor Dan Coody and the City Council
THRU: Gary Dumas, Operations Director
FROM: Missy Leflar, Human Resources Division Manager
DATE: August 24, 2007
SUBJECT: Approval of Employment Law Services Contract

Recommendation

Staff recommends approval of the attached Employment Law Services Contract.

Background

This contract is for the purpose of the City having a qualified employment law firm at the ready in the event the City were engaged in employment related trial litigation or other highly unusual employment law related matter deemed inappropriate for in house handling.

Discussion

Day to day legal advisory matters, legal research, and other routine employment law matters are handled in house, at a savings to the taxpayer. However, should the City ever be engaged in employment law trial litigation then the in house employment law advisor (HR Division Manager) would likely be a witness. Attorneys are not permitted to litigate cases in which they are also witnesses. It could therefore be potentially necessary to engage outside employment law counsel on very short notice, as a party typically has 20 calendar days to file a legal response to a Complaint. This is not expected to happen, but it is good to have a firm waiting in the wings as "insurance" against an emergency.

It could also possibly be necessary to engage outside employment law counsel if some highly unusual matter ever arose that the City Attorney's office and HR Division deemed inappropriate for in house handling.

The City advertised for and received competitive bids from several employment law firms. The top candidates were interviewed by a committee that included representation from the City Attorney's office, the Human Resources Division, the Purchasing Division, the Fire Department, and the Accounting Division. The Fayetteville office of Littler Mendelson, P.C., the largest employment law firm in the United States, was selected as the firm to represent the City in the event of employment law litigation or other emergency need for outside employment law legal counsel.

The purpose of this action is to have a firm selected and retained. The selection process and Council action should require more time than is available should specialized legal counsel become necessary.

Budget Impact

There is no budget currently for this service. No budget is necessary until litigation or another matter requires outside counsel. This contract will retain a firm specializing in employment law, establish a fee structure, and have the firm available if necessary. If it becomes necessary to employ the firm, a budget adjustment will be brought forward for Council approval.

RESOLUTION NO. _____

A RESOLUTION APPROVING A CONTRACT WITH LITTLER MENDELSON, P.C. TO PROVIDE EMPLOYMENT AND LABOR LITIGATION SERVICES.

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 Littler Mendelson, P.C. to provide employment and labor litigation services. A copy of the contract, marked Exhibit "A," is attached hereto and made a part hereof.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville, Arkansas
Ref: RFQ 07-09, Employment & Labor Law Legal Services
Contract

This Agreement made and entered into by and between City of Fayetteville, Arkansas, 113 W. Mountain Street, Fayetteville, AR, 72701 and Littler Mendelson, P.C. and

WHEREAS, City of Fayetteville has by Committee awarded the project for **Employment and Labor Law Legal Services** and;

WHEREAS, Littler Mendelson, P.C. and City of Fayetteville for the consideration hereinafter named, agree and acknowledge that:

Littler Mendelson, P.C. agrees to provide all the staff, facilities, materials, equipment and labor necessary to carry out, in good faith, the complete requirements of the "project" (providing legal services in the event of Employment Law litigation) specified in strict conformity with all sections of the **RFQ # 07-09**, hereinafter set forth, whose program services together with the Consultant's Proposal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto, shall form essential parts of this Agreement as if fully contained herein. The RFQ and Consultant's bound written Proposal are attached hereto and marked "Exhibit A" for reference. However nothing herein requires Littler Mendelson to accept an assignment that would require it to violate any law or professional obligation imposed upon Littler Mendelson. City of Fayetteville agrees to pay Littler Mendelson, P.C. in current funds, for the performance of this Contract in accordance with the **Fee Schedule**, attached.

City of Fayetteville and Littler Mendelson, P.C. agree that the **RFQ #07-09**, hereinafter set forth, whose services together with the Consultant's Proposal, the Advertisement for Bids, Instructions to Proposers, General Conditions, Representations, this Agreement, and all addenda hereto annexed are as fully a part of the Contract as if attached or herein repeated.

City of Fayetteville shall have 30 working days from approval by the Project Manager in which to pay Littler Mendelson, P.C. subject to any documentation requests by City of Fayetteville as necessary to allow City of Fayetteville to evaluate the completeness and accuracy of monies due.

To the fullest extent permitted by laws, statutes, rules and regulations, Littler Mendelson, P.C. shall indemnify and hold harmless City of Fayetteville, and its Officers, Directors, Employees, Agents, and other Consultants of each and any of them from and against claims, costs, damages, losses, and expenses, including but not limited to all fees and charges of , , attorneys and other professionals and all court costs, arising out of or resulting from performance of the Work, but only to the extent caused in whole or in part by acts or omissions of Littler Mendelson, P.C. its Officers, Directors, Employees, Agents, and anyone directly, or indirectly employed by them or anyone for whose acts they may be liable, however, nothing in this agreement creates an agency relationship between Littler Mendelson and such entities as court reporters or court reporting services, private investigators or consulting or testifying experts; regardless of whether or not such claim, cost, damage, loss, or expense is caused in part by a party indemnified hereunder, except that no party shall indemnify any other party or person for their own sole negligence. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

Littler Mendelson, P.C. agrees to comply with the laws of the State of Arkansas and applicable federal laws. Notwithstanding statutory exemptions or exclusions, Littler Mendelson, P.C. agrees to subject itself to the

jurisdiction and process of the Courts of Washington County, State of Arkansas as to all matters and disputes arising or to arise under this Agreement and the performance thereof, including all issues relating to liability for taxes, licenses or fees levied by the State, unless federal jurisdiction applies in which case Littler Mendelson, P.C. agrees to subject itself to the jurisdiction and process of the U.S. District Court for the Western District of Arkansas at the Fayetteville Court location. Littler Mendelson, P.C. irrevocably consents that any legal action or proceeding against it under, arising out of or in any manner relating to this Contract, shall be brought in any court in Washington County, Arkansas.

Littler Mendelson, P.C. hereby expressly and irrevocably waives any claim or defense in any said action or proceeding based on any alleged lack of jurisdiction or improper venue or any similar basis.

Littler Mendelson, P.C. assumes sole responsibility for completion of the work undertaken pursuant to this Agreement. City of Fayetteville shall consider Littler Mendelson, P.C. the sole point of contact with regard to contractual matters. Subcontracting of any part of the work or service contemplated by this Agreement may not be entered in by Littler Mendelson, P.C. without prior written approval by City of Fayetteville.

Littler Mendelson, P.C. expressly confirms that it carries and shall continue to carry for the duration of this agreement malpractice insurance in the minimum amount of \$1,000,000.00.

No assignment or transfer of this Agreement or any right accruing here under shall be made in whole or in part by Littler Mendelson, P.C. without the express written consent of City of Fayetteville.

Freedom of Information Act: City of Fayetteville contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. 25-19-101 et. Seq.). Only legally authorized photo copying costs pursuant to the FOIA may be assessed for this compliance.

Changes in scope or price: Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and/or the Fayetteville City Council **in advance** of the change in scope, cost or fees.

A waiver by either party of any breach of the provisions hereof shall not be deemed a waiver of any succeeding breach of such provision or any other provision of this Agreement. Should any term, provision or other part of this Agreement be declared illegal or unenforceable, it shall be excised or modified to conform to the appropriate laws or regulations, and the remainder of the Agreement shall not be affected but shall remain in full force and effect.

The provisions, covenants, and conditions in this Agreement apply to and bind the parties, their legal heirs, representatives, successors and assigns.

No modification or amendment of the terms hereof shall be effective unless written and signed by the authorized representatives of all parties hereto.

This Agreement constitutes the final and complete agreement and understanding between the parties regarding the subject matter hereof. All prior and contemporaneous Agreements and understandings, whether oral or written, are to be without effect in the construction of any provisions or term of this Agreement if they alter, vary or contradict this Agreement.

Termination of Agreement: Each Party to this agreement may terminate it upon sixty (60) days advance written

notification. Absent such notification, this Agreement and its terms will continue from year to year.

Littler Mendelson, P.C. and City of Fayetteville, their successors, executors, administrators and assigns hereby agree to the full performance of the covenants herein contained.

WITNESS OUR HANDS THIS _____ DAY OF _____, 2007.

CITY OF FAYETTEVILLE,
FAYETTEVILLE, ARKANSAS

BY _____
Dan Coody, Mayor

ATTEST:

BY _____
SONDRA SMITH, City Clerk

Consultant Firm's Authorized Signature

BY _____
PRINTED NAME AND TITLE

ATTEST: CONSULTANT FIRM'S ADDITIONAL
AUTHORIZED REPRESENTATIVE

BUSINESS ADDRESS

LITTLER MENDELSON, P.C. RATE PROPOSAL TO CITY OF FAYETTEVILLE

This is in response to your request for a proposal from our firm regarding legal representation of the City of Fayetteville for its labor and employment matters. Littler focuses on employment law and labor relations matters and utilizes technology in sharing and disseminating information internally and with clients. This focus enables us to deliver the highest quality services and obtain client objectives with greater efficiency for an overall lower cost than firms with lower hourly rates, but less expertise, experience, and efficiency.

Littler staffs its matters very cost effectively. We typically use teams consisting of only one shareholder and one associate at the appropriate level of experience. Our hourly rates in each office are determined by local market conditions (for example, we charge more in New York than in Columbus).

We understand that every client's needs are unique. We are willing to explore with you a range of alternative fee arrangements that will meet your mutual objectives of cost containment and fairness. Littler Mendelson has developed a number of fee arrangements with individual clients as dictated by circumstances of budget, scheduling, and level of representation. These have included the following: Per Case or Per Phase Fee Caps for Routine Litigation Cases, Fixed Fees for Arbitration/Mediation Cases and Immigration Matters, Annual Cap for All Litigation, Fixed Fees for Transactions, Blended Rates, Volume-Based Discounts, and/or Fixed Fee Advice Retainer.

Because this would be a new relationship without a history of claims on which to base any alternate fee structure, we recommend that a flat hourly rate at a significant discount be the basis for any fee agreement. As such, the following chart represents our recommendation:

Attorney	Standard Rate	Local Rate	Proposed Rate City of Fayetteville
Scott Summers	\$365	\$315	\$250
Eva Madison	\$325	\$260	\$215
Fayetteville Associates	varies	varies	\$175
Firm Shareholders	varies	varies	*
Firm Associates	varies	varies	*
* 25% discount on lowest available rate			



CITY OF FAYETTEVILLE

**113 W. Mountain St.
Fayetteville, AR 72701**

REQUEST FOR QUALIFICATIONS

RFQ # 07-09

Employment and Labor Law Legal Services

RFQ #: 07-09

DATE ISSUED: Tuesday, June 12, 2007

DEADLINE: Friday, June 29, 2007 at 2:00 PM, Central Standard Time

PURCHASING AGENT: Andrea Foren, Room 306 ~ (479) 575-8220



REQUEST FOR QUALIFICATIONS **LEGAL SERVICES**

RFQ #07-09, Employment & Labor Law Legal Services

CITY OF FAYETTEVILLE, ARKANSAS

The City of Fayetteville, Arkansas is requesting statements of qualifications for an attorney or law firm to serve as an attorney of record for the City in instances of employment law or wage and hour litigation.

Scope of Services:

The City seeks to retain the services of an independent attorney to provide advice and counsel to the City in the specialized area of employment, labor, and wage & hour law in instances of actual litigation.

Requirements:

Applicants must be licensed to practice law in Arkansas, be admitted to practice before the Federal District Court for the Western District of Arkansas, and possess experience in the area of employment and labor law.

Applicants must include the following information with their response:

- a. Past record of malpractice claims or professional conduct claims including the outcome and resolution,
- b. Representative list of clients for whom employment law services have been performed.

Selection Process:

- A. Fees shall not be included with the qualifications but will be considered during the negotiating process and will be a factor in the award of any proposed contract.
- B. This contract shall automatically renew at the option of the City of Fayetteville for up to five one-year terms. Either party may terminate this contract by giving the other party 30 days written notice of termination.

C. In evaluating the qualifications of each firm or individual, the following items shall be considered (assigning point ranges for each element from 20% to 40%, so that the total of the four elements combined equals 100%):

- | | |
|-----------|--|
| 35 Points | (1) Specialized experience and technical competence of the firm with respect to employment and labor law; |
| 30 Points | (2) Capacity and capability of the firm to perform the work in question including specialized services, within the time limitations fixed for the completion of the project; |
| 25 Points | (3) Past record of performance of the firm with respect to such factors as control of costs, quality of work and ability to meet schedules and deadlines; and |
| 10 Points | (4) Firm's proximity to and familiarity with the area in which the project is located. |

Terms and Conditions:

1. Qualifications must be submitted no later than June 29th, 2007, 2:00 P.M., Central Standard Time. Qualifications received after this date and time will not be opened or accepted for consideration.
2. Qualifications should be mailed or hand-delivered to:
City of Fayetteville
Purchasing Division, Room 306
113 West Mountain Street
Fayetteville, AR 72701
3. Six (6) copies of each statement of qualification should be provided, in addition to one (1) electronic copy. The use of PDF documents is highly recommended but not required.
3. Qualifications must be labeled "RFQ 07-09, Employment and Labor Law Legal Services" on the outside of the sealed envelope.
4. Awarded firm must provide and maintain in force at all times during the term of the contract Errors and Omissions Liability in not less than the amount of \$1,000,000. Proof of such shall be submitted within ten (10) calendar days after contract award.
5. It shall be clearly understood that any costs incurred by the Proposer in responding to this request is at the Proposer's own risk and expense as a cost of doing business, and

the City of Fayetteville is not liable for reimbursement to the Proposer for any expense so incurred, regardless of whether or not the proposal is accepted.

6. The competitive selection for such this request for qualification shall be conducted by a review committee which shall include one Alderman appointed by the Mayor to serve and represent the Council, the Mayor (or representative), the Finance & Internal Services Director (or representative), the involved Department Heads, appropriate city personnel and may include professionals, and/or individuals with expertise in the community.
5. All questions related to Qualifications should be addressed to
Andrea Foren
Purchasing Agent
aforen@ci.fayetteville.ar.us
(479) 575-8220

Statement of Qualifications

City of Fayetteville, Arkansas

To Provide Employment and Labor Law Counsel and Representation

June 2007

LITTLER MENDELSON, P.C.
THE NATIONAL EMPLOYMENT & LABOR LAW FIRM®



Submitted By:

Littler Mendelson, PC
3608 N. Steele Boulevard
Suite 214
Fayetteville, AR 72703

Contact:

Eva C. Madison
(479) 442-3677
emadison@littler.com

CONTENTS

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Why Littler?	2
Specialty Areas	4
Staffing Plan	14
Attorney Diversity	15
Commitment to Technology	20

Appendices

- A. Map and List of Littler Mendelson Locations
- B. Attorney Biographies
- C. Littler Mendelson's Training Solutions and Publications

The City of Fayetteville's images taken from the Internet are displayed here strictly for the purpose of communicating our firm's proposed legal services. We have not used these images in any other publications and would not do so without first obtaining permission.

EXECUTIVE SUMMARY

Littler Mendelson is pleased to present the City of Fayetteville, Arkansas ("the City of Fayetteville") with our capabilities to provide employment law counsel and advice and to defend the City of Fayetteville in employment litigation. We believe that the exclusive focus of our practice, our wide geographical presence and case success throughout the United States uniquely position us to be of maximum value to the City of Fayetteville in achieving its goals. We look forward to building the relationship between your company and our firm.

By working with Littler to address your employment matters on a nationwide basis, the City of Fayetteville will realize significant immediate and tangible benefits in terms of seamless efficiency of work and cost containment, while receiving legal services of the highest caliber. Some of the more significant advantages are summarized below:

Experience – Founded over 60 years ago, Littler Mendelson has a proven and distinguished track record. In its area of practice, Littler Mendelson has more clients, more cases, more lawyers, more knowledge of laws and decisions and more experience in more jurisdictions than any other law firm.

Depth and Expertise – While every Littler Mendelson attorney practices labor and employment law, many of our lawyers have full-time practices that are exclusively devoted to subspecialties, such as class action prevention and litigation, labor relations and employee benefits. We do not just specialize in employment law – we specialize *within* employment law.

Geography – With 43 offices strategically located across the country in 25 states, Littler is in more cities, more states and more venues than any of our competitors. Our lawyers are members of the bar in 41 states and the District of Columbia and have appeared as counsel in state or federal court in all 50 states.

Global Partner – In addition to our connections with international counsel worldwide, our clients benefit from Littler's Global Corporate Migration Law Group. This multicultural, transnational, full-service practice provides employment law and international migration solutions for companies around the world.

Recognition – Littler Mendelson is *The American Lawyer's* top Go-To Firm® for labor and employment chosen by Fortune 500 companies and has been recognized in both *The National Law Journal* and *Corporate Counsel Magazine* as the #1 choice for employment law counsel by Fortune 250 companies.

We fully recognize that any law firm you select must be knowledgeable in national, state, and local employment laws throughout the United States and must be accessible to provide advice and counsel immediately. Littler Mendelson is uniquely qualified to meet the City of Fayetteville's needs.

WHY LITTLER?

We Are Where You Need Us

With 600 attorneys practicing in 43 offices coast-to-coast, we are the largest law firm in the United States exclusively representing management in employment law. Our attorneys consistently remain on the cutting edge of employment law developments in all U.S. jurisdictions.

One of the advantages of having such geographic diversity is that Littler Mendelson attorneys know the legal “landscape” well—the plaintiffs’ bar, judges, clerks, arbitrators and mediators, typical jury pools, and the local rules and procedures. As the map in *Appendix A* indicates, Littler Mendelson is strategically located in metropolitan areas throughout the country.

Littler Is the Ultimate Expert on Employment and Labor Law Compliance

For the last three years, one of Littler’s strategic initiatives has been to support and develop the Employment and Labor Law Domain of the Open Compliance and Ethics Group (OCEG). Over 50 Littler attorneys have worked on this initiative, outlining 14 areas of employment and labor law legal requirements and guidelines. It is expected that OCEG requirements and guidelines will become the national and international standard for corporate compliance in all areas of law. Littler has been instrumental in Employment Law Compliance, and assisting the OCEG Employment and Labor Law Domain set standards and guidelines that will become the metrics for measuring employment and labor law compliance within the corporation.

Our Experience with National Clients

As a law firm, Littler Mendelson has represented more than 50,000 employers in virtually every industry. In addition, with the globalization of the business community, we increasingly work with clients throughout the world. Littler has extensive experience representing major corporations on a regional or national basis in employment litigation and related matters.

Littler Mendelson has represented the nation’s largest companies for over 60 years. We remain committed to the goals of each individual client and recognize that no two companies are the same. The specific needs of each client must be carefully considered and assessed. That commitment extends to hiring and retaining the best legal talent, regardless of gender, race, national origin, or orientation. To that end, we have frequently received notations for our diversity efforts, including the ranking by *American Lawyer Magazine* as first among the nation’s 100 largest Firms in the percentage of women equity partners.

The following is a representative sampling of some of our national/regional clients:

24 Hour Fitness USA, Inc.

Adecco

AGL Resources

AmerisourceBergen Corporation

AMR Corporation	AON Corporation
Applera Corporation	Caesars Entertainment, Inc.
CaremarkRX	Cendant Corporation
Cisco Systems, Inc.	Clear Channel Communications, Inc.
Dean Foods Company	Dow Chemical Company
Ferguson Enterprises, Inc.	Fresenius Medical Care NA
Hewlett-Packard Company	Johnson & Johnson
Kraft Foods, Inc.	Masco Corporation
The McGraw-Hill Companies, Inc.	Parker Hannifin Corporation
Penske Truck Leasing Co.	Pitney Bowes, Inc.
Praxair, Inc.	Rent-A-Center, Inc.
Safeway, Inc.	Sara Lee Corporation
Solectron Corporation	Sony Electronics, Inc.
Sunrise Medical, Inc.	Swift Transportation Company, Inc.
Waste Management, Inc.	Yellow Transportation, Inc.

Malpractice Claims/Professional Conduct Claims

Regarding malpractice cases filed by former clients, over approximately the last five years, there have been five cases filed, no judgments entered against the Firm, and three settlements. One settlement involved payment by the former client to the Firm. One of the two pending cases is associated with collection proceedings our Firm initiated, and the Firm is vigorously contesting both pending matters.

There have been a small number of claims for professional misconduct filed with state bar associations, virtually all filed by disgruntled opposing parties or their counsel (none filed by clients), and none resulting in any finding of professional misconduct.

There was one widely publicized sanction finding by a US Magistrate on an International Truck case. However, what was not publicized is that the Federal District Court Judge later refused to adopt the Magistrate's findings, and thus no sanctions issued. The plaintiffs' counsel did file bar charges in that case. Those are pending, however there has been no adverse finding by the applicable state bar.

It should be noted that none of these actions or claims arose out of the Northwest Arkansas office.

SPECIALTY AREAS WITHIN EMPLOYMENT AND LABOR LAW

Employment law is all we practice. This means that the Littler attorney you work with is capable of answering practically all of your day-to-day questions with little to no research required. With more employment and labor attorneys than any firm in the United States, Littler can provide you with expertise in every sub-field, and most likely has successfully solved a similar legal issue. Our attorneys, including those we would propose for the City of Fayetteville, have counseled and represented management in thousands of employment law matters in every major industry.

In addition to Eva Madison, who would likely lead your team of employment and labor attorneys, the City of Fayetteville can draw on the expertise of Littler attorneys in specialized areas of employment law. Some of these areas of expertise are described below.

➤ APPELLATE PRACTICE

One mark of a great firm is a deep well of legal talent that can not only try cases to verdict but also take cases to the “next level,” the appellate courts. Over the last 5 or so years, Littler attorneys throughout the United States have won federal and state employment and labor law appeals. The Firm’s cases have made law, changed or confirmed workplace practices, or simply saved clients money. What makes Littler’s appellate practice so effective and invaluable is our ability to:

- Identify and preserve potential appellate issues while the case is still in trial;
- Efficiently assess the merits and likelihood of success of an appeal after trial;
- Handle any and all aspects of the appellate process;
- Prepare writs, achieve results when seeking extraordinary relief, and analyze the cost-effectiveness of seeking such relief; and
- Consult and prepare amicus curiae briefs when appropriate.

➤ BUSINESS RESTRUCTURING

While the art of the deal is in the details, the elements involved with the labor, employment, and benefits aspects can add a deal-breaking level of complexity to any transaction. Over the last twenty years, Littler attorneys have managed the details of thousands of major transactions, including some of the largest deals in the industries involved. Every day, Littler attorneys in the Business Restructuring Practice Group (BRPG) use their experience and knowledge of employment, labor, and benefits practices to help clients meet their business objectives by:

- Minimizing risk;
- Favorably structuring deal components;

- Identifying and resolving important, but often overlooked, human relations and management culture issues;
- Performing deal-related due diligence; and
- Partnering with human resource professionals to ensure that post-closing initiatives are implemented.

Whether it is an underfunded pension plan burrowed deep into a multibillion-dollar merger, a pending employment litigation or a potential union liability that threatens to derail an important acquisition, our attorneys have the skills to quickly identify and resolve outstanding employment, labor, or benefits issues of any acquisition, merger, carve out, or other corporate transaction. Littler's BRPG attorneys are there with you throughout every stage of the transaction, regardless of what side you are on, to help ensure your objectives are met and the deal is transacted to your satisfaction.

➤ **CLASS ACTION AVOIDANCE AND DEFENSE**

Regardless of its merits, an employment class action can threaten the reputation, good will and economic standing of your company. At Littler, we focus on protecting and defending employers from employment class actions. Our Class Action Practice Group has litigated numerous discrimination class actions, FLSA collective actions and state labor code class actions on behalf of major multi-outlet employers throughout the nation, and prevailed against the plaintiffs' bar's most prominent firms. Every day, many more of the nation's employers turn to us to assess their class action risk, and identify and remedy vulnerable workplace policies and procedures before they become problems.

➤ **EMPLOYEE BENEFITS**

What once was a simple, and effective way for employers to provide their employees with security and stability has become, especially for large employers, a complex set of financial and legal complexities. At Littler, we understand the strategic importance employee benefits has for businesses.

Our Employee Benefits Practice ranks with the nation's most sophisticated and has the capacity to handle virtually any benefits related matter, for any size or type of employer, wherever they happen to be located.

Every day, HR professionals and corporate counsel rely on us for everything from practical plan advice to complex, strategic solutions, such as those involved with a business restructuring, conversion of a pension plan or termination of a retiree medical benefit.

- We regularly provide advice regarding all aspects of executive compensation arrangements.

- We help clients reduce their financial and legal obligations in connection with underfunded pension plans.
- We advise on how to structure acquisitions to take best advantage of the latest regulatory or legislative changes.
- We help companies put in place compliance safeguards for their 401(k) plans to prevent problems stemming from employee or government action.
- And we also have benefits litigation teams in place to mount an aggressive defense in the event a plan or fiduciary comes under attack.

Because of our experience in the workplace as employment attorneys, we understand the wider implications of each issue. Whether it's a benefits question, problem or opportunity, we have the multidisciplinary knowledge and capability to provide a unique and creative solution that best meets the client's business needs, both now and for the future.

➤ **EMPLOYMENT LITIGATION**

Avoiding litigation is a top priority for most employers, and Littler attorneys are experienced in providing advice and counseling that minimizes the risk of litigation. While the Firm frequently advises clients on preventive and cost-effective alternatives, civil litigation is an unavoidable reality in the business world and is a significant part of Littler's practice. When facing employment litigation, employers need fast, effective, and focused legal assistance.

Littler represents clients before state and federal trial and appellate courts in lawsuits pertaining to every employment matter, including:

- Wrongful discharge claims;
- Civil litigation involving overtime wages, unpaid commissions, vacation pay, and severance pay;
- Contract and labor disputes;
- Unfair competition;
- Employment discrimination; and
- Sexual harassment.

Littler helps clients nationwide prepare for litigation and represents employers of all sizes in almost every industry. The Firm has the knowledge and resources to act quickly when a lawsuit arises, and help limit clients' exposure and costs. Firm attorneys' litigation experience affords them up-to-date knowledge on how courts are ruling, allowing them to pursue cutting edge strategies for clients.

Littler takes a broad view of each case, considers how it affects the client's overall employment picture, and works to achieve outcomes that meet the client's business goals.

➤ **IMMIGRATION**

Littler's Global Corporate Migration Law Group is a multicultural, transnational, full service corporate migration law practice providing immigration solutions for global companies around the world. Begun as a collaboration between the employment and labor law firm Littler Mendelson and the immigration boutique Bacon and Dear, the group has quickly become a leading provider of in and outbound immigration solutions for many of the world's leading businesses. Our attorneys have extensive experience and knowledge in the following areas:

- Analysis, design and implementation of individual business immigration applications, worldwide;
- Design, implementation, and monitoring of corporate migration policies and procedures;
- Company-wide strategic immigration advice at the highest intellectual and creative level;
- Customized processes to measure performance objectives against actual results to provide continuous improvement;
- On-line, secure, "24/7" web access to company managers, Human Resources and visa employees to provide real-time information about case status;
- Preparation of clients for direct testimony before the Congress regarding employment-based immigration initiatives;
- Development of liaison relationships with CIS, various consulates and American Chambers of Commerce around the world to explain clients' needs and the "real world" challenges they face due to government processes;
- Client-specified reports that provide information to client managers by selected field or case sorting; and
- Reports updating clients about important migration developments around the world.

With a client-focused approach, combining state of the art technology with good, old-fashioned customer service, we are able to help clients throughout the world design and implement global migration strategies, efficiently process thousands of immigration assignments, and resolve immigration challenges, whenever and wherever they do business.

➤ **INTERNATIONAL EMPLOYMENT AND LABOR LAW**

As the global economy continues to flatten and the need to look beyond one's borders for partners and talent becomes more critical, employers increasingly find themselves in unfamiliar legal territory.

To help gain their bearings, a growing number of global organizations rely on the counsel of Littler Mendelson's International Employment and Labor Law Practice.

- The International Practice brings the Firm's considerable employment, labor, and benefits experience to bear on the complex legal problems associated with establishing, staffing, and sustaining global operations.
- Littler's International Practice helps multinational clients analyze local employment and labor conditions in the face of changing corporate dynamics, including mergers and acquisitions.
- Firm attorneys draft and modify expatriate employment contracts, develop globally applicable employment policies, assist with terminations and work reductions, and advise clients on standards of global conduct.
- And our affiliated practice, Littler Global, helps our largest clients move thousands of employees across and between international borders.

Over the last several years, the Firm has developed working relationships with strategic partners around the world, allowing Littler to be the single point of contact for global legal needs, from moving and tracking employees and supervising the quality of the local legal work product to ensuring compliance with global codes of conduct, and complex laws such as the Foreign Corrupt Practices Act, the Patriot Act, and Sarbanes-Oxley.

In addition to their practice, Littler attorneys have written extensively on international employment law subjects and have become authorities on such critical issues as data privacy and global employment contracts.

➤ **LABOR MANAGEMENT RELATIONS**

Although the percentage of America's unionized workers is at an all-time low, the labor movement is still very much a powerful international force that wields enormous influence over the nation and its employers, organized or otherwise. Almost every business strategy or decision—from mergers and acquisitions to downsizing and outsourcing—has the potential to be affected by labor issues.

For more than six decades Littler has represented management in its dealings with organized employees and their union representatives, serving as counterpoint to the world's most powerful labor organizations. Littler's Labor Practice Group is comprised of over 160 attorneys, many of whom began their legal careers at the National Labor Relations Board (NLRB).

As business partners, Littler attorneys take a strategic approach to every engagement, helping employers:

- Manage representation elections;

- Negotiate contracts;
- Prepare for and respond to strikes;
- Arbitrate grievances; and
- Minimize the effectiveness of corporate campaigns.

Littler attorneys have represented employers before thousands of NLRB and state labor relations agency hearings, and have regularly defended and pursued clients' labor interests in the federal courts. Littler advises employers which have no experience with unions, as well as employers which have decades-old, mature bargaining relationships. Whether an employer is confronted with mass picketing outside its facility, or has just learned that a union is trying to organize its employees, Littler has the depth of experience to guide management to advantageous, legal, and practical solutions.

➤ OFCCP PRACTICE

The Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) has dramatically shifted its enforcement agenda in the last several years away from affirmative action compliance to remedying and enforcing systemic discrimination practices. As the Solicitor of Labor has said on more than one occasion, he views the Department of Labor as the largest plaintiff's employment law firm in the country, very well poised to investigate and enforce the nation's civil rights laws, with OFCCP being a key component in that agenda. In 2005, the OFCCP conducted approximately 3,000 audits and obtained in excess of \$45 million in remedies from cases that it closed that same year.

Littler's OFCCP Practice Group has extensive experience representing government contractors from the beginning to the end of the audit process.

- We evaluate OFCCP's jurisdictional claims against employers that do not have contracts or subcontracts with the federal government using the single entity test and OFCCP's 27-question questionnaire.
- If the contractor is covered, we can prepare affirmative action plans very cost-effectively on a flat fee basis using leveraged data analysts and proprietary software that we developed ourselves.
- Every affirmative action plan that we prepare is reviewed by an attorney who has defended audits and knows how OFCCP is going to examine the data for indicators of systemic discrimination.
- For clients that choose to use a consulting company to prepare their plans, we can evaluate the plans with an eye towards OFCCP's systemic discrimination agenda.
- We evaluate contractor compensation practices, including developing regression analyses in-

house and ensuring that compensation analyses disclosed to OFCCP pass the OFCCP's initial compensation assessment at the desk audit stage.

- We respond to follow-up requests for information with an eye towards providing OFCCP with the information it needs to close an audit promptly.
- We prepare managers and employees for OFCCP interviews, and we defend manager interviews during on-sites.
- Our counseling practice is extensive, including some of the nation's leading authorities on the implementation of the final Internet Applicant rule and the practical implications for employers.

➤ **PRIVACY AND DATA PROTECTION**

As part of Littler's Compliance Practice, the Privacy and Data Protection (P&DP) Task Force focuses on emerging privacy issues facing today's employers. From background checks and cross-border transfers of information within multi-national corporations to employee "blogging," more and more aspects of the employer-employee relationship are raising privacy concerns, such as:

- Responding to and reducing the risk of workplace ID theft;
- Complying with HIPAA Privacy and Security Rules;
- Developing appropriate workplace policies regarding technology, communications, workplace monitoring, drug and alcohol testing, employee assistance; and
- Employee claims alleging a confidentiality, privacy or security breach.

Our attorneys advise a wide range of businesses on successfully navigating the intersection of privacy law and today's technologically driven-workplace. We are at the forefront of this developing area, and our goal is to find innovative ways to help clients maximize available technology while minimizing their exposure to litigation and government enforcement actions.

➤ **UNFAIR COMPETITION AND TRADE SECRETS**

In a world where loyalty has become a four-letter word, and tomorrow's biggest competitor may be sitting two doors down from you today, protecting your human and intellectual capital has become a major priority. And while you cannot patent your clients or business processes, you can protect them. At Littler, safeguarding the ideas and people that drive your business' success is the cornerstone of our Unfair Competition and Trade Secret Practice (UCTS) Group.

As the nation's largest firm devoted exclusively to employment and labor law, we are in the unique position to counsel and represent employers in disputes involving unfair competition, trade secrets and covenants not to compete. We understand not only the business ramifications of these situations,

but the employment implications as well. Our UCTS Group regularly represents businesses from all industries.

- We help them to respond quickly and decisively in matters involving potential theft of trade secrets, disclosure of confidential information, customer and employee raiding and violations of covenants not to compete;
- We help providing guidance to companies to investigate and evaluate their options including, get into court immediately, when they need to do so, and address the problem; and
- We assist businesses in drafting confidentiality and noncompete agreements tailored to their particular jurisdictions and needs.
- We frequently counsel companies about how to hire employees from competitors without finding themselves at the receiving end of a lawsuit; and
- We are regularly sought out by such esteemed institutions as the ABA and BNA as authors and lecturers on the subject of trade secret and competitive practices.

➤ **WAGE AND HOUR**

For a business transaction as fundamental as paying employees for the work they do, there are an unseemly number of challenges and complexities involved. Wage and hour practices must comply with the technical requirements of state and federal labor codes, employees must be properly classified, and appropriate records must be kept to avoid drastic penalties. Wage and hour practices can fall under scrutiny in the event of an audit by the Department of Labor (DOL) or the Department of Labor Standards Enforcement (DLSE), or when hit with a lawsuit from a current or former employee.

Littler's Wage and Hour Practice Group has the breadth and depth of expertise to handle wage and hour disputes brought in all forms, including state and federal departments of labor, as well as civil litigation brought by employees and former employees for such issues as overtime wages, unpaid commissions, vacation pay, and severance pay. The Firm represents large and small companies, and assists not only in resolving litigation, but bringing companies into compliance with the relevant wage and hour laws and minimizing penalty payments. When necessary, Littler can review and assess company-wide operations to modify employee programs, such as bonus plans, severance plans, commission plans, and vacation policies, to ensure state and federal compliance.

The sheer volume of wage and hour cases Littler attorneys have handled affords them valuable, up-to-date knowledge of how the administrative agencies and courts are ruling on cases, and allows them to pursue cutting edge strategies that benefit clients' cases.

➤ **WORKERS' COMPENSATION**

From compliance issues and insurance rates to compensation for injury or illness, employers carry the great burden of maintaining a safe workplace and properly handling employee claims. Considering costs involved with employee injury and illness, it is in employers' best interests to make workers' compensation compliance and claims handling a priority.

- Littler's Workers' Compensation Group specializes in this complicated area of the law, and understands the complex relationships between employers, insurance carriers, claims administrators, and employees.
- Littler attorneys work with employers to proactively maintain proper plans and documents, such as injury and illness prevention plans, and train employees to implement those plans.
- The Firm conducts workplace site assessments and evaluations to ensure compliance with safety regulations.
- In the event of an injury, the Firm provides counsel and works with employers to develop and implement effective claims handling and monitoring procedures.

By providing employers with proactive advice and recommendations, Littler can help employers reduce the chances for workplace injuries and be well-positioned in the event of litigation. As the nation's largest employment and labor law firm, Littler is uniquely prepared to handle workers' compensation cases that involve other employment laws including discrimination, disability, or unemployment, with equal ease.

Because workers' compensation litigation can greatly affect other aspects of an employer's business, Littler attorneys work closely with the employer during litigation to achieve the most beneficial solution.

➤ **WORKPLACE SAFETY**

Employers have no greater responsibility than protecting employee safety and health. In recent years, there has been a dramatic increase in the number of both occupational safety and health regulations, with which employers must comply, and the civil and criminal penalties faced by employers when they fail to do so. Littler's Workplace Safety Practice was formed to help employers meet their obligations and protect them from litigation and penalties and their employees from illness and injury.

- Every day, the Firm works with companies nationwide.
- Littler provides guidance on the application of Federal-OSHA and corresponding state standards and regulations to their workplaces and operations. We advise and represent clients during OSHA inspections or injury/illness investigations.

- We assist employers in achieving compliance and avoiding OSHA breaches.
- We frequently prepare or review written safety programs, standard operating procedures, safety rules, and employee handbooks for compliance with local, state, and federal statutes.

Through the Firm's work in the courts and administrative agencies, Littler attorneys are at the forefront of the law. They help keep employers well ahead of any regulatory or administrative changes, and potential legal quagmires. Further, the Firm proactively educates clients, with an entire network in place to give managers the tools they need to keep the workplace safe, comply with regulations, avoid injuries, and protect against liability.

STAFFING PLAN

The City of Fayetteville's Representation Will Be Coordinated by Eva C. Madison

Eva C. Madison, Of Counsel in our Fayetteville office, will serve as the primary contact for the City of Fayetteville. In this capacity, she will be responsible for managing the relationship, assigning attorneys, reviewing all billings and resolving any issues that may arise. This arrangement will allow City of Fayetteville to draw on Eva's collective knowledge of the expertise of Littler attorneys in all areas of employment law as well as her knowledge and understanding of the City of Fayetteville – its goals, policies, programs, personnel, practices, and priorities. She will be working closely with her colleague in the Northwest Arkansas office, Scott Summers.

Eva has extensive experience in managing multiple attorney legal projects, national client relationships, and the representation of major corporations. She dedicates herself to providing day-to-day counsel for her clients, and understanding how she can best serve their needs.

Eva's biography, as well as Scott's, is included in *Appendix B*.

ATTORNEY DIVERSITY

While we are the nation's largest employment and labor law firm, our strength lies not just in our size, but in our diversity and depth of experience. At Littler, we view diversity not as an end to be pursued for its own sake, but as a core cultural value that is critical to our continued success. Difference breeds genius, and without the ability to pool from the entire universe of available talent, we would not be able to offer or sustain the high level of service that our clients expect, nor would we be the firm that we are today. We are not only committed to recruiting and retaining a diverse workforce, but also to providing an inclusive environment where ideas are exchanged freely and everyone is given the opportunity for advancement.

At Littler, we recognize that diversity's importance extends far beyond our practice. The workplace has changed dramatically, and whatever the future brings, it will look nothing like the past. With diversity comes vast pools of new talent and energy – and challenges. Companies that can't, or won't, manage diversity effectively will most likely perish. In the short run, they will face increased exposure to lawsuits. But ultimately, without the ability to recruit and retain top-tier talent, and keep up with and understand the needs of diverse consumers, suppliers and employees, they will be overtaken by competitors who do understand and embrace diversity's importance.

While our internal diversity initiatives enhance our practice and ability to represent our clients successfully, our diversity training and Diversity Practice Group provide businesses with the tools they need to recognize and utilize diversity to the fullest extent.

Internal Diversity Initiatives

The Firm's commitment to diversity is exemplified by the work and progress of our Diversity Council. With the support and active participation of senior management, the Council is responsible for both the strategic direction and the implementation of the Firm's diversity initiatives.

Diversity Council and Advisory Group

Established in 2003, the Diversity Council works to codify and enhance the inclusive culture at Littler. By charter, Littler's Diversity Council is made up of a small group of attorneys and executives who have demonstrated through their experience and actions a strong commitment to the ideals and goals of diversity. To assist the Diversity Council with its mission, Littler formed a Diversity Advisory Group, which brings to the effort the added experience, perspectives and insight of Firm attorneys, managers, and staff. While the Council and Advisory Group are responsible for formal initiatives and strategy, they also have become an invaluable and integral part of the way the Firm implements its strategies regarding a variety of critical issues, including, but not limited to, recruiting, providing advice on a host of client issues, and identifying business and career growth opportunities.

The top four goals of the Diversity Council are:

- Enhance Littler Mendelson's recruiting efforts to promote the hiring of individuals from diverse backgrounds;
- Promote diversity within the firm and encourage those from diverse backgrounds to network with others in our profession to gain knowledge, develop business and encourage one another;
- Include attorneys from diverse backgrounds in the Firm's management, leadership, and training and client development opportunities; and
- Assist our clients in meeting their diversity goals.

Affinity Groups

Littler has established discussion forums for its attorneys to discuss and explore issues of inclusion through the creation of affinity groups. Although the affinity groups are focused on particular areas of inclusion, membership is open to all attorneys. Each of the affinity groups allow the Firm's attorneys to come together to engage in candid dialogue concerning strategies for success within the Firm, including the enhancement of skill sets and business development, while at the same time promoting the diversity that each attorney brings to Littler. For example, Littler hosted a diversity "Bollo" in Chicago to foster discussion and inclusiveness for African-American attorneys. Similarly, a diversity "Reunión" was held in San Diego during which attorneys had the opportunity to collaborate on issues of diversity and inclusion for Hispanic and Latino attorneys. These forums allowed attorneys to meet in person to develop internal support networks, gain professional development skills, and discuss creative ways to promote diversity within the Firm and the legal profession. The collective experience of attendees at these summits was overwhelmingly positive, and has greatly enhanced the Firm's retention efforts. To build on this success, additional summits are planned for other affinity groups within the Firm.

Through the Littler Diversity Council, the Firm has established a Gay/Lesbian/Bisexual/Transgender Subcommittee to promote awareness, inclusion, and support for GLBT issues, both within and outside the Firm. The Firm also created the Parents Advisory Group to address work-life balance issues, and to support attorneys with families. In addition to promoting an inclusive environment at Littler, the Firm provides non-traditional career paths for attorneys who may choose an alternative to the shareholder (partner) track. Littler offers opportunities for attorneys to work part-time, or serve as staff attorneys with the Firm's Knowledge Management team or Legal Learning Group.

Diversity Symposium

In 2006, the Firm held a comprehensive Diversity Symposium at its annual flagship Executive Employer Conference®. The Symposium was designed to focus on implementing diversity plans that work by bringing together some of the best minds and brightest leaders in diversity across the country for a

collective conversation. Littler was able to successfully map a direction of diversity that is proof of its own success.

Littler Diversity*

- 27.5% of our associates are attorneys of color
- 59.1% of our associates are women
- 8.8% of our shareholders are attorneys of color
- 25.9% of our shareholders are women
- 16.6% of our attorneys are persons of color
- 43.1% of our attorneys are women
- 26.1% of our entire workforce are persons of color

**As of March 2007*

Community Outreach

The Diversity Council, the Diversity Advisory Group, and the Firm participate in numerous diversity related events each year. Here are a few of the many diverse organizations and events on the national level we proudly support:

- MCCA – Minority Corporate Counsel Association
- HNBA – Hispanic National Bar Association
- NBA – National Bar Association
- NAPABA – National Asian Pacific American Bar Association
- NASABA – North American South Asian Bar Association
- NLGLA - National Lesbian and Gay Law Association
- CMCP - California Minority Counsel Program
- CYOC – Chart Your Own Course Foundation
- NELC – National Employment Law Council
- Corporate Counsel Women of Color
- National Association of Women Lawyers
- National Conference of Women's Bar Associations
- American Bar Association's Labor & Employment Law Section, EEO Committee- Diversity Task Force

In addition to national organizations, Littler and its attorneys are proud to support a long list of local organizations including the following, to name just a few:

- Northwest Arkansas Diversity Council
- Atlanta Legal Diversity Consortium
- Thurgood Marshall Scholarship Association
- Twin Cities Diversity in Practice
- J.L. Turner Legal Association – Dallas
- Pan Asian Lawyers of San Diego
- Haitian Lawyers Association – Miami
- Latin Chamber of Commerce – Las Vegas
- Washington State Bar Association – statewide diversity conference
- Lesbian and Gay Bar Association Chicago
- Mexican American Bar Foundation
- Earl B. Gilliam Bar Association - San Diego
- Southern Institute for Business and Professional Ethics Diversity Committee
- John M. Langston Bar Association – Los Angeles
- Dallas Bar Association – Asian Pacific Interest Section
- Lawyers Club of San Diego
- National Association of College and University Attorneys Annual Conference Luncheon for African American Attorneys
- DiversityBusiness.com Conference on Minorities and Women in Business
- Mexican American Legal Defense and Education Fund (MALDEF)
- Asian Pacific American Bar Association – Los Angeles
- Asian American Bar Association of Houston
- Los Angeles Gay and Lesbian Chamber of Commerce
- Women's Bar Summit
- Women's Bar Associations Initiative on the Advancement and Retention of Women
- Black Law Students Association, University of Denver Sturm College of Law
- UCLA School of Law – Law Firm Diversity Reception
- Tom Homann Law Association – San Diego

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

The Firm has been recognized for diversity efforts by clients, community organizations, and the media:

- Littler received the 2007 Multicultural Heritage Award, honoring diversity in the workplace, from the San Diego Business Journal.
- Littler's corporate culture video entitled "Diverse by Design," produced by company Frame Productions, was the recipient of the 2006 Silver Davey Award.
- The Firm was honored as the 2005 winners of ChevronTexaco's Law Firm Diversity Recognition Program;
- Littler has repeatedly been listed as one of the top ten in the VAULT's Best 20 Law Firms for Diversity; and
- An American Lawyer survey ranked Littler Mendelson first among the nation's 100 largest Firms in the percentage of women equity partners.

COMMITMENT TO TECHNOLOGY

Littler Mendelson shares the City of Fayetteville's commitment to the collaborative use of technology in accelerating service, reducing costs and sharing knowledge. We have made a strategic decision to invest substantially in technology, recognizing that this investment would allow us to service our clients' needs faster, more accurately, and more efficiently. As Littler continues to invest in technology we listen to our clients in order to understand both their legal and business needs and deliver the right solutions at the right cost.

All Littler attorneys are issued state-of-the-art laptops with wireless remote access and portable telephone extension capabilities. Most attorneys also carry BlackBerries for additional connectivity. Whether they are in our offices, hotels, airports or their homes, our attorneys have direct access to email, documents and Littler's knowledge management systems. By providing remote network accessibility for our individual attorneys, and in some instances to our clients, and by providing a reliable and secure technology infrastructure, Littler has rendered geographic separation virtually meaningless in providing client services.

Littler has also made extensive use of our intellectual capital by deploying an enterprise-wide document management system that allows us immediate and efficient access to work which has been done in the past by Littler attorneys. The system also allows us to efficiently collaborate on documents between our offices, coast-to-coast. Littler has deployed a firmwide IP telephone system that links every office to provide a seamless communications network of voicemail, call forwarding, and in many cases, services directly into attorney's homes.

Knowledge Management

Littler Mendelson's Knowledge Management (KM) Department enhances the ability of our attorneys to readily access the Firm's considerable knowledge and resources enabling our attorneys to better and more efficiently serve the needs of our clients. With its dedicated staff of experienced employment attorneys and technologists, the KM Department has adapted and developed technologies and applications to create a unique intranet environment used daily by the Firm's attorneys. Through this technology platform, attorneys can access for their clients the latest legal developments, legal surveys, precedent documents, the expertise of the Firm's practice group specialists and the collective knowledge of Littler's 600 attorneys. The KM Department is also responsible for the Firm's various publications including The National Employer[®] (winner of the 2005 Burton Foundation Award for best legal compendium), Littler's ASAP and Insight newsletters, and the Littler Monitor, a subscription service that provides a legislative and regulatory update, via extranet.

The KM Department also develops specialized extranets for clients in order for them to gain access to the Firm's knowledge base on a 24/7 basis. The KM Department can set up client extranets providing access

to, among other things, the Firm's 50-state survey library, an on-line version of the National Employer publication, and client-specific documents and templates.

Generally, developing these client extranets requires close coordination between the client and Littler's KM Department to identify the specific requirements necessary to satisfy the client's needs. There are a number of options available in terms of the content to be shared, as well as the format in which the information is presented.

Littler Mendelson's Litigation Practice Support Department

Consistently adhering to the highest standards in representing employers while recognizing the complexities of today's workplace, Littler has developed a Practice Support Department whose primary purpose is to leverage technology in the implementation of standard protocols for electronic discovery and litigation support. Littler's Practice Support Department is comprised of highly trained and experienced litigation support professionals who know how to streamline the organization, management, and presentation of case information and provide each Littler office with access to best of breed litigation support technologies and services. Our attorneys are well-equipped to handle any matter – large or small.

Littler Mendelson's Practice Support Department can be engaged early on to consult with Littler attorneys and in-house counsel on case management and litigation support best practices that serve the company's requirements and case needs. Littler's Practice Support Department assists with preservation of evidence, incorporating technological solutions with legal intelligence, electronic document management and trial preparation using technologies such as *Summation*, *CaseMap*, *Trial Director* and other leading-edge programs.

Electronic Records Management

Littler is in the process of converting from a paper-based system to a fully electronic records management system. Littler prides itself in our ability to serve the needs of our clients through our attorney's expertise in all areas of labor and employment law across all 50 states. Our electronic records management system will allow the seamless and cost-effective management of the City of Fayetteville's cases, while maintaining the highest level of security and adherence to new regulations for records management.

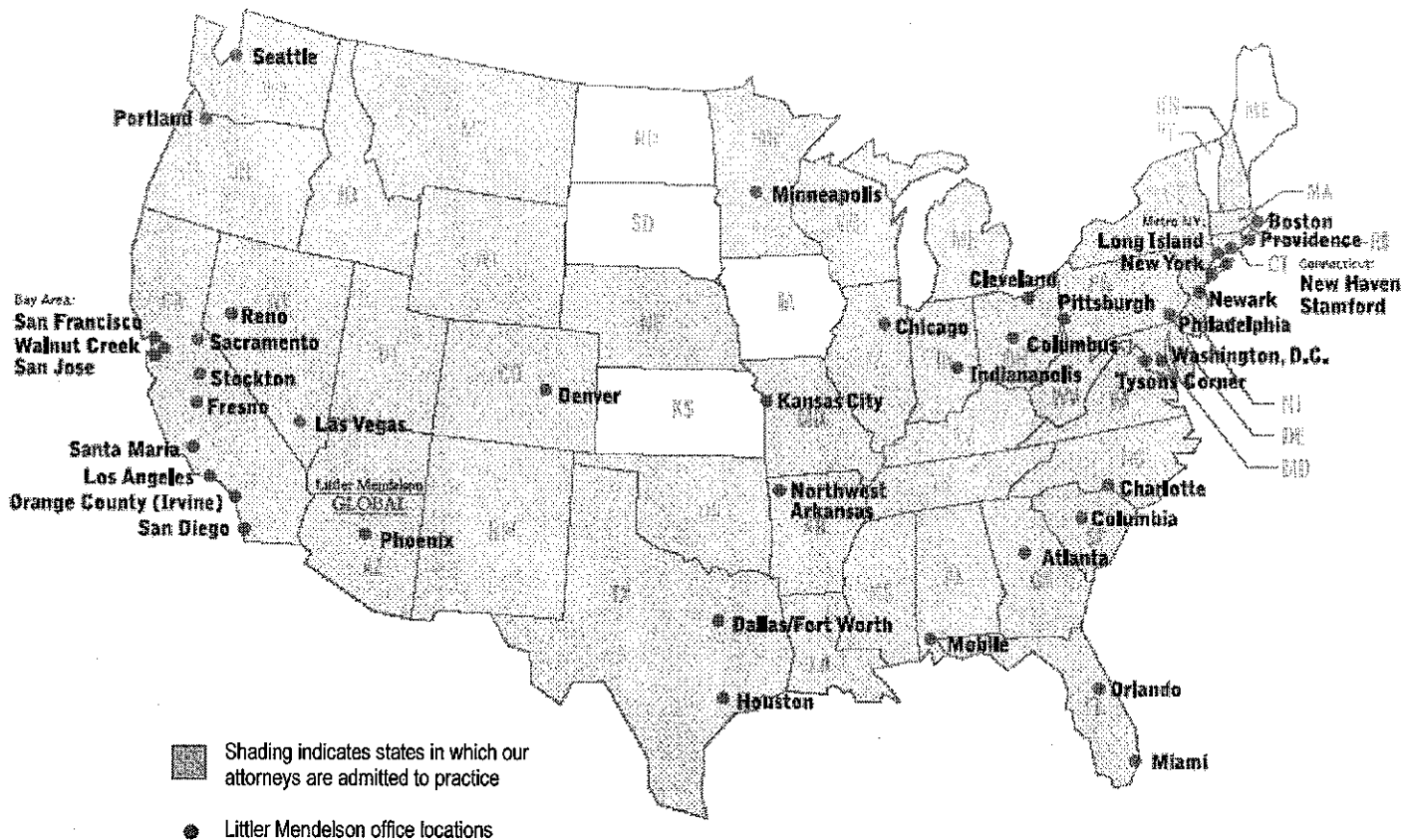
Electronic Billing Capabilities

We are currently collaborating with several of our clients on e-billing software including Data Cert, Serengeti, Tri-Point, Examen and TyMetrix. Should Littler be selected to provide legal services for the City of Fayetteville, the use of e-billing software for all billing would be easy to implement. Further, we would not charge the City of Fayetteville for e-billing set up fees.

Appendices

- A. Map of Littler Mendelson Locations
- B. Attorney Biographies
- C. Littler Mendelson's Training Solutions and Publications

APPENDIX A: MAP OF LITTLER'S OFFICES AND STATES IN WHICH LITTLER ATTORNEYS ARE ADMITTED TO PRACTICE



LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

ATLANTA, GA
3348 Peachtree Rd.,
N.E., Suite 1100
Atlanta, GA
30326.1008
404.233.0330
404.233.2361, fax

BOSTON, MA
One International
Place
Suite 2700
Boston, MA 02110
617.378.6000
617.737.0052, fax

CHARLOTTE, NC
Bank of America
Corporate Center
100 North Tryon St.
Suite 4150
Charlotte, NC 28202
704.972.7000
704.333.4005, fax

CHICAGO, IL
200 North LaSalle St.
Suite 2900
Chicago, IL
60601.1014
312.372.5520
312.372.7880, fax

CLEVELAND, OH
1100 Superior Avenue
20th Floor
Cleveland, OH 44114
216.696.7600
216.696.2038, fax

COLUMBIA, SC
Capitol Center Tower
1201 Main St.
Suite 1100
Columbia, SC 29201
803.799.9760
803.799.9837, fax

COLUMBUS, OH
Fifth Third Center
21 East State St.
Suite 1600
Columbus, OH
43215.4228
614.463.4201
614.221.3301, fax

DALLAS, TX
2001 Ross Avenue
Suite 2600
Lock Box 116
Dallas, TX
75201.2931
214.880.8100
214.880.0181, fax

DENVER, CO
One Tabor Center
1200 17th St.
Suite 1000
Denver, CO 80202-
5835
303.629.6200
303.629.0200, fax

FAYETTEVILLE, AR
3608 North Steele
Blvd.
Suite 210
Fayetteville, AR 77703
479.442.5376
479.442.3765, fax

FRESNO, CA
5200 North Palm Ave.
Suite 302
Fresno, CA
93704.2227
559.244.7500
559.244.7525, fax

HOUSTON, TX
1301 McKinney St.
Suite 1900
Houston, TX
77010.3031
713.951.9400
713.951.9212, fax

INDIANAPOLIS, IN
1300 First Indiana
Plaza
135 North
Pennsylvania St.
Indianapolis, IN 46204
317.581.6355
317.581.6354, fax

IRVINE, CA
1920 Main St.
Suite 900
Irvine, CA 92614
949.705.3000
949.724.1201, fax

KANSAS CITY, MO
2300 Main St.
Suite 900
Kansas City, MO
64108
816-488-3558 x3561
816.488.3558, fax

LAS VEGAS, NV
3960 Howard Hughes
Parkway, Suite 300
Las Vegas, NV
89109.5937
702.862.8800
702.862.8811, fax

LOS ANGELES, CA
2049 Century Park
East
5th Floor
Los Angeles, CA
90067.3107
310.553.0308
310.553.5583, fax

MELVILLE, NY
532 Broadhollow Rd.
Suite 142
Melville, New York
11747
631.293.4525
631.293.4526, fax

MIAMI, FL
One Biscayne Tower
2 S. Biscayne
Boulevard
Suite 1500
Miami, FL 33131.1804
305.400.7500
305.603.2552, fax

MINNEAPOLIS, MN
1300 IDS Center
80 South 8th St.
Minneapolis, MN
55402.2136
612.630.1000
612.630.9626, fax

MOBILE, AL
Riverview Plaza
63 South Royal St.
Suite 709
Mobile, AL
36602.3245
251.432.0413
251.432.0427, fax

NEWARK, NJ
One Newark Center
8th Floor
Newark, NJ 07102
973.848.4700
973.643.5626, fax

NEW HAVEN, CT
110 Washington Ave.
3rd Floor
North Haven, CT
06473
203.234.6344
203.234.6345, fax

NEW YORK, NY
885 Third Avenue
16th Floor
New York, NY
10022.4834
212.583.9600
212.832.2719, fax

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

ORLANDO, FL

4767 New Broad St.
Orlando, FL
32814-6405
407. 514.2637
407.514.2638, fax

PHILADELPHIA, PA

Three Parkway
1601 Cherry St.
Suite 1400
Philadelphia, PA
19102.1321
267.402.3000
267.402.3131, fax

PHOENIX, AZ

Camelback Esplanade
2425 East Camelback
Rd.
Suite 900
Phoenix, AZ
85016.4242
602.474.3600
602.957.1801, fax

PITTSBURGH, PA

Dominion Tower
625 Liberty Avenue
26th Floor
Pittsburgh, PA
15222.3110
412.201.7600
412.456.2377, fax

PORTLAND, OR

1750 SW Harbor Way
Suite 450
Portland, OR
97201.5128
503.221.0309
503.226.2791, fax

PROVIDENCE, RI

10 Weybosset Street
Suite 404
Providence, RI 02903
401.454.2903
401.454.2969, fax

RENO, NV

50 West Liberty Street
Suite 400
Reno, NV 89501-1944
775.348-4888
775.786-0127, fax

SACRAMENTO, CA

2520 Venture Oaks
Way
Suite 390
Sacramento, CA
95833.4227
916.830.7200
916.561.0828, fax

SAN DIEGO, CA

501 W. Broadway
Suite 900
San Diego, CA
92101.3577
619.232.0441
619.232.4302, fax

SAN FRANCISCO, CA

650 California St.
20th Floor
San Francisco, CA
94108.2693
415.433.1940
415.399.8490, fax

SAN JOSE, CA

50 West San Fernando
St.
14th Floor
San Jose, CA
95113.2431
408.998.4150
408.288.5686, fax

SANTA MARIA, CA

(satellite)
2643 Industrial
Parkway
Santa Maria, CA
93455.1503
805.934.5770
805.937.1510, fax

SEATTLE, WA

Bank of America
Tower
701 Fifth Avenue
Suite 6500
Seattle, WA
98104.7097
206.623.3300
206.447.6965, fax

STAMFORD, CT

(satellite)
One Stamford Plaza
263 Tresser Blvd.
9th Floor
Stamford CT 06901
203.564.1493
203.564.1402, fax

STOCKTON, CA

(satellite)
7488 Shoreline Drive
Suite A-3
Stockton, CA
95219.5433
209.472.7944
209.472.9528, fax

TYSONS CORNER

8200 Greensboro
Drive
9th Floor
McLean, VA 22102
703.442.8425
703.442.8428, fax

WALNUT CREEK, CA

2175 North California
Boulevard
Suite 835
Walnut Creek, CA
94596.3565
925.932.2468
925.946.9809, fax

WASHINGTON, D.C.

1150 17th St.
NW, Suite 900
Washington, D.C.
20036
202.842.3400
202.842.0011, fax

LITTLER GLOBAL, AZ

3003 N. Central
Suite 700
Phoenix, AZ 85012
602.256-6700
602.257-0600, fax

APPENDIX B: ATTORNEY BIOGRAPHIES

Eva C. Madison



Fayetteville Office
3608 N. Steele Blvd.
Suite 214
Fayetteville
Arkansas 72703
Telephone: (479) 442-5376
Fax: (479) 442-3765
Email: emadison@littler.com

Emphasis

Litigation of Employment Law Matters
Advice and Counseling on Personnel Matters and Practices
Advice on Human Resources Policies and Systems
Management and Employee Training

Biography

Ms. Madison represents and advises employers of all sizes in all aspects of employment law throughout the United States. Her practice focuses primarily on employment litigation, including claims of race, gender, national origin, religious, disability, and age discrimination and harassment, claims under the Family and Medical Leave Act, and employment contract disputes. Additionally, she counsels employers on strategies for minimizing potential litigation and provides advice on the practical and legal implications of everyday employment decisions. She has particular experience advising employers on human resources systems, including selection systems and training.

Prior to joining Littler Mendelson, Ms. Madison practiced law with prestigious law firms in Tennessee and Arkansas, where she represented and counseled employers in a variety of employment matters, and worked in-house in the area of employment litigation for a Fortune 50 company.

Education

J.D., *summa cum laude*, University of Arkansas, Fayetteville, Arkansas, 1998
Editor-in-Chief of the Arkansas Law Review
Member of the National Moot Court Team
B.S., *magna cum laude*, Vanderbilt University, Nashville, Tennessee, 1993

Publications

The Supreme Court Sets New Standards of Review for Excessive Verdicts in Federal Court in Gasperini v. Center for Humanities, Inc., 50 Ark. L. Rev. 591 (1997).

Published Decisions: *Stuhan v. Atlantis Plastics Injection Molding, Inc.*, No. 05-2088, 2006 WL 1805966 (W.D. Ark. June 29, 2006); *XO Communications Services, Inc. v. Southern Telecom, Inc.*, No. 05-3018, 2006 WL 1155946 (W.D.

Ark. May 1, 2006); *Wilson v. Wal-Mart Stores, Inc.*, No. 3:04CV000206-WRW, 2006 WL 318828 (E.D. Ark. Feb. 9, 2006); *Richardson v. Wal-Mart Stores, Inc.*, No. 04-00734, 2006 WL 62826 (W.D. Mich. Jan. 11, 2006); *In re Estate of Williams*, No. M2000-02434-COA-R3-CV, 2003 WL 1961805 (Tenn. Ct. App. Apr. 28, 2003).

Lectures & Presentations

Ms. Madison is an Adjunct Professor at the University of Arkansas School of Law where she has taught a course on employment discrimination since 2004.

Honors & Awards

Ms. Madison was named to the *Northwest Arkansas Business Journal*'s "40 under 40" Young Leaders List in 2005. In 2002, she won the Nashville Bar Association's Enterprise Award for creative service to the legal profession.

Activities

American Bar Association (Labor and Employment Law Section)
Arkansas Bar Association (Labor and Employment Law Section)
Oklahoma Bar Association
W.B. Putman Inn of Court (Barrister)
Benton County Bar Association
Washington County Bar Association
Humane Society of the Ozarks, President 2005-2007; Board of Directors since 2002.
Habitat for Humanity of Washington County, Volunteer Coordinator for 2005 House that Jane Built.
Ozark Affiliate of the Susan G. Komen Breast Cancer Foundation, Legal Advisor.
Junior League of Northwest Arkansas, Active Member.
University of Arkansas Black Law Student Association Moot Court Team, 2006-07 Coach.

Cases/Courts/Judges

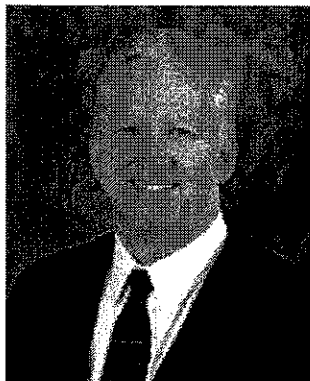
Arkansas (1998)
Oklahoma (1998)
Tennessee (1999)
United States District Court for the Eastern and Western Districts of Arkansas
Middle District of Tennessee
Eastern District of Tennessee
Western District of Michigan
Eighth Circuit Court of Appeals

LITTLER MENDELSON, P.C.

Statement of Qualifications to City of Fayetteville, AR

Ms. Madison served as a law clerk to the Honorable G. Thomas Eisele, Senior United States District Judge, Eastern District of Arkansas, from 1998-99.

R. Scott Summers



Fayetteville Office
3608 N. Steele Blvd.
Suite 214
Fayetteville
Arkansas 72703
Telephone: (479) 442-5376
Fax: (479) 442-3765
Email: ssummers@littler.com

Emphasis

Employment Litigation
National Labor Relations Board Proceedings
Collective Bargaining, Labor Arbitration and Union Avoidance,
Responding to Corporate Campaigns
Human Resources Policies, and Procedures

Biography

R. Scott Summers is Office Managing Attorney of the firm's Northwest Arkansas office. He has practiced labor and employment law for over 18 years. Mr. Summers represents employers in various industries, and ranging from small businesses to Fortune 100 companies, on cases throughout the United States. He has been involved in over 50 union organizing campaigns, multiple corporate campaigns and numerous labor arbitration cases and collective bargaining negotiations. Additionally, he litigates cases in various federal and state courts around the country and before various administrative agencies including the NLRB, EEOC and OSHA. Mr. Summers also, regularly advises employers on day-to-day personnel matters and practices, including assistance with employee separations and the drafting of severance agreements designed to protect employers.

Prior to joining Littler, he was managing attorney for an office of a large multi-practice Arkansas firm and has been in - house in the Labor Relations and Employment Practices Division of a Fortune 50 company.

Education

J.D., Louis D. Brandeis School of Law, University of Louisville, 1988
B.S., Eastern Kentucky University, 1984

Cases/Courts/Judges

1988, Kentucky; 2006, Arkansas
Eastern and Western Districts of Kentucky
Eastern and Western Districts of Arkansas
Sixth, Seventh and Eighth Circuit Courts of Appeal

APPENDIX C: TRAINING SOLUTIONS AND PUBLICATIONS

Littler has focused its efforts on employment law training more so than any other law firm. Littler Mendelson's seminars, workshops, conferences, briefings, publications, and in-person, video and computer-based training, through its in-house training division and affiliated entities, reflect the firm's commitment to problem prevention.

TRAINING FOR YOUR ORGANIZATION

Legal Learning Group (LLG)

A division of Littler Mendelson, LLG was created to assist employers in complying with employment law requirements with a full range of training solutions, including: classroom training, train-the-trainer, one-on-one training, live on-line webinar, and self-study programs.

Employment Law Learning Technologies (ELT)

An affiliate training organization of Littler Mendelson, ELT provides employers with the highest quality online training, with a special focus on harassment prevention and ethics & code of conduct education. ELT's state-of-the-art e-learning programs for managers and employees have now been used by more than 1,000,000 learners in leading organizations across the United States. ELT offers superior legal content, an engaging user experience, flexible delivery options, enterprise-wide tracking and exceptional customer service. ELT is the only e-learning provider that designs and maintains up-to-date solutions in a *truly integrated*, day-to-day partnership with world-renowned practicing legal experts at Littler Mendelson.

CONFERENCES AND BRIEFINGS

The Executive Employer[®] Conference

In a complex world full of questions, The Executive Employer Conference, held each spring, offers you a unique opportunity to spend two full days considering the solutions. The Executive Employer is the premier employment law conference produced specifically for senior level executives and in-house employment counsel.

Mixing intense subject area study with informal discussions and topical roundtables, the Conference provides a rare opportunity to delve into the critical employment law topics that matter to you most. From the dynamic opening General Session to the lively break-out sessions focusing on Litigation, Compliance, and Legal Currents, you will have the opportunity to hear from senior litigators, top thought leaders, and your peers from some of the world's leading companies.

Breakfast BriefingsSM

Littler Mendelson offers periodic educational training programs on individual topics of particular interest to employers. Past Breakfast Briefings have addressed such issues as deferred compensation, FLSA, sexual harassment, combating workplace violence, affirmative action, avoiding litigation and conducting disciplinary investigations, to name only a few.

SEMINARS

Offered to the general public live and over the Web, the Seminars integrate LLG's training experience with Littler's wealth of employment law knowledge to deliver thought-provoking and interactive instructional programs that build skills and develop the expertise necessary to solve the most pressing and complex employment law problems.

- **Live In-Person Training:** Led by LLG's pool of attorney-educators, live training programs blend custom curricula, subject matter expertise, innovative multimedia, and engaging scenarios based on real world cases and experience. These lively and entertaining sessions are designed to encourage audience participation and to get managers and employees to think proactively about the issues and trouble spots they face every day in the workplace.
- **Train-the-Trainer Services:** With in-house training programs facing increased scrutiny, employers need to take a closer look at how their in-house educators are trained. Using similar methods that have made our employee training programs so successful, LLG's attorney-educators will guide your HR professionals, attorneys, and managers through the essential components of conducting employment law courses.
- **E-Learning:** e-Learning is the most efficient way to train large numbers of employees cost effectively. ELT's solutions are available via the Internet, 24/7, with seamless tracking of individual training records. ELT focuses its efforts on harassment and discrimination prevention training as well as ethics & code of conduct education. To date, ELT has trained more than 1,000,000 learners at leading organizations across the United States.

For clients that benefit most from a blend of live and online training, ELT operates as Littler's alliance partner in providing training solutions. ELT courses employ real-life interactive scenarios and Q&A exercises to guide managers and employees through key workplace compliance issues, and can be customized for company-specific presentations. Courses include:

- | | |
|----------------------------|-----------------------|
| ♦ Workplace Harassment | ♦ EEO |
| ♦ Ethics & Code of Conduct | ♦ Lawful Hiring |
| ♦ Workplace Diversity | ♦ Lawful Terminations |
| ♦ Cyber Policy | ♦ Workplace Violence |
| ♦ Workplace Privacy | |

- ***Live Web-Based and Satellite Training:*** The next wave in training, webinars and live satellite feeds, allow for maximum interactivity with minimum inconvenience. Led by our attorney-educators, these customized programs provide managers and supervisors with the training they require from the comfort of their own workstation or nearest conference room. Please ask us about technical requirements and assistance.

Our most popular courses include:

- ♦ Manager's Boot Camp — *Managing Crucial Employment Law Issues*
- ♦ Managing the Law: Beyond the Basics — *Responding to Employment Law Issues*
- ♦ Preventing Workplace Harassment — *What Every Manager Must Know*
- ♦ Eliminating Workplace Harassment & Discrimination — *What Every Employee Must Know*
- ♦ "You Don't Have to Hire the Person You Hate!" — *Making Smart and Legal Hiring Decisions*
- ♦ "Managing the Employee from Hell" — *Managing Performance Before and After Problems Begin*
- ♦ "Security for All" Preventing Workplace Violence — *The Manager's Role*
- ♦ "You Can't Make Me Come to Work" — *Untangling the Complex Web of Leaves of Absence*
- ♦ Positive Employee Relations — *Managing the Union-Free Workplace*
- ♦ Employment Law Fundamentals for Human Resource Professionals
- ♦ Conducting Lawful Investigations: Practical Skills for Internal Human Resource Investigators
- ♦ California Mandatory Sexual Harassment Training

LITTLER MENDELSON'S PUBLICATIONS

The Employer® Book Series

For more than two decades, each year Littler has written and published The Employer books. This series of national and state reference books has become the field's preeminent reference work providing practical advice to management concerning employment and labor relations.

- ***The National Employer w/CD-ROM.*** The National Employer provides human resources professionals, corporate counsel and other in-house attorneys a practical and extensive guide to federal and state employment and labor laws. This book comes with a companion CD-ROM that contains full text of the book as well as all referenced cases.
- ***State and Regional Employers.*** The State and Regional Employers provide human resources professionals, corporate counsel and other in-house attorneys a practical and extensive guide to state employment and labor laws in the following regions:
- ♦ Arizona
 - ♦ California (includes CD-ROM)

- ♦ Mid-Atlantic (Delaware, Maryland, Pennsylvania, Virginia, and the District of Columbia)
- ♦ Nevada
- ♦ Rocky Mountain (Colorado and Utah)
- ♦ Southern (Georgia, Florida, North Carolina, and South Carolina)
- ♦ Texas (includes CD-ROM)
- ♦ Tri-State (New York, New Jersey, and Connecticut)
- ♦ Upper Midwest (Illinois, Minnesota, Ohio, and Wisconsin)
- ♦ Washington

Compliance Bookstore

Publications and videos written by leading employment law practitioners and subject matter experts contain up-to-date legal research and analysis on a wide range of employment law topics and include materials tailored to every level of your organization.

These materials include:

Manuals and Guides

- ***Employment Law Trials: A Practical Guide with CD-ROM.*** A practical guide designed to prepare the seasoned employment lawyer, junior litigation associate, or personal injury lawyer for the unique aspects of trying an employment case.
- ***Managing Workplace Harassment: A Guide for Preventing, Addressing and Resolving Harassment Issues on the Job.*** This comprehensive guide was developed by practicing labor and employment attorneys with many years of experience in litigation and counseling employers about workplace harassment. Written to be clearly understood by a general audience, the guide walks the employer through the entire policy process, pointing out common pitfalls along the way and providing proven strategies that will keep the employer on the path toward a harassment-free workplace.
- ***Retaliation & Whistleblowing: A Guide for HR Professionals & Counsel.*** Provides practical information on such topics as: overview of retaliation claims; retaliatory discharge; Sarbanes-Oxley, federal and state statutes; best practices; and hot topics.
- ***The Boss's Survival Guide.*** This book provides hands-on, real-world advice on how to hire, motivate, and keep today's higher-level, less-loyal employee.
- ***Threat Assessment: A Risk Management Approach.*** Detailed "how to's" of threat assessment from the initial contact to the sharing of results. Introduction by Garry G. Mathiason, Senior Shareholder Littler Mendelson.

Educational Videos

- ***Avoiding Litigation Landmines.*** This program uses a compelling dramatization to teach your managers how to avoid litigation landmines that can cost them and your organization millions of dollars.
- ***Harassment and Diversity: Respecting Differences.*** Harassment is not just about sex. It can also be about race, religion, age, disabilities and other protected characteristics. This dramatic story shows an all-too-common situation, where friction between employees grows from “just kidding around” into illegal harassment.
- ***Legal Survival Skills for the Modern Manager.*** It’s not easy to be a supervisor these days. You’ve got to get the job done—often with fewer employees and a tighter budget. Plus, you’re expected to know exactly what to do or say every time a “people problem” comes up. This video was created to help you find your way through the maze of employment laws and regulations, while at the same time maximizing the performance of your workers.
- ***Patterns – A Sexual Harassment Prevention Series.*** *Patterns* takes on the behavioral challenge, arming employees and managers with the information they need to prevent sexual harassment and the tools that will help them respond when incidents occur. Through a series of short dramatizations, this program describes common patterns of illegal or inappropriate behavior at work and how best to respond.
- ***Workplace Violence: First Line of Defense.*** As the second-leading cause of workplace deaths, violence represents a challenge to employers who must be prepared to respond to and manage these incidents. This program uses an interview with a convicted perpetrator, as well as a compelling dramatization to communicate the impact of this problem.

Online Subscriptions

- ***Auditing Your Organization’s Compliance with the California Labor Code – Annual On-line Subscription Service.*** Created by Littler Mendelson in cooperation with the Legal Learning Group, the compliance materials provide you with the tools required to assess your business’s compliance level with literally hundreds of the Labor Code provisions.
- ***The National Employer Handbook – Annual Online Subscription.*** The National Employer subscription provides access to the online, searchable software version of Littler’s National Employer handbook.

Training Workbooks

- ***Preventing Workplace Harassment - Set of 25 Interactive Employee Workbooks.*** This harassment self-study workbook for employees is the only one with content provided by Littler Mendelson. These workbooks are the easy and economical way to train employees on preventing workplace harassment.

They are also the perfect solution for employees who need retraining or orientation, or when live or computer-based training is not available.

Newsletters

- ***Littler Monitor.*** The Littler Monitor is a legislative and case law update e-newsletter available exclusively to Firm clients. The Littler Monitor focuses on both state and federal employment- related legislation that has been signed into law in the previous quarter, as well as any significant case law developments in the federal and state appellate courts. The Littler Monitor not only lists new legislation and cases, but also provides substantive legal analysis and practical suggestions for implementing the new requirements. Occasional bonus features are included, such as articles on employment law trends or proposed legislation to follow regarding major employment issues. The Littler Monitor is designed to keep companies operating in multiple states up to date on legal changes that will likely affect their business operations.
- ***Littler GPS – Guide to Policies by State.*** Littler GPS is a dynamic online research tool, available 24/7, exclusively for Littler Mendelson clients on a subscription basis. Littler GPS provides quick access and easy navigation to allow you to search one state or many states on a variety of legal topics. The convenient design includes references to the specific statutory or case law authority. Updated on a regular basis, changes to laws and statutes are highlighted in the text of the database. There are comprehensive annual updates to each subject area as well.
- ***A.S.A.P.[™] Newsletter.*** From reports on recent law and regulation to coverage of the latest employment law trends, Littler's ASAPs keep you up-to-date and informed on the legal issues that impact your workplace.
- ***Littler Report.*** With dead-on analysis and uncannily accurate forecasts, the Littler Report provides readers with a comprehensive review of the employment law trends impacting the workplace now and into the foreseeable future.
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INTERNET

Our website, www.littler.com, offers access to Littler's compliance tools, attorney biographies, case studies, practice areas, events, and publications.

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Sep-07
City Council Meeting Date

David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-60 to Truck Centers of Arkansas (Springdale) in the amount of \$96,314 for the purchase of one tandem axle diesel dump truck for use by Water & Sewer division.

\$96,314.00 Cost of this request	\$ 195,165.00 Category/Project Budget	Medium/Heavy Utility Vehicles Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 76,358.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02079.1 Project Number	\$ 118,807.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Previous Ordinance or Resolution # _____

Department Director _____ Date _____

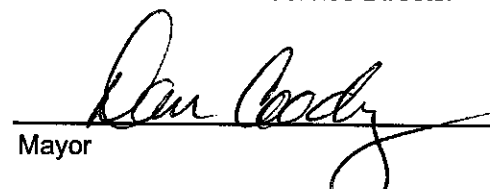
Original Contract Date: _____


City Attorney _____ Date 9/4/2007

Original Contract Number: _____


Finance and Internal Service Director _____ Date 9-7-07

Received in City Clerk's Office



Mayor _____ Date 9/4/07

Received in Mayor's Office


Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 3
of Arkansas
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE TANDEM AXLE DUMP TRUCK

RECOMMENDATION: That City Council approve the purchase of one tandem axle diesel dump truck for use by Water & Sewer Division in the amount of \$96,314.

BACKGROUND: Bid #07-60 was opened on August 16, 2007 for one tandem axle diesel dump truck for assignment to the Water and Sewer Division. Six bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas (Springdale) meets all specifications.

This purchase was approved at the May Equipment Committee meeting for purchase from a prior bid. The truck was in inventory subject to prior sale and was sold prior to a purchase order being issued, necessitating a new bid process. Unit #719, a 1993 Mack flat bed dump truck has been scheduled for replacement in 2009, however a recent automatic transmission failure creates a need to perform major repairs or replace at this time. Spending an estimated \$12,000 to repair this fourteen year old truck does not make economic sense.

I recommend acceptance of the bid from Truck Centers of Arkansas in the amount of \$96,314.00.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Heavy Duty Trucks.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #07-60 TO TRUCK CENTERS OF ARKANSAS FOR THE PURCHASE OF ONE (1) TANDEM AXLE DIESEL DUMP TRUCK IN THE AMOUNT OF \$96,314.00 FOR USE BY THE WATER & SEWER DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

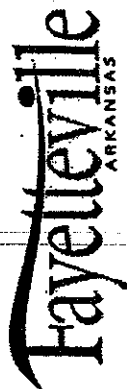
By: _____
SONDRA E. SMITH, City Clerk/Treasurer

BID: 07-60

8/16/2007

2:00 PM

CITY OF FAYETTEVILLE



Bid 07-60, Tandem Axle Diesel Dump Truck

BIDDER	Manufacturer	Year	Model	Price Each	Total Bid Price
1 Diamond International Trucks #1	International Ox Body	2008 2007	7600 6x4 Stampede	\$93,165.00 \$13,895.00	\$107,060.00
2 Diamond International Trucks #2	International Hilbilt	2007	8600 Hilbilt	\$93,165.00 \$15,077.00	\$108,242.00
3 Glover's Truck Parts and Equipment	Sterling Hilbilt	2008 2007	LT9513 Hilbilt	\$88,799.00 \$15,077.00	\$103,876.00
4 Peterbilt of Fort Smith	PETERBILT HILBILT	2008 2008	367	\$100,623.00 \$15,077.00	\$115,700.00
5 Truck Centers of Arkansas #1	Freightliner Ox	2008 2007	Stampede	\$82,419.00 \$13,895.00	\$96,314.00
6 Truck Centers of Arkansas #2	Freightliner Hilbilt	2008		\$82,419.00 \$15,477.00	\$97,896.00

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

CERTIFIED:

P. VICE PURCH MGR

WITNESS

DATE

P. Vice *A. Jones* 8/16/07



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 3
Truck Centers of Arkansas
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-60

Bid #07-60 was opened on August 16, 2007 for one tandem axle diesel dump truck for assignment to the Water and Sewer Division. Six bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Truck Centers of Arkansas (Springdale) meets all specifications.

I recommend acceptance of the bid from Truck Centers of Arkansas in the amount of \$96,314.00.

This purchase was approved at the May Equipment Committee meeting for purchase from a prior bid. The truck was in inventory subject to prior sale and was sold prior to a purchase order being issued, necessitating a new bid process. Unit #719, a 1993 Mack flat bed dump truck has been scheduled for replacement in 2009, however a recent automatic transmission failure creates a need to perform major repairs or replace at this time. Spending an estimated \$12,000 to repair this fourteen year old truck does not make economic sense.

Funds are available for this purchase in Fleet Replacement Special Project 02079 – Heavy Duty Trucks.

Cc:
Gary Dumas

APPROVED

8/28/07

3 PRESENT

FERRELL ABSENT

2RB

City Of Fayetteville

(Not a Purchase Order)

Vendor #		16751		Vendor Name:		TRUCK CENTERS OF ARKANSAS		Requisition No.		Date:	
Address:				Fob Point:				P.O Number		Expected Delivery Date:	
City:				State:				Mail Yes: No: XX			
Requester		Barbara Olsen		Ship to code:		050		Taxable Yes: XX No:			
Item Description		Quantity		Unit of Issue		Unit Cost		Extended Cost		Account Numbers	
1	2008 FREIGHTLINER TANDEM AXLE	1	EA	\$96,314.00	\$96,314.00	9700.1920.5802.00					
2	DUMP TRUCK, DIESEL WITH 2007		EA		\$0.00						
3	OX STAMPEDE BODY. TO BE UNIT		EA		\$0.00						
4	#752, FIXED ASSET #700752		EA		\$0.00						
5			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: 96,314.00	
										Tax: EXEMPT	
Approvals:										Total: 96,314.00	
Mayor: _____										Purchasing Manager: _____	
Finance & Internal Services Director: _____										IT Manager: _____	
Dispatch Manager: _____										Utilities Manager: _____	

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

A. 4
Bid #07-61 Countryside Farm
and Lawn Equipment
Page 1 of 6

18-Sep-07

City Council Meeting Date

David Bragg

Submitted By

Fleet Operations

Division

Operations

Department

Action Required:

A resolution awarding bid #07-61 to Countryside Farm and Lawn Equipment (Springdale) in the amount of \$21,657 for the purchase of one two wheel drive utility tractor for use by Parks Division.

\$21,657.00

Cost of this request

\$

249,775.00

Category/Project Budget

Medium/Heavy Utility Vehicles

Program Category / Project Name

9700.1920.5802.00

Account Number

\$

115,140.00

Funds Used to Date

Vehicles and Equipment

Program / Project Category Name

02083.1

Project Number

\$

134,635.00

Remaining Balance

Shop Fund

Fund Name

Budgeted Item

☒

Budget Adjustment Attached

Previous Ordinance or Resolution #

Department Director

Date

Original Contract Date:

City Attorney

Date

Original Contract Number:

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 4
yside Farm
Equipment
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE 2WD UTILITY TRACTOR

RECOMMENDATION: That City Council approve the purchase of one two wheel drive utility tractor for use by Parks Division in the amount of \$21,657.

BACKGROUND: Bid #07-61 was opened on August 16, 2007 for one two wheel drive utility tractor for assignment to the Parks Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Countryside Farm and Lawn Equipment (Springdale) meets all specifications.

This tractor is a replacement for unit #553, a 1995 Ford utility tractor that is no longer dependable for daily use. This replacement was approved by the Equipment Committee and funded in the 2007 budget process.

I recommend acceptance of the bid from Countryside Farm and Lawn Equipment in the amount of \$21,657.00.

Funds are available for this purchase in Fleet Replacement Special Project 02083 – Tractors and Mowers.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-61 TO COUNTRYSIDE FARM AND LAWN EQUIPMENT FOR THE PURCHASE OF ONE (1) TWO-WHEEL DRIVE UTILITY TRACTOR IN THE AMOUNT OF \$21,657.00 FOR USE BY THE PARKS AND RECREATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.

PASSED and APPROVED this 18th day of September, 2007.

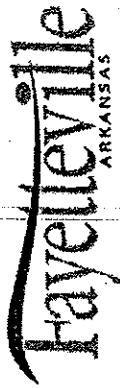
APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

BID: 07-61
8/16/2007
2:00 PM
CITY OF FAYETTEVILLE



Bid 07-61, 2WD Diesel Tractor

BIDDER	Manufacturer	Year	Model	Total Bid Price
1 Countryside Farm and Lawn Equipment #1	John Deere		5325	\$24,729.22
2 Countryside Farm and Lawn Equipment #2	John Deere		5325	\$21,657.00
3 Riggs CAT	Challenger	2007	MT325	\$27,562.51
4 Williams Tractor, Inc.	New Holland	2007	TN70A	\$22,897.00

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

CERTIFIED: P. Vice
P. VICE PURCH MGR

A. Zuer
WITNESS

8/16/07
DATE



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 4
Bid #07-61 Countryside Farm
and Lawn Equipment
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-61

Bid #07-61 was opened on August 16, 2007 for one two wheel drive utility tractor for assignment to the Parks Division. Four bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Countryside Farm and Lawn Equipment (Springdale) meets all specifications.

I recommend acceptance of the bid from Countryside Farm and Lawn Equipment in the amount of \$21,657.00.

This tractor is a replacement for unit #553, a 1995 Ford utility tractor that is no longer dependable for daily use. This replacement was approved by the Equipment Committee and funded in the 2007 budget process.

Funds are available for this purchase in Fleet Replacement Special Project 02083 – Tractors and Mowers

Cc:
Gary Dumas

APPROVED
8/28/07
3 PRESENT
FERRELL ABSENT
ZRB

City Of Fayetteville

(Not a Purchase Order)

Vendor #		13947		Vendor Name: COUNTRYSIDE FARM AND LAWN		Requisition No.		Date: 8/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:		State:		Zip Code		Ship to code: 050		Mail Yes: No: XX	
Requester Barbara Olsen		Requester's Employee # 1940		Account Numbers		Division Head Approval Yes: No: <i>[Signature]</i>		Taxable Yes: No: XX	
Item Description		Quantity	Unit of Issue	Unit Cost	Extended Cost	Project/Subproject #	Inventory #	Fixed Asset #	
1	TWO WHEEL DRIVE UTILITY	1	EA	\$21,657.00	\$21,657.00	9700.1920.5802.00	02083.1		
2	TRACTOR, JOHN DEERE 5325		EA		\$0.00				
3	TO BE UNIT 5005, FIXED ASSET		EA		\$0.00				
4	#705005		EA		\$0.00				
5			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:	21,657.00
		Tax:	EXEMPT
		Total:	21,657.00

Approvals:	Department Director:	Purchasing Manager:
Mayor:	Budget Manager:	IT Manager:
Finance & Internal Services Director:	Utilities Manager:	
Dispatch Manager:		

City of Fayetteville
Staff Review Form
City Council Agenda Items
Contracts

18-Sep-07
City Council Meeting Date

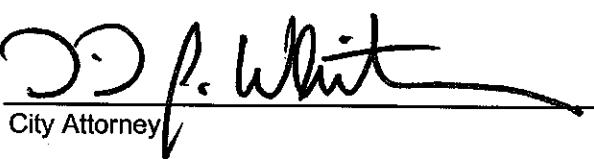
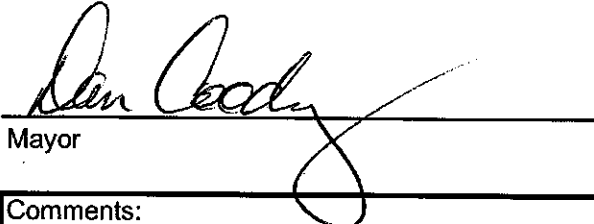
David Bragg Submitted By Fleet Operations Division Operations Department

Action Required:

A resolution awarding bid #07-62 to Hertz Equipment Rental (Springdale) in the amount of \$27,795 for the purchase of one self propelled concrete saw for use by Transportation Division.

\$27,795.00 Cost of this request	\$ 1,052,969.00 Category/Project Budget	Other Vehicles and Equipment Program Category / Project Name
9700.1920.5802.00 Account Number	\$ 792,692.00 Funds Used to Date	Vehicles and Equipment Program / Project Category Name
02080.1 Project Number	\$ 260,277.00 Remaining Balance	Shop Fund Fund Name

Budgeted Item ☒ Budget Adjustment Attached ☐

Department Director	Date	Previous Ordinance or Resolution #
	9/4/07	
City Attorney	Date	Original Contract Date:
Finance and Internal Service Director	Date	Original Contract Number:
	9-4-07	
	Date	
Mayor	Date	Received in City Clerk's Office
	9/4/07	ENTERED 8-31-07
	Date	Received in Mayor's Office
		ENTERED 9/4/07

Comments:



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701
(479) 444-3495 FAX (479) 444-3425



A. 5
ment Rental
Page 2 of 6

Interdepartmental Correspondence

TO: MAYOR/CITY COUNCIL

THRU: GARY DUMAS, DIRECTOR OF OPERATIONS

FROM: DAVID BRAGG, FLEET OPERATIONS SUPERINTENDENT *DRB*

DATE: AUGUST 30, 2007

SUBJECT: PURCHASE OF ONE SELF PROPELLED CONCRETE SAW

RECOMMENDATION: That City Council approve the purchase of one self propelled concrete saw for \$27,795 for use by Transportation Division.

BACKGROUND: Bid #07-62 was opened on August 14, 2007 for one self propelled concrete saw for assignment to the Transportation Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Hertz Equipment Rental (Springdale) meets all specifications.

This saw is a replacement for unit #79, a 1992 jet wash trailer that was no longer dependable and underutilized. Due to the increased amount of concrete work by the Transportation Division, this replacement was approved in the 2006 budget.

I recommend acceptance of the bid from Hertz Equipment Rental in the amount of \$27,795.00.

Funds for this purchase were re-budgeted and are available in Fleet Replacement Special Project 02080 – Other Equipment.

The purchase of this unit was approved by the Equipment Committee on August 28, 2007.

RESOLUTION NO. _____

A RESOLUTION AWARDING BID #07-62 TO HERTZ EQUIPMENT RENTAL FOR THE PURCHASE OF ONE (1) SELF-PROPELLED CONCRETE SAW IN THE AMOUNT OF \$27,795.00 FOR USE BY THE TRANSPORTATION DIVISION.

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

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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



FLEET OPERATIONS
1525 S. Happy Hollow Road
Fayetteville, AR 72701

A. 5
Bid #07-62 Hertz Equipment Rental
Page 5 of 6

Equipment Committee Correspondence

TO: City of Fayetteville, Equipment Committee
Bobby Ferrell, Chairman Adella Gray
Kyle Cook Lioneld Jordan

FROM: David Bragg, Fleet Operations Supt

DATE: August 21, 2007

SUBJECT: Award of Bid 07-62

Bid #07-62 was opened on August 14, 2007 for one self propelled concrete saw for assignment to the Transportation Division. Three bid responses were received. A detailed tabulation sheet is attached.

The lowest bid from Hertz Equipment Rental (Springdale) meets all specifications.

I recommend acceptance of the bid from Hertz Equipment Rental in the amount of \$27,795.00.

This saw is a replacement for unit #79, a 1992 jet wash trailer that was no longer dependable and underutilized. Due to the increased amount of concrete work by the Transportation Division, this replacement was approved in the 2006 budget.

Funds for this purchase were re-budgeted and are available in Fleet Replacement Special Project 02080 – Other Equipment.

Cc:
Gary Dumas

APPROVED
8/28/07
3 PRESENT
FERRELL ABSENT

City Of Fayetteville

(Not a Purchase Order)

Vendor #		88490		Vendor Name: HERTZ EQUIPMENT RENTAL		Requisition No.		Date: 8/30/2007	
Address:				Fob Point:		P.O Number		Expected Delivery Date:	
City:				State:		Mail Yes: No: XX			
Requester Barbara Olsen				Zip Code		Ship to code: 050		Taxable Yes: XX No:	
Requester's Employee # 1940				Requester's Employee # 050		Division Head Approval <i>[Signature]</i>		Quotes Attached Yes: No:	
Account Numbers				Extended Cost		Project/Subproject # 485		Inventory #	
Unit Cost				Unit Cost		Fixed Asset #			

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Account Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	2007 HUSQVARNA CONCRETE	1	EA	\$27,795.00	\$27,795.00	9700.1920.5802.00	02080.1		
2	SAW, MODEL RS8500D		EA		\$0.00				
3	TO BE UNIT #9103, FIXED ASSET		EA		\$0.00				
4	#709103		EA		\$0.00				
5			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: 27,795.00				
					Tax: EXEMPT				
					Total: 27,795.00				

Approvals:

Mayor: _____ Department Director: _____ Purchasing Manager: _____

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

Dispatch Manager: _____ Utilities Manager: _____

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

4-Sep-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2576: Woodstock Community, 438: Submitted by Appian Center for Design for property located south of Wedington Drive from 46th to Broyles Avenue containing approximately 28.90 acres. The request is for a Residential Planned Zoning District for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

Finance and Internal Service Director

Date

Received in City Clerk's Office

ENTERED
8/17/07

Received in Mayor's Office

ENTERED
8/20/07
PH

Mayor

Date

Comments:

Left on the second reading 9/4/07

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: August 14, 2007

Subject: Residential Planned Zoning District for Woodstock Community (R-PZD 07-2576)

RECOMMENDATION

The Planning Commission unanimously voted to forward the subject request, recommending approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Woodstock Community. This action would establish a unique zoning district for a mixed use development on a 28.90-acre tract located on the south side of Wedington Drive, between 46th Avenue and Broyles Avenue.

BACKGROUND

The site is zoned R-A, and is generally flat hay pasture with trees along the fence rows. The property is generally surrounded by single family residences, with some duplexes located adjacent to the property on the north side of Wedington. The site has direct access to Wedington Drive (State Highway 16), Broyles Avenue, and 46th Street. Wedington Drive is a Principal Arterial on the City's Master Street Plan and is state highway that is currently being widened by the State to a five-lane section adjacent to the property. Broyles Avenue is a Collector Street that has been improved by the City to a 28-foot wide street. 46th Street is an unimproved local street adjacent to the property. The request is for rezoning, Preliminary Plat, and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 382 attached and detached planned dwellings as well as 100,390 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in approval of all of the non-residential/commercial space (100,390 square feet), 104 townhouses, and 224 condominiums at this time. Total density for this project is proposed at 12.96 units per acre. The single family lots would require a preliminary and final plat approval. Zoning criteria identifying permitted and conditional uses, building setbacks, bulk and area requirements and architectural guidelines are included within the project booklet provided by the applicant.

DISCUSSION

On July 23, 2007 the Planning Commission voted 8-0-0 in favor of forwarding this request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2576, WOODSTOCK COMMUNITY, LOCATED SOUTH OF WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE; CONTAINING APPROXIMATELY 28.90 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 RA, Residential-Agricultural to R-PZD 07-2576, Woodstock Community, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

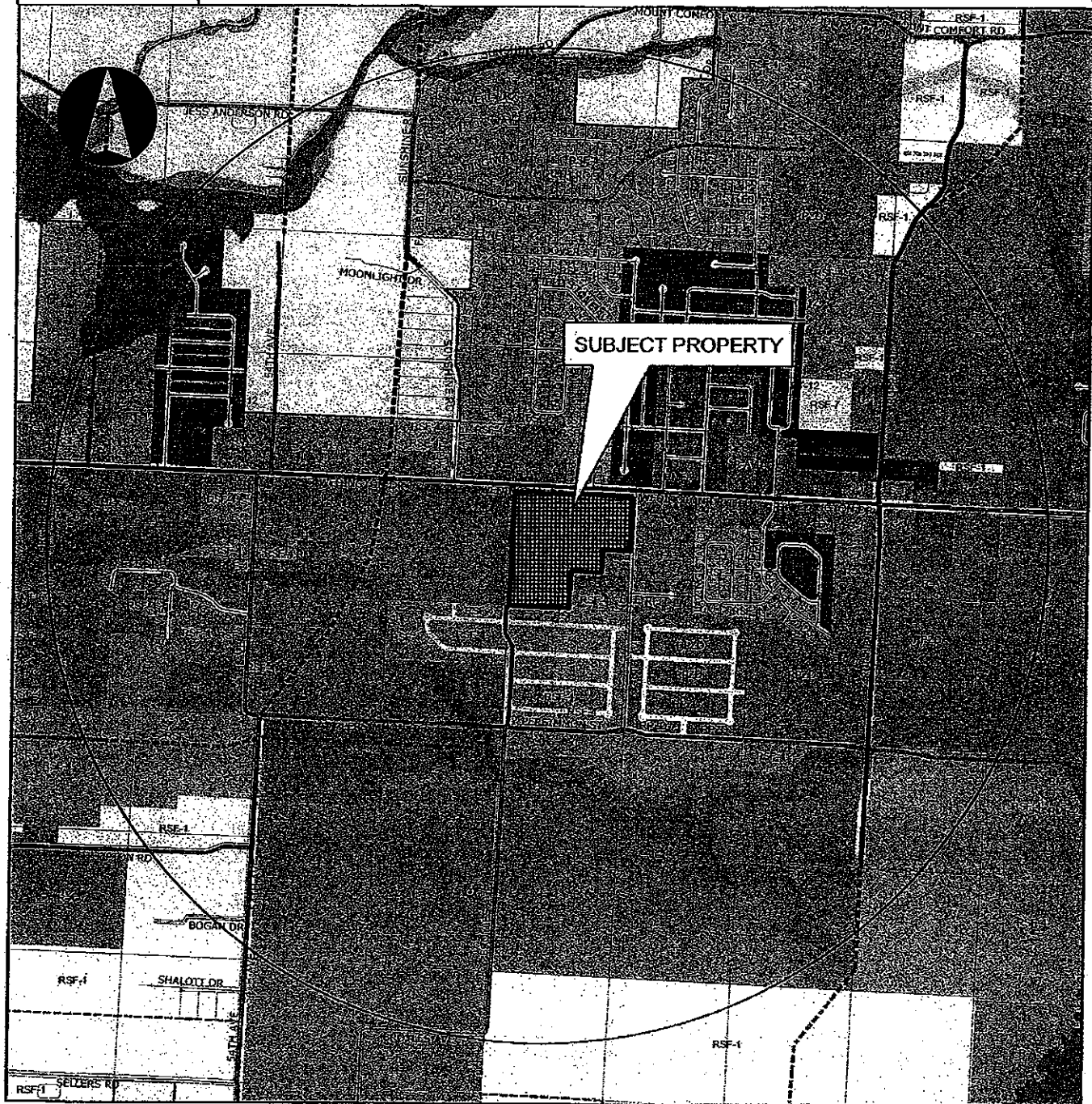
By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

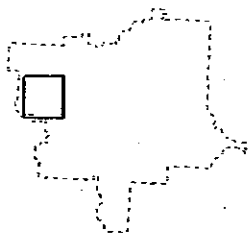
RPZD07-2576

One Mile View

WOODSTOCK COMMUNITY



Overview



Legend

Subject Property
RPZD07-2576

Boundary

Planning Area
Overlay District
Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

EXHIBIT "B"
R-PZD 07-2576

A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 16 NORTH, RANGE 31 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS S87°15'08"E 3.06' FROM THE SOUTHWEST CORNER OF SAID FORTY ACRE TRACT SAID POINT BEING ON THE EAST RIGHT-OF-WAY OF BROYLES AVENUE AND RUNNING THENCE ALONG SAID RIGHT-OF-WAY N02°06'49"E 733.46', N02°21'11"E 511.99' TO THE SOUTH RIGHT-OF-WAY OF ARKANSAS STATE HIGHWAY #16, THENCE ALONG SAID RIGHT-OF-WAY S87°34'33"E 139.56', N83°35'24"E 44.55', S88°01'12"E 87.99', S67°36'50"E 53.26', S87°22'34"E 27.88', N82°00'44"E 81.38', S87°19'33"E 819.69', S51°33'46"E 28.62' TO THE WEST RIGHT-OF-WAY OF NORTH 46TH AVENUE, THENCE ALONG SAID RIGHT-OF-WAY OF NORTH 46TH AVENUE S01°52'14"W 575.81', THENCE LEAVING SAID RIGHT-OF-WAY N87°16'34"W 300.48' TO A SET IRON PIN, THENCE S02°30'08"W 249.48' TO A SET IRON PIN, THENCE N87°16'34"W 332.21' TO A SET IRON PIN, THENCE S02°30'08"W 410.65' TO A SET IRON PIN, THENCE N87°15'06"W 639.76' TO THE POINT OF BEGINNING. CONTAINING 28.90 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2576

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The Planning Commission and Staff recommends the following conditions of approval associated with R-PZD 07-2576 (Woodstock Community).

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** This property has frontage on three streets: Wedington Drive, Broyles Avenue, and 46th Street. Wedington is being fully improved along the project frontage by the Arkansas State Highway Department, Broyles Avenue has recently been fully improved by the City, and 46th Street is an unimproved two-lane paved street along the project frontage and continues south until improvements to this street begin with the Cross Keys Subdivision. Based on the condition of the immediate surrounding street system and the impact of the amount of traffic generated by 100,390 square feet of non-residential spaces and 382 dwelling units from this project, staff recommends the following street improvements as being proportional to the development:
 - A. The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phases, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
 - B. The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
 - C. Street lights and sidewalks shall be installed along all public streets adjacent to the project boundaries pursuant to City codes.

PLANNING COMMISSION DETERMINED IN FAVOR OF THE STREET IMPROVEMENTS AS RECOMMENDED BY STAFF (07/23/07).

2. **Right-of-way dedication.** 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue by easement plat; 25' from centerline along 46th Street by easement plat; variable right-of-way dedication along the internal streets as depicted on the site plan by easement plat; private drives would be under an access

CONDITIONS OF APPROVAL:

R-PZD 07-2576

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easement owned and maintained by the property owner's association and dedicated by easement plat.

3. Planning Commission determination of a waiver of minimum street design standards:

- a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)) and 25' CRR for the street intersections with Broyles, a Collector. *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- b. The applicant requests a waiver to allow a different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. In addition, the palette of street widths proposed is not allowed under the Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.

1. *Staff recommends in favor of a waiver to construct the street cross sections as requested (see plat sheet 2 of 16) finding the more narrow street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity. Provided that 7.5' parking lane is maintained, as measured to the face of curb, and that all sidewalks to be used by the public be constructed with a 5' minimum width.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ii. *Alley cross-section/private drive aisle width. Staff recommends in favor of the alley widths as depicted on the revised alley exhibits showing turning movements on these alleys. The bump outs directly adjacent to the garages shall be a flat, paved driving surface to allow for vehicular movement as shown on the exhibit.*

PLANNING COMMISSION RECOMMENDED THAT STAFF WORK WITH THE APPLICANT FOR A RECOMMENDATION TO THE CITY COUNCIL (07/23/07).

THE APPLICANT AND STAFF MET SINCE THE PLANNING COMMISSION MEETING AND CAME TO AN AGREEMENT ON THE ALLEY WIDTHS AS DEPICTED ON THE REVISED ALLEY WIDTHS EXHIBITS ATTACHED TO THIS REPORT (08/14/07).

- c. The applicant requests a waiver of the centerline radii required by the City of

CONDITIONS OF APPROVAL:

R-PZD 07-2576

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Fayetteville Minimum Street Standards due to site constraints. The applicant proposes a 50' centerline radius on Street Four, where 150' is the minimum. *Staff recommends in favor of this request.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- d. Curb sections. The applicant requests 18" curb on all streets versus a standard 24" curb, in contrast to the City's street design standards. *Staff finds in favor of this request, agreeing with the applicant's justification that a narrow curb is acceptable in a Traditional Neighborhood Development as proposed.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ~~4. Planning Commission determination of appropriate curb cut location onto Wedington, a Principal Arterial. Staff does not support the curb cut directly east of Broyles Avenue approximately 100' to the east of the intersection onto Hwy 16/Wedington, a Principal Arterial. Staff finds that this curb cut may create a dangerous traffic condition in direct conflict with a future signalized intersection. Staff also has concern with the full turning movement proposed with the access west of 46th Street, and recommends the following revisions to the access proposed onto Wedington:~~

- ~~a) Remove the curb cut currently east of Building A.~~
- ~~b) Relocate the curb cut currently west of Building J to align with the drive aisle west of Building H.~~

~~Staff finds these two revisions will greatly enhance safety and provide mobility of pedestrians and traffic from this development, and also create a more traditional lot/block access pattern, serving multiple uses.~~

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

THE APPLICANT HAS FULLY ADDRESSED THIS CONDITION WITH THE REVISED SUBMITTAL (08/14/07).

5. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat.
6. A minimum of 26' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provide adequate room for a trash truck and arm to pick up residential trash carts.
7. Signs indicating future street extension shall be installed at all street stub-outs.

Commercial Design Standards

8. Planning Commission determination of commercial design standards for the commercial

CONDITIONS OF APPROVAL:

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portion of the mixed use structures, and the stand-alone commercial structures, and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of other 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.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION, BUT REQUIRED THAT THE APPLICANT SHALL PROVIDE REVISED ELEVATIONS TO CITY COUNCIL TO SHOW GRADING/GARAGE ENTRIES FROM UNDERNEATH (07/23/07).

REVISED ELEVATIONS HAVE BEEN PROVIDED IN THE BOOKLET TO ADDRESS THE PLANNING COMMISSION'S COMMENT (08/13/07).

General

9. A preliminary and final plat approval is required prior to development of the single family portion of this project.
10. All infrastructure necessary to support Phase I of the project, including streets, is required to be constructed prior to final occupancy permits.
11. 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.
12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
13. 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.
14. 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. The development shall be consistent with the site plan and mix of uses as approved in the PZD. All development shall meet applicable zoning and development criteria, unless

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specifically waived or varied by the Planning Commission as part of the PZD approval.

15. Should the detention pond area be approved as part of this project, it shall be formally incorporated into the property by way of a property line adjustment prior to issuance of construction permits.

Phasing

16. This project is required to obtain all permits in accordance to the Phasing as listed below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions). *The PZD booklet should be revised to reflect this phasing, including an exhibit graphically depicting the limits of construction for each phase.*

Phase No.	Timeframe for Permits (years)	Timeframe for Construction (years)
Phase 1	1	2.5
Phase 2	2	3.5
Phase 3	3	4.5
Phase 4	4	5.5
Phase 5	5	6.5
Phase 6	6	7.5
Phase 7	7	8

Parks

17. PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres. A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.

Landscape and Tree Preservation Plan Conditions

18. Planning Commission determination of a waiver of Unified Development Code Section 177.04(D)(3). *Staff finds in favor of the waiver for greenspace. Currently Chapter 177.04(D)(3) requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

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19. Installation of the sidewalk north of Building H needs to be coordinated with the Urban Forester and the Sidewalk Administrator to achieve the highest amount of preservation.
20. Mitigation will be required on the site. The applicant has requested and been approved to utilize the Residential On-site Planting option. Using a combination of low and high priority trees, 215 (2) inch caliper large species trees will be required for this development.
21. The 215 mitigation trees will be planted at the time of C of O for the building they are associated with. If all the trees can not be located on the site, outside of utility easements, money in lieu will be accepted.
22. A 3-year bond, letter of credit, or check will be required before issuance of a final certificate of occupancy for the buildings in phase I. This should amount to \$53,750.
23. The Tree Preservation Calculations do not include canopy removed for the proposed single family homes. At the time of development approval, this canopy will be assessed for preservation and subsequent mitigation.
24. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
25. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.

Plat and Booklet Revisions

27. Plat revisions to be completed prior to Planning Commission:
 - a. Provide two points in Arkansas State Plane Coordinates on the plat.

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. Trash enclosures shall be screened on three sides with materials compatible with the surrounding structures, with access not visible from the street. Add this note to the site plan and all construction documents. Elevations shall be submitted to Planning staff for review and approval prior to building permit.

CONDITIONS OF APPROVAL:

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30. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
31. 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.
32. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
33. 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.
34. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Final plat for this project that shall include all easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

~~35. The PZD booklet shall be revised to add a note to the maximum building height for PA-1 to 62' as measured to the top of the parapet.~~

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

~~36. The PZD booklet shall be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.~~

CONDITIONS OF APPROVAL:

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THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

37. The PZD booklet shall be revised to correct reference to on-street parking on page 6, change note that sidewalk cafes are allowed only by conditional use, and eliminate the duplicate text on alleys on page 32.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).



Planning Commission Meeting
July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Planning Commission Members
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: July 18, 2007 Updated August 13, 2007

R-PZD 07-2576: Planned Zoning District (WOODSTOCK COMMUNITY, 438): Submitted by APIAN CENTER FOR DESIGN for property located ALONG W. WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 28.90 acres. The request is for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame. The request also includes development approval for the non-residential, mixed use, and multi-family portion of the project at this time.

Property Owner: HANK BROYLES
Planner: ANDREW GARNER

Findings:

July 12, 2007 Subdivision Committee: Meeting minutes from the July 12, 2007 Subdivision Committee meeting are attached to this report.

Property Description: The subject property consists of approximately 28.90 acres located on the south side of Wedington Drive (State Highway 16) between 46th Street and Broyles Avenue. The site is zoned R-A, and is generally flat hay pasture with trees along the fence rows. The property is undeveloped.

Surrounding Land Use/Zoning:

Direction from Site	Land Use	Zoning
North	Single family residences; Ozark Electric facility, Duplexes	R-A; RSF-4; RT-12
South	Single family residences	RSF-4; R-A
East	Single family residences	R-A
West	Pasture	R-A

Proposal: The request is for rezoning and partial development approval for a Master Development Plan of a Residential Planned Zoning District with 382 attached and detached planned dwellings as well as 100,390 square feet of non-residential/commercial space. Should the PZD be approved as proposed, it would result in development approval of all of the non-residential/commercial space (100,390 square feet), 104 townhouses, and 224 condominiums. The 54 single family lots are not proposed to be subdivided or developed at this time, and would be required to go through preliminary and final plat prior to development.

Master Development Plan: The proposed uses over the site are listed in *Table 1.*

Table 1
Woodstock PZD 07-2576
Land Use Summary

TYPE OF USE	PLANNING AREA	DENSITY (UNITS/ACRE)	DWELLING UNITS	NON-RESIDENTIAL INTENSITY (SQ.FT./ACRE)	NON-RESIDENTIAL SQUARE FEET	ACRES	% OF SITE
Mixed Use	PA-1	21.92	224	9,661	98,740	10.22	34.67%
Townhouse	PA-2	13.76	104	NA	NA	7.56	15.51%
Single Family	PA-3	6.46	54	NA	NA	8.36	20.30%
Civic Building	PA-4	0.00	0	494	1,650	3.34	10.18%
TOTAL		12.96	382	3,405	100,390	29.48	100%

This project is designed to be a Traditional Neighborhood Development (TND) including a variety of housing types and land uses in a defined area. Rather than a typical, sprawling subdivision, this development attempts to create an eclectic, urban neighborhood of various uses connected by a network of sidewalks, streets and lanes suitable for pedestrians as well as vehicles. The north side of the property fronts onto Wedington Drive (State Highway 16), a Principal Arterial, the west fronts onto Broyles Avenue, a Collector Street, and the east side of the property fronts onto 46th Street, a Local Street. The property is located in an area designated for a City Neighborhood Area on the Future Land Use Map.

The proposed zoning criteria and site plan allow for a denser layout of single-family residences (6.46 units per acre in Planning Area 3) along the southern edge of the property adjacent to existing single family residences, with mixed-use buildings, townhouses, non-residential buildings, and private open space interspersed throughout the remainder of the site. This site layout and proposal would not be allowed under any standard zoning criteria. The zoning criteria 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: Access is proposed directly off of Wedington Drive, 46th Street, and Broyles Avenue with several points of ingress/egress. The development has a number of well-

connected interior public streets, alleys, and private drives. A variety of street cross-sections is proposed and is designed to calm traffic and encourage pedestrian comfort and activity throughout the development. These street sections are narrow with small curb return radii consistent with the concepts of the Institute of Transportation Engineers and Smart Code, but do not meet the City's Unified Development Code or current Master Street Plan criteria. All streets with the exception of the Streets Three and Five will have designated on-street, parallel parking. The project provides vehicular connection to Wedington Drive, Broyles Avenue, and 46th Street to the north, west, and east respectively. Connectivity to the south is provided with a public street stub-out, and by providing public alleys along much of the southern property line.

Parking: The majority of the mixed use buildings will face onto Wedington Drive, with surface parking in the rear of these buildings, as well as in underground garages. Parking is provided on the public streets and along private drives, and garage parking is provided for the townhouses and single family residences.

Phasing: Several phases are planned for Woodstock Community over the next several years as listed below. *The Project Phase exhibit provided in the PZD Booklet needs to be updated to reflect the phases as listed in the most recent submittal.* All permits required for development within these phases are required to be obtained and constructed within the specified timeframe. A one-year extension will be permitted, subject to Planning Commission approval.

Phase No.	Timeframe for Permits (years)	Timeframe for Construction (years)
Phase 1	1	2.5
Phase 2	2	3.5
Phase 3	3	4.5
Phase 4	4	5.5
Phase 5	5	6.5
Phase 6	6	7.5
Phase 7	7	8

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

Adjacent Master Street Plan Streets: Wedington Drive (Principal Arterial); Broyles Avenue (Collector Street); 46th Street (Local Street)

Right-of-way Dedication: 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue; 25' from centerline along 46th Street; variable right-of-way dedication along the internal streets as depicted on the site plan; private drives would be under an access easement owned and maintained by the property owner's association.

Street Improvements: The proposed addition of over 100,000 SF of non-residential space and 382 dwelling units will have a significant impact on surrounding infrastructure. However, much of the surrounding infrastructure has been improved or is being improved in the near future. The City constructed Broyles Avenue to the west which is a 28-foot wide street without a turn lane at the intersection of Wedington. The State is currently in the process of widening Hwy 16 along

the north property line. While these improvements will aid in accommodating additional traffic load generated by this development, 46th Street is currently an unimproved and narrow street, and will undoubtedly bear a substantial burden of traffic, given the proximity of the Boys and Girls Club and Owl Creek elementary School. Additionally, a traffic signal to moderate movements into and out of the site onto Hwy 16 at Broyles Avenue, a Collector Street, will be warranted in the near future. Staff's recommendation for street improvements at the Subdivision Committee did not coincide with the applicant's proposal. At that time it included the following:

- A full assessment for a traffic signal at Broyles and Wedington (the State Highway Department is installing conduit for a future signal at this location) in the amount of \$125,000 prior to issuance of a building permit.
- Continuation of street improvements on both sides of 46th Avenue, from Wedington south to where the street is currently improved (28-foot section with curb, gutter, pavement).
- Install street lights every 300' along Broyles Avenue and at intersections, where needed.

After a meeting with the applicant explaining staff's position for these recommendations, the applicant has presented a different proposal, which indicated the paying for half of the traffic signal over the first three phases of development (\$62,500.00) and improvements to both sides of 46th Street along the property frontage, with the first phase of development.

Staff has further evaluated the traffic study prepared for this development with the City's transportation engineer, and concurs that this development alone does not warrant a traffic signal, though it will increase the vehicle trips at this intersection. Further, property to the south of this property currently exists as large-lot residential, with the potential for redevelopment in the future. Based on these factors, staff has revised its recommendation for street improvements to include the following:

- The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phase, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
- The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
- Street lights and sidewalks shall be installed along all public streets adjacent to the

project boundaries pursuant to City codes.

The City does not participate in the purchase of right-of-way or realigning utilities for private development projects, when the need for the improvement is deemed to be the responsibility of the developer.

Staff is recommending the cost of these improvements be the responsibility of the developer, without a cost-share by the City, based on the impact of the development proposed. *Without these improvements, staff is not comfortable recommending approval of the project. The applicant has submitted a letter describing a different recommendation for the street improvements, attached to this staff report.*

Parks: Park Recreation Advisory Board reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres.

Solid Waste Service: The mixed use and non-residential portion of this development will dispose of solid waste in several trash compactors spaced throughout the development. The single family residences will be serviced by standard residential trash pick-up.

Tree Preservation: Existing Canopy: 7.55%
Preserved Canopy: 1.95%
Required Canopy: 7.55%
Mitigation: Required; 215 two-inch caliper trees planted onsite.

Public Comment: Eight members of the public spoke at the July 12, 2007 Subdivision Committee and were generally opposed to the project, citing concerns with community character, traffic, and property values (see attached minutes from the meeting).

Recommendation: Staff recommends forwarding **R-PZD 07-2576** to the City Council with the following conditions of approval:

Issues/Conditions to Address:

Streets and Right-of-Way

1. **Planning Commission determination of street improvements.** This property has frontage on three streets: Wedington Drive, Broyles Avenue, and 46th Street. Wedington is being fully improved along the project frontage by the Arkansas State Highway Department, Broyles Avenue has recently been fully improved by the City, and 46th Street is an unimproved two-lane paved street along the project frontage and continues south until improvements to this street begin with the Cross Keys Subdivision. Based on the condition of the immediate surrounding street system and the impact of the amount of traffic generated by 100,390 square feet of non-residential spaces and 382 dwelling units

from this project, staff recommends the following street improvements as being proportional to the development:

- A. The applicant shall contribute half the cost of a traffic signal at Broyles/Wedington in the amount not to exceed \$62,500.00. The delayed off-site improvement assessment shall be paid proportionally through the first three phases, prior to issuance of a building permit for each respective phases, as follows:
 - (1) Phase I: \$20,833.34
 - Phase II: \$20,833.34
 - Phase III: \$20,833.34
- B. The applicant shall pay for and construct improvements on 46th Avenue concurrent with Phase I to include the following:
 - (1) 28-foot wide street cross section, including curb, gutter, storm drains, on both sides along the property frontage.
 - (2) South of the property frontage, 46th Avenue shall be improved to a 24' wide pavement width, with no other improvements recommended.
- C. Street lights and sidewalks shall be installed along all public streets adjacent to the project boundaries pursuant to City codes.

PLANNING COMMISSION DETERMINED IN FAVOR OF THE STREET IMPROVEMENTS AS RECOMMENDED BY STAFF (07/23/07).

- 2. Right-of-way dedication. 55' from centerline along Wedington Drive by warranty deed is required. 35' from centerline along Broyles Avenue by easement plat; 25' from centerline along 46th Street by easement plat; variable right-of-way dedication along the internal streets as depicted on the site plan by easement plat; private drives would be under an access easement owned and maintained by the property owner's association and dedicated by easement plat.
- 3. Planning Commission determination of a waiver of minimum street design standards:
 - a. The applicant requests a waiver to allow a 20' curb return radius (CRR) at all interior street intersections and driveways when City Code requires a 30' CRR for streets (UDC Section 171.02(C)) and 25' CRR for the street intersections with Broyles, a Collector. *Engineering staff has reviewed this request and is in favor of the CRR waiver requests, finding that adverse impacts to traffic and pedestrian safety would not occur.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- b. The applicant requests a waiver to allow a different street cross sections than required by the current Master Street Plan standard (UDC Section 166.06 (k)(10)(a) and 166.08(C)(14)). The applicant proposes on-street parallel parking, when the Master Street Plan does not have a cross-section that allows parallel parking as proposed. In addition, the palette of street widths proposed is not allowed under the Master Street Plan – there are not Master Street Plan street cross-sections with the exact width and dimensions proposed.
- i. *Staff recommends in favor of a waiver to construct the street cross sections as requested (see plat sheet 2 of 16) finding the more narrow street widths will help in traffic calming and are consistent with the overall TND development philosophy for this project to help encourage pedestrian activity. Provided that 7.5' parking lane is maintained, as measured to the face of curb, and that all sidewalks to be used by the public be constructed with a 5' minimum width.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ii. *Alley cross-section/private drive aisle width. The Unified Development Code 172.04 requires a minimum of 24' of pavement for a one way drive aisle with 90 degree parking. For most of the rear alley access for the townhouses, the alleys are well below 24' wide, some with a 12' dimension. The applicant has provided a brief recommendation from a traffic engineer on the alley widths. The AutoTurn analysis provided depicting with the revisions for Planning Commission appears to indicate that only one of the vehicles backing out onto the one-way alleys would be able to make a functional turning movement out of these two car garages. Staff recommends further graphical analysis clearly showing that the alleys will function at the narrow width proposed, or the alleys should be widened to a minimum 16' width, to allow adequate turning movements into and out of garages. Staff recommends in favor of the alley widths as depicted on the revised alley exhibits showing turning movements on these alleys. The bump outs directly adjacent to the garages shall be a flat, paved driving surface to allow for vehicular movement as shown on the exhibit.*

PLANNING COMMISSION RECOMMENDED THAT STAFF WORK WITH THE APPLICANT FOR A RECOMMENDATION TO THE CITY COUNCIL (07/23/07).

THE APPLICANT AND STAFF HAVED MET SINCE THE PLANNING COMMISSION MEETING AND COME TO AN AGREEMENT ON THE ALLEY WIDTHS AS DEPICTED ON THE REVISED ALLEY WIDTHS EXHIBITS ATTACHED TO THIS REPORT (08/14/07).

- c. The applicant requests a waiver of the centerline radii required by the City of Fayetteville Minimum Street Standards due to site constraints. The applicant

proposes a 50' centerline radius on Street Four, where 150' is the minimum. *Staff recommends in favor of this request.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- d. Curb sections. The applicant requests 18" curb on all streets versus a standard 24" curb, in contrast to the City's street design standards. *Staff finds in favor of this request, agreeing with the applicant's justification that a narrow curb is acceptable in a Traditional Neighborhood Development as proposed.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

- ~~4. Planning Commission determination of appropriate curb cut location onto Wedington, a Principal Arterial. Staff does not support the curb cut directly east of Broyles Avenue approximately 100' to the east of the intersection onto Hwy 16/Wedington, a Principal Arterial. Staff finds that this curb cut may create a dangerous traffic condition in direct conflict with a future signalized intersection. Staff also has concern with the full turning movement proposed with the access west of 46th Street, and recommends the following revisions to the access proposed onto Wedington:~~

~~A. Remove the curb cut currently east of Building A.~~

~~B. Relocate the curb cut currently west of Building J to align with the drive aisle west of Building H.~~

~~Staff finds these two revisions will greatly enhance safety and provide mobility of pedestrians and traffic from this development, and also create a more traditional lot/block access pattern, serving multiple uses.~~

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

THE APPLICANT HAS FULLY ADDRESSED THIS CONDITION WITH THE REVISED SUBMITTAL (08/14/07).

5. All private drives and alleys and any sidewalks outside the right-of-way shall be included in a shared access easement. This access easement shall be included on the easement plat.
6. A minimum of 26' clear of any structure (fence, building, wall, etc.) shall be provided along all alleys utilizing residential trash service to provide adequate room for a trash truck and arm to pick up residential trash carts.
7. Signs indicating future street extension shall be installed at all street stub-outs.

Commercial Design Standards

8. Planning Commission determination of commercial design standards for the commercial

portion of the mixed use structures, and the stand-alone commercial structures, and overall compatibility and transition in the proposed development. *Staff finds in favor of this determination. The building elevations of other 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.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION, BUT REQUIRED THAT THE APPLICANT SHALL PROVIDE REVISED ELEVATIONS TO CITY COUNCIL TO SHOW GRADING/GARAGE ENTRIES FROM UNDERNEATH (07/23/07).

REVISED ELEVATIONS HAVE BEEN PROVIDED IN THE BOOKLET TO ADDRESS THE PLANNING COMMISSION'S COMMENT (08/13/07).

General

9. A preliminary and final plat approval is required prior to development of the single family portion of this project.
10. All infrastructure necessary to support Phase I of the project, including streets, is required to be constructed prior to final occupancy permits.
11. 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.
12. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code, and shall be subject to signage requirements for commercial development for Planning Area 1, and for residential development for all other Planning Areas.
13. 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.
14. 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. The development shall be consistent with the site plan and mix of uses

as approved in the PZD. All development shall meet applicable zoning and development criteria, unless specifically waived or varied by the Planning Commission as part of the PZD approval.

15. Should the detention pond area be approved as part of this project, it shall be formally incorporated into the property by way of a property line adjustment prior to issuance of construction permits.

Phasing

16. This project is required to obtain all permits in accordance to the Phasing as listed below. A one-year extension may be approved by the Planning Commission (subject to the criteria in UDC Chapter 166 for extensions). *The PZD booklet should be revised to reflect this phasing, including an exhibit graphically depicting the limits of construction for each phase.*

Phase No.	Timeframe for Permits (years)	Timeframe for Construction (years)
Phase 1	1	2.5
Phase 2	2	3.5
Phase 3	3	4.5
Phase 4	4	5.5
Phase 5	5	6.5
Phase 6	6	7.5
Phase 7	7	8

Parks

17. PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres. A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.

Landscape and Tree Preservation Plan Conditions

18. Planning Commission determination of a waiver of Unified Development Code Section 177.04(D)(3). *Staff finds in favor of the waiver for greenspace. Currently Chapter 177.04(D)(3) requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.*

PLANNING COMMISSION RECOMMENDED IN FAVOR OF THIS CONDITION (07/23/07).

19. Installation of the sidewalk north of Building H needs to be coordinated with the Urban Forester and the Sidewalk Administrator to achieve the highest amount of preservation.
20. Mitigation will be required on the site. The applicant has requested and been approved to utilize the Residential On-site Planting option. Using a combination of low and high priority trees, 215 (2) inch caliper large species trees will be required for this development.
21. The 215 mitigation trees will be planted at the time of C of O for the building they are associated with. If all the trees can not be located on the site, outside of utility easements, money in lieu will be accepted.
22. A 3-year bond, letter of credit, or check will be required before issuance of a final certificate of occupancy for the buildings in phase I. This should amount to \$53,750.
23. The Tree Preservation Calculations do not include canopy removed for the proposed single family homes. At the time of development approval, this canopy will be assessed for preservation and subsequent mitigation.
24. Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.
25. Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
26. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.

Plat and Booklet Revisions

27. Plat revisions to be completed prior to Planning Commission:
 - a. Provide two points in Arkansas State Plane Coordinates on the plat.

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. Trash enclosures shall be screened on three sides with materials compatible with the

surrounding structures, with access not visible from the street. Add this note to the site plan and all construction documents. Elevations shall be submitted to Planning staff for review and approval prior to building permit.

30. All mechanical and utility equipment located on the wall and/or on the ground shall be screened. All roof-mounted utilities and mechanical equipment shall be screened by incorporating screening into the structure utilizing materials compatible with the supporting buildings. Mechanical and utility equipment over 30 inches in height shall meet building setbacks. Smaller ground-mounted equipment may be screened with tall grasses or shrubs. Add this note to the site plan and all construction documents.
31. 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.
32. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
33. 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.
34. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - b. Final plat for this project that shall include all easements and the tree preservation area.
 - c. Project Disk with all final revisions
 - d. Completion of all required improvements or the placement of a surety with the City (letter of credit, bond, escrow) as required by Section 158.01 "Guarantees in Lieu of Installed Improvements" to guarantee all incomplete improvements. Further, all improvements necessary to serve the site and protect public safety must be completed, not just guaranteed, prior to the issuance of a Certificate of Occupancy.

~~35. The PZD booklet shall be revised to add a note to the maximum building height for PA-1 to 62' as measured to the top of the parapet.~~

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

36. The PZD booklet shall be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

THIS CONDITION HAS BEEN ADDRESSED WITH THE REVISIONS SUBMITTED FOR CITY COUNCIL (08/14/07).

37. The PZD booklet shall be revised to correct reference to on-street parking on page 6, change note that sidewalk cafes are allowed only by conditional use, and eliminate the duplicate text on alleys on page 32.

THE PLANNING COMMISSION ADDED THIS CONDITION (07/23/07).

Planning Commission Action:	Approval	Tabled	<u>X</u> Forwarded to C.C.
Motion:	<u>Lack</u>		
Second:	<u>Myres</u>		
Vote:	<u>8-0-0</u>		
Meeting Date:	<u>July 23, 2007</u>		
Comments:			

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

Signature

Date

Findings associated with R-PZD 07-2576 (Woodstock Community)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The Future Land Use Map adopted as part of City Plan 2025 designated this site City Neighborhood. 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, neighborhood shopping should be 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.

Rezoning this property to R-PZD 07-2576 for a traditional town form development with a majority of residential uses is consistent with the City Neighborhood designation, and is also consistent with several of the six major goals of the City Plan 2025. There are a number of waivers from the City's UDC that are applied for, and required, in order to develop a traditional neighborhood development, whether on this site or another.

The development proposes a maximum of 382 units and 100,390 square feet of non-residential space in a complete, compact, and connected community with meaningful open space. This development is different in use and density than most of the surrounding single-family lots in the immediate area. However, the site is located on a major transportation corridor (State Highway 16/Wedington Drive) with improvements currently taking place. The most intense uses front onto Wedington with the mixed use and stand-alone commercial buildings. The intensity and density decreases as the project site goes south, transitioning to townhouses, then detached single family residences along the southern property line adjacent to the Persimmon Place Subdivision.

Staff finds that the project is both different and compatible with the surrounding land uses and zoning, and that appropriate building setbacks have been provided adjacent to the surrounding single-family residences to provide a reasonable level of transition.

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

FINDING: The application has been reviewed and found to be compliant with applicable

statutory provisions.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The rezoning request, combined with the Master Development Plan, would allow a mix of uses and density over the site. The proposed zoning criteria concentrates the density and intensity along the major thoroughfare, State Highway 16/Wedington Drive, and provides a transition to the existing single family residences adjacent to the south by providing single family residences along the southern property line.

While this traditional neighborhood development introduces a different development pattern to this area, the layout has been done sensitively and is compatible with surrounding land uses. The proposed non-residential uses are needed and appropriate in the area, and will be used by surrounding existing neighborhoods.

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

FINDING: The 28.90-acre property is flat undeveloped pasture with trees generally concentrated along the fencerows. The natural environment is suitable for the type of development proposed.

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

FINDING: The intended land uses, a mix of residential, commercial, and civic, will impact the existing traffic conditions. Currently this development proposes several points of ingress and egress onto Wedington Drive to the north, and other points of ingress/egress onto Broyles Avenue and 46th Street to the west and east. As noted in the conditions of approval, staff recommends that the eastern and western curb cuts onto Wedington Drive either be eliminated or relocated further away from Broyles Avenue. With the incorporation of the recommended street improvements listed in the conditions of approval, staff finds that the proposed development would not create traffic congestion or overburden the existing road network. Staff recommends that assessments for half the cost of a traffic signal be installed at the intersection of Wedington/Broyles Avenue be

constructed with the final three phases of development, and that 46th Street be fully improved on both sides of the street adjacent to the project and the pavement section widened to 24' south to where it is currently improved to improve this section of 46th Street, tying into the existing improvements completed with the Persimmon Place and Cross Keys subdivisions. Staff finds that with the recommended street improvements this development will not create traffic congestion or burden the existing road network. Additionally, providing a mix of commercial and residential uses and providing pedestrian improvements may encourage many to walk or bicycle to utilize those services in the area, thereby decreasing the use of the vehicular network.

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

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

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: The proposed Woodstock Community PZD provides for a different form of development than surrounding single family residences. This development is a traditional town form of development that integrates a variety of housing types and non-residential uses into one neighborhood, rather than single family residential suburban development in the existing surrounding developed areas. This project provides appropriate transition between these mixes of uses adjacent to a principal arterial street. The mix of uses proposed enhances the existing surrounding neighborhoods and transportation corridor. The transition in this development involves the careful use of single family detached units adjacent to existing single family residences, with the most retail and more intense residential areas located in the northern portion of the site adjacent to Wedington Drive.

This development is a compact, complete development pattern, all connected with a system of sidewalks, pedestrian walkways, and narrow streets. 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. The mix of uses and relatively high density encourages a balance of people living and working in the same area reducing daily vehicle trips that rely on the regional road network. Several public spaces are proposed that will be a benefit to the community. Circulation is compact and connected, adequate parking has been provided, and the inclusion of landscaping/mitigation trees will create a healthy urban canopy. Also see Staff Findings No. 1 and No. 4.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: No screening is proposed, as there are not large surface parking areas or other areas requiring screening facing streets. All structures are oriented toward the streets. Surface parking for the mixed use buildings and stand-alone commercial buildings will be internal and screened from the streets. A landscape plan has been supplied, and trees along the frontages of all streets, both public and private, are required.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:

- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
- (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
- (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
- (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
- (e) Internal local streets shall be designed to discourage through traffic within the

planned zoning development and to adjacent areas.

- (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: The vehicular circulation system is comprised of a system of public streets and alleys, and private drives as described earlier in this report accessing Wedington Drive, Broyles Avenue, and 46th Street. 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. 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: The majority of the mixed use buildings will face onto Wedington Drive, with surface parking in the rear of these buildings, as well as in underground garages. Parking is provided on the public streets and along private drives, and garage parking is provided for the townhouses and single family residences. Parking proposed is in compliance with City code.

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

FINDING: This requirement has been met.

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

FINDING: Public, five-foot sidewalks are to be constructed adjacent to Wedington Drive and 46th Street along the property frontage and south offsite to tie into the existing sidewalk on 46th Street, sidewalks currently exist on Broyles Avenue. Internal to the development, sidewalks are provided along both sides of the public streets. A public sidewalk is provided around the civic building and green, and a public crushed stone trail will be provided around the stormwater detention area.

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

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

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

FINDING: Public water lines are being extended in accordance with city codes.

(9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are being extended in accordance with city codes.

(10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

(a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

(b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

(i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

(ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

(iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

(iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.

(v) The plat of the planned development shall designate each private street as a "private street."

(vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

(vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private

streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width
(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: A variety of waivers of the minimum street design standards are requested as the proposed street cross sections do not meet the current Master Street Plan standards. The proposed cross-sections are designed to calm traffic and encourage pedestrian comfort and activity throughout the site. Staff recommends in favor of the waivers for street and alley design, with the revisions submitted for Planning Commission consideration.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to alter the previous site plans, bringing forward a plan that accomplishes more of the goals for tree preservation. Mitigation trees will serve to provide an increased overall canopy on the site, providing for an urban canopy.

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

FINDING: The non-residential structures on the site include the mixed use and stand-alone commercial buildings in PA-1. Staff recommends in favor of commercial design standards for these structures as reflected in the conditions of approval.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed (four stories facing Wedington Drive) are appropriate along this major transportation corridor.

(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, compatibility and transition of land use, provision of a variety of housing types and common open spaces. The following guiding policies within City Neighborhood Areas 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.

(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 single family residential and agricultural. Although a majority of the surrounding uses are single family residential at a density of approximately four units per acre, density under the current zoning (RSF-4) is not appropriate for development of this site for a traditional neighborhood. The city's development goals, future land use plan, and infrastructure for this area supports a higher density. 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 development, it is not possible to conform to existing standards for lot area minimums and setback requirements.

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

FINDING: Building heights proposed for this project are typical of single and multi-family development, with the four-story mixed use buildings facing Wedington Drive providing adequate light and air to adjacent property, and the single family residences along the southern property line with a maximum height of 40'. With this development the aesthetics of this area would change from rural hay pasture, 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 relatively high, given the high density and mix of commercial uses. The lot coverages are appropriate given the urban 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. Rezoning this property to R-PZD 07-2576, 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. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is highly consistent with the land use planning objectives, principles and policies, as evidenced 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 and non-residential 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 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. Rezoning of this property as proposed is advisable.

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

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

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

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

Engineering: Public water is located adjacent to the site. There are waterlines along Wedington, Broyles, and 46th. Water service will need to be extended through the property at the time of development.

Sanitary sewer is available adjacent to the site. Sewer service will need to be extended within the property at the time of development. Improvements to the sewer system may be required dependent upon the demand placed by the development.

The site has access to Wedington Drive, Broyles Avenue, and 46th Street. Wedington Drive is under construction to be an improved 4 lane state highway in this location, Broyles Avenue is an improved two-lane road, and 46th Street is an unimproved local street adjacent to this property. Staff is recommending improvements to the public streets as reflected in the conditions of approval.

Standard improvements and requirements for drainage will be required for the development.

Police: It is the opinion of the Fayetteville Police Department that this rezoning will not substantially alter population density and will not create an undesirable increase on police services. The Police Department expressed similar concerns with the curb cuts onto Wedington Drive as the Planning and Engineering Divisions.

Fire: The subject property is located 1 mile from the Station No. 7 located at 835 Ruppel Road with an expected response time of 2.25 minutes. No adverse impacts on call volume or response time are anticipated.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed

zoning is justified and/or necessitated by peculiar circumstances such as:

- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
- b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

R-PZD 07-2576 WOODSTOCK COMMUNITY

**Staff Recommended Alley Width Cross Section
Updated After July 23, 2007 Planning Commission**

From: "Evan Niehues" <eniehues@appiancenterfordesign.com>
To: "Andrew Garner" <agarner@ci.fayetteville.ar.us>, "Jeremy Pate" <jpate@ci.fayetteville.ar.us>
Date: 8/1/07 7:53AM
Subject: Woodstock Alleys

Jeremy and Andrew,

Here are the alley exhibits we talked about. Please, keep in mind most of the templates are shown from the edge of the garage not where they will actually be parked in the garages. For a more accurate view of a parked car next to a backing up car see Exhibit 4 T-02/T-03 and Exhibit 2 T-64. Most views are of two cars backing up next to each other. Also, the part that seems to be cut out of the asphalt will actually be stamped asphalt to delineate the driving lane.

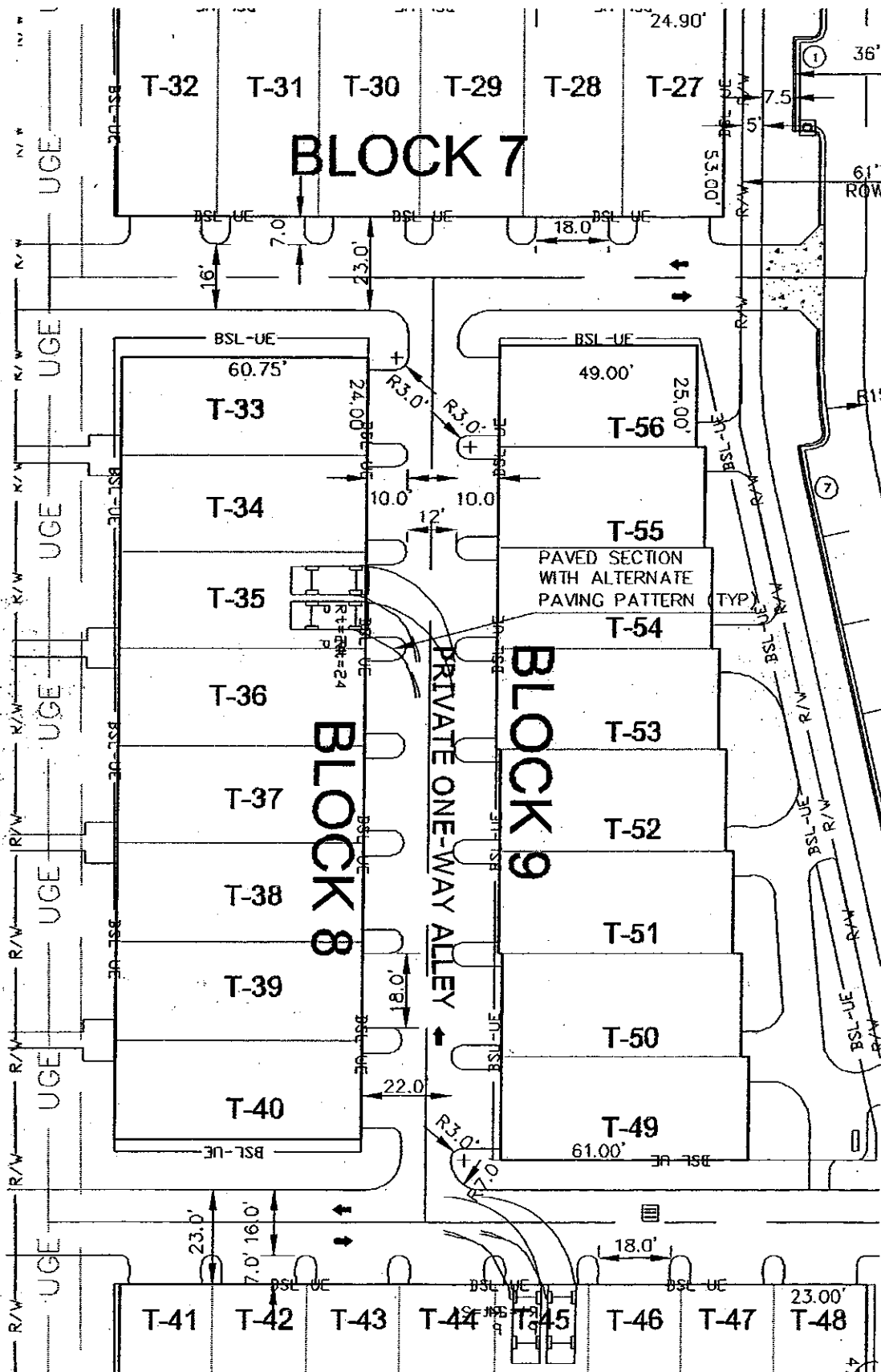
Thank you,

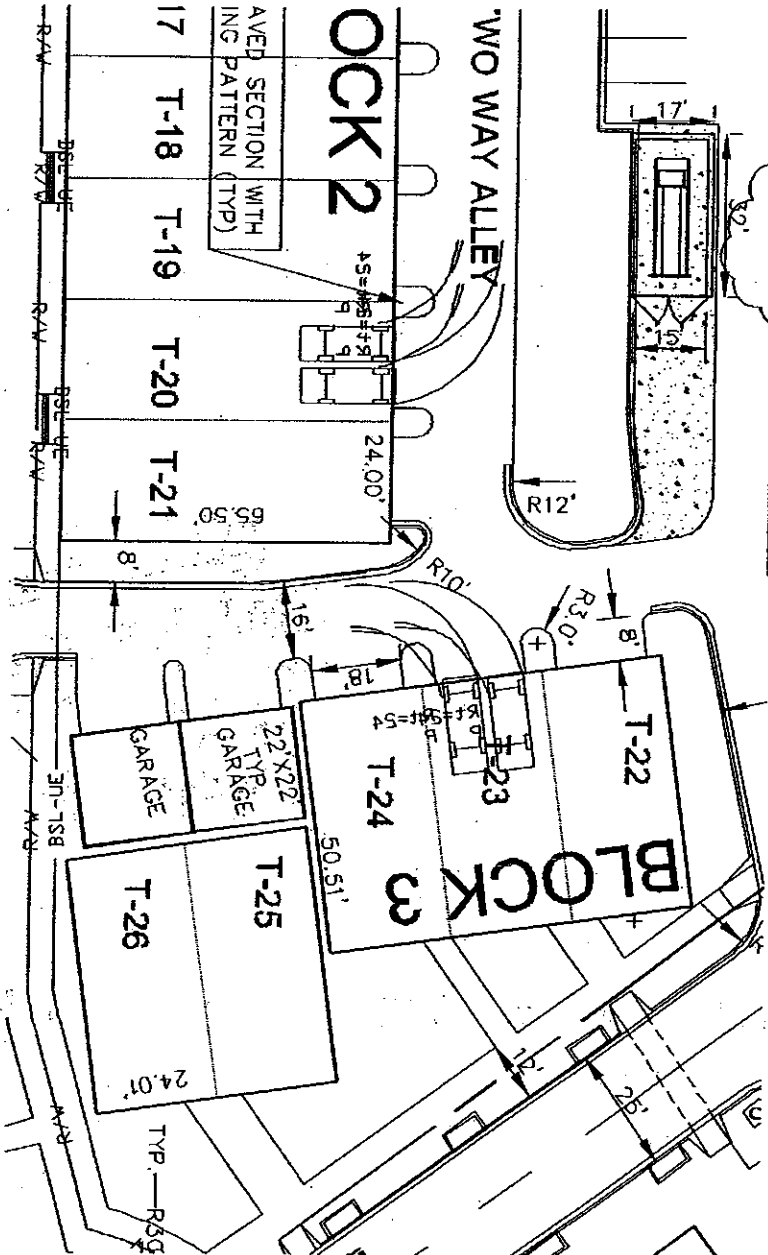
Evan Niehues

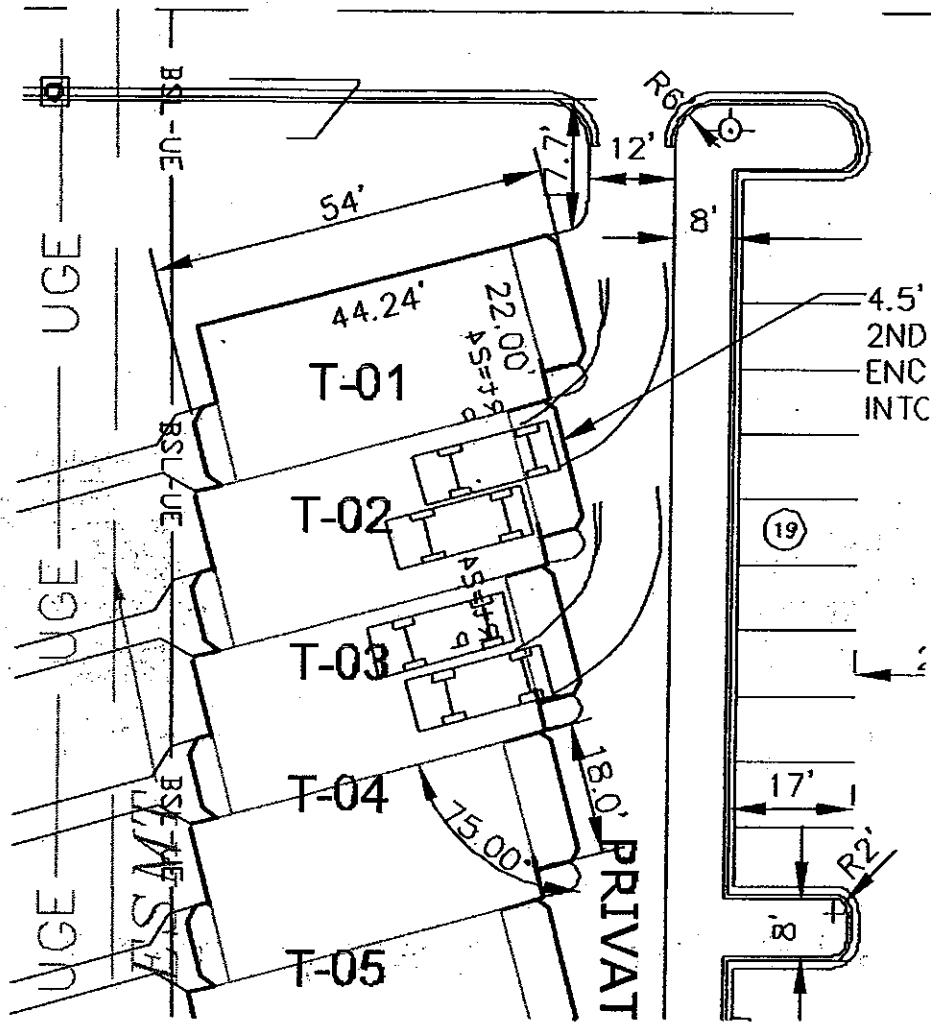
Appian Centre IV Design, Inc

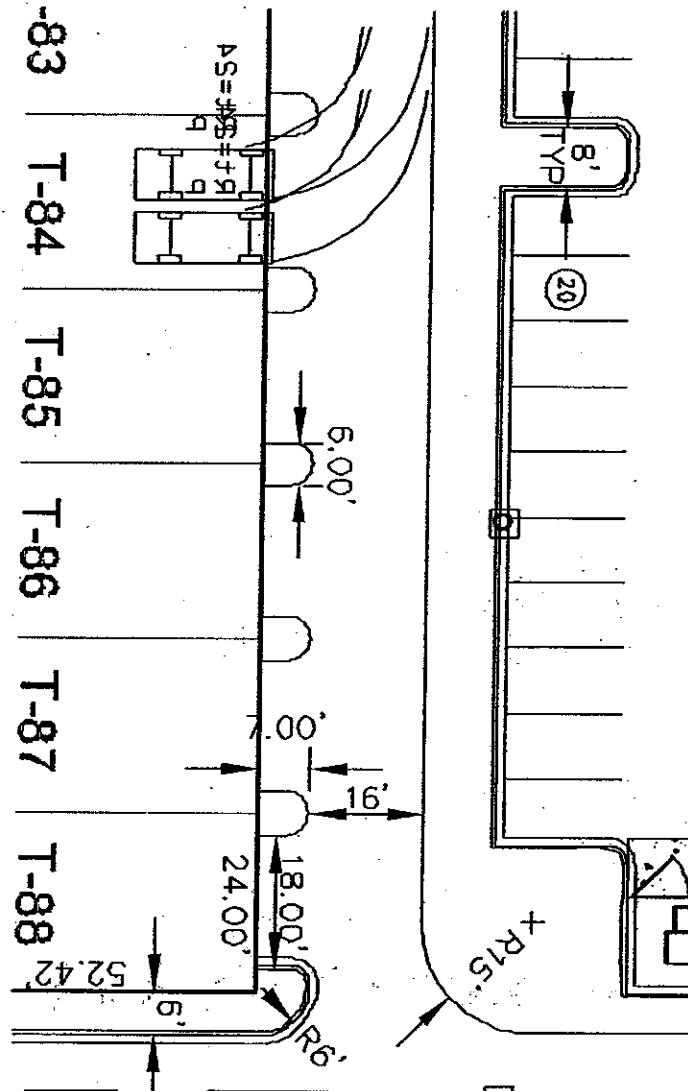
Phone: (479) 445-6009

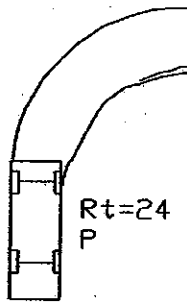
Fax: (479) 445-6050



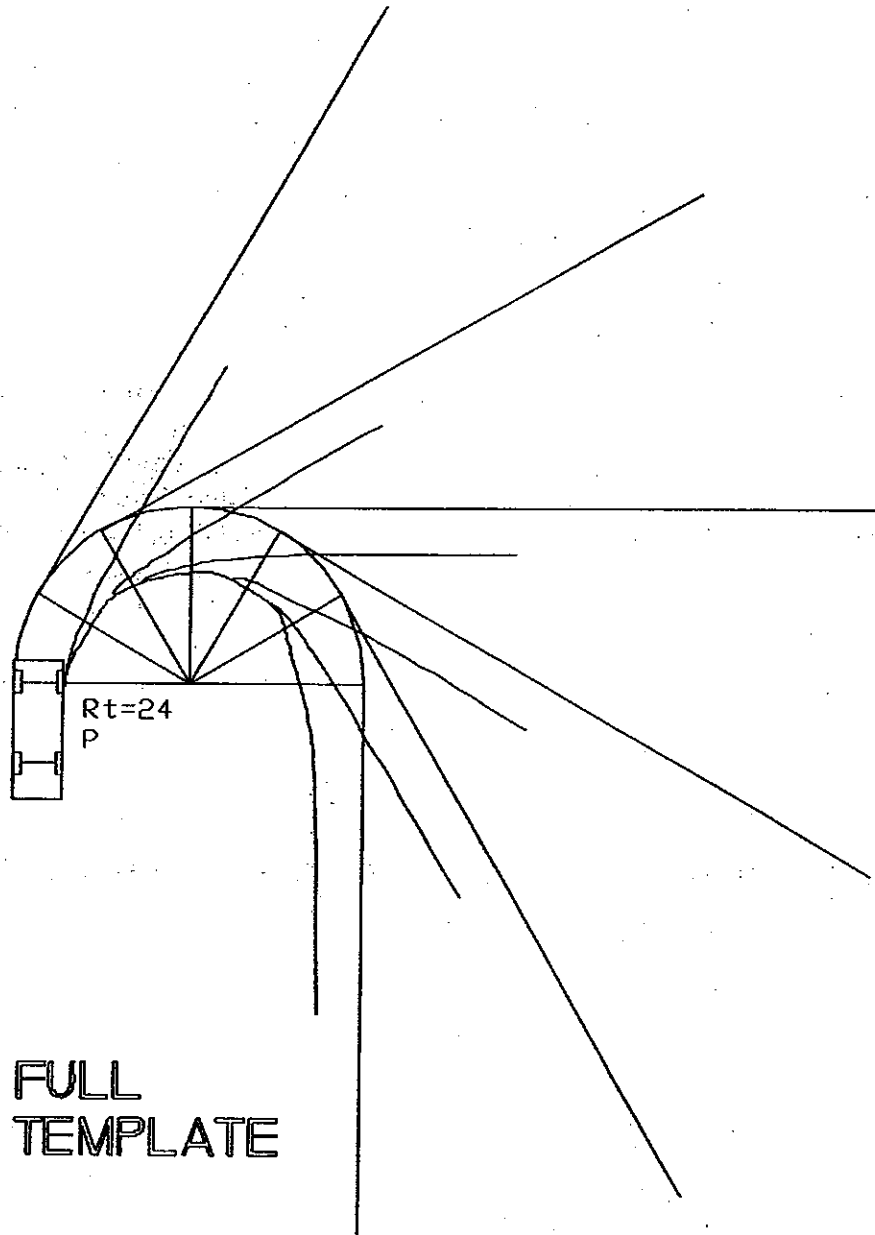








7' x 19' TRAFFIC TEMPLATE EQUIVALENT TO FULL-SIZE EXTENDED CAB CHEVY PICK-UP



FULL
TEMPLATE

MEMO

[illegible]

Captain Dale Riggins
Fayetteville Fire Department



PC Meeting of July 23, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: July 17, 2007

ITEM #: R-PZD 07-2576: Planned Zoning District (Woodstock Community)

Applicable Requirements:

Y	Site Development & Parking Lot Standards
NA	1-540 Design Overlay
Y	Street Tree Planting Standards
Y	Stormwater Facilities

Plan Checklist:

Y= submitted by applicant

N=requested by City of Fayetteville

NA= not applicable

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

Preliminary Submittal	Final Submittal	
Y	Y	Perimeter landscaping <i>Side and rear property lines (5' landscaped)</i> <i>Shade trees as described in street tree planting standards,</i> <i>Parking lot adjacent to R.O.W.- continuous planting of shrubs-at least 8 per tree- and ground cover -50% evergreen)</i>
		Overlay District Requirements
NA		Greenspace adjacent to street R.O.W. (25' wide)
NA		Large street trees planted every 30' L.F. along R.O.W.
NA		25% of total site area left in greenspace (80% landscape)
NA		Parking lots and outdoor storage screened with landscaping
		Street Tree Planting Standards (one of 1, 2, or 3 required)
Y	Y	Residential Subdivisions- 1 large species shade tree/ lot tree planted within R.O.W. if possible
Y	Y	Nonresidential Subdivision- 1 large species shade tree/30 L.F. tree planted within 15-25' greenspace
NA		Urban Tree Wells-urban streetscape only-8foot sidewalk
NA		Structural Soil-if urban wells are used, a note or detail of structural soil must be indicated on the landscape plan
NA		Timing of planting indicated on plans (subdivisions only)
N	Y	Written description of the method for tracking plantings
		Stormwater Facilities (one of 1, 2, or 3 required)
N	Y	1 deciduous or evergreen tree/ 3000 square feet
N	Y	4 large shrubs (3 gal) or small trees / 3000 square feet
N	Y	6 shrubs or grasses (1 gal) / 3000 square feet
N	Y	Ground cover unless seed or sod is specified
N	Y	50% of facility planted with grass or grass like plants

Findings

- **Staff finds in favor of the waiver for greenspace. Currently Chapter 177 requires street trees to either be planted in a 15 foot greenspace or within an urban streetscape option utilizing tree grates. The applicant is proposing to plant the trees within a 7 foot greenspace between the sidewalk and the curb. Staff feels this space is adequate for tree growth and a superior environment to that found within a sidewalk. This waiver will meet the intent of the ordinance in supplying a tree lined street to encourage a walkable environment.**

Conditions of Approval:

1. **Before construction plan approval, the landscape plan must be stamped by a licensed landscape architect with the state of Arkansas.**
2. **Prior to building permit, a cost estimate for all required landscape is to be submitted to the Urban Forester for review. Once approval**

is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.

3. Under Landscape Regulations Chapter 177, street trees must be bonded for a 3 year period. This bond is for the maintenance of the trees. This amount must be deposited with the City before issuance of a final certificate of occupancy.



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

THE CITY OF FAYETTEVILLE, ARKANSAS

TO: Andrew Garner, Planner
FROM: Carole Jones, Park Planner
DATE: July 10, 2007
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: July 12, 2007
Item: PZD 07-2576 Woodstock Community
Park District: SW
Zoned: R-A
Billing Name & Address: Nock-Broyles Land Development
4921 Clear Creek Blvd., Fayetteville, AR 72704
PH: (479) 283-9545

Current Land Dedication Requirement

Money in Lieu

Single Family	_____ @ .024 acre per unit = _____ acres	_____ @ \$960 per unit = \$ _____
Multi Family	328 @ .017 acre per unit = 5.57 acres	_____ @ \$680 per unit = \$ _____

COMMENTS:

- PRAB reviewed this project on March 15, 2007 and made a recommendation of accepting 6.87 acres of park land (the total amount required for the complete development including the future 54 single family lots) offsite along the south side of Owl Creek commencing at Broyles Ave. The required park land dedication for the current development request is 5.57 acres.
- A deed for the land must be submitted to the city land agents for review and filed at the County. A copy of the filed deed must be provided to Parks prior to issuance of building permits.
- Parks will review each phase as it is submitted for large scale development review.



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APIAN CENTRE FOR DESIGN

July 17th, 2007

Mr. Jeremy Pate and Mr. Ron Petrie
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

Proposal #2

RE: Woodstock Community Traffic Signal Assessment and 46th St. Street improvements

The following is Appian Centre for Design's proposal to the City of Fayetteville for a traffic signal at the intersection of N. Broyles Ave and Wedington Dr. and street improvements for N. 46th Street.

Intersection of Broyles Avenue and Wedington Drive Traffic Light: Appian Centre for Design proposes that the Woodstock Community project be assessed half (\$62,500 of \$125,000) of the costs for construction of a new traffic signal to be located at the intersection of N. Broyles Ave. and Wedington Drive. We are requesting that the associated fees be staggered proportionally (1/3 of the assessment paid at each phase) through the first three phases.

Phase 1:	\$20,833.34
Phase 2:	\$20,833.33
Phase 3:	\$20,833.33

Total Cost: \$62,500.00

N. 46th Ave Improvements: Nock-Broyles Land Development will be funding and installing improvements on the west and east side of 46th street along approximately 680 LF bordering the Woodstock Community. Improvements to N. 46th Ave. will occur during construction of Phase I.

*The City of Fayetteville assumes all responsibility for acquiring necessary right of ways and realigning necessary utilities along N. 46th Ave.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050

Proposal #2
QD



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APIIAN CENTRE FOR DESIGN

Proposal #1
(64)

June 14, 2007

Mr. Ron Petri and Mr. Jeremy Pate
City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701

RE: Woodstock Community Traffic Signal Assessment and 46th St. Street improvements assessment

The following is Appian Centre for Design's proposal to the City of Fayetteville for a traffic signal at the intersection of N. Broyles Ave and Wedington Dr. and street improvements for N. 46th Street.

Concerning the intersection of Broyles Avenue and Wedington Drive, Appian Centre for Design proposes that the Woodstock Community project be assessed for a percentage of the construction costs proportional to the traffic generated from this development for construction of a new traffic signal to be located at the intersection of N. Broyles Ave. and Wedington Drive. This proposal is based upon the relatively small percentage of traffic generated from the Woodstock Community entering this intersection.

Concerning 46th street... Nock-Broyles Land Development will be funding and installing improvements on the west side of 46th street bordering the Woodstock Community, however we request the City of Fayetteville cost share 50% in the of improvements to the east side of 46th street. Appian Centre for Design also proposes the Woodstock Community project not is assessed any costs for construction of street improvements south of the projects property line based on the minimal traffic volumes generated by the Woodstock Community.

Woodstock Projected Traffic for Full Build Out = 5,844 vpd

- 27% (1,578) of Woodstock-generated traffic will use the intersection of Broyles and Wedington
- 35% (2,045) of Woodstock-generated traffic will use N. 46th going north to Wedington Drive.
- 5% (292) of Woodstock-generated traffic will use N. 46th going south from Woodstock.

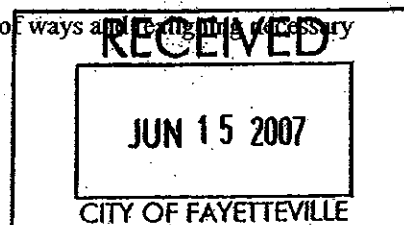
Traffic Signal Assessment

Probable Costs of Traffic Signal Plus Intersection Improvements	= \$150,000
Projected traffic from full build-out of Phase I using Traffic Signal	= 1578 vpd
Minor Arterial traffic capacity	= 14,800 vpd
% traffic from full build out	= 11%
Woodstock Community Signal Assessment Costs	= \$16,000

N. 46th Ave Assessment on East Side North of N 87° 05' 38" W

Probable Costs for East Side of 46 th Ave. North of N 87° 05' 38" W	= \$55,000
Projected traffic using 46 th Ave. bordering property	= 2,045 vpd
Local street traffic capacity	= 4,000 vpd
% traffic from full build-out	= 51%
Woodstock Community 46 th Ave Assessment Costs after 50% cost share	= \$27,500

*The City of Fayetteville assumes all responsibility for acquiring necessary right of ways and engineering necessary utilities

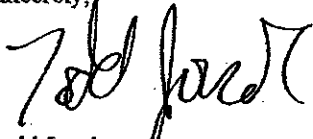


Construction of the Woodstock Community is expected to take approximately 2 to 8 years. As the improvements will occur over time, we are requesting that the collection of the associated assessment fees be staggered per construction phase to better account for the true time of impact. Construction to improvements along the west side of N. 46th Ave is to occur at time of construction to Phase II.

Woodstock Community Total Assessment

= \$43,500

Sincerely,



Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050



PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

APPIAN CENTRE FOR DESIGN

July 16th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Woodstock Community Phasing Plan

CC: [REDACTED] [REDACTED]
Matt Casey P.E. Assistant City Engineer

Mr. Pate,

Appian Centre for Design would like to propose the following phasing plan for the construction of the Woodstock Community:

Phase 1: Permits will be pulled within one year of Fayetteville City Council approval. Construction will be completed within two and one half years of approval.

Phase 2: Permits will be pulled within two years of Fayetteville City Council approval. Construction will be completed within three and one half years of approval. Improvements to the west side of 46th Ave. will be completed in phase two.

*Payment for the traffic signal at the intersection of Broyles Ave. and Wedington Dr. will be split proportionally (according to number of units) between phases one and two.

Phase 3: Permits will be pulled within three years of Fayetteville City Council approval. Construction will be completed within four and one half years of approval.

Phase 4: Permits will be pulled within four years of Fayetteville City Council approval. Construction will be completed within five and one half years of approval.

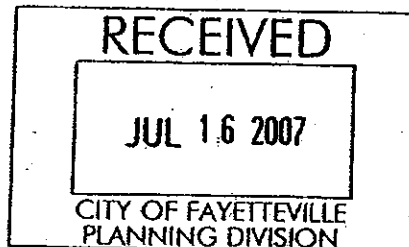
Phase 5: Permits will be pulled within five years of Fayetteville City Council approval. Construction will be completed within six and one half years of approval.

Phase 6: Permits will be pulled within six years of Fayetteville City Council approval. Construction will be completed within seven and one half years of approval.

Phase 7: Permits will be pulled within seven years of Fayetteville City Council approval. Construction will be completed within eight years of approval.

Sincerely,

Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050





PLANNING
LANDSCAPE ARCHITECTURE
URBAN DESIGN
ENGINEERING

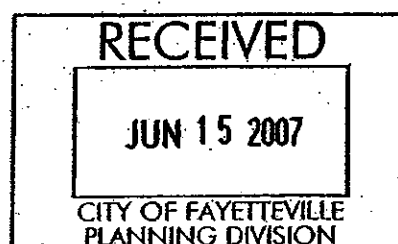
APIAN CENTRE FOR DESIGN

June 14th, 2007

Jeremy Pate
Director of Current Planning
City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701

RE: Woodstock Community

CC: Glen Newman P.E. Staff Engineer
Andrew Garner Senior Planner
Matt Casey P.E. Assistant City Engineer



Mr. Pate,

Appian Centre for Design is writing to request waivers granting permission to:

1. Construction curb return radii (CRR) of 20' on all interior street and alley intersections
2. Implementation of street cross sections different than those required by the current Master Street Plan standard with regards to street width, greenspace, and sidewalk width.
3. Waiver for a minimum centerline curve radius on Street Four of 31.5
4. The option to use 18" curb versus the standard 24" curb

Please consider the following as grounds for granting the waivers:

1. The request is to allow a 20' curb return radius (CRR) at all interior street intersections in order to reduce the speed of turning automobiles and to reduce the in-street walking distance required for pedestrians crossing the street. Excessive CRR allows traffic to take turns too fast, raising the design speed of streets to levels that are uncomfortable and unsafe to pedestrians. A 20' CRR will create a safe pedestrian environment that promotes walking and pedestrian safety.

No above ground obstructions, such as fire hydrants, street lights, trees or traffic signs will be permitted within fifteen feet (15') of an intersection of streets. Along with the reinforced curbs and no parking zones designed to allow apparatus to utilize curbs for their turning needs if the roadway is otherwise restricted.

2. This request is for a waiver granting permission to implement street cross sections with the following conditions: 10 feet driving lanes, 7.5 feet wide parallel on-street parking, 1.5 feet of curb and gutter, 7 feet of green space or greater, and five feet sidewalks. The current Master Street Plan Cross sections were created in regards to RS-4 development. Appian Centre for Design believes that for the Woodstock Community to be successful

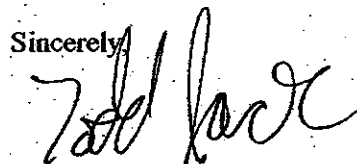
as a Traditional Neighborhood it must adopt street sections that lend toward a more compact, safer, and pedestrian friendly environment.

On-street parking will provide pedestrians with a feeling of separation from moving traffic along the street not obtained with greenspace. A greenspace of seven feet has proven adequate for proper tree growth in community developments throughout the United States and will prove a welcome alternative to the urban tree well with regards to the desired aesthetic quality along public streets within the Woodstock Community. A seven and a half feet parallel parking space will serve adequate for typically sized automobiles to be parked along the Woodstock Community's residential streets. A five feet sidewalk is wide enough for two large adults to walk abreast of each other on.

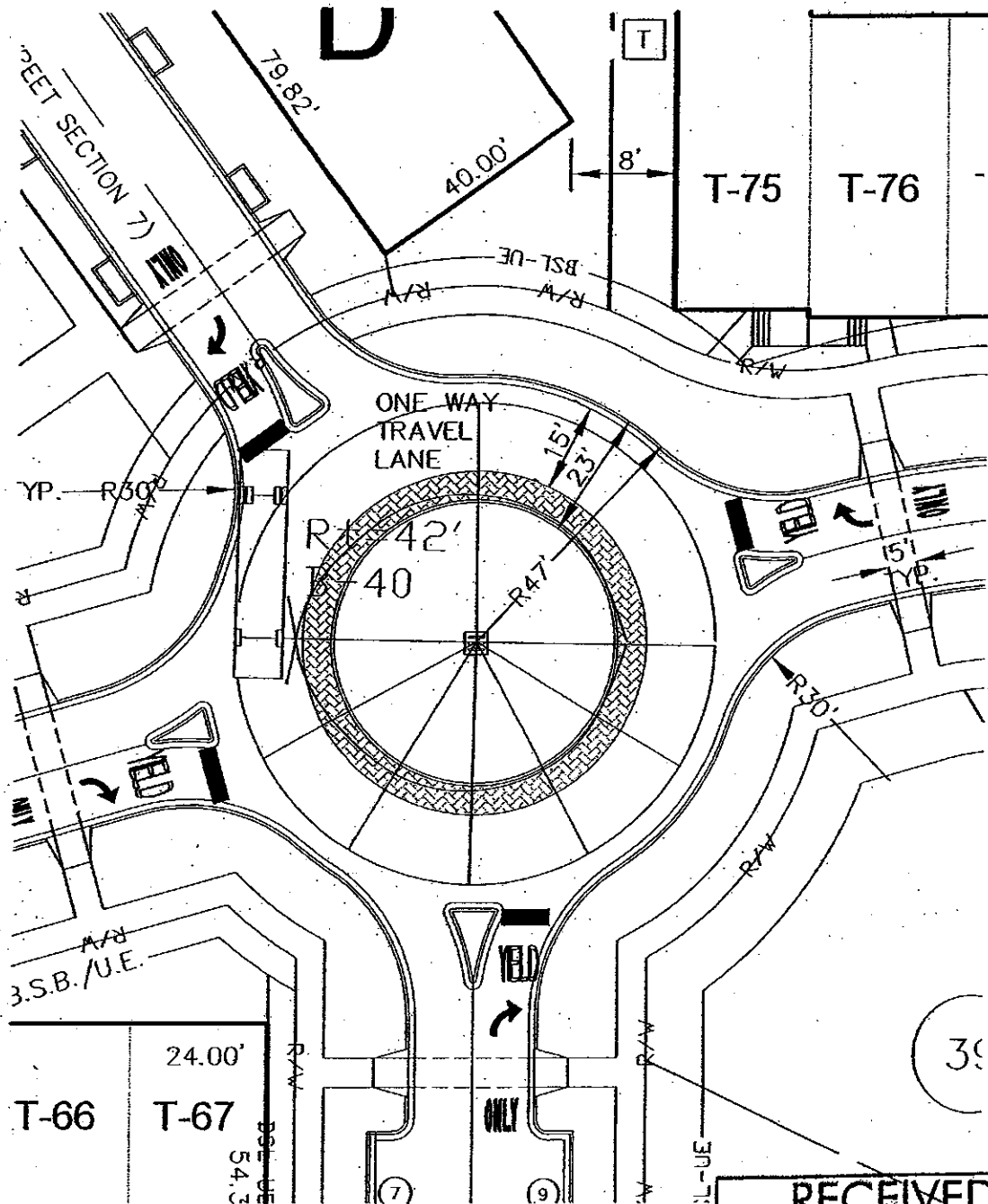
3. Due to site constraints, we are proposing a 31.5' centerline radius on Street Four. This radius will prove adequate for the small amount of residential traffic on the street along with any service or emergency vehicles that will require access into the rear of the Woodstock Community.
4. An 18" curb versus a standard 24" curb uses less concrete and is consistent with traditional neighborhood design in which aesthetics play a large role.

Thank you for your time in considering this matter. I look forward to hearing from you. If you have any comments or questions, please do not hesitate to contact me.

Sincerely,

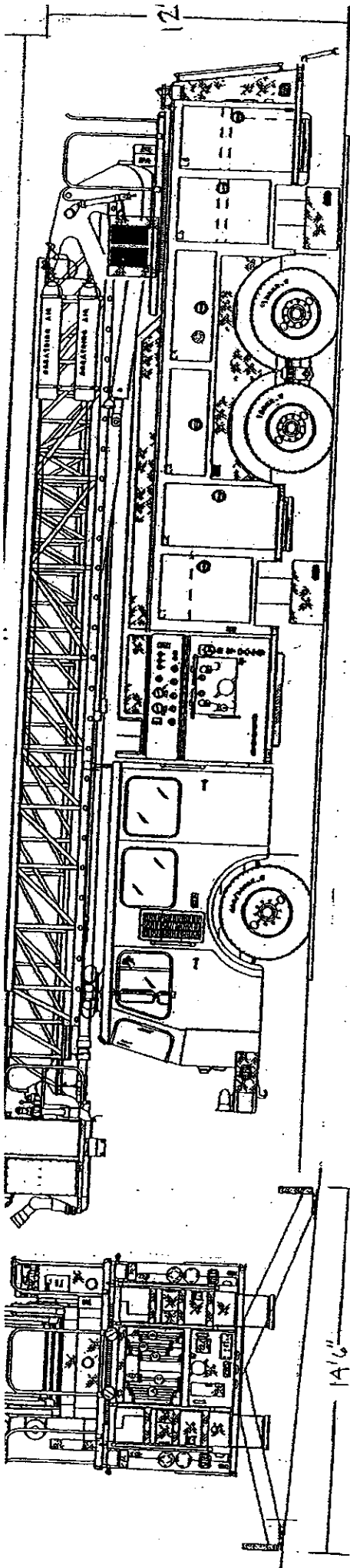


Todd Jacobs
Appian Centre for Design, Inc.
Director of Design
One East Center Street Suite. 212
Fayetteville, AR 72701
Phone: 445-6009
Fax: 445-6050



RECEIVED
JUN 15 2007
CITY OF FAYETTEVILLE
PLANNING DIVISION

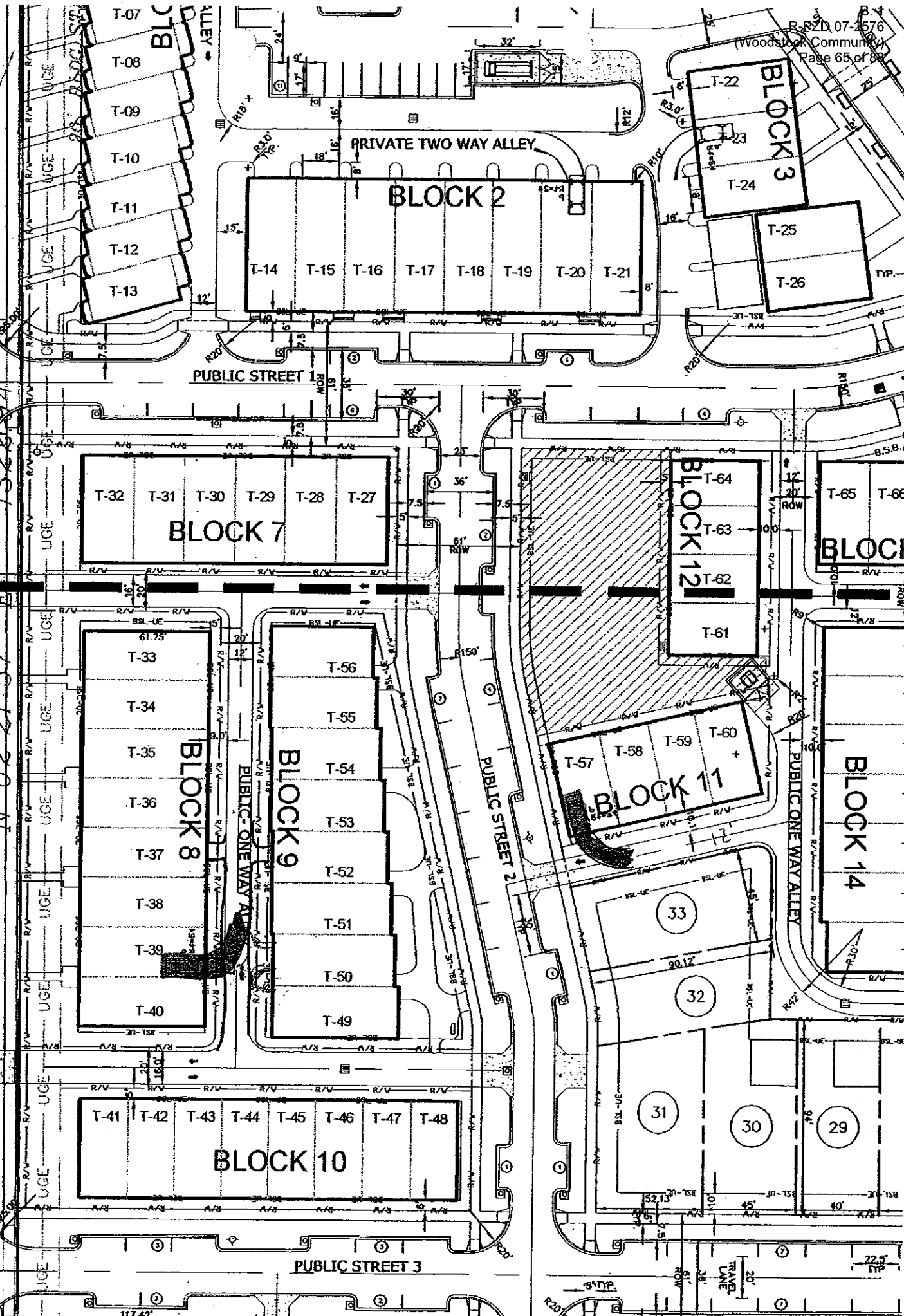
FAYETTEVILLE'S LARGEST FIRE TRUCK

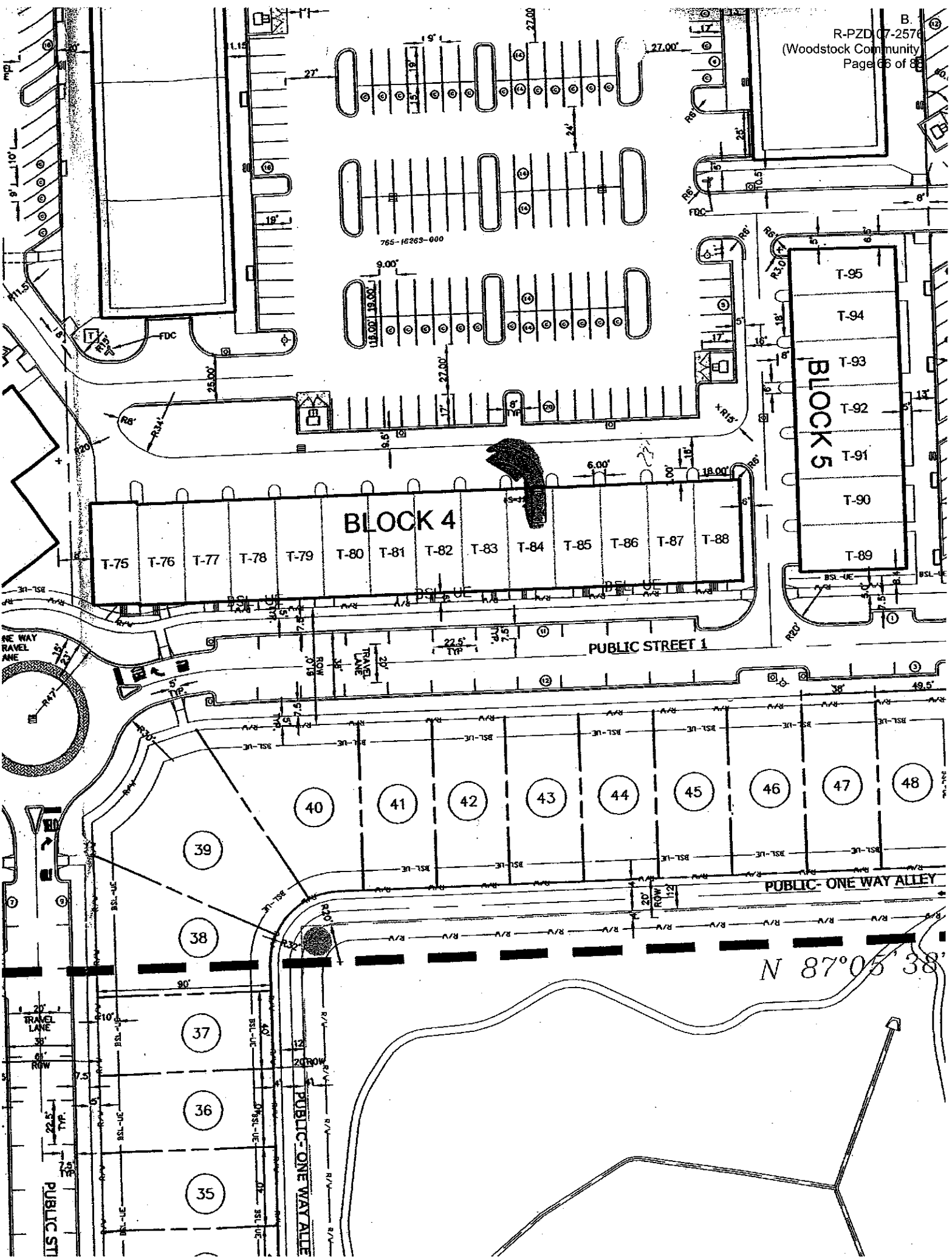


95' Platform Ladder
Vertical Height: 92 ft.
Horizontal Reach: 80.8 ft.
Wheel Base: 245 in.
Vehicle Length: 45 ft. 11 in.
Vehicle Height: 12 ft.
Turning Radius: 40 ft.
Vehicle Weight: 70,000 – 75,000 lbs.

EXISTING 5' SIDEWALK

N 02°21'57" W 1322.94'





N 87°05'38"

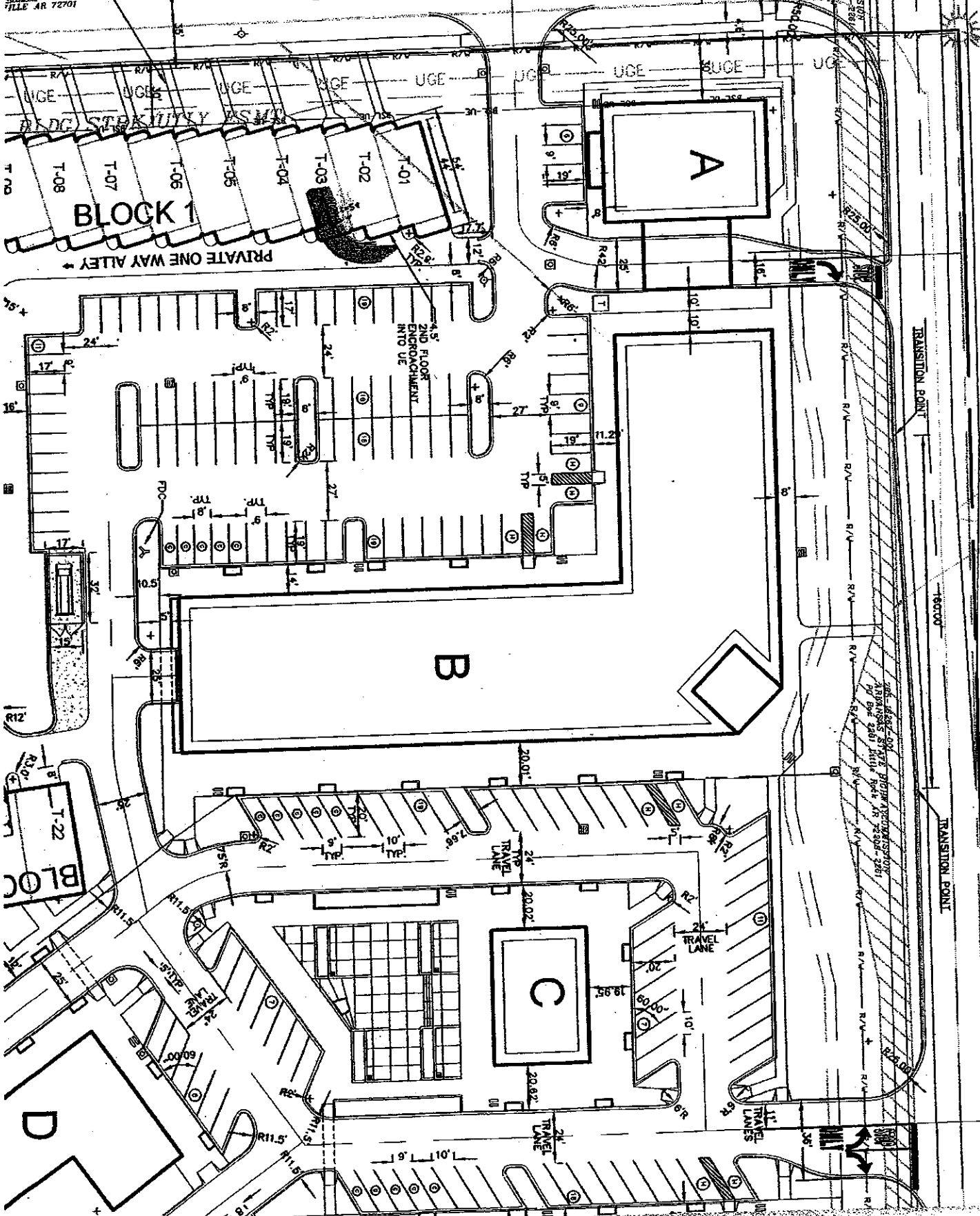
765-0932-101
ARIZONA STATE HIGHWAY COMMISSION
P.O. BOX 2801 LITTLE ROCK, AR 72203-2801

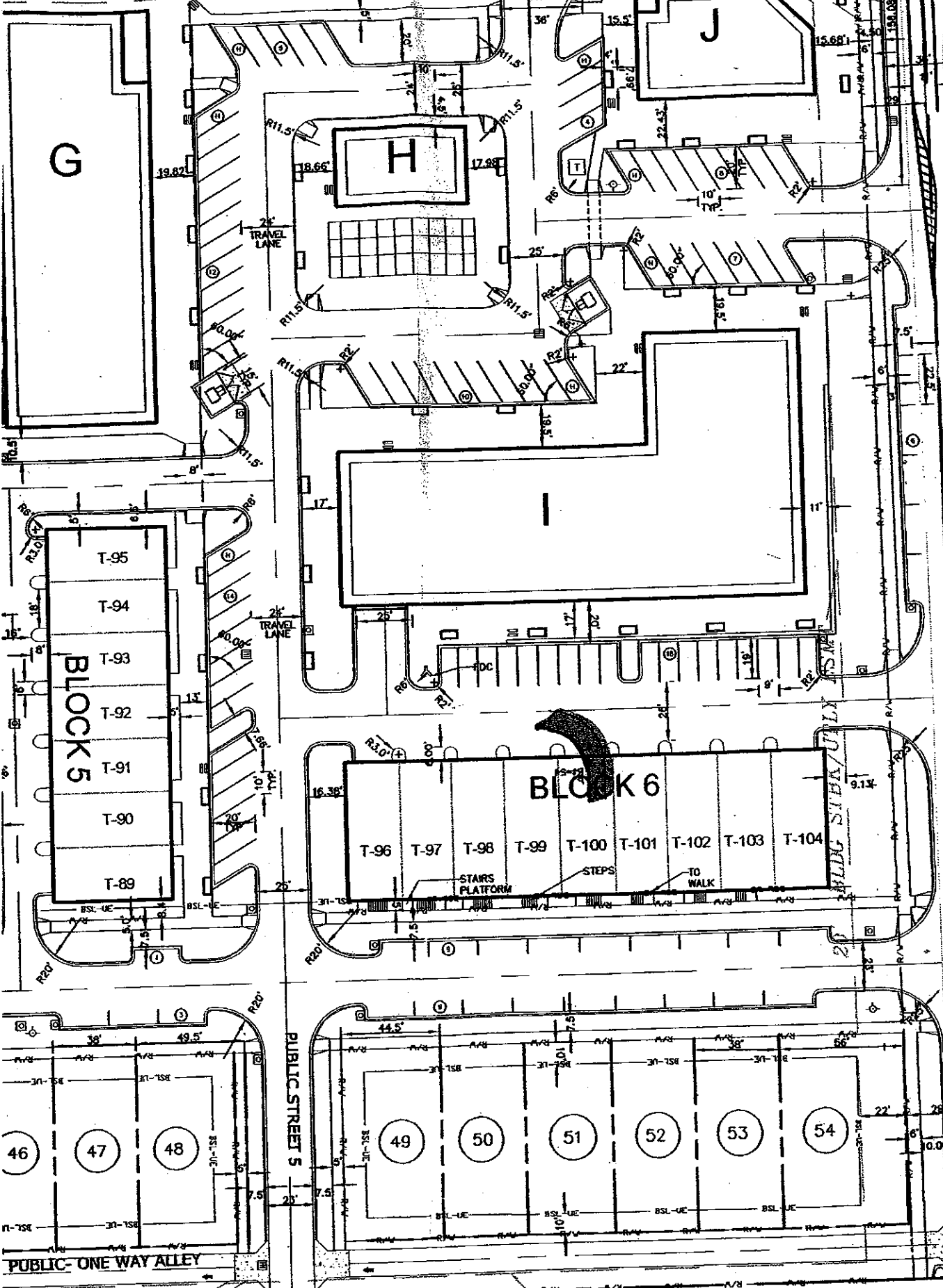
FILE # 2005-0042347

S 87°05'38" E 1305.70'

SSASA MUNICIPAL CORPORATION
FILE AR 72701

N. BROYLES AVE.





N. 46TH AVE
S 02°21'43" W 660.00'



PETERS & ASSOCIATES
ENGINEERS, INC.

July 10, 2007

Mr. Evan Niehues
Appian Centre for Design
1 East Center Street
Fayetteville, AR 72701

Re: P1251
Woodstock Development
Fayetteville, Arkansas
Alley Turning Movement Geometry Comments

Dear Mr. Niehues:

Peters & Associates Engineers, Inc. reviewed the alley turning movement geometry for the proposed Woodstock Development site plan provided by Appian Centre for Design on July 2, 2007. We offer the following recommendations to enable more safe and efficient access to residential units adjacent to the alleys:

- Shift townhouse T-01 south ten feet to allow adequate room to back into the alley without entering the travel lane to the north.
- Change the radii on U-shaped islands between townhouse driveways to three feet. These islands should not obstruct the view on T-01 to T-13.
- Change alley south of TH-27 to TH-29 from one-way to two-way.

It was found that the other alley setbacks will provide adequate access to the residential units they serve.

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

Sincerely,
PETERS & ASSOCIATES ENGINEERS, INC.

Gregory B. Simmons
Vice-President

Traffic Study

FINAL RESULTS: Traffic Signal Warrants Analysis										
Projected Conditions										
Hour warrant was met:										
Major St.: Wedington Drive										
Minor St.: N. 46th Ave.										
HOUR	SUM MAJOR	MAX. MINOR	VOLUME		COMB.		4 Hr.		Peak	
			600	900	480	720				
			150	75	120	60				
			1A	1B	1AB		2		3	
7:00	1431	11	0	0	0	0	0	0	0	0
8:00	958	7	0	0	0	0	0	0	0	0
9:00	951	6	0	0	0	0	0	0	0	0
10:00	998	7	0	0	0	0	0	0	0	0
11:00	965	10	0	0	0	0	0	0	0	0
12:00	996	10	0	0	0	0	0	0	0	0
13:00	1048	10	0	0	0	0	0	0	0	0
14:00	1028	10	0	0	0	0	0	0	0	0
15:00	1219	11	0	0	0	0	0	0	0	0
16:00	1393	11	0	0	0	0	0	0	0	0
17:00	1631	17	0	0	0	0	0	0	0	0
18:00	1316	13	0	0	0	0	0	0	0	0
19:00	1052	11	0	0	0	0	0	0	0	0
20:00	741	8	0	0	0	0	0	0	0	0
21:00	589	8	0	0	0	0	0	0	0	0
			0	0	0		0		0	

Table 7
Traffic Signal Warrants Results
Wedington Drive and
North 46th Avenue
Projected Traffic Conditions.

This intersection DOES NOT SATISFY the warrants for signalization as outlined in the "M.U.T.C.D."

FINAL RESULTS: Traffic Signal Warrants Analysis										
Projected Conditions										
Hour warrant was met:										
Major St.: Wedington Drive										
Minor St.: Broyles Ave.										
HOUR	SUM MAJOR	MAX. MINOR	VOLUME		COMB.		4 Hr.		Peak	
			600	900	480	720				
			150	75	120	60				
			1A	1B	1AB		2		3	
7:00	1262	26	0	0	0	0	0	0	0	0
8:00	852	16	0	0	0	0	0	0	0	0
9:00	858	14	0	0	0	0	0	0	0	0
10:00	883	19	0	0	0	0	0	0	0	0
11:00	817	22	0	0	0	0	0	0	0	0
12:00	858	25	0	0	0	0	0	0	0	0
13:00	885	23	0	0	0	0	0	0	0	0
14:00	870	23	0	0	0	0	0	0	0	0
15:00	1052	27	0	0	0	0	0	0	0	0
16:00	1207	25	0	0	0	0	0	0	0	0
17:00	1293	33	0	0	0	0	0	0	0	0
18:00	1135	28	0	0	0	0	0	0	0	0
19:00	899	25	0	0	0	0	0	0	0	0
20:00	628	19	0	0	0	0	0	0	0	0
21:00	522	16	0	0	0	0	0	0	0	0
			0	0	0		0		0	

Table 8
Traffic Signal Warrants Results
Wedington Drive and
Broyles Avenue
Projected Traffic Conditions.

This intersection DOES NOT SATISFY the warrants for signalization as outlined in the "M.U.T.C.D."

RECOMMENDED
SCHEMATIC
LANE GEOMETRIES

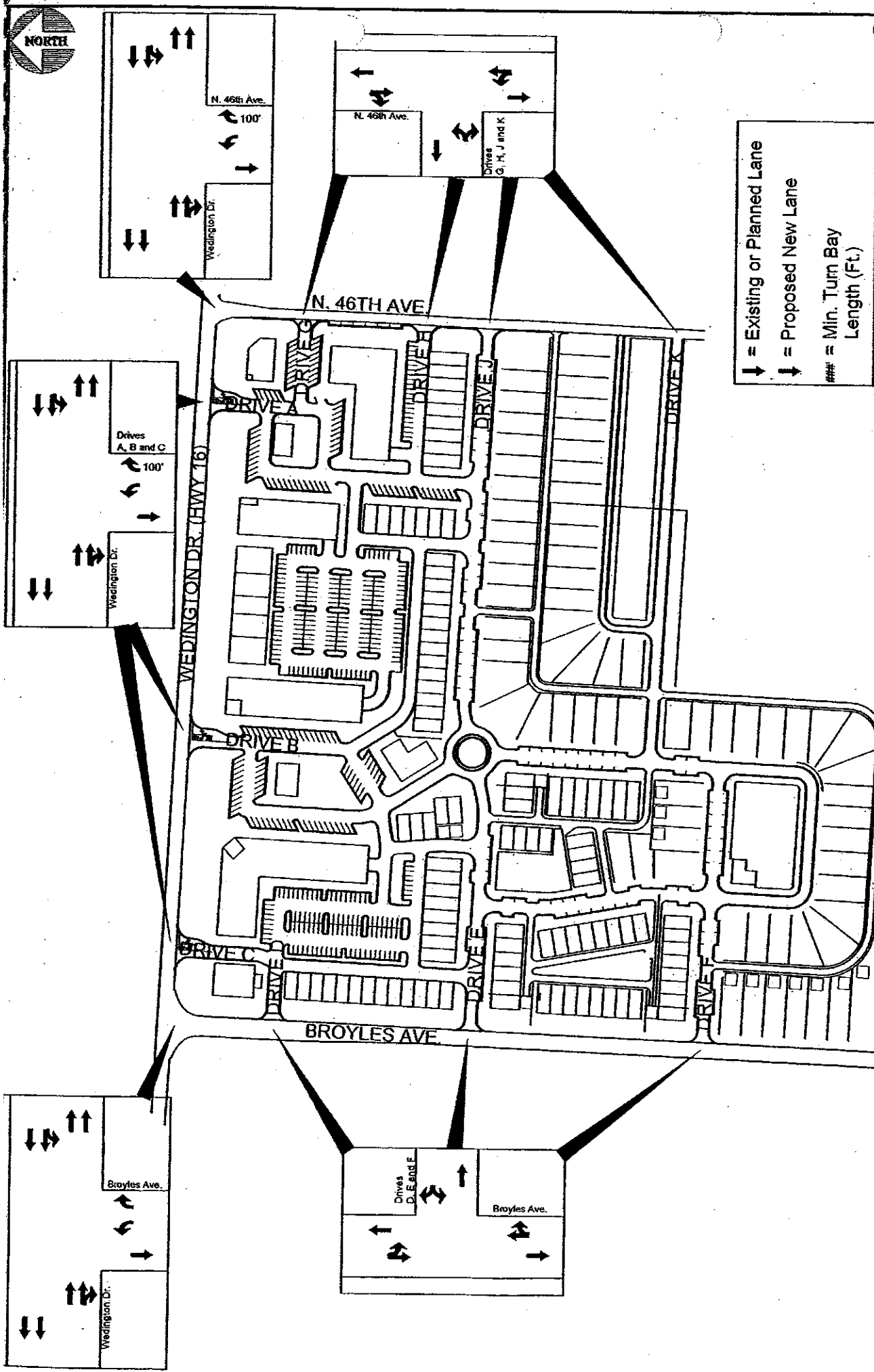
WOODSTOCK COMMUNITY
TRAFFIC STUDY

FAYETTEVILLE, ARKANSAS

PROJECT No. P-1251
DATE: 3-21-2007

PETERS & ASSOCIATES
ENGINEERS, INC.

CIVIL & TRAFFIC ENGINEERING



↓ = Existing or Planned Lane
↓ = Proposed New Lane
= Min. Turn Bay Length (Ft.)

Woodstock Community
07-2576

ADJOINING PROPERTY OWNERS COMMENTS
Return Comments concerning ~~Highway 2576~~
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:

UNITY CHURCH OF FAYETTEVILLE

Name of Property Owner (Printed)

Signature of Property Owner

Robert H. Hodge; BOARD TREAS.
Gillian Bone - President

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

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

Paul Marinoni

PAUL MARINONI, JR.
4995 WEDINGTON DRIVE
FAYETTEVILLE, AR 72704-5858

R-PZD 07-2576: Planned Zoning District (WOODSTOCK COMMUNITY, 438): Submitted by APPIAN CENTER FOR DESIGN for property located ALONG W. WEDINGTON DRIVE FROM 46TH TO BROYLES AVENUE. The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 28.90 acres. The request is for re-zoning and land use approval of an R-PZD, Residential Planned Zoning District with 382 dwelling units in mixed use, single family, townhome configuration, 100,390 s.f. of commercial space in mixed use and restaurants in addition to a civic center building and park to be constructed in 7 phases over an 8 year time frame. The request also includes development approval for a portion of the project at this time.

Andrew Garner, Senior Planner, gave the staff report. He described the request, surrounding land uses and street system. The proposed PZD is to create an urban neighborhood with streets designed to be narrow for safety and pedestrian activity. The property is designated as a City Neighborhood Area on the Future Land Use Plan. Waivers are required for narrow street sections. The project is proposed to be developed in seven phases over eight years. Garner discussed staff's recommended street improvements as described in the staff report, and the revised recommendations on street improvements to that presented to the Subdivision Committee. At the Subdivision Committee eight members of the public spoke and were against the project. The City Neighborhood Designation of the site encourages a variety of residential uses. The proposal is consistent with many of the CityPlan 2025 goals. Garner described the site layout describing that the most intense uses including commercial and mixed use are along Wedington Drive, and that the density and intensity reduces away from Wedington, and that the southern portion of the property is wrapped with single family residential uses adjacent to the existing single family neighborhood to the south. The City Police Department provided a memo consistent with staff's recommendations to limit curb cuts onto Wedington for traffic safety reasons. Staff recommends additional alley width on several of the alleys to ensure adequate turning movement. Garner discussed condition of approval No. 4 regarding recommendations to limit and modify the curb cuts as they are proposed. Staff recommends in favor of Commercial Design Standards. Garner also discussed a requested greenspace waiver and gave staff's recommendation for approval of that waiver. Staff recommends that two conditions of approval be added including: No. 36 that the PZD booklet be revised to add a note for a maximum of 60' building height for PA-1 at the street level instead of 70' as proposed; and No. 37 that the PZD booklet be revised to change the setbacks in PA-3 to note that the side setback for Lot 7 shall be 8'.

Commissioner Cabe stated that he is not connected with the development, but has had some business dealings with the development team. These dealings will in no way affect or influence his decision on this project.

Bob Estes (public) had concerns with three main issues: density, infrastructure, and Peters and Associates, Inc. 46th Street is a Local Street and this project will increase traffic on it such that it would be a Collector Street in violation of its current Master Street Plan designation. Density should be based on five factors according to City policy: (1) Density of surrounding development; (2) current zoning designations; (3) urban development goals; (4) natural character of the site; and (5) impact of density on the surrounding properties. This project could meet one out of five of those goals, and would fail on the other four goals. Cannot improve 46th street because it is a Local Street.

Planning Commission
July 23, 2007
Page 16 of 22

In his experience taking several legal depositions of Peters and Associates (the applicant's consultant for the traffic study for this project), Peter's and Associates has never present himself as a traffic engineering expert.

Commissioner Anthes asked Estes to refrain from making personal comments.

Bassam Ziada (public) lives at 723 46th Street and has lived here since 2000. Background in traffic engineering, civil engineering, member of ITE, member of ITE Advisory Board. He discussed several details in the traffic study. The traffic counts were taken on the week of spring break and are therefore not accurate. 65% of traffic generate from the east will be from 46th Street. The applicant and staff recommend a traffic signal cost share at Broyles/Wedington. May need one at Broyles, but will certainly need one at 46th Street. The applicant is not showing any trips heading south on 46th Street. 46th Street goes south to Persimmon, and will be used to travel south from this development. He requests to table this item until the applicant provided a traffic study that shows accurate traffic movements. The City doesn't know if Wedington is four or five lanes. He assumed a four-lane section. Water that never came from the north will now come through the detention pond in the south portion of this property from the Highway Department improvements. This project is not compatible with the neighborhood. 100,000 square feet of retail/commercial and four-story building will be the highest on the west side of I-540 besides the Holiday Inn. He requests this item be tabled until actually have good information regarding the traffic impacts to Wedington. How many trips will be generated from the Links? 16,000 or 28,000?

Valerie Bandera (public) is a Fieldstone Neighbor to the north. She likes the project, looks like a City neighborhood. But she doesn't want to live near a city neighborhood area, residential fits in best. She is concerned about the commercial development and types of shops, buildings. She doesn't want a replication of Dickson Street with noise and other problems, etc. She is concerned about four stories looking into her backyard. She will have to rely on compassion and mercy of developers to not put in offending business. She realizes a grocery, gas station, apartment complex could go in on 46th Street, a very narrow road. She likes the limited number of curb cuts onto Wedington, in favor of that. Please consider the existing residents.

Jim Gurlock (public) lives on Lofty Wood Drive. Urges to vote against. Wishes all planning commissioners were neighbors. They would feel the same. No affordable housing in this project. Persimmon is a free way. 46th will be a mess with this project.

Craig Hanshell (public) 4555 Wedge Drive. He talked with neighbors and found recurring issues: property value, crime, traffic. Meadowlands at 9 PM – crime. Girls Gone Wild bus was ran out last year. Persimmon Place and Ruppel Row developments. A development like this will strip away the only thing he can call his own. Condominiums for families? He has lived on the west side of town for 13 years, and is an expert. Building an ant hill with this. Persimmon and 46th Street don't have safe passage with sidewalks to get to school. If families are going in, where are students going? Has safety been considered with a police substation? Phasing over 8 years? Persimmon will be a horrible headache. He doesn't understand where traffic is going.

Planning Commission
July 23, 2007
Page 17 of 22

Ben Fuller (public) 620 Mulligan. Wants to voice opposition because of resale value. He saw growth of the school and other development in this area. What better place to live than this area of Fayetteville? The west side of town has always been considered the rental side of town. If assurance could be given that no dwelling would be leased, go for it. But that won't happen.

Public comment was closed.

Hank Broyles (applicant) is a partner in Nock-Broyles Land Development, owners of the project. The city decided with the 2025 plan not to continue RSF-4 and annexing 20,000 acres. They specifically selected this site because of its adjacency to Highway 16, to feed people onto the highway instead of neighborhood streets. They are alley loaded so the streets won't have driveways to create a nice streetscape that will be pedestrian friendly. They need 62 feet for four stories. Have contracted with Live/Learn/Work/Play, Inc. to see what type of mix of uses should be at this site. No strip clubs, adult book stores, etc. Expect one large commercial retail grocery store 20 – 25,000 square feet. All of the other shops will be small (800-1,000 square feet) such as a deli, bakery, clothing stores, cafes, pizza place, banker, dry cleaner. They will target essentials you need to shop for. Research show that these types of developments are attractive to couples, empty nesters, 25-44 year old age group.

Todd Jacobs (applicant) discussed the site location. Need parks system on west side like Wilson Park. They are trying to contribute to that along Owl Creek for a 26-acre park. This development will be with 1/3 mile of a trail linkage to that park, which is within walking distance. They could have proposed a standard strip mall, but wanted to approach the development differently, with deference to the surrounding neighborhood and City Plan 2025. They agree to limit this development to two curb cuts onto Wedington as recommended by staff, when a standard strip commercial would likely have had 6-7 curb cuts. Jacobs presented a powerpoint presentation describing the project.

Commissioner Myres interrupted and asked about the setback off of Wedington and it was clarified by Andrew Garner (senior planner) that the setback is 14' from the edge of the right-of-way.

Jacobs continued that based on research across the country in the past year and a half, this type of development has brought up property values more than any other type of project. This project will improve 46th Street from Wedington south to existing improved street, and will contribute half of the assessment amount for a traffic signal as recommended by staff. It took a lot of work to bring a different type of project, but it is better quality and has hit almost all of the City's guiding policies. They believe this project will benefit that side of town, if not the City as a whole.

Commissioner Lack stated he doesn't see entrances to parking garages on the elevations.

Jacobs discussed grading and how the buildings access to parking garages underground.

Commissioner Trumbo asked about the traffic projected.

Jeremy Pate, Director of Current Planning, stated this development will generate 5,044 average daily trips, based on the traffic study numbers.

Glenn Newman, Staff Engineer, discussed that with the projected traffic for development in the area the vehicle trips will exceed the design service volume of a five-lane roadway, as indicated in the Master Street Plan.

Commissioner Trumbo asked staff to explain a Local Street.

Pate explained that a Local Street can be and usually is a through street. Cut-through traffic should be discouraged. Nothing in City policy or ordinance forbids a Local Street from being a through street. Pate described that streets in a typical subdivision are usually Local Streets.

Kit Williams, City Attorney, stated that the Master Street Plan is a moving and changing document. Local Streets can still function to a higher level than their designation.

Commissioner Graves discussed speed humps. He doesn't know about 46th Street enough to know if speed humps are needed, but it is an option to prevent cut through traffic.

Pate discussed that speed tables are used when determined by Street Committee/Engineering Division to be needed; there is an established City Council policy for installation of speed tables.

Commissioner Anthes discussed revisions that needed to be included in the PZD booklet: on-street parking on page 5; page 8 sidewalk cafes should be a conditional use; text on the alley on page 32 is duplicate text. She asked about the alley comments from staff.

Pate discussed that more information is needed to make a recommendation on alley widths as proposed.

Commissioner Anthes asked about custom street lights, spacing, and height of the proposed lights.

Pate responded that a development may use custom street lights, but the City does not pay for electricity or maintenance, etc.

Jacobs stated that they understand the additional cost of installation, etc., and that the street lights, if they are custom, would meet the lighting ordinance.

Commissioner Anthes asked about connectivity with a potential stub-out east at lot 5.

Pate answered that there is alley connection all the way to the right-of-way line if the adjacent property is developed they could tie in to the alley.

Jacobs explained the street connection from Street 5 to the north.

Planning Commission
July 23, 2007
Page 19 of 22

Commissioner Anthes asked about stormwater treatment.

Jacobs responded that City streets don't have a lot of flexibility in stormwater treatment, but that in the private portion of the development, bioswales would be used and pervious spaces would be used to capture and treat runoff. They are looking at both volume and quality of stormwater treatment.

Commissioner Anthes asked to confirm if traffic counts were over spring break.

Newman responded the date listed on the document is March 21, 2007 and doesn't know if that was during spring break. It may or may not have an impact on the counts.

Jacobs stated that they typically hire a traffic consultant when asked for a traffic study by the City. This study looks at a two year growth period for all projects on this side of town and incorporated additional growth based on this project.

Commissioner Anthes asked about the designation of 46th Street, would the right-of-way dedication limit this road to a Local Street in the future.

Pate compared a Local/Collector streets and their function. Persimmon/Broyles are Collector Streets and have a very different function than 46th Street. To answer the question, 46th street will likely stay as a local street.

Commissioner Anthes went through all of the conditions of approval with the other commissioners.

No. 3.b.i. – **Pate** described the concerns with narrow alley cross sections and functional turning movements. **Commissioner Anthes** described concerns with a zero-lot line garages on narrow alleys. **Commissioner Lack** stated that if there is 24' right-of-way the pavement width could vary and could be adequate. **Pate** discussed that certain turning movement scenarios will not work and we want to make sure we're recommending something that works. **Commissioner Lack** stated that he is fine with staff working the alley widths out with the applicant prior to City Council, but that it would need to be resolved.

Commissioner Lack discussed that the elevations meet commercial design standards, but had concerns that the elevations don't accurately represent the grade, and that the elevations don't exactly match the plans.

Commissioner Anthes asked about building height where the book specifies 70' height, staff recommends 60', and the applicant stated in their presentation that 62' height is needed.

Garner clarified that 60' maximum height is recommended only on the street side elevation.

Todd Jacobs (applicant) stated that the maximum building height would be 56', with an additional 6' needed for the parapet wall, making the total 62'.

Planning Commission
July 23, 2007
Page 20 of 22

Pate discussed that the maximum height in the Downtown General zoning classification is 56' to the top of the building/roof, and that parapets are not typically included in the building height calculation.

Commissioner Myres stated that she is okay with 62'.

Motion:

Commissioner Myres made a motion to amend the new recommended condition by staff, (No. 36) to limit the height to 62' in PA-1 (four story building not to exceed 62' height total, including parapet). **Commissioner Cabe** seconded the motion. **Upon roll call the motion passed 8-0-0.**

Commissioner Lack discussed that any difference in the elevations due to grade would not cause the buildings to be outside of commercial design standards. He can have faith because of that.

Commissioner Anthes stated that for the benefit of the neighbors could the Planning Commission discuss transition of the development and how it related to the surroundings.

Commissioner Myres discussed that she has no issues with the surrounding land uses adjacent to this development. The development proposes single family residential adjacent to single family residential. There is much residential development mixed throughout the commercial areas. The streetscape is at the pedestrian level. The development transitions back from Wedington to single family neighborhoods nicely. The non-residential uses face onto Wedington.

Commissioner Lack discussed height, transition, and density of the development. He stated he believes this project can be a good neighbor and can contribute to where we're going in Fayetteville. He does have pause about four-story buildings right across from Wedington, more so than the southern portion of the development. The higher density in the multi-family residential is viewed as somewhat of a spot zone because of the magnitude of change with the surrounding land uses. It would be more consistent if it were closer to the center and other city services.

Commissioner Anthes also discussed agreement with Commissioner Lack's comment that she would prefer this density further in the interior portion of the city. However, land is not available to do this type of density and development in the interior portion of the city. This is in close proximity to Ruppel Road. There is a vast amount of RSF-4 both built and un-built. Services are needed without driving to the mall or downtown. Higher density and mixed use could help in this area, by allowing residents not to drive so far. She has some concerns about a height of 4 stories, but not enough to withhold support.

Commissioner Trumbo stated that this is in his backyard. This project has really hit home for him. It has been insinuated that he can sell his home, or that he has ties to the developer, which he does not. However, it is a good project here, or anywhere, and he won't have to get out of the neighborhood for services. He would vote for this project anywhere in Fayetteville, because it meets the City's adopted goals.

Planning Commission
July 23, 2007
Page 21 of 22

Commissioner Anthes discussed Condition No. 19 for the landscape waiver and there was general agreement from the Planning Commission.

Motion:

Commissioner Lack made a motion to forward the project to City Council with a recommendation for approval, **Commissioner Myres** seconded the motion.

Garner asked to clarify the recommendation on alley width.

Commissioner Lack stated that he would be comfortable leaving the alley widths up to staff to work out with the applicant and come up with a recommendation for City Council. However, it would need to be resolved prior to City Council consideration.

Commissioner Graves asked the motioner if commercial design standards needed to be straightened out before City Council.

Commissioner Lack responded that if it is changed dramatically at building permit staff would bring it forward as a Major Modification. He also stated that would like to add to his motion to condition No. 8 that the applicant shall provide revised elevations to City Council to show grading/garage entries from underneath.

Commissioner Graves also asked about the changes to the PZD booklet that **Commissioner Anthes** noted earlier.

Pate read through the items **Anthes** mentioned earlier.

Commissioner Lack added condition No. 38 that the list of items to the PZD booklet noted by **Commissioner Anthes** be addressed.

Commissioner Graves asked about overloading schools, and how should we deal with that issue.

Williams responded that the City doesn't have authority over the school board or school district. The school is a state agency and handles those issues. The City can't make decisions based on schools, whether they are crowded or not because the City can't control those issues.

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

ANNOUNCEMENTS:

No Subdivision Committee this week.

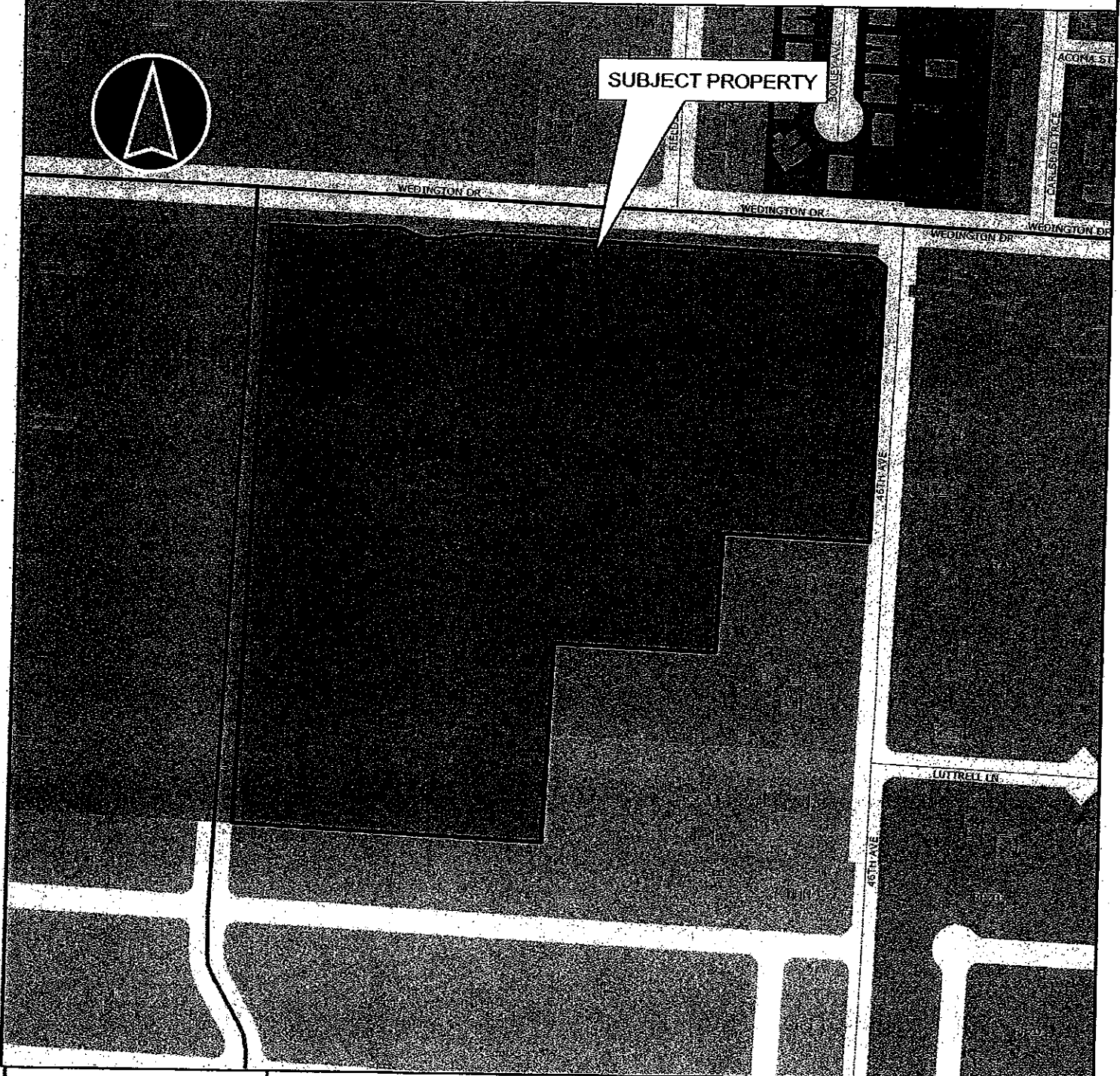
RPZD07-2576

Close Up View

WOODSTOCK COMMUNITY



SUBJECT PROPERTY



Overview

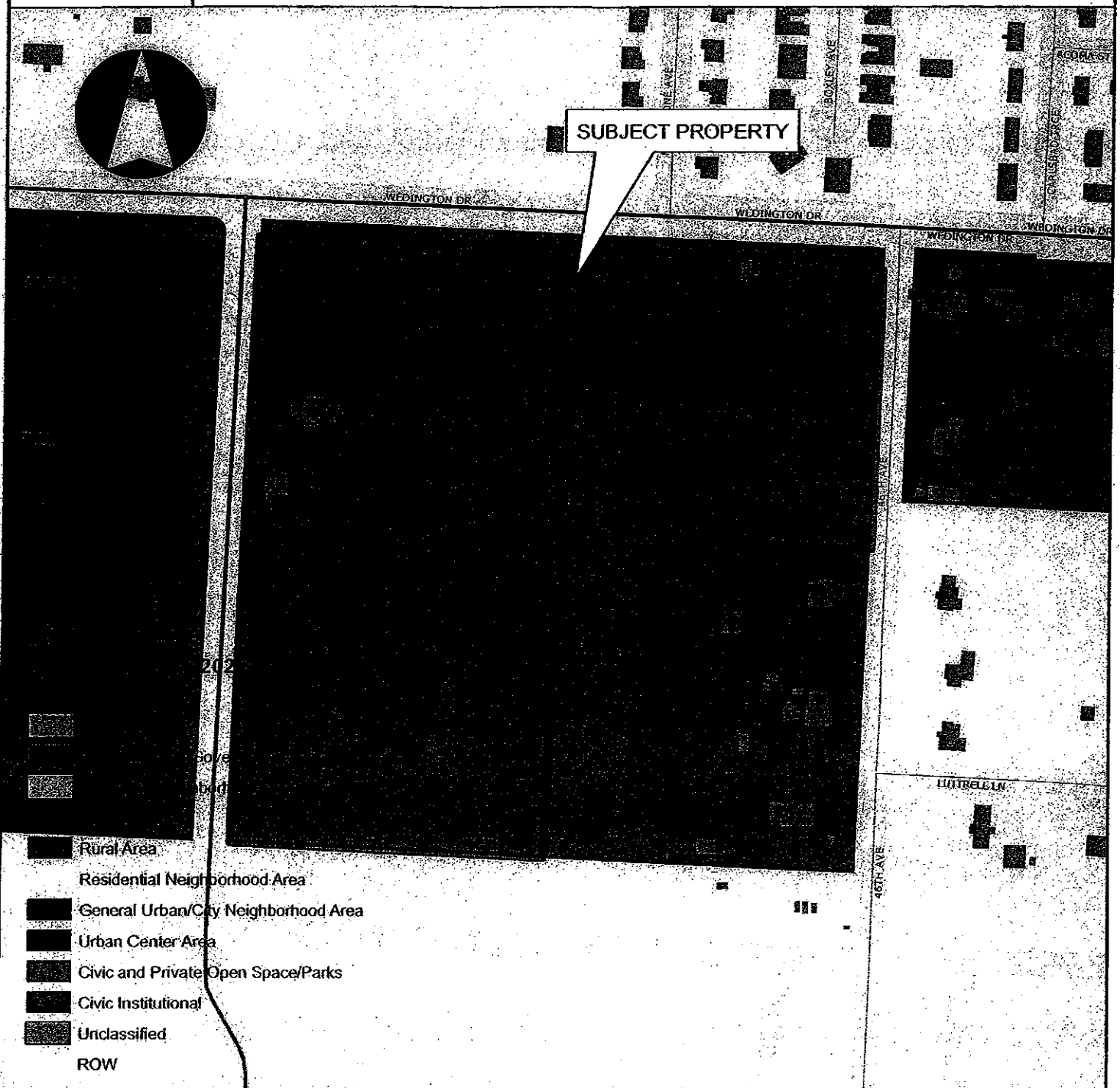


0 125 250 500 750 1,000 Feet

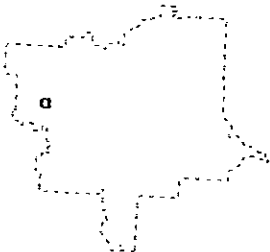
RPZD07-2576

Future Land Use

WOODSTOCK COMMUNITY



Overview



Legend

Subject Property

RPZD07-2576

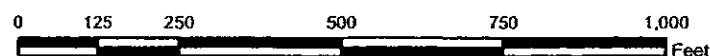
Boundary

- Planning Area
- Overlay District
- Outside City

Streets

- Existing
- Planned

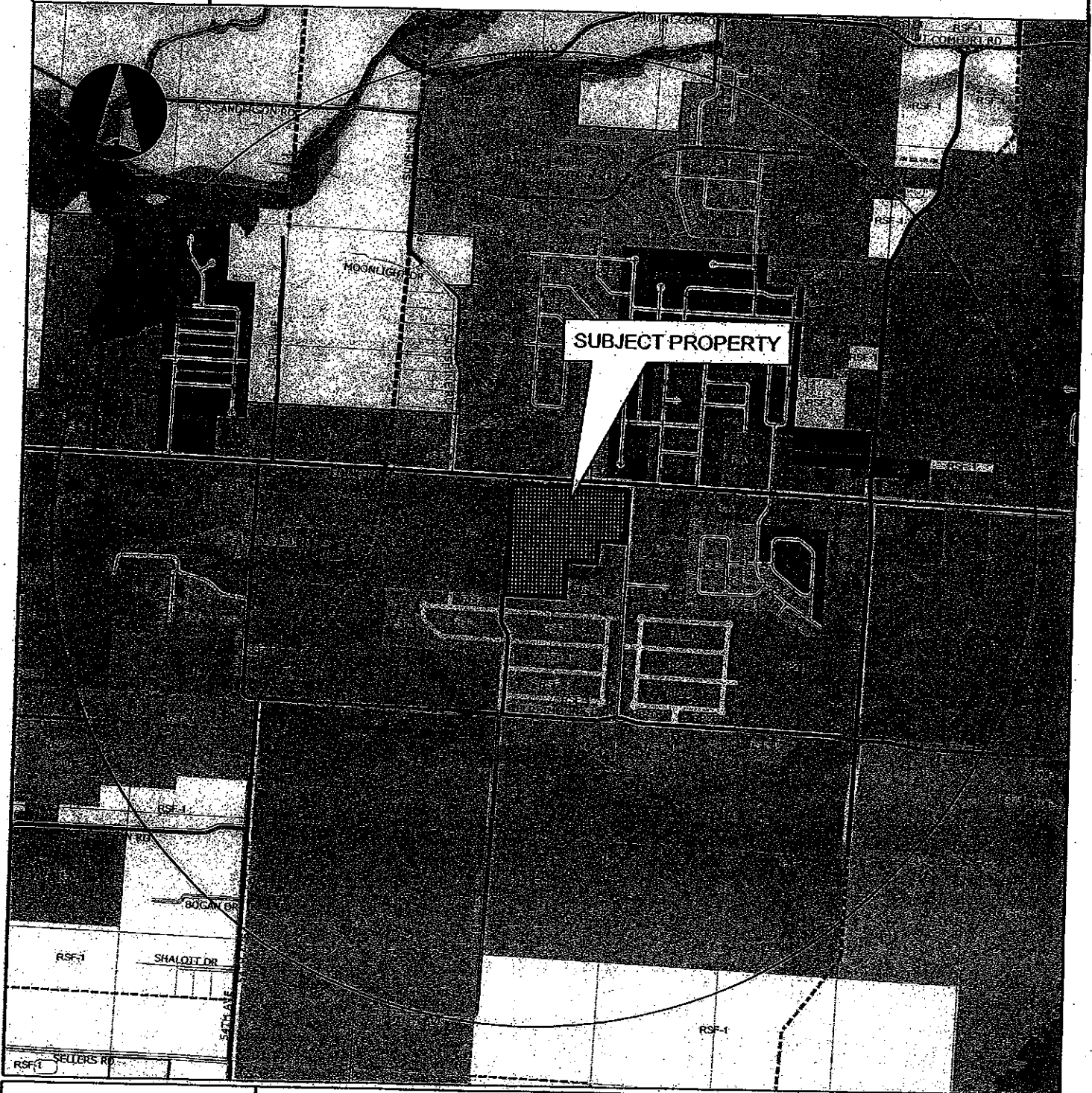
Legend



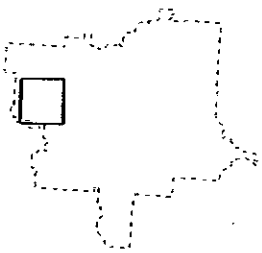
RPZD07-2576

One Mile View

WOODSTOCK COMMUNITY



Overview



Legend

Subject Property

RPZD07-2576

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0

0.25

0.5

1

Miles

9-4-07

City Clerk's office

718-7695

Please give this letter to
all Council Members & Mayor
Coady, for tonight's Meeting.

Thank You

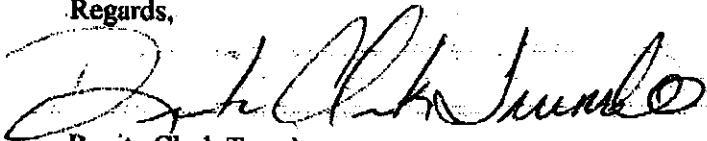
To Whom It May Concern:

In regard to Woodstock Development located at 4847 Wedington Road. As a resident of Cross Keys Subdivision, I believe it is my duty to respond to the controversy surrounding this positive development by lending my support.

There are many positive outcomes Woodstock will bring to the community, as well as the residents who will live on the property and around the property. One of the most important points will be that this development discourages suburban sprawl by integrating commercial with residential real estate. By mixing these two types of real estate it allows the residents of the property to eat, work and purchase goods without ever getting into their car. It will also provide services to current residents who live in other subdivisions in the area like myself. Woodstock is one of the few traditional subdivisions in our community where the homes face toward the street with rear loading garages. Traditional neighborhoods give a feeling of simple pleasures and the idea that we can all enjoy a place built on values.

I thank you for allowing me to express heart felt thoughts.

Regards,



Renita Clark Trumpo



BASSETT MIX

AND ASSOCIATES, INC.

FAX TRANSMISSION COVER SHEET

To: City Club
Company: _____

Fax No. 718-7695

Tel. No. _____

From: Mary Bassett

Fax No. 479-521-3259

Tel. No. 479-521-5600

Date: 9-4-07

Time: 2:00

Number of Pages, including cover: (2)

Comment:

Please pass-out to City Council
Members and Mayor Cordy for
tonight's meeting. (Attached Letter)

Thank You, Mary Bassett

Thank you,

Mary Bassett

Confidentiality Alert:

The information being transmitted is intended for the exclusive use of the addressee named above and may constitute information that is privileged or confidential, or otherwise legally exempt from disclosure. If you are not named addressee or an employee or agent responsible for delivering this message to the named addressee, you are not authorized to retain, read, copy or disseminate this message or any part of it. If you have received this facsimile message in error, please notify us immediately by telephone. Thank you.

Bassett Mix and Associates, Inc.

3263 N. College

Fayetteville, AR 72704

E-mail: mary@bassettmix.com

Website: www.bassettmix.com

THE STANDARD OF EXCELLENCE

Working For You



September 4, 2007

~~Fayetteville City Council~~

Dear Council Members and Mayor Coody,

I own several properties in Fayetteville. Three of them are located in Ward 4. The addresses are as follows: 1527 Markham, 2126 Berry Lane and 814 Sunset. Two of these properties are located just off Wedington Road.

I am writing this letter in favor of re-zoning and large scale development of the property represented by John Nock and Hank Broyles. The mixed use development will be called Woodstock.

I believe this project will enhance West Fayetteville and be an asset for all residents.

I encourage your support and approval for the Woodstock Development.

Highest Personal Regards,



Mary Bassett

AGENDA REQUEST

This item
Amended Chapter 96 Noise Ordinance
Added to the
September 4, 2007
City Council meeting.

FOR: COUNCIL MEETING OF AUGUST 7, 2007

FROM:
GREG TABOR, POLICE CHIEF

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Amend §96.05 Motor Vehicle And Motorcycle Sound Limit By Adding A New Subsection (E) To Prohibit Excessive Engine Revving

APPROVED FOR AGENDA:

Greg Tabor

Police Chief

7-23-07

Date

K. J. [Signature]

City Attorney

7-20-07

Date

Sam Coody

Mayor

7/23/07

Date



Tabled to September 18, 2007 mtg
This item failed on 8/7/07

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Mayor Dan Coody and members of the City Council

FROM: Chief Greg Tabor 

DATE: July 11, 2007

SUBJECT: Amendment of Noise Ordinance Chapter 96

Recommendation:

City Council amends Noise Ordinance Chapter 96 to simplify enforcement in relation to excessive noise from motor vehicles and motorcycles.

Background:

Currently, Ordinance 96.05 requires officers to obtain noise level readings to determine if the noise is in violation as listed in Ordinance 96.05 Table II. This section does not specifically address excessive noise created by rapid throttle advancement (revving an engine).

Discussion:

The Fayetteville Police Department would like the amendment made to this ordinance to become more efficient in enforcement. The current noise ordinance does not specifically address rapid engine advancement (revving) which has become a complaint with citizens in recent years. In summary this amendment would make violation determination and enforcement much simpler.

Budget Impact:

There would be no budget impact in this amendment.

DEPARTMENTAL CORRESPONDENCE

MEMORANDUM

TO: Kit Williams

FROM: 
Captain Kenny Yates

DATE: July 19, 2007

SUBJECT: City Noise Ordinance Chapter 96

The Fayetteville Police Department would like to request an amendment be made to Fayetteville City Ordinance Chapter 96 concerning noise from motor vehicles. Noise from motor vehicles and motorcycles is currently addressed in Fayetteville City Ordinance 96.05 Table II. The current ordinance does not specifically address rapid throttle advancement, which has become a complaint in recent years.

We would like to see the following terminology or similar added to some portion of Chapter 96: "It shall be prohibited to permit or cause excessive noise by rapid throttle advance (revving) of an internal combustion engine resulting in increased noise from the engine".

Thank you for your consideration in helping us make this amendment.

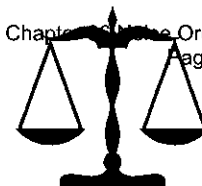
FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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

DEPARTMENTAL CORRESPONDENCE

Amend Chapter 96 Noise Ordinance
B. 2
Page 4 of 6



LEGAL DEPARTMENT

TO: **Dan Coody, Mayor**
City Council
Chief Tabor
Captain Yates

FROM: **Kit Williams, City Attorney**

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

DATE: **July 20, 2007**

RE: **Proposed Noise Ordinance amendment**
to prohibit loudly revving an engine

The police have requested that we simplify enforcement of the Noise Ordinance by permitting the arrest and prosecution of persons loudly revving their cars or motorcycles without having to prove a decibel level by use of a noise meter. I, therefore, have crafted subsection (E) to §96.05 **Motor Vehicle And Motorcycle Sound Limit**.

My proposal uses existing definitions within the Code of "noise disturbance" to describe the conduct which the police seek to prohibit. "Stationary Run-up" above 78 dB measured 25 feet from the motor vehicle is already banned by §96.05. Unfortunately, this requires an officer trained for and using one of our noise meters at the right distance for the right length of time which is very difficult to achieve in the real world.

This new subsection is more subjective, but mirrors the current prohibition in §96.02 against a "noise disturbance" which is defined in §96.01. I will leave it to Captain Kenny Yates (his memo is attached) or Chief Tabor to explain why the Police Department asked for this change in the law.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND §96.05 MOTOR VEHICLE AND
MOTORCYCLE SOUND LIMIT BY ADDING A NEW SUBSECTION
(E) TO PROHIBIT EXCESSIVE ENGINE REVVING

WHEREAS, unnecessary rapid throttle advance (revving) of a car or motorcycle engine can annoy or disturb a reasonable person of normal sensitivity.

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby amends §96.05 **Motor Vehicle and Motorcycle Sound Limit** by enacting a new subsection (E) as follows:

"(E) No person shall operate or cause to be operated a motor vehicle or motorcycle by rapidly advancing its throttle (revving) such that a noise disturbance occurs."

PASSED and APPROVED this 4th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville Staff Review Form

C. 1
Raze and Removal at 1989 E. Mission
Page 1 of 12

City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 1989 E. Mission.

Cost of this request

1010.6420.5315.04

Account Number

Project Number

\$

Category / Project Budget

\$

Funds Used to Date

\$

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

Budget Adjustment Attached

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Received in City
Clerk's Office

ENTERED

8-31-07

Finance and Internal Service Director

Date

Received in
Mayor's Office

ENTERED

9/14/07

Mayor

Date

Comments: Staff recommends Raze and Removal of the structure

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council
Thru: Gary Dumas, Director of Operations
From: Yolanda Fields, Community Resources Director
Date: September 5, 2007
Subject: Raze & Removal of structure on 1989 E. Mission Blvd.

BACKGROUND

Service Request # 49218, Case #6034: Code Compliance responded to a complaint concerning the structure located at 1989 E. Mission Blvd. The structure appeared to possibly be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

An Unsafe Building Notice of Violation was sent by Certified Mail to the property owner on April 5, 2007. An agent for the property owner signed the Certified Mail receipt on April 6, 2007. By ordinance, the owner was given until May 7, 2007 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains one story single family dwelling. The building is not secured, has significant fire damage, and has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends approval of a resolution to order the raze and removal of the structure.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$6,000. A Raze and Removal account balance in the amount of \$6,350 is available from a previous project, 1762 Stirman. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY THE HEIGHTS, LLC LOCATED AT 1989 EAST MISSION BOULEVARD IN THE CITY OF FAYETTEVILLE, ARKANSAS.

WHEREAS, The Heights, LLC is the record owner of the real property situated at 1989 East Mission Boulevard, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-13363-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, The Heights, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, The Heights, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if The Heights, LLC does not comply with this order, the Mayor is hereby directed to cause the dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

**By: _____
DAN COODY, Mayor**

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

April 05, 2007

Owner THE HEIGHTS, LLC
C/O: MITCHELL MASSEY
397 W. POPLAR ST.
FAYETTEVILLE, AR 72701

RE: Property @ 1989 E MISSION BLVD, Fayetteville, AR

WC Parcel # 765-13363-000

Case # 6034

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8232.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

DREW DICKEY
Code Compliance Officer

Cc: file

7005 1820 0001 9764 9744

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here 4-5-07
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
Sent To <u>6034 DD</u>	
Street, Apt. No., or PO Box No.	
City, State, ZIP+4	
PS Form 3800, June 2002 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature <u>[Signature]</u> ☐ Agent ☐ Addressee B. Received by (Printed Name) <u>Joe Hing</u> C. Date of Delivery <u>APR 09 2007</u> D. Is delivery address different from item 1? ☐ Yes ☒ No If YES, enter delivery address below:	
1. Article Addressed to: THE HEIGHTS, LLC C/O MITCHELL MASSEY 397 W. POPLAR ST. FAYETTEVILLE, AR 72701		RECEIVED APR 09 2007 CRCC	
2. Article Number (Transfer from service label) 7005 1820 0001 9764 9744		3. Service Type ☒ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D. 4. Restricted Delivery? (Extra Fee) ☐ Yes	
PS Form 3811, February 2004		Domestic Return Receipt 6034 DD 102595-02-M-1540	



COPY

City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

August 28, 2007

The Heights, LLC
c/o Mitchell Massey
397 W. Poplar St.
Fayetteville, AR 72701

RE: Enforcement of Ordinance 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 1989 E. Mission Blvd. (Parcel #765-13363-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on September 18, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

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

Chad Ball
Code Compliance Administrator

Cc: file

Parcel Number: **765-13363-000** Prev. Parcel Number: **146527-000-00** Type: **RI**
 Location: **1989 E MISSION BLVD**
 Owner Name: **THE HEIGHTS, LLC**
 Mailing Address: **397 W Poplar St Fayetteville AR 72703-2438**
 Lot: Block: S-T-R: **02-16-30**
 Addition: **2-16-30 FAYETTEVILLE OUTLOTS**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **PT E/2 SE SW 1.16 A.**
 Current Year A79 Credit Status: **V**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	53,100	10,620
Improvement	1,550	310
Total	54,650	10,930

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit Status	A79	Net Total Tax	Total Tax Paid	Payment Status
2006	23,010	\$1,212.63	\$0.00	\$0.00	\$0.00		V	\$1,212.63	\$0.00	
2005										DELINQUENT
2004	13,390	\$694.41	\$0.00	\$0.00	\$0.00	\$300	F	\$394.41	\$394.41	PAID
2003	13,140	\$695.89	\$0.00	\$0.00	\$0.00	\$300	F	\$435.48	\$435.48	PAID
2002	13,140	\$682.75	\$0.00	\$0.00	\$0.00	\$300	F	\$382.75	\$382.75	PAID
2001	13,140	\$682.75	\$0.00	\$0.00	\$0.00	\$300	F	\$382.75	\$382.75	PAID
2000	13,140	\$389.85	\$0.00	\$0.00	\$0.00		O	\$389.85	\$389.85	PAID
1999	13,140	\$672.77	\$0.00	\$0.00	\$0.00			\$672.77	\$672.77	PAID
1998	13,140	\$674.08	\$0.00	\$0.00	\$0.00			\$674.08	\$674.08	PAID
1997	13,140	\$674.08	\$0.00	\$0.00	\$0.00			\$674.08	\$674.08	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2004	39379	5/10/2005	\$394.41	\$0.00	\$0.00	\$0.00	\$0.00	\$394.41
2003	118710	10/15/2004	\$395.89	\$0.00	\$0.00	\$0.00	\$39.59	\$435.48
2002	69573	9/11/2003	\$382.75	\$0.00	\$0.00	\$0.00	\$0.00	\$382.75
2001	107599	10/23/2002	\$382.75	\$0.00	\$0.00	\$0.00	\$0.00	\$382.75
2000	17979	10/11/2001	\$389.85	\$0.00	\$0.00	\$0.00	\$0.00	\$389.85
1999	6035	10/19/2000	\$672.77	\$0.00	\$0.00	\$0.00	\$0.00	\$672.77
1998	6386	10/1/1999	\$674.08	\$0.00	\$0.00	\$0.00	\$0.00	\$674.08
1997	14023	10/9/1998	\$674.08	\$0.00	\$0.00	\$0.00	\$0.00	\$674.08

Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
10/7/2005	2005	45159	THE HEIGHTS, LLC		WD	200,000	660.00
			SN 2005-45159 WD \$660 REV(200M)				
5/1/2005	2005	19860	CURTIS, RANDY		WD	140,000	462.00
			BJF WD 2005 19860 \$462 REV(140M)				
8/15/2001	2001	22207	WEYGANDT, PAULINE		QT	0	0.00

PML 2001-22207 QT QUIET TITLE E-2001-1209-4

1/1/1985 585 372

WEYGANDT,
JAMES E.

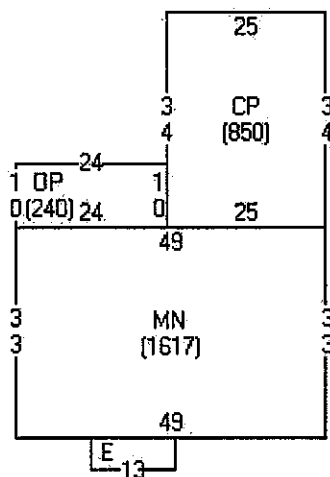
0

0.00

Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	MV	1617	1617	1957	

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
4	A	MASONVEN	1SG		50

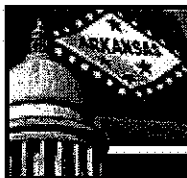
Sketch:



Out Buildings and Yard Improvements

Qty	Description	Size	Quality
1	Driveway, asphalt	13x15	
1	Driveway, asphalt	8x85	

[Next Item](#) | [Previous Item](#) | [Ledger Card](#) | [Prev. Ledger Card](#) | [Return to Search Results](#) | [Modify Search](#) | [New Search](#)

**Arkansas
SECRETARY OF STATE***Business/Commercial Services*

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State Capitol, Rm 256
Little Rock, AR 72201
501-682-1010
[Email](#)

 SEARCH**Search Incorporations, Cooperatives, Banks and Insurance Companies**

Corporation Name	THE HEIGHTS, L.L.C.
Fictitious Names	N/A
Filing #	800056666
Filing Type	Limited Liability Company
Filed under Act	Domestic LLC; 1003 of 1993
Status	Not Current
Principal Address	
Reg. Agent	MITCHELL MASSEY
Agent Address	1925 OLD WIRE ROAD FAYETTEVILLE, AR 72703
Date Filed	04/14/2005
Officers	MORGAN HOOKER , Incorporator/Organizer BRANDON BARBER , Tax Preparer
Foreign Name	N/A
Foreign Address	
State of Origin	N/A

Pay Franchise Tax for this corporation

LLC Member information is now confidential per Act 865 of 2007

Use your browser's back button to return to the Search Results

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1989 Mission



1989 Mission



City Council Agenda Items
and
Contracts, Leases or Agreements

9/18/2007

City Council Meeting Date
Agenda Items Only

Yolanda Fields

Submitted By

Community Resources

Division

Operations

Department

Action Required:

Public Hearing and Resolution to order the Raze and Removal of the dilapidated structure located at 1533 S. Duncan.

Cost of this request

1010.6420.5315.04

Account Number

\$

Category / Project Budget

\$

Funds Used to Date

\$

Remaining Balance

Program Category / Project Name

Raze and Removal

Program / Project Category Name

General Fund

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☒

Department Director

Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

City Attorney

Date

Finance and Internal Service Director

Date

Mayor

Date

Received in City
Clerk's Office

ENTERED

8-21-07

EP

Received in
Mayor's Office

ENTERED

9/4/07

Comments: Staff recommends Raze and Removal of the structure and 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: August 31, 2007
Subject: Raze & Removal of structure on 1533 S. Duncan.

BACKGROUND

Service Request # 35373, Case #4708: Code Compliance responded to a complaint concerning the structure located at 1533 S. Duncan. The structure appeared to possibly be in violation of Subsection 173.08, Unsafe Building, of the City Code of Ordinances. The Building Safety Division Director inspected the property and determined that the structure was in violation of Subsection 173.08, Unsafe Buildings, of the City Code of Ordinances.

An Unsafe Building Notice of Violation was sent by Certified Mail to the property owner on May 3, 2007. An agent for the property owner signed the Certified Mail receipt on May 4, 2007. By ordinance, the owner was given until June 4, 2007 to acquire a building permit or to demolish and remove the structure.

DISCUSSION

This parcel contains one story wood frame single family dwelling. The building is not secured and has deteriorated to a point where it is no longer safe. There is not a current building permit on this structure.

RECOMMENDATION

Staff recommends approval of a resolution to order the raze and removal of the structure and a budget adjustment.

BUDGET IMPACT

Contracting the raze and removal of the structure would cost approximately \$3,000. A budget adjustment is needed to fund this project. The cost will be billed to the property owner. If payment is not received, the city will place a lien on the property for the amount of the raze and removal.

RESOLUTION NO. _____

A RESOLUTION ORDERING THE RAZING AND REMOVAL OF A DILAPIDATED AND UNSAFE STRUCTURE OWNED BY NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC LOCATED AT 1533 SOUTH DUNCAN AVENUE IN THE CITY OF FAYETTEVILLE, ARKANSAS; AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$3,000.00.

WHEREAS, North American Lighthouse Properties, LLC is the record owner of the real property situated at 1533 South Duncan Avenue, City of Fayetteville, Washington County, Arkansas, more particularly described as follows:

WC Parcel Number 765-09617-000; and,

WHEREAS, the City Council has determined that the structure located on said property is dilapidated, unsightly, unsafe, and detrimental to the public welfare; and,

WHEREAS, North American Lighthouse Properties, LLC, having been properly served with a Violation Notice via Certified Mail, Return Receipt Requested, and given thirty (30) days to correct said violation, has refused to repair, or raze and remove said dilapidated, unsightly, and unsafe structure.

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

Section 1: That, by the authority granted pursuant to A.C.A. §14-56-203, and in accordance with the provisions of Ordinance No. 3948 of 1996, North American Lighthouse Properties, LLC is hereby ordered to raze and remove forthwith, the dilapidated, unsightly, and unsafe structure located on the aforementioned real property. The manner of removing said structure shall be: dismantle by hand or bulldozer, and haul all debris to a landfill.

Section 2. That, if North American Lighthouse Properties, LLC does not comply with this order, the Mayor is hereby directed to cause the

dilapidated, unsightly, and unsafe structure to be razed and removed; and a lien against the real property shall be granted and given the City, pursuant to A.C.A. §14-54-904, for the costs associated therewith.

Section 3. That the City Council of the City of Fayetteville, Arkansas, hereby approves a Budget Adjustment in the amount of \$3,000.00 to contract for the razing and removal of said structure.

PASSED and APPROVED this 18th day of September, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

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

City of Fayetteville
113 West Mountain Street
Fayetteville, Arkansas 72701



C. 2
Raze and Removal at 1533 S. Duncan
Page 5 of 14
Office of Code Compliance
Phone 479-444-3430
Fax 479-444-3445

VIOLATION NOTICE

May 03, 2007

Owner HOMESTEAD, INC. & NORTH AMERICA LIGHTHC
C/O MEL REED
P.O. BOX 8440
SPRINGDALE, AR 72762

RE: Property @ 1533 S DUNCAN AVE, Fayetteville, AR

WC Parcel # 765-09617-000

Case # 4708

Dear Property Owner:

It appears that your property contains a violation of the Fayetteville Unified Development Ordinance. It is our goal to notify and assist property owners to correct violations of city ordinances before taking actual enforcement actions. If you need clarification of this notice or advice on how to correct the problem, please call our office at (479)575-8237.

Suspected Violation That Needs Correction:

§173.08 Unsafe Buildings. No persons, partnership, corporation or association, hereinafter referred to as "owner", shall keep or maintain any house or building within the corporate limits of the City which has become dilapidated, unsafe, unsanitary, or detrimental to the public welfare.

How This Violation Can Be Voluntarily Corrected:

By making repairs as needed or razing the structure and remove all debris from the lot. A building permit may be required, based on review of the Building Safety Director.

Potential Penalties:

If this violation is not corrected within thirty (30) days from the service of this notice, you can be issued a Criminal Citation for the above violation and be summoned to appear in court. Our office can also suggest the structure be razed and removed. The costs shall be charged to the owner(s) of the property and the city shall have a lien against such property for such costs. If you disagree with our conclusion that your property contains a violation of our ordinances, you have the right to appeal to the appropriate City Board, Commission or City Council. Please see Chapter 155 of the Unified Development Code.

If the residence is owner occupied and meets certain income requirements, you may qualify for federal assistance under our Community Development Block Grant. For more information on this program, please call (479) 575-8270 or 575-8240.

Sincerely,

A handwritten signature in cursive script that reads "Preston Hammons".

PRESTON HAMMONS
Code Compliance Officer

Cc: file

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Postmark
Here

NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC

C/O MEL REED
1127 S. GUTENSOHN SUITE 101
SPRINGDALE, AR 72762

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

NORTH AMERICAN LIGHTHOUSE PROPERTIES, LLC

C/O MEL REED
1127 S. GUTENSOHN SUITE 101
SPRINGDALE, AR 72762

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *C. W. Goldstein*

☐ Agent
☐ Addressee

B. Received by (Printed Name)

Christopher Goldstein

C. Date of Delivery

3/4/07

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number
(Transfer from service label)

7005 1820 0001 9764 8754

PS Form 3811, February 2004

Domestic Return Receipt *ph 4708*

102595-02-M-1540



City of Fayetteville
Code Compliance
113 West Mountain Street
Fayetteville, Arkansas 72701
Phone 479-444-3430

COPY

August 27, 2007

North American Lighthouse Properties, LLC
c/o Mel Reed
1127 S. Gutensohn Suite 101
Springdale, AR 72762

RE: Enforcement of Fayetteville Code 173.08
Arkansas Code Ann. 14-56-203

NOTICE TO PROPERTY OWNERS

Pursuant to A.C.A. 14-56-203 at 173.08 of the Fayetteville Code, you are placed upon Notice that the Fayetteville City Council will conduct a public hearing to determine if the dwelling located at 1533 S. Duncan Ave. (Parcel #765-09617-000), should be Razed and Removed. You are free to appear at this hearing to present any evidence or statements. If you need additional information concerning this process or if you have information that we are not aware of, please call the Code Compliance Office at (479) 444-3430.

The hearing will be part of a regular City Council meeting on September 18, 2007 beginning at 6:00 p.m. at the City Administration Building, 113 W. Mountain St, Fayetteville, AR 72701. The City Council Meetings are advertised in local newspapers and will contain an item concerning this hearing. You may also call the Fayetteville City Clerk's Office (575-8323) for information confirming the date of the public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Chad Ball", written over a circular stamp.

Chad Ball
Code Compliance Administrator

Cc: file

Record 1 of 1 Last Updated 08/28/07

Parcel Number: **765-09617-000** Prev. Parcel Number: **142989-000-00** Type: **RI**
 Location: **1533 S DUNCAN AVE**
 Owner Name: **NORTH AMERICAN LIGHTHOUSE PROPERTIES LLC**
 Mailing Address: **1127 S GUTENSOHN STE 101 SPRINGDALE AR 72762**
 Lot: Block: S-T-R: **21-16-30**
 Addition: **PARKSDALE ADD**
 School District: **FAYETTEVILLE SCH, FAY** Tax District: **011**
 City: **FAYETTEVILLE**
 Legal: **LOT 7, PT. LOTS 5-6 BLOCK 2**
 Current Year A79 Credit Status: **VF**
 Last Appraised: **2007**

	Appraised Value	Taxable Value
Land	25,000	5,000
Improvement	4,450	890
Total	29,450	5,890

Tax History

Year	Taxable Value	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	A79 Credit	A79 Status	Net Total Tax	Total Tax Paid	Payment Status
2006	3,887	\$204.84	\$0.00	\$0.00	\$0.00		V	\$204.84	\$0.00	
2005	3,588	\$189.09	\$0.00	\$0.00	\$0.00		V	\$189.09	\$189.09	PAID
2004	3,289	\$170.57	\$0.00	\$0.00	\$0.00		V	\$170.57	\$170.57	PAID
2003	2,990	\$158.35	\$0.00	\$0.00	\$0.00		V	\$158.35	\$158.35	PAID
2002	2,990	\$155.36	\$0.00	\$0.00	\$0.00		V	\$155.36	\$155.36	PAID
2001	2,838	\$147.46	\$0.00	\$0.00	\$0.00			\$147.46	\$147.46	PAID
2000	2,580	\$135.45	\$0.00	\$0.00	\$0.00			\$135.45	\$135.45	PAID
1999	4,900	\$250.88	\$0.00	\$0.00	\$0.00			\$250.88	\$250.88	PAID
1998	4,900	\$251.37	\$0.00	\$0.00	\$0.00			\$251.37	\$251.37	PAID
1997	4,900	\$251.37	\$0.00	\$0.00	\$0.00			\$251.37	\$251.37	PAID

Available Tax Payment Receipt(s)

Year	Receipt #	Payment Date	Ad Valorem Tax	Imp. Dist. Tax	Timber Tax	Voluntary Tax	Penalty Tax	Payment
2005	137968	10/17/2006	\$189.09	\$0.00	\$0.00	\$0.00	\$0.00	\$189.09
2004	998028	7/26/2006	\$170.57	\$0.00	\$0.00	\$0.00	\$0.00	\$170.57
2003	998028	7/26/2006	\$158.35	\$0.00	\$0.00	\$0.00	\$0.00	\$158.35
2002	998028	7/26/2006	\$155.36	\$0.00	\$0.00	\$0.00	\$0.00	\$155.36
2001	998028	7/26/2006	\$147.46	\$0.00	\$0.00	\$0.00	\$0.00	\$147.46
2000	6076	4/24/2001	\$135.45	\$0.00	\$0.00	\$0.00	\$0.00	\$135.45
1999	3214	3/29/2000	\$250.88	\$0.00	\$0.00	\$0.00	\$0.00	\$250.88
1998	8721	4/21/1999	\$251.37	\$0.00	\$0.00	\$0.00	\$0.00	\$251.37

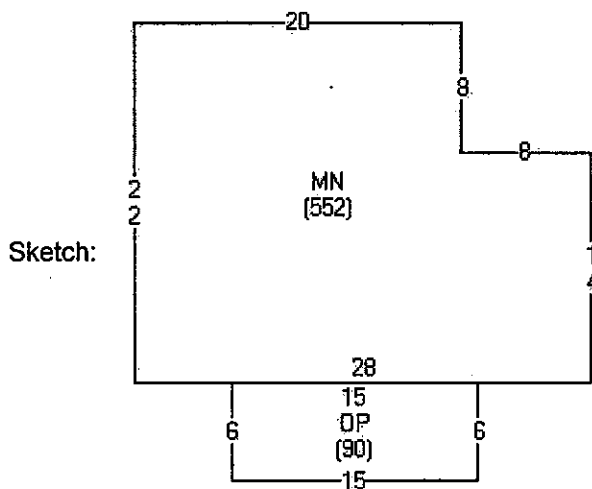
Deed History

Date	Book	Page	Grantee1	Grantee2	Deed Type	Sale Amount	Revenue Amount
7/18/2006	2006	29864	NORTH AMERICAN LIGHTHOUSE	PROPERTIES LLC	LD	0	
WCS 2006-29864 LIMITED WD #163174							
5/30/1995	95	26515	TERHUNE, TRACY L.		WD	29,000	95.70

4/23/1993	93	25767	HANNAN, STEPHEN P & ET AL TRUST	13173 REED RD	WD	0	0.00
NO REV							
5/15/1992	92	24451	HANNAN, STEPHEN P & CHARLOTTE A.		WD	24,000	52.80
10/4/1991	1436	048	BACCHUS, LESLIE D.		WD	22,000	48.40
1/1/1985	743	308	MCBROOM, HOMER J. & BEULAH M.			0	0.00

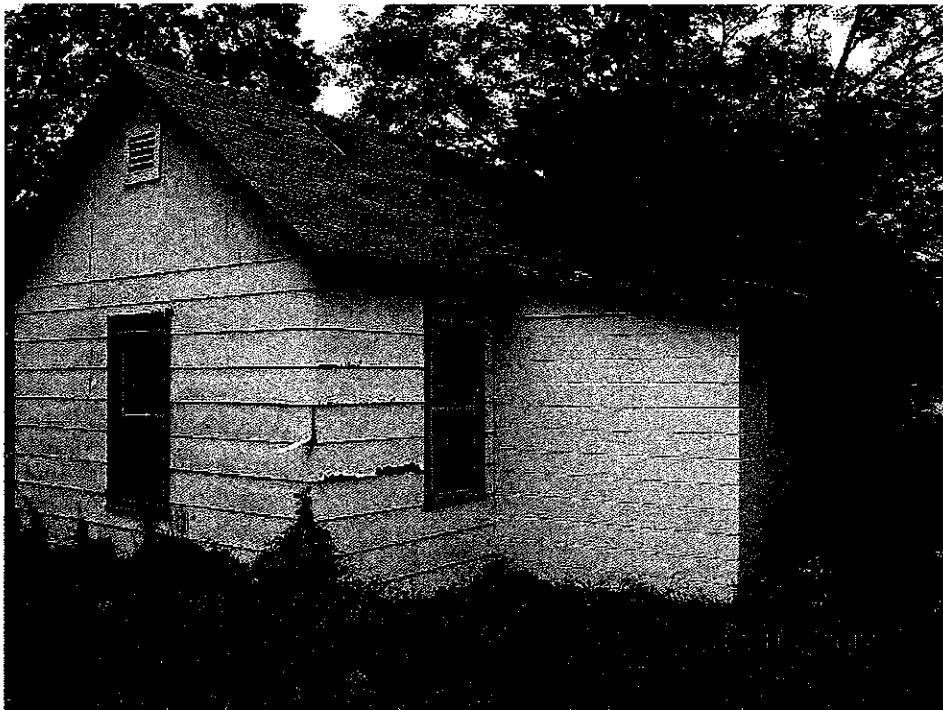
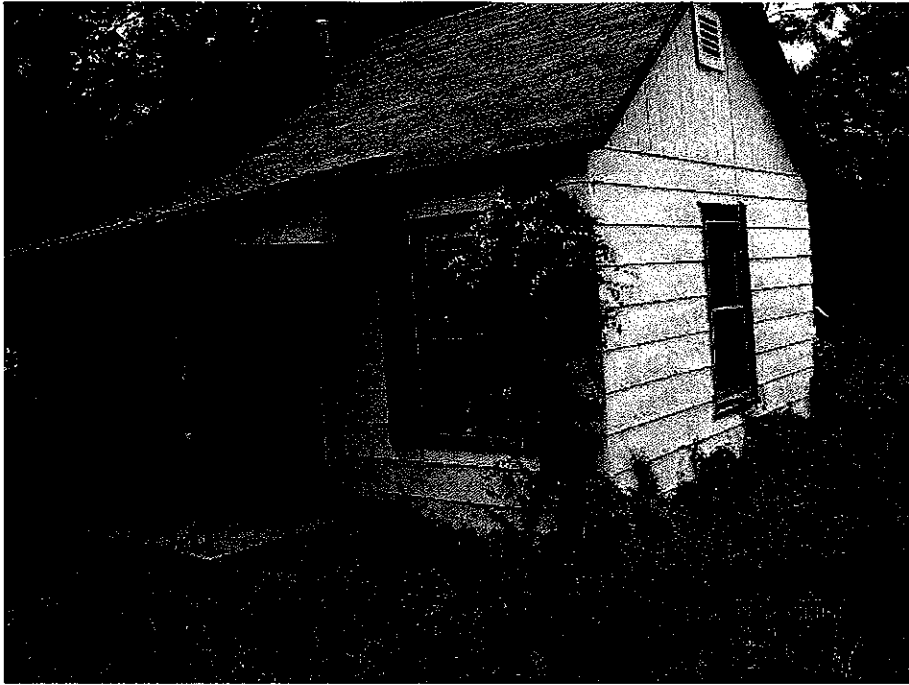
Structure Number	Occupancy Type	Construction Type	First Floor Living Area	Total Living Area	Year Constructed	Basement Area
1	SF	FS	552	552	1951	

Grade	Condition	Exterior Wall	Fireplace	Year Remodeled	Effective Age
5	A	SDNG/SHETH			56



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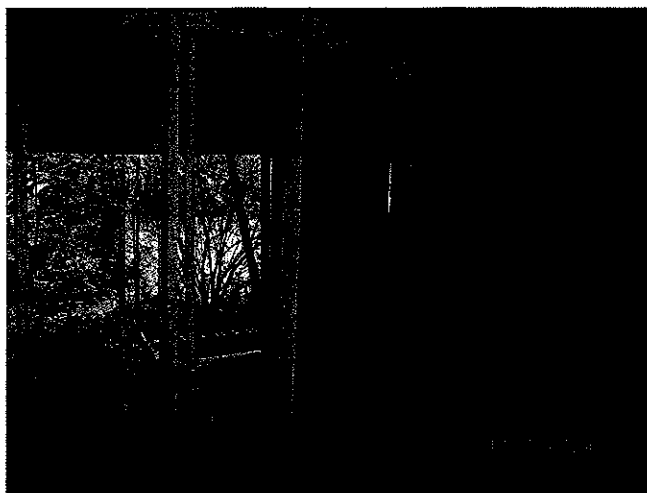
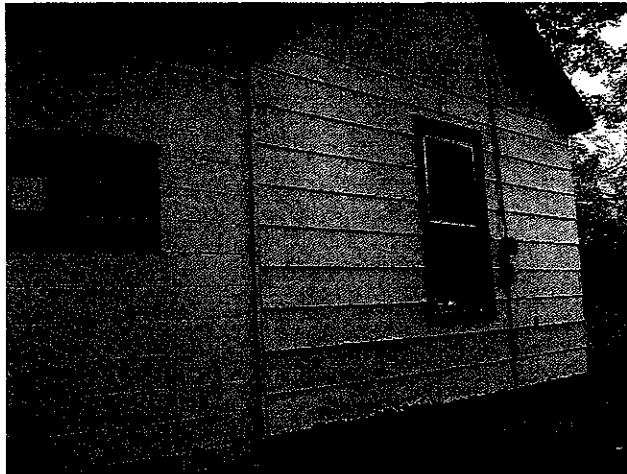
1533 S. Duncan Ave.



1533 S. Duncan Ave.



1533 S. Duncan Ave.



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

C. 2
Raze and Removal at 1533 S. Duncan
Page 14 of 14

Budget Year 2007	Department: Operations Division: Community Resources Program: Code Compliance	Date Requested 9/5/2007	Adjustment Number
--------------------------------	--	---------------------------------------	--------------------------

Project or Item Added/Increased: \$3,000 is requested in Raze and Removal account of the Community Code Enforcement program	Project or Item Deleted/Reduced: \$ 3,000 from Use of Fund Balance
---	--

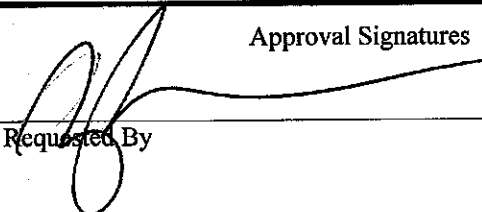
Justification of this Increase: For the raze and removal of the structure on 1533 S. Duncan	Justification of this Decrease: Did not properly allocate funds to this account
---	---

Increase Expense Budget (Decrease Revenue Budget)

Account Name	Account Number	Amount	Project Number
Raze and Removals	1010 6420 5315 04	3,000	

Decrease Expense Budget (Increase Revenue Budget)

Account Name	Account Number	Amount	Project Number
Use of fund balance	1010 0001 4999 99	3,000	

Approval Signatures  Requested By _____ Budget Manager _____ Department Director _____ Finance & Internal Services Director _____ Mayor _____ 9/5/07 Date _____ Date _____ Date _____ 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

18-Sep-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2649: College Avenue Townhomes, 291: Submitted by Bates & Associates for property located southeast of College Avenue and Golden Eagle Drive containing approximately 2.34 acres. The request is for re-zoning, land use and development approval of an Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

[Signature]
City Attorney

8-31-07

Original Contract Number: n/a

Paul A. Babin
Finance and Internal Service Director

8-4-07
Date

Received in City Clerk's Office

ENTERED
8-31-07
ED

[Signature]
Mayor

9/4/07
Date

Received in Mayor's Office

ENTERED
9/4/07
PA

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Gary Dumas, Director of Operations

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

Date: August 30, 2007

Subject: Residential Planned Zoning District for College Avenue Townhomes (R-PZD 07-2649)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for College Avenue Townhomes, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The proposal is for a residential development consisting of 5 buildings of 4 attached units for a total of 20 multi-family residential dwelling units.

BACKGROUND

The subject property contains 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The majority of the property is zoned C-2; however, the southeastern portion of the site is zoned R-O. The applicant requests rezoning, land use, and large scale development approval for a residential multi-family development within a unique R-PZD zoning district on the subject property. The proposed zoning would allow for a maximum density of 8.54 units/acre.

DISCUSSION

On August 27, 2007 the Planning Commission voted 7-0-0 in favor of forwarding this request to the City Council. Discussion included the fact that through several revisions of this project, it now incorporates all comments recommended by staff, including maintaining the minimum 30% canopy preservation, the addition of sprinklers to all buildings for fire suppression, and modified retaining walls to limit land disturbance as much as possible.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2649, COLLEGE AVENUE TOWNHOMES, LOCATED SOUTHEAST OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE; CONTAINING APPROXIMATELY 2.34 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From C-2, Thoroughfare Commercial and R-O, Residential Office to R-PZD 07-2649, College Avenue Townhomes, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



Overview



0 75 150 300 450 600 Feet

EXHIBIT "B"
R-PZD 07-2649

A PART OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 17 NORTH, RANGE 30 WEST, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT: BEGINNING AT A POINT WHICH IS N87°30'49"W 655.77' FROM THE NORTHEAST CORNER OF SAID FORTY ACRE TRACT, RUNNING THENCE S02°01'46"W 441.25' TO A FOUND IRON PIN, THENCE N87°14'36"W 308.88' TO A FOUND IRON PIN, THENCE N13°21'24"E 99.99' TO A FOUND IRON PIN, THENCE N26°09'35"E 216.82' TO A FOUND IRON PIN, THENCE N45°11'12"E 8.58', THENCE N26°47'44"E 150.00', THENCE S87°30'49"E 131.87' TO THE POINT OF BEGINNING. CONTAINING 2.34 ACRES, MORE OR LESS. SUBJECT TO EASEMENTS AND RIGHTS-OF-WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 1 of 3

The Planning Commission and Staff recommend the following conditions of approval associated with R-PZD 07-2649 (College Avenue Townhomes).

Conditions of Approval:

1. Planning Commission determination of street improvements. *Staff recommends that a new 6' sidewalk be constructed to current City standards along Golden Eagle Drive from the east property line to N. College Avenue. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.*
2. Planning Commission determination of a waiver to allow a curb radius of 20' on a minor residential street where 30' is required. *Staff recommends in favor of the curb radius of 20', finding that a 20' curb radius on a private street with limited vehicle trips allows for safe and adequate vehicular turning movements for passenger and emergency service vehicles.*
3. The main driveway for the development shall be located within an access easement that extends from Golden Eagle Drive to the south property line to permit cross-access to and from future development to the south. Said easement shall be included on the easement plat document.
4. Parks fees are due in the amount of \$13,600.00 for 20 multi-family dwelling units prior to building permit approval.
5. As noted on the plat, when the adjacent property to the south develops, the owner/developer of the College Avenue Townhomes property shall relocate the dumpster pad to the west side of the turn around/hammerhead and the eastern part of the turn around shall be converted to parking spaces. The parking spaces and dumpster pad/screen shall be reviewed by City staff prior to construction to ensure adequate access is maintained.
6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.
7. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development – Planned Zoning District by the City Council shall also be binding.
8. Phasing: This project is required to obtain all building permits in accordance with the timeframe for LSD's as outlined in Chapter 166 of the Unified Development Code, which allows a 1-year time frame in which all building permits must be obtained. A 1-year extension is possible, subject to the provisions of Chapter 166.20.

Fire Department Conditions of Approval:

9. The fire apparatus access road into the development shall be provided with approved width and turnaround provisions in accordance with the Arkansas Fire Code D103.4 and Table D103.4.
10. All buildings shall be accessible to Fire Department apparatus by way of an approved fire apparatus access road with an asphalt, concrete, or other approved driving surface capable of

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 2 of 3

supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Arkansas Fire Code D102.1.

11. Turning radii on the islands at the upper most parking area must be constructed to allow fire apparatus to make the turn without the risk of hitting either the garbage bin or parked cars.
12. Each of the residential units shall be fitted with NFPA 13R residential sprinklers.

Urban Forester Conditions of Approval:

13. If during construction review process it is determined by the Urban Forester that less than 30% canopy will be preserved, the subject development shall be brought before the Planning Commission for consideration of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage.
14. The area of preserved canopy in the southeast portion of the site shall be placed within a Tree Preservation Area. The extent of which should follow the proposed tree protection fencing for said portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for water, sewer, police and fire shall be paid in accordance with City ordinance.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Any required trash enclosure shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building.** A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
19. All freestanding and wall signs shall comply with ordinance specifications for location, size, type, number, etc. Signs are not allowed to be placed in utility easements.
20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened with tall grasses or shrubs. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**

CONDITIONS OF APPROVAL:

R-PZD 07-2649

Page 3 of 3

21. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance. Manufacturer's cut-sheets are required prior to building permit approval.
22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
23. Large scale development shall be valid for one calendar year.
24. Prior to building permit, a cost estimate for all required landscaping is to be submitted to the Landscape Administrator for review. Once approval is gained, a guarantee is to be issued (bond/letter of credit/cash) for 150% of the cost of the materials and installation of the plants. This guarantee will be held until the improvements are installed and inspected, at the time of Certificate of Occupancy.
25. Prior to the issuance of a building permit the following is required:
 - a. Grading and drainage permits
 - b. An on-site inspection by the Landscape Administrator of all tree protection measures prior to any land disturbance.
 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
 - d. Project Disk with all final revisions
 - e. One copy of final construction drawings showing landscape plans including tree preservation measures submitted to the Landscape Administrator.
26. 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.
27. Impact fees for water, sewer, police, and fire shall be paid in accordance with City ordinance.



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS
PLANNING DIVISION CORRESPONDENCE

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

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 20, 2007~~ Updated August 30, 2007

R-PZD 07-2649: Planned Zoning District (COLLEGE AVENUE TOWNHOMES, 291): Submitted by BATES & ASSOCIATES for property located SE OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL AND R-O, RESIDENTIAL OFFICE and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD, Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

Planner: Jesse Fulcher

Findings:

Background: The subject development proposal was heard by the Subdivision Committee on July 12, 2007. The request was tabled by the Subdivision Committee to allow the applicant additional time to work with City staff regarding the tree preservation plan, detention requirements and fire apparatus access. Since the previous review, the applicant has obtained support from the Urban Forester for the tree preservation plan and modified the site plan to address the concerns of the Fire Department.

The Subdivision Committee reviewed the project again on August 02, 2007. Due to some outstanding issues regarding the location and design of some of the retaining walls, which would likely result in modifications to the tree preservation plan, staff recommended that the request be tabled until the August 16, 2007 Subdivision Committee meeting. The applicants have resolved the concerns regarding the retaining walls and maintained 30% of the existing tree canopy, which meets the minimum requirements for the subject development.

The project was forwarded by the Subdivision Committee on August 16, 2007. The outstanding issues discussed at the previous meetings were resolved. Minutes from the meetings are attached to the staff report.

Property Description: The subject property contains 2.34 acres located east of N. College Avenue and south of Golden Eagle Drive (private drive), and is located within the Hillside/Hilltop Overlay District. The majority of the property is zoned C-2; however, the southeastern portion of the site is zoned R-O.

Proposal: The applicant requests rezoning, land use, and large scale development approval for a

residential multi-family development within a unique R-PZD zoning district on the subject property. The proposed zoning would allow for a maximum density of 8.54 units/acre. The density is based on the requested 20 units on 2.34 acres.

The project booklet and the plats provided give the zoning criteria in detail. Please reference this provided material for more information. These documents are binding to the zoning of the property.

Surrounding Land Use and Zoning

Direction from Site	Land Use	Zoning
North	Commercial	C-2, Thoroughfare Commercial
South	Undeveloped	C-2, Thoroughfare Commercial
East	Undeveloped	R-O, Residential Office
West	Commercial	C-2, Thoroughfare Commercial

Phasing: The applicant proposes to develop the property in one phase in accordance with the standard timeframe requirements of Chapter 166 of the Unified Development Code. All building permits shall be obtained within one year from the date of City Council approval with a one-year extension available subject to Chapter 166.20 of the Unified Development Code.

Water/Sewer: Water and sewer service are available to the property.

Access: Access to the proposed development would be from Golden Eagle Drive, which intersects N. College Avenue.

Adjacent Master Street Plan Streets: Golden Eagle Drive (Private Street).

Street Improvements: Staff is recommending that the existing sidewalk along Golden Eagle Drive be reconstructed to current City standards from the property to N. College Ave. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.

Tree Preservation:	Existing Tree Canopy:	67.9%
	Tree Canopy Preserved:	30.5%
	Required Tree Canopy:	30.0%
	Mitigation:	Mitigation is not required.

Recommendation: Staff recommends forwarding R-PZD 07-2649 to the City Council with the following conditions of approval:

Conditions of Approval:

1. Planning Commission determination of street improvements. Staff recommends that a new 6' sidewalk be constructed to current City standards along Golden Eagle Drive from the east property line to N. College Avenue. Additionally, staff recommends that sufficient barricades be erected interior to the site as noted on the plat and deemed necessary by the Engineering Department to protect public safety.

8-16-07 SUBDIVISION COMMITTEE: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE RECOMMENDED STREET IMPROVEMENTS.

2. Planning Commission determination of a waiver to allow a curb radius of 20' on a minor residential street where 30' is required. *Staff recommends in favor of the curb radius of 20', finding that a 20' curb radius on a private street with limited vehicle trips allows for safe and adequate vehicular turning movements for passenger and emergency service vehicles.*

8-16-07 SUBDIVISION COMMITTEE: THE SUBDIVISION COMMITTEE FOUND IN FAVOR OF THE REQUESTED WAIVER.

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE REQUESTED WAIVER.

3. The main driveway for the development shall be located within an access easement that extends from Golden Eagle Drive to the south property line to permit cross-access to and from future development to the south. Said easement shall be included on the easement plat document.
4. Parks fees are due in the amount of \$13,600.00 for 20 multi-family dwelling units prior to building permit approval.
5. As noted on the plat, when the adjacent property to the south develops, the owner/developer of the College Avenue Townhomes property shall relocate the dumpster pad to the west side of the turn around/hammerhead and the eastern part of the turn around shall be converted to parking spaces. The parking spaces and dumpster pad/screen shall be reviewed by City staff prior to construction to ensure adequate access is maintained.
6. Buildings shall be constructed to be consistent with the photos and concepts depicted in the booklet as specified. Building permits will be based upon the submitted materials.
7. The Master Development Plan, Statement of Commitments and Architectural Standards submitted by the applicant shall be considered binding and tied to the zoning of the property. Conditions of approval as noted herein and other requirements placed upon the project with review of the Master Development – Planned Zoning District by the City Council shall also be binding.
8. Phasing: This project is required to obtain all building permits in accordance with the timeframe for LSD's as outlined in Chapter 166 of the Unified Development Code, which allows a 1-year time frame in which all building permits must be obtained. A 1-year extensions is possible, subject to the provisions of Chapter 166.20.

Fire Department Conditions of Approval:

9. The fire apparatus access road into the development shall be provided with approved width and turnaround provisions in accordance with the Arkansas Fire Code D103.4 and Table D103.4.
10. All buildings shall be accessible to Fire Department apparatus by way of an approved fire apparatus access road with an asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. Arkansas

Fire Code D102.1.

11. Turning radii on the islands at the upper most parking area must be constructed to allow fire apparatus to make the turn without the risk of hitting either the garbage bin or parked cars.
12. Each of the residential units shall be fitted with NFPA 13R residential sprinklers.

Urban Forester Conditions of Approval:

13. If during construction review process it is determined by the Urban Forester that less than 30% canopy will be preserved, the subject development shall be brought before the Planning Commission for consideration of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage.
14. The area of preserved canopy in the southeast portion of the site shall be placed within a Tree Preservation Area. The extent of which should follow the proposed tree protection fencing for said portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.

Standard Conditions of Approval:

15. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
16. Impact fees for water, sewer, police and fire shall be paid in accordance with City ordinance.
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
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20. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. Ground mounted equipment separate from the structure may be screened with tall grasses or shrubs. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
21. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance. Manufacturer's cut-sheets are required prior to building permit approval.

22. All existing utilities below 12kv shall be relocated underground. All proposed utilities shall be located underground.
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 - c. Separate easement plat for this project that shall include the tree preservation area and all utility easements.
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26. 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.
27. Impact fees for water, sewer, police, and fire shall be paid in accordance with City ordinance.

Additional Conditions:

- a. _____
- b. _____

Planning Commission Action: ☒ Forwarded

☐ Denied

☐ Tabled

Motion: Myers

Second: Cabe

Vote: 7-0-0

Meeting Date: August 27, 2007

Comments: _____

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

Signature

Date

Findings associated with R-PZD 07-2649 (College Avenue Townhomes)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as an Urban Center Area. Rezoning this property to R-PZD 07-2649 with multi-family dwelling units is not inconsistent with the land use plan and the surrounding land use. An Urban Center Area is generally described as having the most intense and dense development patterns within the City with a variety of building types and uses. However, given the location of the property within the Hillside/Hilltop Overlay District, staff finds that an intense and dense development pattern would potentially detrimentally affect the hillside and surrounding properties. Additionally, it is appropriate to provide a medium-density residential transition between the thoroughfare commercial uses along College Avenue and the adjoining single-family neighborhood to the east.

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

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The rezoning request, combined with the Master Development Plan, creates a single purpose residential use. Staff finds the proposed use to be appropriate in this transitional area between single-family residences to the east and thoroughfare commercial uses to the west. Additionally, the proposed development utilizes the natural features of the site, including topography and tree canopy, to minimize the visual changes to surrounding properties. As practiced in many areas of the City, transitions in land use between high intensity commercial uses and low intensity single-family uses are often times medium density multi-family residential uses, which is proposed with this project, at 8.54 dwelling

units per acre.

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

FINDING: The site is generally steep with some flat areas along an existing drive and is located within the HHOD. Development of the land utilizing best management practices within the HHOD should provide a development that is compatible with the natural environment. A minimum of 30% of the existing tree canopy is proposed to be preserved within a tree preservation area. Staff finds the proposed use to be much more compatible with the natural environment than development that could potentially occur with the existing commercial zoning.

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

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets; however, the overall number of units (20) should not create an appreciable amount of traffic, especially when compared to the same property is developed under the current C-2 zoning.

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

FINDING: A plan and project booklet has been submitted, recognizing the zoning and development criteria required of a Master Development Plan submittal. Typical architectural elevations, materials and design standards are called out, in order to describe the appearance of the project once constructed.

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

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

(B) Development standards, conditions and review guidelines

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

FINDING: A residential use is a significant change from the existing C-2, Thoroughfare Commercial zoning. Staff finds that the proposal herein does incorporate an acceptable level of compatibility, and development features further the health, safety, amenity and welfare of the community. The density and maximum dwelling units have been addressed for the planning area; a greater percentage of open space will be retained in comparison to the requirements under the C-2 zoning district. Traffic movement is achieved via a private street, with access onto N. College Avenue. The proposed development will work with the natural features and topography of the property and place an emphasis on tree preservation, allowing for a project that enhances the area.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed, though much of the southeast of the site will be naturally screened by the tree preservation area.

- (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: A traffic study was not required with this proposed development. Ingress and egress to the project will be provided from Golden Eagle Drive, which intersects N. College Ave. Staff finds that the proposed twenty units will not create or compound a dangerous traffic condition in the area.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

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

FINDING: This requirement has been met.

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

FINDING: A new 6' sidewalk is to be constructed from the project to N. College Ave.

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

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

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

FINDING: Public water lines are available to each lot and shall be extended in accordance with city codes.

- (9) *Sewer.* As required by §166.03.

FINDING: Public sewer lines are available to each lot and shall be extended in accordance with city codes.

- (10) *Streets and Drainage.* Streets within a residential PZD may be either public or private.

- (a) *Public Streets.* Public streets shall be constructed according to the adopted standards of the City.

- (b) *Private Streets.* Private streets within a residential PZD shall be permitted subject to the following conditions:

- (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.

- (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.

- (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.

- (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
- (v) The plat of the planned development shall designate each private street as a "private street."
- (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.
- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.
- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. The applicant shall have one year from City Council approval to obtain all necessary permits to begin construction with a one year extension available pursuant to Chapter 166.20.

- (12) *Tree preservation.* All PZD developments shall comply with the requirements for tree preservation as set forth in Chapter 167 Tree Preservation and Protection. The location of trees shall be considered when planning the common open space, location of buildings, underground services, walks, paved areas, playgrounds, parking areas, and finished grade levels.

FINDING: The applicant has worked with the Urban Forester to preserve 30% of the existing canopy, which shall be placed within a tree preservation easement.

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

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: No scenic views are identified, and the height of structures proposed are not uncommon for the area.

(E) Revocation.

- (1) *Causes for revocation as enforcement action.* The Planning Commission may recommend to the City Council that any PZD approval be revoked and all building or occupancy permits be voided under the following circumstances:
- (a) *Building permit.* If no building permit has been issued within the time allowed.
 - (b) *Phased development schedule.* If the applicant does not adhere to the phased development schedule as stated in the approved development plan.

(c) *Open space and recreational facilities.* If the construction and provision of all common open spaces and public and recreational facilities which are shown on the final plan are proceeding at a substantially slower rate than other project components.

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

(2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.

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

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

(1) *Legal entities.* The developer shall create such legal entities as appropriate to undertake and be responsible for the ownership, operation, construction, and maintenance of private roads, parking areas, common usable open space, community facilities, recreation areas, building, lighting, security measure and similar common elements in a development. The city encourages the creation of homeowner associations, funded community trusts or other nonprofit organizations implemented by agreements, private improvement district, contracts and covenants. All legal instruments setting forth a plan or manner of permanent care and maintenance of such open space, recreation areas and communally-owned facilities shall be approved by the City Attorney as to legal form and effect, and by the Planning Commission as to the suitability for the proposed use of the open areas. The aforementioned legal instruments shall be provided to the Planning Commission together with the filing of the final plan, except that the Guarantee shall be filed with the preliminary plan or at least in a preliminary form.

(2) *Common areas.* If the common open space is deeded to a homeowner association, the developer shall file with the plat a declaration of covenants and restrictions in the Guarantee that will govern the association with the application for final plan approval. The provisions shall include, but not necessarily be limited to, the following:

(a) The homeowner's association must be legally established before building permits are granted.

- (b) Membership and fees must be mandatory for each home buyer and successive buyer.
- (c) The open space restrictions must be permanent, rather than for a period of years.
- (d) The association must be responsible for the maintenance of recreational and other common facilities covered by the agreement and for all liability insurance, local taxes and other public assessments.
- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements. A condition to this effect is included in the staff report.

Sec. 161.25 Planned Zoning District

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

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

- (9) General Plan. Comprehensive and innovative planning and design of mixed use yet harmonious developments consistent with the guiding policies of the General Plan.
- (10) Special Features. Better utilization of sites characterized by special features of geographic location, topography, size or shape.

FINDING: The proposed development incorporates many of the above criteria, as indicated by the transition from commercial land use to multi-family land use; the minimal disruption of existing natural features and amenities; utilization of the site special features, such as geographic location, topography, size and shape; creating a community atmosphere near an arterial street, while providing necessary infrastructure improvements to alleviate any potential impact; and providing a variety of housing types within the same area. Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, common open spaces, and enhancement of existing natural features.

(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: The proposal is single-use residential development, which is more appropriate for a PZD application in this area than a general multi-family residential rezone. The requested R-PZD provides an effective transition between two different land uses and activities on abutting parcels. By clustering more densely and utilizing some of the best management practices available in the HHOD, the natural features of the site and existing tree canopy can be preserved.

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

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

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

FINDING: All uses are proposed as residential.

(F) *Bulk and area regulations*

- (1) *Residential density.* Residential densities shall be determined on the basis of the following considerations:
 - (a) The densities of surrounding development;
 - (b) the densities allowed under the current zoning;
 - (c) the urban development goals and other policies of the city's City Plan 2025;
 - (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 developments are quite varied. There is an existing residential single-family subdivision to the east and developed commercial properties to the west. Land to the north and south is zoned C-2 and R-O and is predominantly undeveloped. The density proposed for this development is appropriate given the transitional nature of the development single-family residential and commercial land uses.

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

FINDING: The lot area minimums and building setbacks for the proposed development are not inconsistent with the bulk and area requirements of the C-2 zoning district. In compliance with HHOD practices, the buildings have been pushed forward towards the private street access with parking areas located behind the buildings.

- (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 for multi-story structures. Staff has recommended a maximum height of 50' as measured from the existing natural grade.

- (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 lower in comparison to a C-2 zoning district, which is appropriate given the location of the property in the HHOD.

***Required Findings for Rezoning Request.**

Land Use Plan: The City Plan 2025 designates this site as an Urban Center Area. Rezoning this property to R-PZD 07-2649, with the associated Master Development Plan, allows the property to be constructed as a residential development. The proposed plan, commitments, design standards and other conditions placed upon the project result in a compatible development with surrounding land uses in the general vicinity, meeting many of the goals of the City Plan 2025 for new development.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is consistent with many of the principles and policies in place. The development project creates an internal transition between land uses, while also adding to the existing mixture of land uses and densities in the vicinity. Additionally, the project utilizes many of the best management practices outlined in the City's Hillside/Hilltop Overlay District. These include positioning parking areas behind buildings, utilizing cut slopes with retaining walls to minimize disturbance and separating parking pads.

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

Finding: The proposed zoning is needed in order to develop anything other than those uses allowed within the C-2, Thoroughfare Commercial zoning district. The C-2 zoning district does allow for attached and detached residential dwellings as accessory uses to the permitted uses within the C-2 zoning district. The density limitations are governed by Chapter 161.13 (C), RMF-24, Residential Multi-Family, 24 Units per Acre.

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

Finding: The proposed zoning will not create or appreciably increase traffic danger or congestion on surrounding streets given that there are only 20 units proposed. The project will access a private street that intersects N. College Ave., which is a 5-lane roadway.

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

Finding: Based on findings from public service providers, as outlined below, an undesirable increase in load on public services would not be created.

Engineering: The proposed development has been reviewed for access to public utilities, including water and sewer. Water service is required to be extended to the property. Sewer service is available to the property, although improvements to the sewer systems may be required dependent on the demand placed by subject development.

Police: Projects existing in this area already receive police services. The same level of service will be provided to this site as is currently applied to the existing surrounding development. It is the opinion of the Fayetteville Police Department that this Planned Zoning District will not substantially alter the population density and thereby undesirably increase the load on police services or create and appreciable increase in traffic danger and congestion in the area.

Fire: The subject property is located approximately 2.1 miles from the Fire Station No. 4. Response time to the property is 5.0 minutes.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

LANDSCAPE REVIEW FORM

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: PZD 07-2649: Planned Zoning District (College Avenue Townhomes)

Applicable Requirements:

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

Plan Checklist:

Y= submitted by applicant

N=requested by City of Fayetteville

NA= not applicable

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

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

Conditions of Approval:

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



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

TREE PRESERVATION and PROTECTION REPORT

To: Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: R-PZD 07-2649: Planned Zoning District (College Ave. Townhomes)

Requirements Submitted:

	Initial Review with the Landscape Administrator
T	Site Analysis Map Submitted
T	Site Analysis Written Report Submitted
T	Complete Tree Preservation Plan Submitted

Canopy Measurements:

Total Site Area	
acres	2.34
square feet	101,713
Existing Tree Canopy	
acres	1.59
square feet	69,169
percent of site area	68%
Existing Tree Canopy Preserved	
acres	0.71
square feet	31,013
percent of total site area	30.5%
Percent Minimum Canopy Required	30%

FINDINGS:

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

- **This site is a wooded hillside with a mixture of hardwood and evergreen species. A few of the larger trees have been identified as**

post and black oak. As this is a PZD and found within the Hillside Hilltop Overlay District, a high amount of preservation is expected. The extent to which the area would be subject to environmental degradation due to removal of the tree or group of trees.

- **Environmental degradation will occur on this site with the removal and disturbance of so much tree canopy and land.**

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

- **Adjacent property owners could be affected as canopy will be removed along the east of the property behind businesses and to the north west of the property. The reduction of tree canopy could greatly affect the current stormwater runoff.**

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

- **Hillside Hilltop Overlay Best Management Practices are being utilized for the wide of the drives and location of the parking lots.**

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

- **The size and shape of the lot does not reduce flexibility although topography is very challenging.**

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

- **The overall health of the trees are found to be good.**

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

- **Canopy will be removed within the development area. This will be for the installation of structures, utilities and associated parking. There is a small amount of canopy to the south east and south west that will be attempted to be saved. Staff will recommend this to be placed within a Tree Preservation Area to ensure protection in perpetuity.**

The need to remove the tree or group of trees for the purpose of installing, repairing, replacing, or maintaining essential public utilities.

- **Off-site utility easements were required for this development. The area and canopy removed has been added to the total site area and removed canopy to ensure the preserved canopy calculation subsequent mitigation is accurate.**

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

- **There is one drive aisle that does not take into account the steep topography on this site. The utilities are utilizing the disturbed area in all possible locations.**

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

- **Off-site easements are required for utilities on this project. Removed canopy will be mitigation for if the percentage drops below the 30% requirement. Off-site tree protection will also be required to ensure that no further canopy is removed than what was originally approved.**

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

- **Mitigation will not be required on this site as long as the minimum percentage stays above the 30% requirement.**

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

- **The Project is within the Hillside Hilltop Overlay District**

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

- **N/A**

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

- **Staff is recommending approval of the submitted Tree Preservation Plan with the following Conditions of Approval.**

Conditions of Approval:

1. Mitigation will not be required on this site as the proposed Tree Preservation numbers will stay above the required 30%. If during the construction review process, it is found that less than 30% canopy will be saved; staff will require this project to come back through the review process for approval of a major modification.
2. The area of preserved canopy in the southeast portion of the site will need to be placed within a Tree Preservation Area. The extent should follow the proposed Tree Protection Fencing for that portion of the site. The Tree Preservation Area will be deeded with the easement plat and stand as a running covenant to protect the trees in perpetuity.



THE CITY OF FAYETTEVILLE, ARKANSAS

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

TO: Jesse Fulcher, Planner
FROM: Alison Jumper, Park Planner
DATE: August 14, 2007
SUBJECT: Parks & Recreation Subdivision Committee Review Comments

Meeting Date: August 16, 2007
Item: PZD 07-2649 (College Avenue Townhomes, 291)
Park District: NE
Zoned: R-PZD
Billing Name & Address: Broyles Development, 4921 Clear Creek Blvd. Fayetteville, AR 72704

Land Dedication Requirement
Single Family ____ @ .024 acre/ unit = ____ acres
Multi Family ____ @ .017 acre/ unit = ____ acres

Money in Lieu
____ @ \$960 per unit = \$ ____
20 @ \$680 per unit = \$13,600

COMMENTS:

- Parks and Recreation Advisory Board made a recommendation of accepting money in lieu of land for the park land dedication requirement for this development on June 4, 2007.
- Fees are due prior to building permits.

Fayetteville Fire Department

303 W Center

Fayetteville, AR 72701



D. 1
R-PZD 07-2649
College Avenue Townhomes
Page 32 of 40

MEMO

To: Jesse Fulcher, Glen Newman
From: Dale Riggins, Captain
Date: July 6, 2007
Subject: PRZD – College Avenue Townhomes

Dear Mr. Fulcher & Mr. Newman

In regards to the development off of Golden Eagle Drive that Bates & Associates are proposing; without the following conditions being met, the Fire Department can not support this development.

1. The fire apparatus access road, coming into the development, shall be provided with approved width and turnaround provisions in accordance with the *Arkansas Fire Code D103.4 and Table D103.4. (Needs to be shown on plat)*
2. All buildings shall be accessible to fire department apparatus by way of an approved fire apparatus access roads with an asphalt, concrete, or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds. *Arkansas Fire Code D102.1 (This is a standard comment and should be met)*
3. Turning radiuses, on the islands at the upper most parking lots, must be reviewed and the radius built to allow apparatus to make the turn without the risk of hitting either the garbage bin or parked cars. *(Turning radiuses have been modified to our approval)*
4. *Arkansas Fire Code D103.2* states that fire apparatus access roads shall not exceed 10 percent in grade. After having our apparatus drive comparable grades, it is my opinion that the grade coming up Golden Eagle Drive, and the 15 percent grade coming into the entrance of this development, will greatly affect the response time that it takes to arrive at the townhomes. I have come up with a few feasible solutions that will help with the Fire Departments approval of this development, if the existing grades cannot be modified to meet the Arkansas Fire Code.

- a. The turning radius entering into this development must be widened to allow apparatus means of maintaining their momentum as they move towards the 15 percent grade leading to the townhomes. *(They have modified their turning radiuses to met this requirement on the plat)*
- b. We will need assurances that the entrance into this development, and the access road leading to the upper townhomes, will be constructed to allow our apparatus to come up to these grades without dragging either the front or back bumpers. *(They have provided us with a CAD drawing showing us that we are able to maneuver the grade without dragging either the front of rear bumpers)*
- c. Since the grade of Golden Eagle Drive and the development affects our response time, I am recommending that each of the townhomes be fitted with NFPA 13R residential sprinklers. Sprinklers will not only help to control a fire due to our longer response time, but it will help with life safety during times of inclement weather where we may not be able to access the development due to snow, ice, or cars stranded in the roadway. *(They have agreed to install these sprinklers and need to show the FDC locations on the plat)*

Please pass these along to the Sub-Division committee at the upcoming meeting. If all of these recommendations are met and approved by the Fire Marshal's office, then I don't anticipate any problems on having the developer to move forward with this project from the fire safety stand point.

Dale Riggins
Captain
Fayetteville Fire Department

CC: Tony Johnson, Fire Chief
David Williams, Fire Marshal

Date 7/3/07

Jeremy Pate
Zoning and Development Director
City of Fayetteville
113 W. Mountain
Fayetteville, Arkansas 72701

Dear Director Pate,

This document is in response to the request for a determination of whether the proposed **PZD 07-2649: Planned Zoning District (College Avenue Townhomes, 291):** Submitted by **Bates & Associates** for property located **SE of College Avenue and Golden Eagle Drive**, would substantially alter the population density and thereby undesirably increase the load on public services and create an appreciable increase in traffic danger and congestion. **The property is zoned C-2 and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD with 5 buildings of 4 attached units for a total of 20 dwellings units and associated parking.**

It is the opinion of the Fayetteville Police Department that this PZD will not substantially alter the population density and will not create an appreciable or undesirable increase in the load on police services. The PZD will not create an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

Bates & Associates, Inc.

Civil Engineering & Surveying

3561 No. College / Fayetteville, AR 72703
PH: 479-442-9350 / FAX: 479-521-9350

July 3, 2007

Chairman of the Board of Adjustments
113 West Mountain
Fayetteville, AR 72701

RE: Driveway Variance for College Ave. Townhomes

Dear Mr. Chair,

This letter is to request a variance from the required driveway radius of 25' along a public street. We are asking to decrease the radius from 25' down to 20' due to the terrain and the amount of grading and/or disturbance that would occur from the larger radius. Since we are in the hillside district, we are trying to minimize disturbance. Also, the ordinance states that the 25' driveway radius is along public streets. Golden Eagle drive is not a public street; it is considered a private street with an access easement. Likewise, the streets throughout this project would be considered private streets and would not have to follow the 25' radius. Also, according to Dale Riggins at the Fayetteville Fire Department the 20' radius is adequate for the maneuvering of fire apparatus.

If you have any questions or require additional information, please feel free to call.

Sincerely,

Bate & Associates, Inc.



Chris Waller, E.I.

Subdivision Committee

August 16, 2007

Page 2 of 14

Old Business:

R-PZD 07-2649: (COLLEGE AVENUE TOWNHOMES, 291): Submitted by BATES & ASSOCIATES for property located SE OF COLLEGE AVENUE AND GOLDEN EAGLE DRIVE. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 2.34 acres. The request is for re-zoning, land use and development approval of an R-PZD, Residential Planned Zoning District with 5 buildings of 4 attached units for a total of 20 dwelling units and associated parking.

Chris Waller, Applicant, described the last meeting and issues they've resolved.

Jesse Fulcher, Current Planner, briefly described the request and the reasons for the previous tabling of the item. The applicant had worked with the Urban Forester and the Engineering Department and resolved all outstanding items. Staff was recommending that the request be forwarded to the Planning Commission with a determination of street improvements and a waiver to allow a 20' curb radius where 30' is required.

Sarah Patterson, Urban Forester, stated that issues with the retaining walls and tree canopy had been resolved, and the applicants were preserving 30% of the existing canopy. If any time the forested area looks like it is going to fall below 30%, the project will be required to come back before the Planning Commission as a major modification.

Glenn Newman, Staff Engineer, stated that he had met with the applicant. The applicants have relocated some of the utility easements and retaining walls to meet Engineering requirements.

Larry Bittle, (public), owns office buildings below property, is concerned about drainage, but not necessarily against the project. He had two questions: will runoff drain into a detention pond, and is the south side going to run off? He stated he was okay with the project as long as drainage is addressed.

Chris Waller, (applicant) stated that project runoff issues so far have met all city requirements. Right now about 3 acres drain down to the property below. With this development, runoff will be caught by the street and drain into storm sewer. The development will help improve the current drainage situation by decreasing the runoff onto property.

Commissioner Trumbo stated that by ordinance there can't be any more runoff than before, and that he has seen this project once before when tree preservation was just below 30%. Preservation has been increased to above 30% and the comments from the Fire Department have been addressed.

Commissioner Myers asked how much excavation will be required, and about retaining walls.

Waller stated that the buildings are as close to natural grade as possible, and that a lot of the tree canopy and slope will be preserved to the south by the retaining walls.

Subdivision Committee

August 16, 2007

Page 3 of 14

Commissioner Myres stated that grading and tree removal will inevitably occur, but it seems like the density is low enough to meet the standards. She stated she has no issues with the project.

Commissioner Winston stated that the dumpster location will be visible and asked if the committee should look into moving that.

Waller stated that Fayetteville Solid Waste requested the dumpster be there for access, but that the dumpster will be screened as required by ordinance.

No public comment was presented.

Motion:

Commissioner Myres made a motion to forward the request finding in favor of Conditions #1 and #2, and with all other conditions of approval. **Commissioner Winston seconded the motion.**

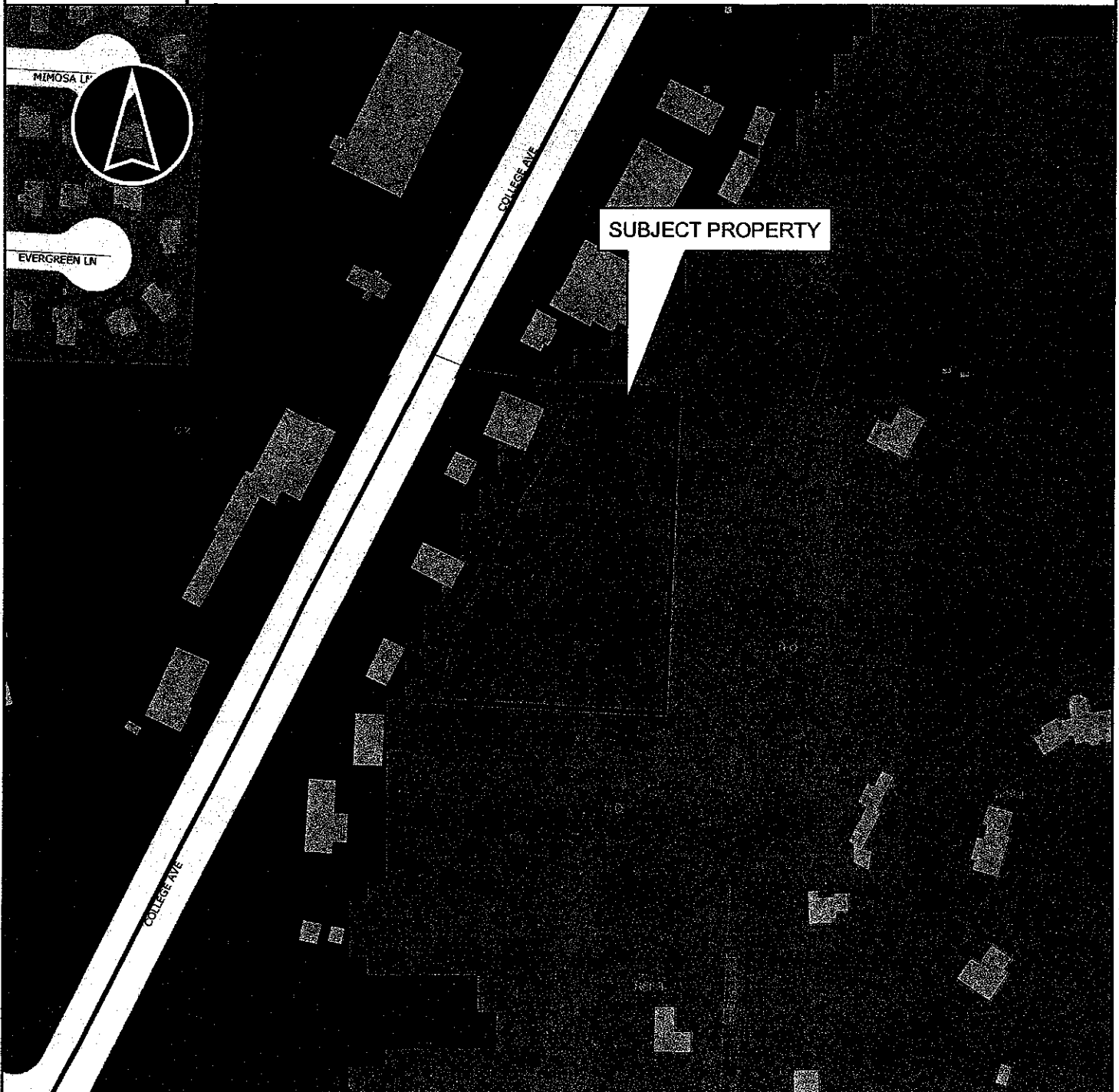
Waller stated he was in agreement with all conditions.

The motion passed with a vote of 3-0-0.

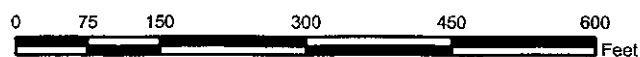
RPZD07-2649

Close Up View

COLLEGE AVENUE TOWNHOMES



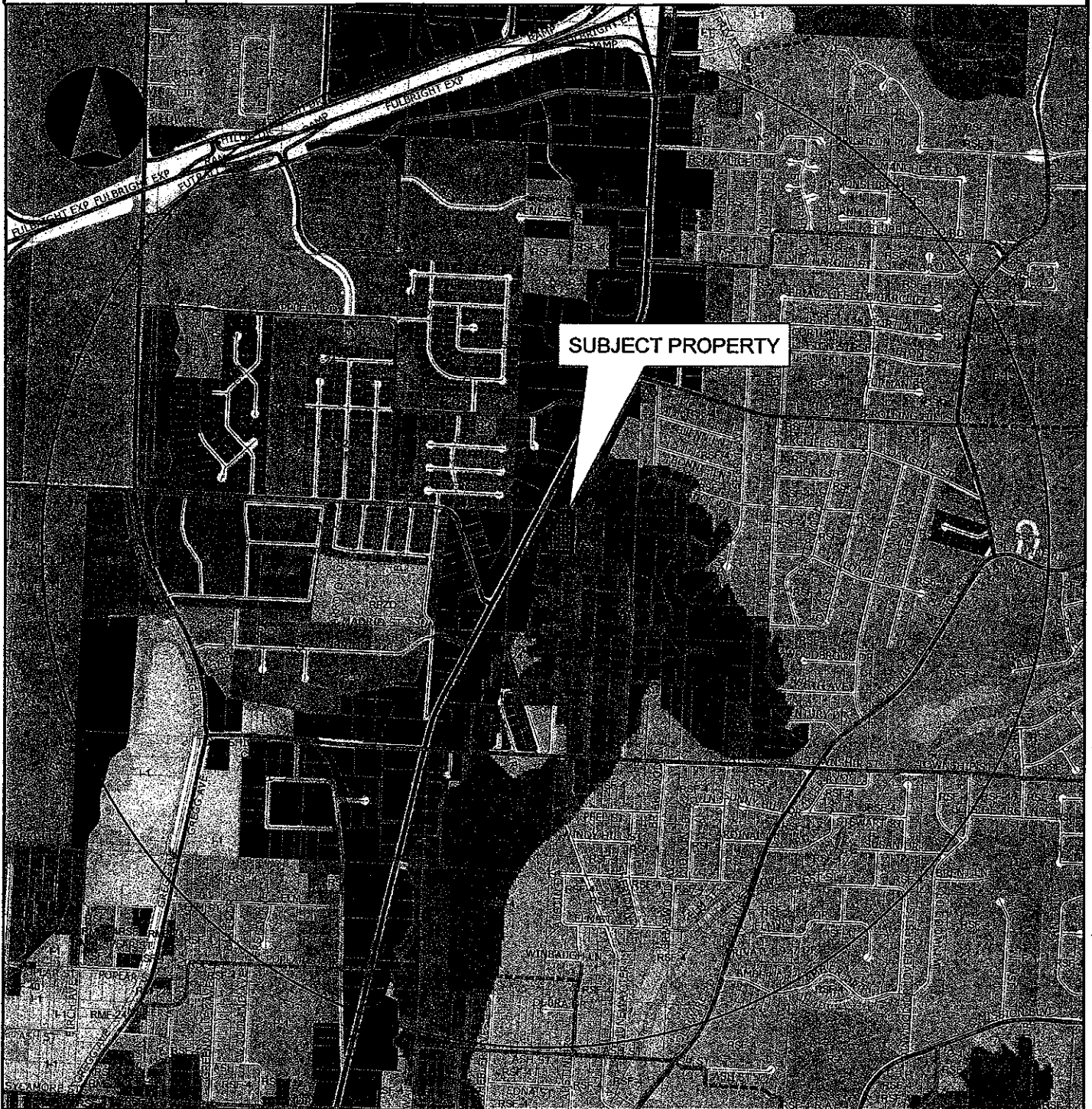
Overview



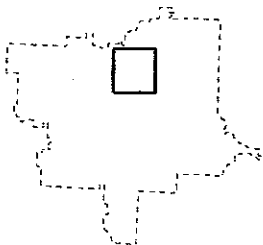
RPZD07-2649

One Mile View

COLLEGE AVENUE TOWNHOMES



Overview



Legend

Subject Property

RPZD07-2649

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1
Miles

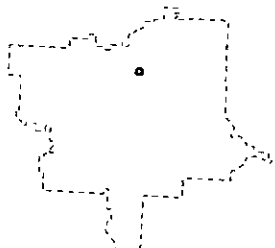
RPZD07-2649

Future Land Use

COLLEGE AVENUE TOWNHOMES



Overview



Legend

Subject Property

RPZD07-2649

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

Outside City

Legend



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

18-Sep-07
City Council Meeting Date

Jeremy Pate
Submitted By

Planning
Division

Operations
Department

Action Required:

R-PZD 07-2680: Arcadian Court, 365: Submitted by Dave Jorgensen for property located at 1631 West Deane Street containing approximately 1.69 acres. The request is for zoning and land use approval only for a Residential Planned Zoning District with 11 single-family units.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

Original Contract Number: n/a

City Attorney

8-31-07

Received in City Clerk's Office

ENTERED
8-31-07

Finance and Internal Service Director

Date

Received in Mayor's Office

ENTERED
9/4/07

Mayor

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 ^{JK}

Date: August 30, 2007

Subject: Residential Planned Zoning District for Arcadian Court (R-PZD 07-2680)

RECOMMENDATION

Planning Staff recommends approval of an ordinance creating a Residential Planned Zoning District (R-PZD) for Arcadian Court, based on the development standards, plans and statement of commitments submitted. This action will establish a unique zoning district for a single-use project on approximately 1.69 acres located on Deane Street, just east of Lewis Avenue. The proposal is for a residential development consisting of 11 single-family residential dwelling units, with a density of 6.5 units/acre.

BACKGROUND

The subject property is located on Deane Street, just east of Lewis Avenue and is zoned RSF-4. The property contains approximately 1.69 acres and was originally developed with one single-family home. The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 11 single-family lots. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval prior to development.

As noted in the staff report, there have been several rezoning and development requests for the subject property dating back to 2003. None of the previous requests were forwarded by the Planning Commission to the City Council. The most recent application, requesting 16 units in single-family and multi-family buildings, was recommended for denial by staff, and denied by the Planning Commission.

DISCUSSION

On August 27, 2007 the Planning Commission voted 7-0-0 in favor of forwarding this request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED R-PZD 07-2680, ARCADIAN COURT, LOCATED AT 1631 WEST DEANE STREET; CONTAINING APPROXIMATELY 1.69 ACRES; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED MASTER DEVELOPMENT PLAN

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

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

From RSF-4, Residential Single Family, 4 units per acre to R-PZD 07-2680, Arcadian Court, as shown in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part hereof.

Section 2: That the change in zoning classification is based upon the approved master development plan, development standards, statement of commitments and the conditions of approval as submitted, determined appropriate and approved by the City Council; further, that the conditions of approval shall be filed and available for viewing in the office of the City Clerk/Treasurer of the City of Fayetteville.

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

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

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

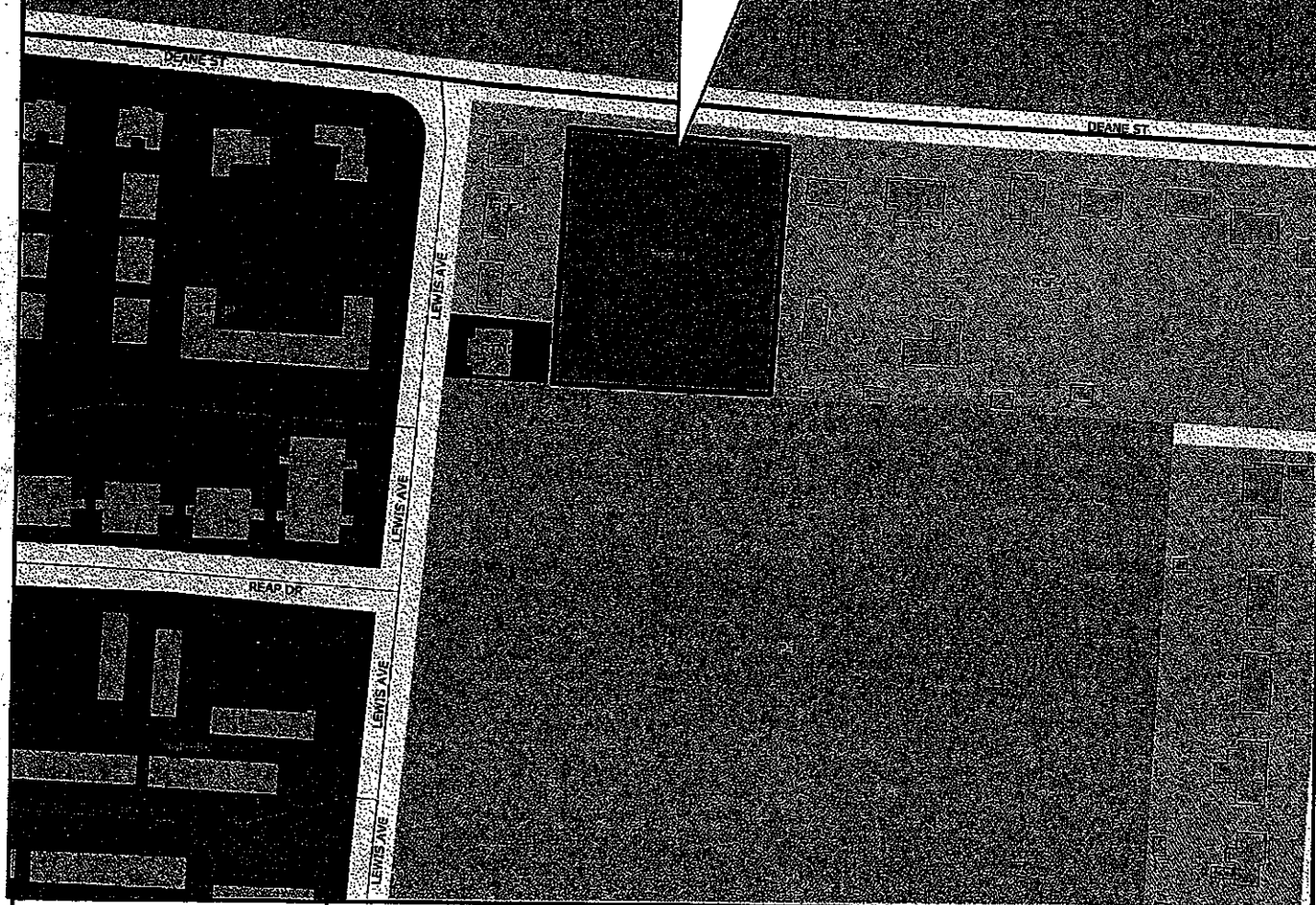
RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



EXHIBIT "B"
R-PZD 07-2680

A PART OF THE SW1/4 OF THE SE1/4 OF SECTION 5, T16N, R30W IN WASHINGTON COUNTY, ARKANSAS AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID SW1/4, SE1/4 THENCE S86°56'57"E 184.08 FEET TO THE P.O.B., THENCE N03°15'08"E 296.95 FEET, THENCE S84°56'54"E 253.42 FEET, THENCE S03°57'22"W 288.13 FEET, THENCE N86°56'57"W 249.76 FEET TO THE P.O.B.; CONTAINING 1.69 ACRES MORE OR LESS SUBJECT TO EASEMENTS AND RIGHT OF WAY OF RECORD.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 1 of 3

The Planning Commission and Staff recommend the following conditions of approval associated with R-PZD 07-2680 (Arcadian Court).

Conditions of Approval:

1. Planning Commission determination of street improvements. The Planning Commission will make final determinations of street improvements at the time of development. At minimum, *staff will recommend that Deane Street be improved 14' from centerline including pavement, curb, gutter, storm drains, and a 6' sidewalk.*
2. Planning Commission determination of adequate connectivity. A single street stub-out is proposed to a large undeveloped property to the south, currently utilized for athletic fields by the City. *Staff recommends in favor of the proposed connectivity finding that the proposed stub-out will allow for a future connection in a logical location.*
3. Curb-cuts shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be increased to 24' at the right-of-way and may be located on the property line. Lots with rear alley access shall be prohibited from having curb-cuts onto the street.
4. This project is required to go through preliminary plat and final plat review and approval prior to construction.
5. The applicant shall dedicate right-of-way for streets pursuant to the Master Street Plan at the time of final plat approval.
6. The project is subject to the project phasing listed in the project booklet. The applicant shall have one year from City Council approval of the Planned Zoning District to obtain all permits necessary, including preliminary plat approval and construction plan approval, to begin construction and three years to obtain final plat approval. A one-time, one year time extension is available for each specific time limit subject to Chapter 166.20 of the Unified Development Code.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat and building permit to ensure compliance. All homes shall be designed with a "front façade" facing onto adjacent public streets, when present, and to have varied facades to provide variety within the overall development.
9. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for RSF-4 zoning districts, which would not allow a sign for the subject development.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 2 of 3

10. 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.
11. 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, subject to approval by the Urban Forester.
12. Prior to preliminary plat submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
13. Landscape requirements as outlined in Chapter 177 shall be required with development plat approval.
14. If required, the two existing utility easements on the property shall be vacated and any existing utility lines relocated at the owner/developers expense prior to construction approval.
15. The following revision(s) shall be made prior to submittal for City Council review:
 - a. Change the building area on the plats from 1,400-1,500 to a maximum of 42%.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
20. 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.

CONDITIONS OF APPROVAL:

R-PZD 07-2680

Page 3 of 3

21. 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.
22. 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



Planning Commission Meeting
August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: August 8, 2007 Updated August 30, 2007

R-PZD 07-2680: Residential Planned Zoning District (ARCADIAN COURT, 365):
Submitted by DAVE JORGENSEN for property located at 1631 W. DEANE STREET. The property is zoned RSF-4, SINGLE FAMILY - 4 UNITS/ACRE and contains approximately 1.69 acres. The request is for Zoning and Land Use approval only for a Residential Planned Zoning District with 11 single family units.

Planner: Jesse Fulcher

Findings:

Property Description: The subject property is located on Deane Street, just east of Lewis Avenue and contains an existing single-family structure. Surrounding land use and zoning are listed in *Table 1*.

(Table 1) Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Vacant-University Farm	R-A, Residential Agriculture
South	Soccer Fields	P-1, Institutional
East	Single-family homes	RSF-4
West	Single-family dwellings/two-family dwelling	RSF-4/RT-12

Proposal: The request is rezoning and land use approval only for a Master Development Plan of a Residential Planned Zoning District with 11 single-family lots and 1 lot for detention. If the PZD is approved as proposed the project would be required to go through preliminary and final plat approval prior to development.

Adjacent Master Street Plan Streets: Deane Street (Minor Arterial)

Right-of-way to be dedicated: Right-of-way in the amount of 45' from centerline for Deane Street shall be dedicated with approval of the final plat.

Connectivity: Property to the east and west is currently developed for single-family residences, and property to the south is currently undeveloped property owned by the University of Arkansas. Accordingly, a street stub-out is proposed to the south to connect to any future development.

Phasing: The applicant is proposing to develop the property in one phase. The applicant shall have one year from City Council approval to obtain all necessary permits for development and three years to obtain final plat approval with a one year extension available for each time limit pursuant to Chapter 166.20 of the Unified Development Code.

Water & Sewer: Water and sewer lines would be extended to serve the 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, requiring a 25% tree preservation percentage as a baseline.

Public Comment: Staff has received several letters from adjacent property owners who are opposed to the subject development, citing such concerns as density, small lot sizes, reduction in property values, an overabundance of un-sold and rental properties in the area, and the architectural compatibility of the development with the surrounding neighborhood.

In 2003, planning staff recommended denial of a rezoning request to R-1.5 (Residential Two and Three Family) for the subject property and the request failed for lack of a motion by the Planning Commission. Both staff and the Planning Commission recommended the most appropriate action to take for development other than single-family homes at four units per acre was to utilize the PZD process.

In January of 2006, an applicant again requested a rezoning of the subject property to RT-12, Residential Two and Three Family (same designation as previous R-1.5, with a different name) with a Bill of Assurance limiting the development to eight (8) two-family homes (16 units). Staff recommended denial of the rezoning; however the applicant withdrew the rezoning request prior to the Planning Commission meeting.

In June of 2006, an applicant requested a Residential Planned Zoning District on the subject property for a maximum of 16 dwelling units (8 multi-family dwelling units, 4 two-family units and 4 single-family dwelling units). Staff again recommended denial of the request finding that proposed density and land use was not compatible with surrounding properties, which are predominantly single-family. The Planning Commission denied the request 5-1-0 on June 12, 2006.

The property to the southwest was rezoned RT-12 in 1993. The applicant requested the rezoning on the subject property in order to meet the zoning requirements for development of a single duplex. Under the RSF-4 (R-1) zoning, the lot did not meet the lot width and lot area requirements for the construction of a duplex. However, under the RT-12 (R-1.5), a duplex could be constructed on the property, but the size of the lot would prohibit the construction of three or more units. The Planning Commission voted 6-2-0 to recommend approval of the rezoning request to the City Council. The City Council approved the rezoning request 8-0 on May 4, 1993, allowing for single two-family structure to be located on the property.

Recommendation: Finding that the proposed rezoning and development approval meets many of the primary goals of the Planned Zoning District ordinance and policies adopted within the City Plan 2025 as noted herein, staff recommends forwarding **R-PZD 07-2680** to the City Council with a recommendation for approval.

Conditions of Approval:

1. Planning Commission determination of street improvements. The Planning Commission will make final determinations of street improvements at the time of development. At minimum, *staff will recommend that Deane Street be improved 14' from centerline including pavement, curb, gutter, storm drains, and a 6' sidewalk.*
2. Planning Commission determination of adequate connectivity. A single street stub-out is proposed to a large undeveloped property to the south, currently utilized for athletic fields by the City. *Staff recommends in favor of the proposed connectivity finding that the proposed stub-out will allow for a future connection in a logical location.*

8-27-07 PLANNING COMMISSION: THE PLANNING COMMISSION FOUND IN FAVOR OF THE PROPOSED CONNECTIVITY.

3. Curb-cuts shall be limited to a maximum width of 16' at the right-of-way and shall be at least 5' from the property line. Shared driveways may be increased to 24' at the right-of-way and may be located on the property line. Lots with rear alley access shall be prohibited from having curb-cuts onto the street.
4. This project is required to go through preliminary plat and final plat review and approval prior to construction.
5. The applicant shall dedicate right-of-way for streets pursuant to the Master Street Plan at the time of final plat approval.
6. The project is subject to the project phasing listed in the project booklet. The applicant shall have one year from City Council approval of the Planned Zoning District to obtain all permits necessary, including preliminary plat approval and construction plan approval, to begin construction and three years to obtain final plat approval. A one-time, one year time extension is available for each specific time limit subject to Chapter 166.20 of the Unified Development Code.
7. No portion of any structure (i.e., porches, overhangs, etc.) shall encroach into building setbacks or utility easements.
8. Buildings shall be constructed to be consistent with the elevations and concepts depicted in the building elevations in the booklet as specified. Building elevations will be reviewed at the time of preliminary plat, final plat and building permit to ensure compliance. All homes shall be designed with a "front façade" facing onto adjacent public streets, when present, and to have varied facades to provide variety within the overall development.

9. Signs shall be permitted in accordance with Chapter 174 of the Fayetteville Unified Development Code for RSF-4 zoning districts, which would not allow a sign for the subject development.
10. 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.
11. 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, subject to approval by the Urban Forester.
12. Prior to preliminary plat submittal, the applicant shall submit the development plans to the Parks Recreation and Advisory Board for review and recommendations regarding parkland dedication.
13. Landscape requirements as outlined in Chapter 177 shall be required with development plat approval.
14. If required, the two existing utility easements on the property shall be vacated and any existing utility lines relocated at the owner/developers expense prior to construction approval.
15. The following revision(s) shall be made prior to submittal for City Council review:
 - a. Change the building area on the plats from 1,400-1,500 to a maximum of 42%.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.
19. Street lights shall be installed adjacent to all public and private streets (not alleys), with a separation of no greater than 300 feet.
20. 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.

21. 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 Action: ☐ Tabled ☒ Forwarded to C.C. ☐ Denied

Motion: Myers

Second: Cabe

Vote: 7-0-0

Meeting Date: August 27, 2007

Comments: _____

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

Signature

Date

Findings associated with R-PZD 07-2680 (Arcadian Court)

Sec. 166.06. Planned Zoning Districts (PZD).

(E) Approval or Rejection Criteria for Planned Zoning Districts

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

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

FINDING: Staff finds the application to be in compliance with the Master Development Plan Planned Zoning District criteria established by the City Council. The City Plan 2025 designates this site as a Residential Neighborhood Area. Rezoning this property to R-PZD 07-2680 with single-family dwelling units at a density of 6.50 units per acre is consistent with the land use plan and the surrounding land use. Although the proposed lot sizes are smaller than the lot sizes found within the standard RSF-4 developments in the area, staff finds the development to be relatively compatible with these developments. The development will support the goal of providing density (6.50 units/acre) nearby to public services, i.e. schools, sports complexes, retail and commercial goods, etc., while protecting the integrity of the predominantly single-family residential neighborhood to the east and further south.

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

FINDING: The application has been reviewed and found to be compliant with applicable statutory provisions, or the applicant has submitted requests for waivers thereof.

- (3) Whether the general impact of the rezoning would adversely impact the provision of public facilities and services;

FINDING: The impact of the rezoning and subsequent development would require the provision of public facilities, at the cost of the developer. Without improvements to existing infrastructure, the proposal would certainly adversely affect public facilities and services. However, as indicated in the submittal and the staff report, certain measures are to be taken to ensure adequate infrastructure improvements are made by the developer to ensure the level of service does not decline due to the proposed development.

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

FINDING: The proposed development will yield a higher density than the surrounding developed neighborhood, with the exception of the zoning and development west of Lewis Avenue, which is zoned RMF-40. However, an overall density of 6.50 units/acre is compatible with surrounding developments, especially given the fact that the proposal incorporates only single-family detached homes. A harmonious relationship with surrounding development is achieved by utilizing detached single-family dwelling units throughout the development and providing building setbacks that are comparable to the RSF-4 zoning district.

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

FINDING: The property was originally developed with one single-family home that has since been removed. The majority of the tree canopy is found along the edges of the property, which should allow for a high percentage of preservation if proper planning is used in the placement and installation of required utilities.

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

FINDING: Any additional development in the area will certainly increase the amount of traffic on surrounding streets; however, the overall density should not create an appreciable amount of traffic above that which can be managed with the streets in the area. Improvements to Deane Street are anticipated to be recommended with preliminary plat approval.

- (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 subject infill development should be compatible with surrounding developments as single-family residences will be the only use permitted. Although located on smaller lots the buildings will have similar building setbacks as those on surrounding properties. Since the proposal is not for development rights a tree preservation plan has not been reviewed. However, the majority of the existing canopy is located along the property lines and with proper planning could be preserved.

- (2) *Screening and landscaping.* In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission shall require landscaping and screening as part of a PZD. The screening and landscaping shall be provided as set forth in §166.09 Buffer Strips and Screening. As part of the development plan, a detailed screening and landscaping plan shall be submitted to the Planning Commission. Landscape plans shall show the general location, type and quality (size and age) of plant material. Screening plans shall include typical details of fences, berms and plant material to be used.

FINDING: Screening is not required for the residential uses proposed.

- (3) *Traffic circulation.* The following traffic circulation guidelines shall apply:
- (a) The adequacy of both the internal and external street systems shall be reviewed in light of the projected future traffic volumes.
 - (b) The traffic circulation system shall be comprised of a hierarchal scheme of local collector and arterial streets, each designed to accommodate its proper function and in appropriate relationship with one another.
 - (c) Design of the internal street circulation system must be sensitive to such considerations as safety, convenience, separation of vehicular and pedestrian traffic, general attractiveness, access to dwelling units and the proper relationship of different land uses.
 - (d) Internal collector streets shall be coordinated with the existing external street system, providing for the efficient flow of traffic into and out of the planned zoning development.
 - (e) Internal local streets shall be designed to discourage through traffic within the planned zoning development and to adjacent areas.
 - (f) Design provisions for ingress and egress for any site along with service drives and interior circulation shall be that required by Chapter 166 Development of this code.

FINDING: Four of the properties will front onto Deane Street and will be served by rear access driveways. The remaining lots will be accessed directly from the public street, although a condition of approval has been included in the staff report restricting the width of the curbs to 16' at the right-of-way line unless shared drives are proposed.

- (4) *Parking standards.* The off-street parking and loading standards found in Chapter 172 Parking and Loading shall apply to the specific gross usable or leasable floor areas of the respective use areas.

FINDING: Parking is to be provided on-site for each residential lot.

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

FINDING: This requirement has been met.

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

FINDING: A 6' public sidewalk is to be constructed along Deane Street and two 4' sidewalks are to be constructed along either side of the interior street. This requirement will be evaluated fully, in conjunction with the ordinance requirements in place at the time of development submittal.

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

FINDING: Street lights are to be provided at all intersections and with a maximum separation of 300 feet.

(8) *Water*. As required by §166.03.

FINDING: Public water will be provided to the project site, pursuant to city code. Improvements to water services may be required and shall be reviewed at the time of preliminary plat submittal.

(9) *Sewer*. As required by §166.03.

FINDING: Public sewer will be provided to the project site, pursuant to city code. Improvements to sewer services may be required and shall be reviewed at the time of preliminary plat submittal.

(10) *Streets and Drainage*. Streets within a residential PZD may be either public or private.

- (a) *Public Streets*. Public streets shall be constructed according to the adopted standards of the City.
- (b) *Private Streets*. Private streets within a residential PZD shall be permitted subject to the following conditions:
 - (i) Private streets shall be permitted for only a loop street, or street ending with a cul-de-sac. Any street connecting one or more public streets shall be constructed to existing City standards and shall be dedicated as a public street.
 - (ii) Private streets shall be designed and constructed to the same standards as public streets with the exceptions of width and cul-de-sacs as noted below.
 - (iii) All grading and drainage within a Planned Zoning District including site drainage and drainage for private streets shall comply with the City's Grading (Physical Alteration of Land) and Drainage (Storm water management) Ordinances. Open drainage systems may be approved by the City Engineer.
 - (iv) Maximum density served by a cul-de-sac shall be 40 units. Maximum density served by a loop street shall be 80 units.
 - (v) The plat of the planned development shall designate each private street as a "private street."
 - (vi) Maintenance of private streets shall be the responsibility of the developer or of a neighborhood property owners association (POA) and shall not be the responsibility of the City. The method for maintenance and a maintenance fund shall be established by the PZD covenants. The covenants shall expressly provide that the City is a third

party beneficiary to the covenants and shall have the right to enforce the street maintenance requirements of the covenants irrespective of the vote of the other parties to the covenants.

- (vii) The covenants shall provide that in the event the private streets are not maintained as required by the covenants, the City shall have the right (but shall not be required) to maintain said streets and to charge the cost thereof to the property owners within the PZD on a pro rata basis according to assessed valuation for ad valorem tax purposes and shall have a lien on the real property within the PZD for such cost. The protective covenants shall grant the City the right to use all private streets for purposes of providing fire and police protection, sanitation service and any other of the municipal functions. The protective covenants shall provide that such covenants shall not be amended and shall not terminate without approval of the City Council.

- (viii) The width of private streets may vary according to the density served. The following standard shall be used:

Paving Width

(No On-Street Parking)

Dwelling Units	One-Way	Two-Way
1 - 20	14'	22'
21+	14'	24'

***Note:** If on-street parking is desired, 6 feet must be added to each side where parking is intended.

- (ix) All of the traffic laws prescribed by Title VII shall apply to traffic on private streets within a PZD.
- (x) There shall be no minimum building setback requirement from a private street.
- (xi) The developer shall erect at the entrance of each private street a rectangular sign, not exceeding 24 inches by 12 inches, designating the street a "private street" which shall be clearly visible to motor vehicular traffic.

FINDING: All public and private streets/drives shall conform to city standards, which have been indicated in the submitted statement of commitments. Public and Private streets shall not be gated, unless permitted by express approval from the City Council.

- (11) *Construction of nonresidential facilities.* Prior to issuance of more than eight building permits for any residential PZD, all approved nonresidential facilities shall be constructed. In the event the developer proposed to develop the PZD in phases, and the nonresidential facilities are not proposed in the initial phase, the developer shall enter into a contract with the City to guarantee completion of the nonresidential facilities.

FINDING: All development on the site shall be phased according to the phasing plan and conditions herein. There are no nonresidential facilities proposed.

- (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. Canopy calculations shall be based upon a minimum 25% canopy preservation required.

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

FINDING: The applicant has proposed design standards for residential structures; no commercial uses are proposed.

- (14) *View protection.* The Planning Commission shall have the right to establish special height and/or positioning restrictions where scenic views are involved and shall have the right to insure the perpetuation of those views through protective covenant restrictions.

FINDING: Staff finds no specific scenic views to be protected on the subject property.

(E) *Revocation.*

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

Planning staff shall report the status of each ongoing PZD at the first regular meeting of each quarter, so that the Planning Commission is able to compare the actual development accomplished with the approved development schedule. If the Planning Commission finds that the rate of construction of dwelling units or other commercial or industrial structures is substantially greater than the rate at which common open spaces and public recreational facilities have been constructed and provided, then the Planning Commission may initiate revocation action or cease to approve any additional final plans if preceding

phases have not been finalized. The city may also issue a stop work order, or discontinue issuance of building or occupancy permits, or revoke those previously issued.

- (2) *Procedures.* Prior to a recommendation of revocation, notice by certified mail shall be sent to the landowner or authorized agent giving notice of the alleged default, setting a time to appear before the Planning Commission to show cause why steps should not be made to totally or partially revoke the PZD. The Planning Commission recommendation shall be forwarded to the City Council for disposition as in original approvals. In the event a PZD is revoked, the City Council shall take the appropriate action in the city clerk's office and the public zoning record duly noted.
- (3) *Effect.* In the event of revocation, any completed portions of the development or those portions for which building permits have been issued shall be treated to be a whole and effective development. After causes for revocation or enforcement have been corrected, the City Council shall expunge such record as established above and shall authorize continued issuance of building permits.

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

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

- (e) Homeowners must pay their pro rata share of the initial cost; the maintenance assessment levied by the association must be stipulated as a potential lien on the property. The association must be able to adjust the assessment to meet changing needs.

FINDING: The applicant shall comply with these requirements.

Sec. 161.25 Planned Zoning District

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

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

FINDING: Staff finds this proposal meets the intent of many of the parameters of the City Plan 2025, as well as the above criteria, including flexibility in density, compatibility with surrounding land uses and integration of a varied housing type and lot size in an infill situation. The proposal best fits the flexibility and variety goals of the intent of the Planned Zoning District, offering detached single-family housing types, a variety of lot arrangements, lot dimensions and building setbacks.

The following guiding policies within Residential Neighborhood Areas are applicable to this development, and help to achieve the nine primary goals of the City Plan 2025:

Residential Neighborhood Areas:

- a. Where possible, encourage a block-and-street layout that promotes walkable, cyclist-friendly road designs with slow design speeds.*
- b. Utilize principles of traditional residential urban design to create compatible, livable, and accessible neighborhoods.*
- c. Discourage design elements that prohibit complete, compact, connected neighborhoods such as cul-de-sacs, gated communities, etc.*
- d. Minimize through traffic on minor residential streets, while providing connections between neighborhoods to encourage openness and neighborliness.*
- e. Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.*

(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 R-PZD meets the intent of the PZD ordinance as noted above. The requested R-PZD provides variety and flexibility in land development while also providing a compatible relationship with surrounding land uses.

- (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 100 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 mixed in density with large lot residential properties and platted subdivisions consistent with the RSF-4 zoning district along with multi-family residential to the west of Lewis Avenue. A density of 6.50 units/acre is appropriate given that the project is an infill development that is located near schools, retail and commercial establishments, recreational facilities, meets the urban development goal of the City's City Plan 2025, and will not have a detrimental impact on the site and adjoining properties.

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

FINDING: Lot area minimums and setbacks are varied on this project with structures oriented to the street. Due to the unique nature of this development, it is not possible to conform to existing standards for lot area minimums and setback requirements in a typical single-family district.

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

FINDING: Building heights proposed for this project are typical of single-family development in the surrounding area, and shall not exceed 45'.

(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 very similar to a RSF-4 zoning district, with a maximum of 42% buildable area permitted.

***Required Findings for Rezoning Request.**

FINDINGS OF THE STAFF

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

Finding: Staff finds the proposal is consistent with the land use planning objectives, principles and policies, as evidenced by the number of guiding policies for Residential Neighborhood Areas this proposal meets. Rezoning the property will

accommodate both the future land use plan for residential uses in this area and also allow for a variety of housing types, sizes and development pattern, thus providing more choice for more citizens.

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

Finding: The rezoning is needed to allow for an infill development that is somewhat unique in comparison to the residential development pattern in the surrounding neighborhood, while also maintaining a level of compatibility and sensitivity to surrounding properties.

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.

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 does not find that an undesirable increase in load on public services would be created.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
 - a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PARKS AND RECREATION DIVISION CORRESPONDENCE

To: City of Fayetteville Planning Commission

From: Sarah K. Patterson, Urban Forester

Date: August 21, 2007

ITEM #: R-PZD 07-2680: Residential Planned Zoning District (Arcadian Court)

TREE PRESERVATION PLAN

1. A full Tree Preservation Plan will be required once this development comes through the preliminary plat process.
2. Staff will assess the plans with a minimum canopy cover of at least 25%.
3. Significant trees, canopy within floodway or along riparian areas is found to be a high priority for preservation.

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, etc.

August 1, 2007

Mr. Jeremy Pate
Director of Current Planning
125 W. Mountain Street
Fayetteville, AR 72702

Dear Mr. Pate,

This document is the response to the request for determination of whether the proposed **PZD 07-2680: Planned Zoning District (ARCADIAN COURT, 365)** submitted by **Dave Jorgensen** for property located at **1631 West Deane Street**, would substantially alter the population density and thereby undesirable increase the load in public services or create an appreciable increase in traffic danger and congestion. **The property is zoned RSF-4 and contains approximately 1.69 acres. The request is for zoning and land use approval only for a Residential Planned Zoning District with 11 single-family units.**

It is the opinion of the Fayetteville Police Department that this R-PZD **will not** substantially alter the population density, and **will not create** an appreciable or undesirable increase in the load on police services. This R-PZD **will not create** an appreciable increase in traffic danger or congestion.

Sincerely,

Captain William Brown
Fayetteville Police Department

MEMO

To: Dara Sanders, Andrew Garner, Jeremy Pate, and Jesse Fulcher
Thru: Chief Tony Johnson
Chief Bud Thompson
From: Captain Dale Riggins
Date: August 31, 2007
Re: Zoning Review – Fire Department Comments

PZD07-2680 (Arcadian Court)

These 1.69 acres is covered by Engine 2 at 700 N Garland.

It is 1.2 miles from the station with an expected response time of 3.75 minutes.

The Fire Department anticipates 4 (2 EMS – 1 Fire/Other) calls for service per year once the development is completed and maximum build-out has occurred.

Measured Hydrant Flow in this area is 1565 gallons/minute.

The service impact of this development will typically take eighteen months after the development is started, and the units begin to be occupied, to occur. There should be no adverse effects on our call volume or response time to this development.

If you have any questions concerning these comments please don't hesitate to call me

Captain Dale Riggins
Fayetteville Fire Department

August 21, 2007

RE: Proposed rezoning of 1631 Deane St.

Dear Planning Staff and Planning Commission,

First, I want to express appreciation for your past concern and attention to this neighborhood (roughly defined as that area between Lewis, Mt. Comfort, Garland, and Deane). You saw its potential to persist as a single-family neighborhood and resisted efforts to rezone this lot for high-density development. That paid off. Since the last rezoning request, 1716 Lewis and 1501 Deane have undergone renovation. Additionally, I purchased 1589 Deane and am in the process of renovating it.

Tim Brisiel is now proposing a development of 11 single-family houses on the subject property. While this is certainly an improvement over the last proposal, it's still problematic. Why? It is completely out of character with the neighborhood on two grounds: density and design.

Density: Brisiel is proposing 11 units on a parcel that could currently subdivide into 7 units and fit well with surrounding uses. This represents a 57% increase over what's allowable by right. It represents an even larger increase over the density of surrounding acreage and the immediate neighborhood (1400 and 1500 block of Deane) to the east.

Design: 1) Brisiel is proposing lots of 5,040 square feet. The 4 lots to the west of the subject property are 15,180 square feet each. The lots to the east of the subject property are 12,445 and 22,139 square feet. Lots in the 1400 and 1500 block of Deane start at 15,000 square feet. 2) To accomplish high-density, Brisiel wants a zero-lot line development, which does not exist in the neighborhood. 3) His proposal involves large houses on small lots, whereas the neighborhood is predominately small houses on large lots. 4) Finally, the proposal is for a homogenous development of dun-colored brick houses with a vertical orientation. In contrast, housing in the neighborhood is eclectic with a horizontal orientation, mostly wood siding and a few--red brick--ranch-style homes.

My concern is that Brisiel's development—in its current form—will represent a virus in the neighborhood, leading slowly to deterioration until it becomes an extension of the hodge-podge development found west of Lewis toward I-540.

Does the subject property have unusual characteristics that render it undevelopable under RSF-4? Absolutely not. Infill can happen here in a way that fits the character of the neighborhood.

Is there a need for higher than usual density? Well, given the inventory of unsold houses on the market and the number of houses that have been temporarily converted into rentals due to poor market conditions, the answer to this appears to be "no."

What would be ideal? I'd like to see the Planning Commission table the request and send Mr. Brisiel to the Community Design Center for consultation. Surely there's a creative way to develop the property so that it fits with the neighborhood while turning a modest profit.

If you are unwilling to do this and want to give Mr. Brisiel a density bonus for some reason, please consider a bonus of only 2 units rather than 4. And please make it contingent on a design that is compatible with surrounding properties via Bill of Assurance. I would also request another item in the Bill of Assurance: retention of all perimeter trees and bushes for screening purposes and replacement of any live screening that is killed by construction.

Most sincerely,

Rebecca Bryant

From: Lisa McClure <lehbab@att.net>
To: <planning@ci.fayetteville.ar.us>
Date: 8/20/2007 11:40 AM
Subject: Rezoning of 1.91 acre lot at Deane/ Lewis - Brisiel

Dear Planning Commission:

I would like to express my concern with the proposed re-zoning of the 1.91 acres at Deane and Lewis from 7 single family dwellings to 11 dwellings. I do not see that there is a reason for the rezoning, as this property can be developed with the current zoning of 7 houses, with no loss in the neighborhood's value. While I'm sure these houses would be more affordable than many of the houses available in Fayetteville, on lots as small as are proposed, they will end up in a few years as low end rentals. This would drop property value for all the neighborhoods around the area, as well as add to the overabundance of rental properties that are prevalent in Fayetteville.

I know that in the 18 years I have been in my neighborhood, we have seen the decline of the area due to houses being torn down and either apartments or duplexes being built. While rentals are needed in our town, it appears that we have plenty at this time, as there are numerous signs for vacancies in the area.

We need to add neighborhoods with affordable homes that have yards for children to play in, yards large enough to have swing sets, outdoor toys, and room to run and play. Houses on such small lots as proposed will not fit this need, as the lot would be filled with the house.

Please deny this request for rezoning and encourage this builder to look for other property to build the other 4 houses on if he wishes to build affordable houses. Fayetteville needs more family neighborhoods where children can grow and have a yard to play in - not the small plot of grass that seem to be the trend in current building practices.

Sincerely,

Lisa McClure
1218 North Maxwell
Fayetteville, AR

From: "T. L. Phelan" <tlphelan@arkansasusa.com>
To: <planning@ci.fayetteville.ar.us>
Date: 8/22/2007 11:17 PM
Subject: objection to rezoning request from Arcadian Court

CC: <joycerichards@hotmail.com>
TO: Jessie Fulcher, Fayetteville planning office
REF: Arcadian Court request (proposal by Tim Brisiel); rezone for 11 single-family houses (or 50% more than currently allowable)

Mr. Fulcher,

This is to follow-up our phone conversation from today and provide you my written OBJECTION TO ANY REZONING EFFORTS WITHIN THE STEPHENS-HENRIX-MAXWELL NEIGHBORHOOD ASSOCIATION. Changing the current low density single-family homes to a higher density classification weakens the integrity of our neighborhood.

As I mentioned in our conversation, you are well aware of the zoning fiascos that the residents in my neighborhood have been saddled with opposing over the last several years. It started with the City making a zoning mistake that opened the door to "spot rezoning" with the objections of the long-term residents of our neighborhood being ignored in favor of those making the request -- NON-residents of our neighborhood -- so that they can make extra profit at the expense of our property values and the character of our neighborhood. Mr. Brisiel/Arcadian can still make a profit with the current zoning and stay within the historical character of the current overall low density zoning. Nothing has changed in our area to justify this kind of incremental destruction of our neighborhood.

I could continue on for several pages, but I believe this is a sufficient voicing of my opinion.

I request that the planning commission and City Council members respect the integrity of our neighborhood and wishes of the residents and keep our zoning as a low density single-family zone.

--- Terri L. Phelan
1171 N. Maxwell Dr.
Fayetteville, AR 72703
tlphelan@arkansasusa.com

From: Michelle Snyder <snydercreativem@sbcglobal.net>
To: <planning@ci.fayetteville.ar.us>
Date: 8/20/2007 4:20 PM
Subject: Proposed development on Deane St.

Mr. Fulcher - please do NOT allow the the developer to add units to be built on the 1.91 acres. I own 1505 Deane St. and feel this will detrimentally affect the neighborhood.

Michelle Snyder
10124 Natural Trail
Maumelle, AR 72113

From: robert barrett <rmb0112382000@yahoo.com>
To: <planning@ci.fayetteville.ar.us>
Date: 8/21/2007 7:25 PM
Subject: 1.91 Acre Lot on Deane St.

Jessie, I oppose rezoning the subject lot to permit 11 units to be built on it. It is presently zoned for 7. Eleven units will change the neighborhood character. There are numerous unsold units. I don't see the reason to build even more than the lot is presently zoned. They will just sit and be unsightly. Please do not rezone the subject lot. Thank you! Bob and Margaret Barrett, 1541 Deane St

Park yourself in front of a world of choices in alternative vehicles. Visit the Yahoo! Auto Green Center.
http://autos.yahoo.com/green_center/

R-PZD 06-2035: Planned Zoning District (THE MAPLES, 365): Submitted by PROJECT DESIGN CONSULTANTS, INC. for property located SE OF DEANE STREET AND LEWIS AVENUE. The property is zoned RSF-4, SINGLE FAMILY – 4 UNITS/ACRE and contains approximately 1.91 acres. The request is for a Residential Planned Zoning District with 16 dwelling units.

Graves: Six items, are all items that they're either rezonings or conditional uses proposed. They all would require 5 votes to pass and we only have 6 commissioners here tonight so before I take each item up, and we'll do it as they come up in the order of the agenda. What I would like to do is have the applicant, without making the presentation or anything, advise us of whether they would prefer that we table their item to the next meeting when we have the full commission here. Because as it stands right now it would either have to be a unanimous vote to approve or it would have to be a 5 to 1 vote. If one commissioner opposed an item or wanted to deny an item then it would fail because of the numbers that we have here tonight. And so I will give that option to request a tabling of the item before we hear a staff report or anything on each of those items. And so right now we are on item 8 which is our PZD 06-2035 The Maples. If I could have, first of all the applicant come up, first of all introduce yourself for the record and then let us know if you would prefer that this be taken up by a fuller commission then what we have available tonight or whether you would rather us go ahead and take this up knowing that you would either have to have a unanimous or five one vote approve it.

Kemmet: Good evening. I am Bruce Kemmet with Project Design Consultants representing the developer. We already ran this option pass the developer and he would like to move forward and get a vote tonight.

Graves: Ok. Thank you. If we could have the staff report on this item.

Fulcher: Good evening. This PZD request is for approximately 1.6 acres located southeast of Lewis Avenue and Deane Street. Surrounding properties consist of a single duplex, single family homes, the University Farm to the north, and to the south the are soccer fields leased to the city by the University. The applicant is proposing a development for 16 dwelling units, 8 of which will be multi-family, 4 will be single family and 4 will be 2 family units. This item has a great deal of history, I should say the property has a great deal of history, which is outlined in the staff report. There have been numerous rezoning requests as well as some variations of this PZD request. This one was heard at subdivision committee approximately a month ago at which time the applicant requested the item be tabled so they could reword some of the density and street layouts of the project as well as green space and building location. Since that time to the previous subdivision committee we did a month ago they did work out

some of those items staff had concerns with and now are here before the Planning Commission after they were forwarded from the subdivision committee without a recommendation. The density proposed is approximately 9.5 units per regular which is a little over 2 times above the allowance for which it is currently zoned. Staff has stated many times that we are opposed to densities higher than 4 units per acre. Given the location of this property in relation to some major roadways, park plans, schools, the university, provides an opportunity to have something higher than 4 units per acre. However, in looking at the divided line that Lewis Avenue has been historically between multi-family developments to the west, single-family developments to the east there is a line that we're trying to find there and we just felt that 9.5 units per acre with a good deal of multi-family units was not compatible with the single-family units located immediately around it. Staff would recommend that possibly removing some of the multi-family units along the frontage of this property would not only reduce the density thus making it more compatible with the surrounding land uses but also change the building uses to a use that is more compatible to the surrounding land uses. Staff has consistently recommended denial of a density request of 16 units or more per acre or 16 units total on this property in the past. Again tonight we are recommending denial of this request. Should the Planning Commission decide to forward this item to the city council we have included conditions of approval. I think that covers all of staff's comments and findings tonight if you have any questions please ask.

Graves: Thank you. Do we have any member of the public who would like address R-PZD 06-2035 The Maples. If you would come forward and introduce yourself and make your comments.

Bryant: My name is Rebecca Bryant. I'm an adjacent property owner. I know there are other owners here I don't know if they will stand up and speak or not. I am really impressed by the quality and the depth of the discussion tonight. So, I feel like we are in good hands with this commission. As you know, as Jesse said, they are requesting almost 2 and a half times the density that's allowable in our properties, residential, I'm getting a little confused. RSF-4 ok, and all the properties adjacent, all the residential properties adjacent to this are single family homes at this time and some of those are unoccupied. What I ask myself is why should the Planning Commission grant this, I can't really come up with a good reason. I mean they are not doing anything at all here it's not like the great presentation we saw earlier for someone who was really trying to do something special with traditional neighborhood development. They are, the city is against it, the neighborhood is against, you know I just hope you deny it. Thank you.

Planning Commission
June 12, 2006
Page 46

Graves: Thank you. Would any other member of the public like to make, I want to stress non-cumulative comments, if you have something additional that hasn't already been stated by other members of the public then please come forward.

Richards: Joyce Richards and I live to the east of the property, a couple blocks I guess down the fifth row. And I've written you a couple of e-mails and I just wanted to get up and say that I'm with Rebecca, please deny it. There is enough there with the zoning as it is for them to put a dwelling and I don't think it needs to be anymore. We don't need more built than what's already allowed. Thank you.

Graves: Thank you. Would any other member of the public like to address this item? Seeing none I will hear the applicant's presentation at this point.

Kemmet: Good evening. Bruce Kemmet, Project Design Consultants. We've been through several other arrangements with this residential plan development in attempt to go along with staff and satisfy the goals of the PZD. We've reduced to what was 17 units to 16 units. As stated earlier it was 4 family homes. We've removed those and we now have 8 single family homes and 8 town homes. The town homes are fronted along Deane Street, if you will look to the colored building elevations you will see that it is a very nice building. Probably the nicest building in the neighborhood or proposed building. I would like to point out that this neighborhood isn't primarily single family. Just to the west is primarily multi-family. Immediately to the west is a duplex which is zoned RT-12 and immediately to the west are 3 homes of which 2 of them are rented out. Immediately to the east are 2 single family homes, one of which is rented out and one of which is owned by the lady that was speaking earlier. We are proposing to maintain 16% of the tree canopy. We are proposing screening in the means of the existing trees as well as a privacy fence along the property line. The houses that you see are very nice craftsmanship construction. The town homes are upscale town homes, 15 hundred square feet or more. The town homes are proposing rear access from an alley so that you have a community, sense of community along Deane Street with not having the driveways facing the street that you can see fronting the street. And we are proposing an open space that will have an area for the community to use for functions, for neighborhood functions which will also have a gazebo that can be used for those functions. This property, although it's zoned RSF-4, is not marketed as RSF-4, as you know the price of property is very high and you'd probably never receive that zone in that area. In order to have this feasible this count, this number, this density is what is going to be required to make it worthwhile. I'm sure that Miss Bryant would prefer to just not have it developed but we actually want it developed. I would like to point out that this property is just under 2 acres, however we

need more right-of-way for a minor arterial of Deane Street, a 25' strip of property is required to be donated to street right-of-way as part of the Master Street Plan requirements. So, that significantly reduces the total acreage which gives you a density number that's actually higher than what is actually spaced out there in existing property. Other than that I'm subject to your questions.

Graves: Thank you. Then I'll bring it to the commission. Commissioners this is a rezoning request. That's what it boils down to. Although it is a request to rezone a PZD it is a rezoning request. I would ask staff or legal, just briefly remind us what we are reviewing on a rezoning request.

Pate: As you mentioned this is a rezoning and development request. As a residential planned zoning district therefore the applicant has provided you both their version of findings of fact as well as staff's version. If you agree with staff's you would recommend denial of this project. If you agree with the applicant's, obviously you would forward this to the city council. The findings that you make for a general rezoning begin on page 18 of 82 of the staff report. They include in this proposed rezoning consistent with the land use, planning objective principles policies land use zoning plans? Is it justified and needed at the time it is proposed? Does it create or appreciably increase traffic danger and congestion or alter population density thereby undesirably increase load on public services? Those are the essentials for findings the Planning Commission reviews with regard to zoning. A planned zoning district however has many more findings that you'll see on page 82 of the staff report. The findings that begin on page 7 of 82 and go through page 18. Those include does this application in compliance with the requirements of Unified Development Code and the general plan 2020, the overall stated use? Is it compatible with adjacent property? That's one of the primary findings that rezonings take a look at typically by state law and by our own ordinances whether the zoning is compatible with the surrounding land uses. Is it suitable for intended use and compatible with the natural environment? I could read all of those for you a lot of those just go into more detailed development questions, but those are the essential ingredients of a zoning request and in this case a planned zoning district request. Making those findings the staff could not support this particular request.

Graves: Commissioners?

Clark: Mister Chair?

Graves: Commissioner Clark.

Clark: I would be happy to start off. Since I've been with commission 2 years I think I've seen this before and it does have a lot of history with our 82 pages of staff report. A lot of reiteration of the times this property has been denied rezoning and as I look back at this material I don't find that a lot has changed in the conditions. I do believe that as said in subdivision this property is too dense. This proposal is too dense for the property. I don't think it's compatible with surrounding development. I don't think the neighborhood is in favor of it. I see traffic issues, there is only one way in and one way out and that concerns me greatly. I don't think that the multi-family in front of the property, I agree with staff's finding that if it was single family or maybe even duplexes that might sway my opinion. I had hoped maybe for some modifications before it got to Planning Commission but seeing none I will restate my objection and lack of support for this project.

Graves: Thank you Commissioner Clark and perhaps a sort of summary of what happened at subdivision on the side maybe appropriate at this point. If you don't mind giving us that. I think we've heard what you've said at subdivision but if anyone else would like to chime in or if you would like to report on it.

Clark: We have had an indication that the property owner association in that area was in favor and I didn't have a problem with it but that turned out to be a little overstated according to what is in the packet today. I think there were concerns about density and any of you try and jump in because I'm not as clear on this one. I know we had concerns about emergency traffic, emergency vehicle access and entrance and exit because there is no way out. The way in is the way out. So, there were safety issues we talked about, compatibility, density issues. What else did we talk about?

Harris: Commissioner Clark I'm not helping you because I think that pretty much sums it up. We were concerned about density issues. My understanding from the packet and also Mr. Pate as I listened to you before, would you mind reviewing what you said to me about the number of units now is really where we started a few months ago. Do you mind just reviewing that for me now?

Pate: In brief there was a request in 2003 for RT-12 or 1.5 for this property which is an RT-12 now. The request was again proposed before the Planning Commission though the applicant withdrew earlier this year, January or February of this year for RT-12. Staff did not support that request finding that the density was not appropriate in this area although there was bullet of assurance for duplexes I believe. In the, looking at the minutes and the report of the minutes to the applicant from the previous Planning Commission meetings there was discussion of a planned zoning

district and perhaps the density and the concerns voiced by neighbors could be accommodated by a zoning district request. However, it does not mean that this was staff stated at subdivision committee that any planned zoning district proposed would come with staff recommendation. The initial request that we received had 22 units per acre which again, January there was a request for 16, so it jumped up a good 6 units with the original request. Staff did not support that. It came down to 19 I believe and now 16 that was proposed at subdivision committee of the Planning Commission. So, that's kind of the history of where it came from 22 down to 16 so we are essentially back at where we were in January, February with our recommendation of density. We do have a benefit, obviously, to the applicant's credit, a plan to review. The Planning Commission does have something to look at to see where the 16 units are located and I think that's part of the role of the planned zoning district is to allow neighborhoods, Commissioners, and those concerned to review an actual plan. It does not meet all of our concerns however and staff felt that, I'll just reiterate what I said in subdivision committee in our recommendation, the applicant stated that there is a lot of multi-family in this area. It was our finding that Lewis Street has historically been that dividing line. Scholar Place is a typical example of that multi-family development in this area just west of Lewis Street. To the east of Lewis Street is you look at your city maps, to a larger degree almost all the property east to Garland and south to Mt. Comfort is primarily RSF-4 developed single family residential neighborhoods. That's the case with the property adjacent to this with the exception of course to the northeast agricultural park. South is the agricultural farm and to the south is the soccer fields in that area. So, we felt that this is not necessarily a transition area in terms of land use. As primarily single-family, transition really is on this street between multi-family to west and single-family to the east.

Harris: Thank you.

Graves: Any other discussion in regard to this item?

Lack: Mr. Chair?

Graves: Commissioner Lack.

Lack: I think that in looking at this project and what it first, I think even the first time that we saw the request in a previous forum I think that there were, there is an idea that this area is largely multi-family and there are a lot of parts along Deane Street. But in reviewing the actual site, going to see the site and understanding the nature of the neighborhood, I think that that Lewis Street division Mr. Pate talks about is very real. I think that there is a transition to single-family residential which along Deane Street could be

subject to change or not depending on the investment in current residents there. But I think that with that division this area is well recognized as a RSF-4 type area and to change the zoning this dramatically would be nestling in a very, very different use. I would encourage that if mixed-use makes density, I don't know that adding less than 2 acres in this case 1.6 acres a higher density into the middle of an existing RSF-4 neighborhood would achieve that goal. And with that I would not be in support of this item.

Graves: Thank you Commissioner Lack. Any other comments?

Harris: Mr. Chair?

Graves: Commissioner Harris.

Harris: It's all coming back to me all of a sudden. It came like a flood it happened. I remember asking at that time in subdivision committee, Mr. Pate, this notion of infill and density and again going back to that process that the city has just been through in terms of the kind of neighborhoods we are going to develop and so forth. I'm also, I'll come to that in a moment, I'm very aware, as is the developer I'm sure, that dirt is very expensive. I'm not exactly sure what density will be profitable at this site. And density does have to happen somewhere in someone's backyard including my own. At the same time I am not convinced at this point that this is appropriate density infill for this particular neighborhood for the reasons that have already been stated and then some I will restate them. I am also concerned with the actual layout of this particular proposal. The eastern stub out among my concerns so at this point I will not be able to support this particular proposal.

Graves: Thank you Commission Harris. Any other comments? Motions? And we'll add just for clarification if there is a motion to deny is that a motion to recommend denial to the city council or is it just a denial at this point?

Williams: You would still recommend, a recommendation to the city council for denial.

Graves: Ok. So, if we had a motion and it's for denial then that would be the way to state the motion.

Clark: Commissioner Chair. I would like to recommend denial of R-PZD 06-2035.

Planning Commission

June 12, 2006

Page 51

Graves: Thank you. There has been a motion by Commissioner Clark to deny of R-PZD 06-2035 or actually to recommend denial to the city council is there a second?

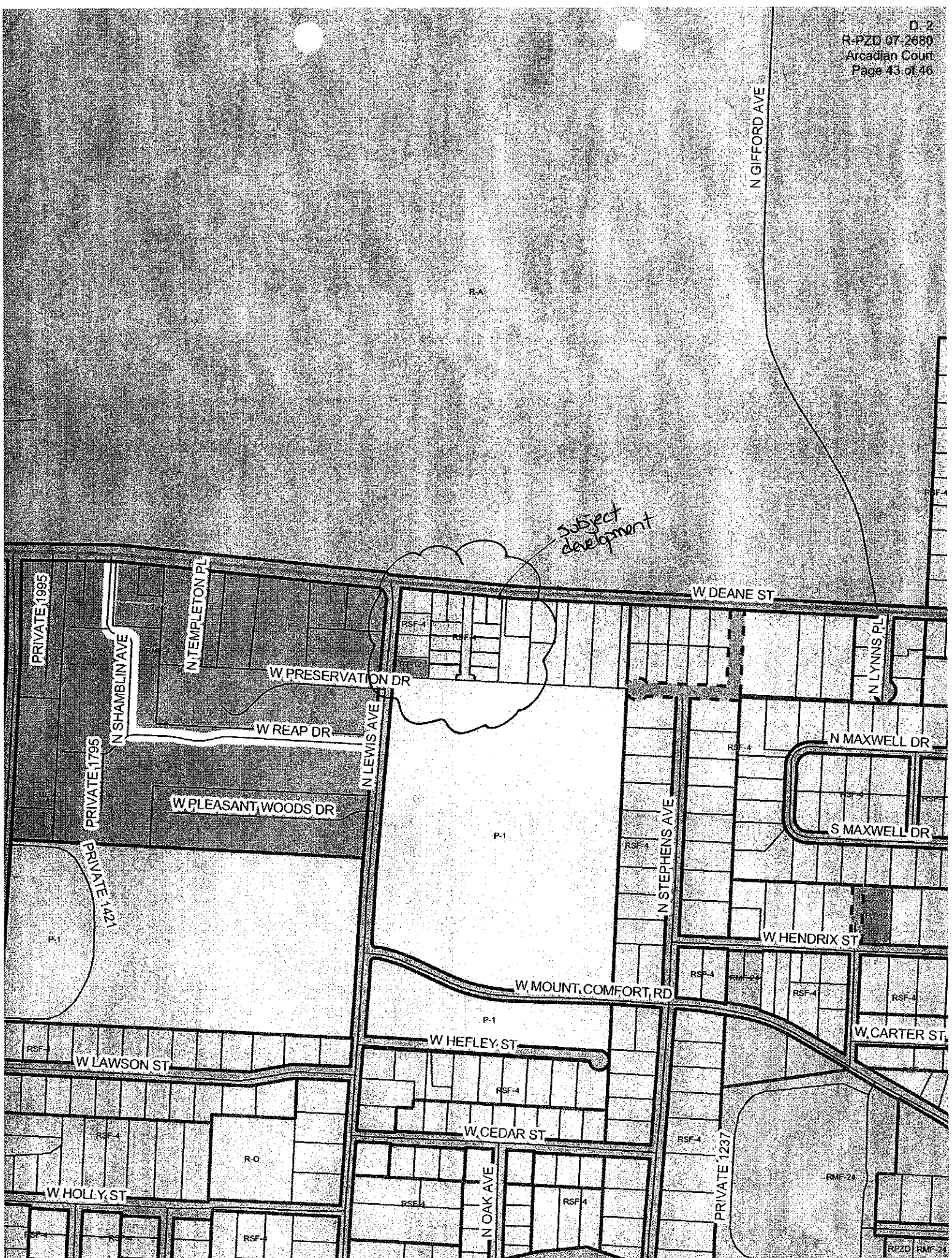
Lack: I'll second that.

Graves: Second by Commissioner Lack. Is there any further discussion of the motion? Take the vote.

Roll Call: The motion to deny R-PZD 06-2035 carries with a vote of 5-1-0.

Williams: I should note for the developer that this doesn't automatically go to the City Council at this level. You would have to file a written appeal to the City Clerk within ten business days.

Kemmet: Thank you.



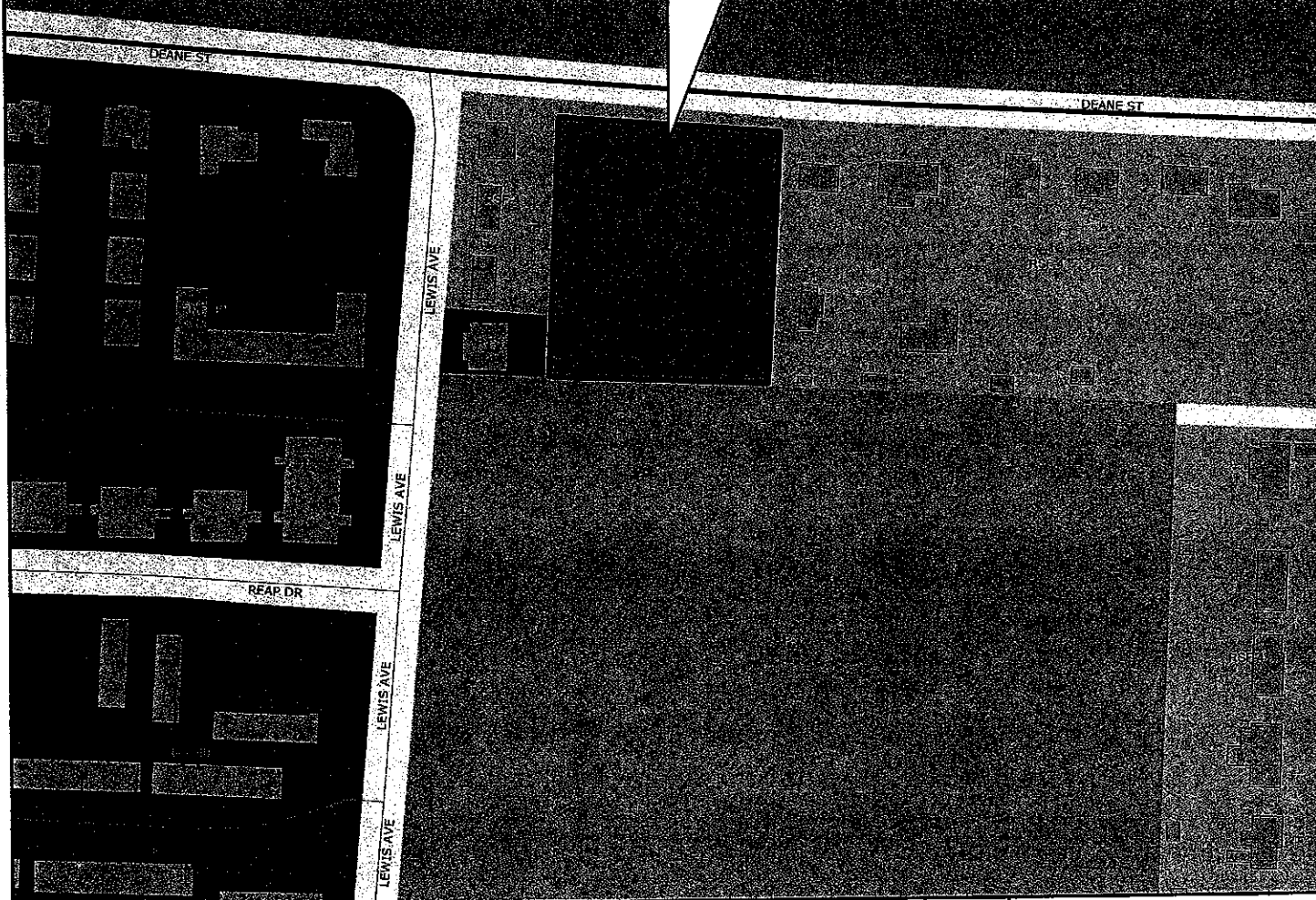
RPZD07-2680

Close Up View

ARCADIAN COURT



SUBJECT PROPERTY



Overview



0 75 150 300 450 600 Feet

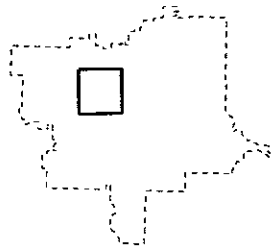
RPZD07-2680

ARCADIAN COURT

One Mile View



Overview



Legend

Subject Property
 RPZD07-2680

Boundary

Planning Area
 Overlay District
 Outside City

Legend

Hillside-Hilltop Overlay District

0 0.25 0.5 1 Miles

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

18-Sep-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

VAC 07-2688: (Walgreens, 558): Submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road. The request is to vacate a utility easement on the subject property.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

\$

-

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

City Attorney

Original Contract Number: n/a

Finance and Internal Service Director

Date

Received in Mayor's Office

Mayor

Date

Comments:

ENTERED

8-31-07

ENTERED

9/4/07

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 31, 2007

Subject: Easement Vacation for Walgreens at One Mile Road (VAC 07-2688)

RECOMMENDATION

Planning Staff recommends approval of an ordinance vacating a utility easement located at the northeast corner of One Mile Road and 6th Street.

BACKGROUND

The subject property is located at the northeast corner of One Mile Road and 6th Street. The Planning Commission approved a large scale development for Walgreens on August 13, 2007. As a condition of approval, the applicants are required to vacate the subject utility easement so as to increase the percentage of preserved canopy on the property. Denial of the easement vacation will require the applicants to request a major modification to the approved large scale development.

The applicant requests vacating a 15' utility easement to allow the existing canopy located within said easement to count as preserved canopy for purposes of the approved large scale development.

DISCUSSION

Notification was provided to all appropriate utility representatives and to the City. This item was heard on consent at the regular Planning Commission meeting on August 27, 2007. The Planning Commission voted 5-0-0 to recommend this vacation request to the City Council.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE APPROVING VAC 07-2688 SUBMITTED BY SPRINGFIELD HOLDING GROUP, LLC FOR PROPERTY LOCATED AT THE NORTHEAST CORNER OF 6th STREET (HWY 62W) AND ONE MILE ROAD TO VACATE A UTILITY EASEMENT ON THE SUBJECT PROPERTY.

WHEREAS, the City Council has the authority under A.C.A. § 14-54-104 to vacate public grounds or portions thereof which are not required for corporate purposes; and

WHEREAS, the City Council has determined that the following described portion of the platted utility easement is not required for corporate purposes;

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

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby vacates and abandons the following described utility easement:

See Exhibit "B" attached hereto and made a part hereof.

Section 2: That a copy of this Ordinance duly certified by the City Clerk along with the map attached hereto and labeled Exhibit "A" shall be filed in the office of the Recorder of the County and recorded in the Deed Records of the County.

Section 3: That this vacation approval is subject to the Conditions of Approval as follows, and shall not be in effect until all conditions are met herein.

1. The proposed easement vacation shall apply to the 15' utility easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

PASSED and APPROVED this day of , 2007.

APPROVED:

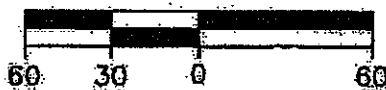
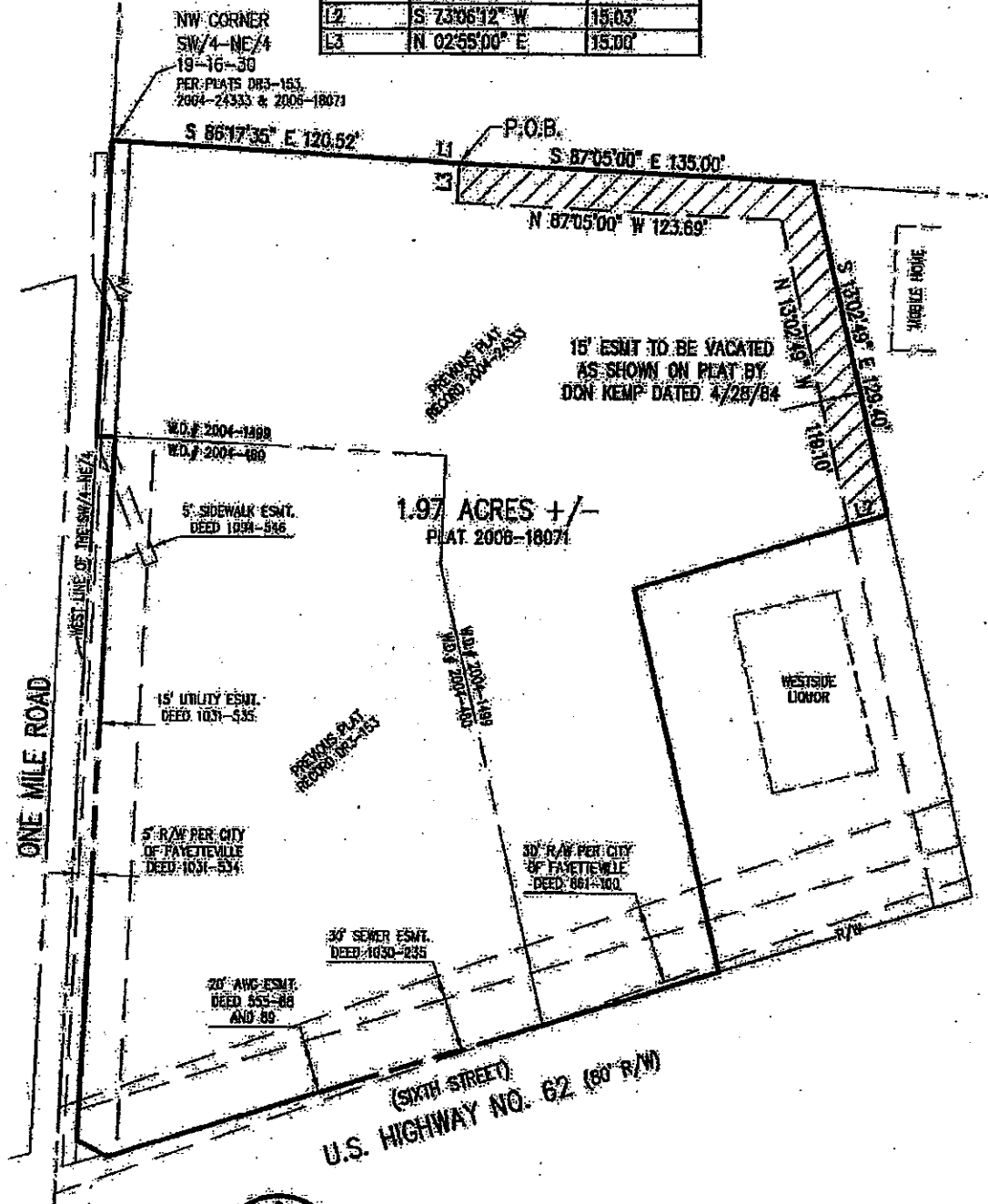
ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT A

LINE TABLE		
NUMBER	BEARING	DISTANCE
L1	S 87°05'00" E	11.60'
L2	S 73°06'12" W	15.03'
L3	N 02°55'00" E	15.00'



BASIS OF BEARINGS: ARKANSAS STATE
PLANE COORDINATE SYSTEM

THIS IS NOT A PLAT



Crafton Tull Sparks

601 N. 47th Street, Suite 200
Rogers, AR 72756
479.636.4898 FAX: 479.631.2224
www.craftontullsparks.com

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VAC 07-2688 Walgreens @ 6th/One Mile Rd

August 27, 2007
Agenda Item 2
Page 4 of 18

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PLOTTED BY: SEAN JOHNSON (ONLY VALID ON HARD COPY)
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EXHIBIT "B"
VAC 07-2688

AN EXISTING EASEMENT LOCATED OVER A PORTION OF THE NORTH AND EAST SIDES OF A TRACT OF LAND AS DESCRIBED ON AN ALTA/ACSM LAND TITLE SURVEY PLAT AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2006-18071, BEING A PART OF THE SW ¼ OF THE NE ¼ OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM A FOUND IRON PIN ON THE EAST SIDE OF ONE MILE ROAD AS SHOWN ON PLAT RECORDS 2004-24333 AND DR3-153, THAT IS S02°15'33"W 1312.88 FEET FROM THE ALUMINUM MONUMENT MARKING THE NORTH QUARTER CORNER OF SAID SECTION 19; THENCE ALONG THE NORTH LINE OF PLAT RECORD 2006-18071, S86°17'35"E 120.52 FEET; THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 11.60 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 135.00 FEET TO THE NORTHEAST CORNER OF PLAT RECORD 2006-18071; THENCE ALONG THE EAST LINE THEREOF S13°02'49"E 129.40 FEET; THENCE LEAVING SAID EAST LINE S73°06'12"W 15.03 FEET; THENCE N13°02'49"W 119.10 FEET; THENCE N87°05'00"W 123.69 FEET; THENCE N02°55'00"E 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3804.0 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.



PC Meeting of August 27, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jesse Fulcher, Current Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: ~~August 21, 2007~~ Updated August 31, 2007

VAC 07-2688: (WALGREENS @ 6TH & ONE MILE RD., 558): Submitted by SPRINGFIELD HOLDING GROUP, LLC for property located at NE CORNER OF HWY 62W AND ONE MILE ROAD. The property is zoned C-2, THOROUGHFARE COMMERCIAL and contains approximately 1.97 acres. The request is to vacate a utility easement on the subject property.

Planner: JESSE FULCHER

Findings:

Property Description: The subject property is located at the northeast corner of One Mile Road and 6th Street. The Planning Commission approved a large scale development for Walgreens on August 13, 2007. As a condition of approval, the applicants are required to vacate the subject utility easement so as to increase the percentage of preserved canopy on the property. Denial of the easement vacation will require the applicants to request a major modification to the approved large scale development.

Request: The applicant requests vacating a 15' utility easement to allow the existing canopy located within said easement to count as preserved canopy for purposes of the approved large scale development.

The applicant has submitted the required notification forms to the utility companies and to the City with the result summarized below.

UTILITIES

RESPONSE

Ozarks Electric	No Objections.
Cox Communications	No Objections.
Southwestern Electric Power Company	No objections.
Arkansas Western Gas	No Objections. The existing utility

easements along the south and west
property lines shall remain.

Southwestern Bell Telephone

No Objections.

CITY OF FAYETTEVILLE:

RESPONSE

Water/Sewer

No Objections.

Transportation

No Objections.

Solid Waste

No Objections.

Engineering

No Objections.

Public Comment: No public comment has been received.

Recommendation: Staff recommends forwarding (VAC 07-2688) to the City Council with a recommendation for approval with the following conditions.

Conditions of Approval:

1. The proposed easement vacation shall apply to the 15' utility easement only. All other existing easements shall remain in force.
2. Any relocation of existing utilities shall be at the owner/developer's expense.

CITY COUNCIL ACTION: Required

PLANNING COMMISSION ACTION: Required

Planning Commission Action: ☒ Forwarded ☐ Denied ☐ Tabled

Date: August 27, 2007

Motion: Graves

Second: Cabe

Vote: 5-0-0

Comments: _____

Petition To Vacate Easement

**Petition to Vacate an easement located near the northeast corner of Sixth Street and One Mile Road,
City of Fayetteville, Arkansas.**

To: The Fayetteville City Planning Commission and The Fayetteville City Council

We, the undersigned, being the authorized representative of the owners of the real estate abutting the easement hereinafter sought to be abandoned and vacated, lying in part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of 19-16-30 West, City of Fayetteville, Arkansas, a municipal corporation, petition to vacate an alley which is described as follows:

(See attached Exhibit)

That the easement has never been used for any public purpose and that the public interest and welfare would not be adversely affected by the abandonment and vacation of the easement, and that the abandonment and vacation of the easement will assist in protection and preservation of mature hardwoods.

The petitioners ask that the City of Fayetteville, Arkansas, abandon and vacate the above described real estate vesting all rights to the fee owner of the real estate.

WHEREFORE, the undersigned petitioners respectfully ask that the governing body of the City of Fayetteville, Arkansas, abandon and vacate the above described real estate, and that as to that particular land, the owners be free from the easements of the public for the use of said land.

Dated this 15th day of June, 2007

Jeff Nicholas, Springfield Holdings Group, LLC

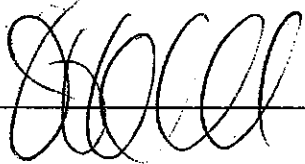
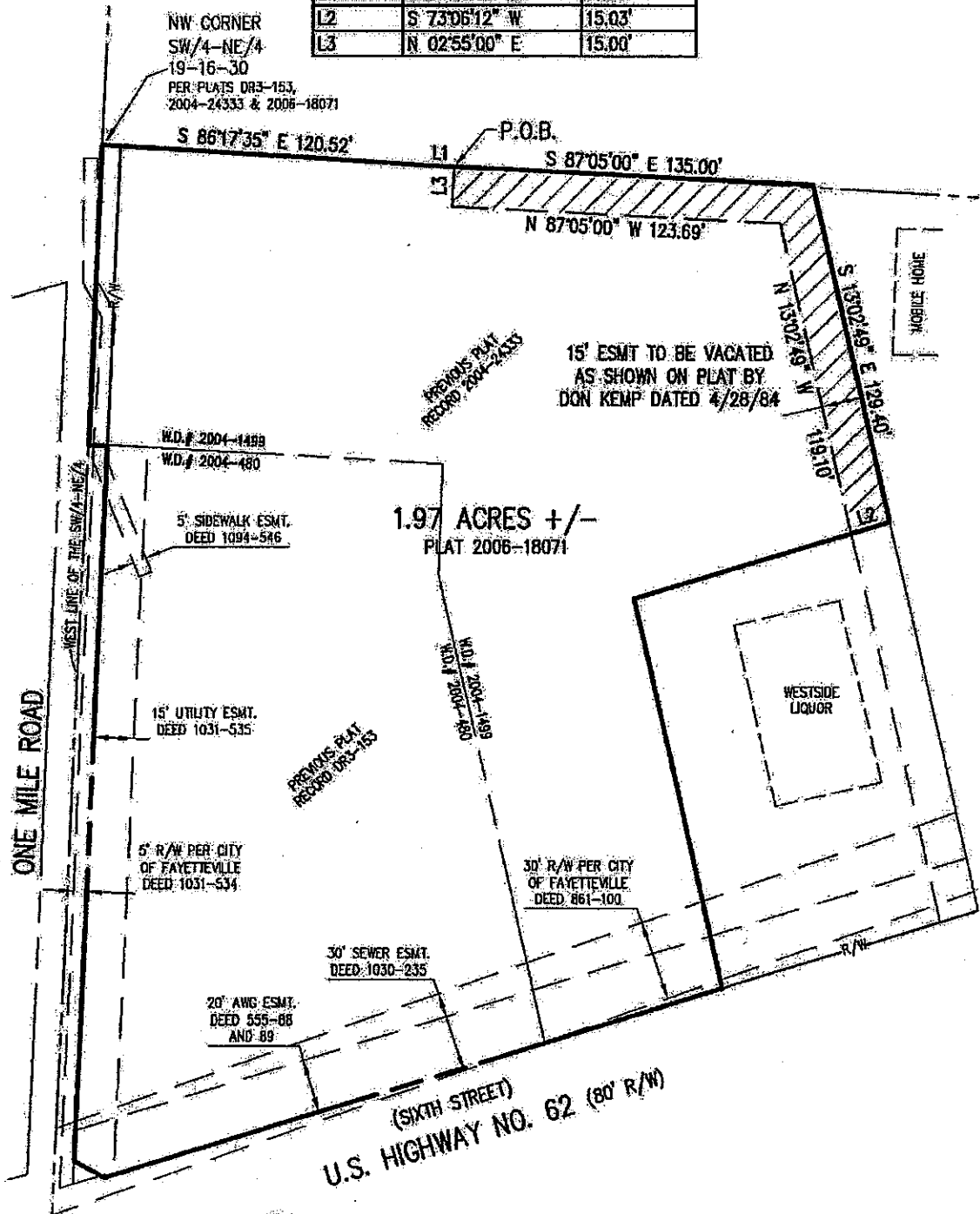


EXHIBIT A

LINE TABLE

NUMBER	BEARING	DISTANCE
L1	S 87°05'00" E	11.60'
L2	S 73°06'12" W	15.03'
L3	N 02°55'00" E	15.00'



BASIS OF BEARINGS: ARKANSAS STATE
PLANE COORDINATE SYSTEM

THIS IS NOT A PLAT



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PLOTTED BY: SEAN JOHNSON (ONLY VALID ON HARD COPY)
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DESCRIPTION: EASEMENT TO BE VACATED

AN EXISTING EASEMENT LOCATED OVER A PORTION OF THE NORTH AND EAST SIDES OF A TRACT OF LAND AS DESCRIBED ON AN ALTA/ACSM LAND TITLE SURVEY PLAT AS RECORDED IN CIRCUIT CLERKS OFFICE FOR WASHINGTON COUNTY, ARKANSAS AT PLAT RECORD 2006-18071, BEING A PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 19, TOWNSHIP 16 NORTH, RANGE 30 WEST, CITY OF FAYETTEVILLE, WASHINGTON COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM A FOUND IRON PIN ON THE EAST SIDE OF ONE MILE ROAD AS SHOWN ON PLAT RECORDS 2004-24333 AND DR3-153, THAT IS S02°15'33"W 1312.88 FEET FROM THE ALUMINUM MONUMENT MARKING THE NORTH QUARTER CORNER OF SAID SECTION 19;
THENCE ALONG THE NORTH LINE OF PLAT RECORD 2006-18071, S86°17'35"E 120.52 FEET;
THENCE CONTINUING ALONG SAID NORTH LINE S87°05'00"E 11.60 FEET TO THE POINT OF BEGINNING;
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THENCE N87°05'00"W 123.69 FEET;
THENCE N02°55'00"E 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 3804.0 SQUARE FEET OR 0.09 ACRES, MORE OR LESS.

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 6-20-07UTILITY COMPANY: OZARKS ELECTRICAPPLICANT NAME: Crafton Tull Sparks APPLICANT PHONE: _____
REQUESTED VACATION (applicant must check all that apply):☒

Utility Easement

~

Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.

~

Alley

~

Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NE corner of Hwy 62 and one mile Road

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

☒

No objections to the vacation(s) described above.

- No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:


Signature of Utility Company Representative

Title

Lead Staking Tech

UTILITY APPROVAL FORM

FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONSDATE: 6-15-07UTILITY COMPANY: Cox CommunicationsAPPLICANT NAME: Jeff Nicholas - Springfield Holdings APPLICANT PHONE: 580/234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement ✓
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NEC C&H & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

Michael Smither
Signature of Utility Company Representative

Surveyor
Title

Jul. 19. 2007 9:54AM Trans ROW Tulsa
Jul. 21. 2007 4:18PM

No. 0476 P. 2
No. 3033 P. 1



No. 3210 P. 1

UTILITY APPROVAL FORM

FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: SWEPCO

APPLICANT NAME: Jeff Nichols - Springfield Holdings APPLICANT PHONE: 560-234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
- ☐ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
- ☐ Alley
- ☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** NEC QTH & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

James Burt 7-19-07
Signature of Utility Company Representative

Engineer III
Title

Jul. 19. 2007 10:52AM

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: Arkansas Western Gas Co

APPLICANT NAME: Jeff Nicholas - Springfield Holdings APPLICANT PHONE: 580/234-8687
REQUESTED VACATION (applicant must check all that apply):

- ☒ Utility Easement
☐ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
☐ Alley
☐ Street right-of-way

I have been notified of the petition to vacate the following (alley, easement, right-of-way), described as follows:

General location / Address (referring to attached document- must be completed**)

** Nec 1/4th & One Mile Rd

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- No objections to the vacation(s) described above.
- ☒ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No utility are in the area to be vacated. We will
retain easements on the South & West property lines

- No objections provided the following conditions are met:

Randy Rube
Signature of Utility Company Representative

John R. B. B.

Construction Coordinator
Title

INDEPENDENT ASSISTANT
OPERATING MANAGER

UTILITY APPROVAL FORM FOR RIGHT-OF-WAY, ALLEY
AND UTILITY EASEMENT VACATIONS

DATE: 07/17/07

UTILITY COMPANY: Southwestern Bell Telephone d.b.a. AT&T Arkansas

REQUESTED VACATION:

UTILITY EASEMENT

I have been notified of the petition to vacate the following right-of-way.

Described as follows:

All that part of an existing easement located over a portion of the north and east sides of a tract of land as described on an ALTA/ACSM Land Title Survey Plat as recorded in the Circuit Clerk's office for Washington County, Arkansas, at Plat Record 2006-18071, being part of the SW ¼ of the NE ¼ of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing from a found iron pin on the east side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S02°15'33"W 1312.88 feet from the aluminum monument marking the north quarter corner of said Section 19; thence along the north line of Plat Record 2006-18071, S86°17'35"E 120.52 feet; thence continuing along said north line S87°05'00"E 11.60 feet to the Point of Beginning; thence continuing along said north line S87°05'00"E 135.00 feet to the northeast corner of Plat Record 2006-18071; thence along the east line thereof S13°02'49"E 129.40 feet; thence leaving said east line S73°06'12"W 15.03 feet; thence N13°02'49"W 119.10 feet; thence N87°05'00"W 123.69 feet; thence N02°55'00"E 15.00 feet to the Point of Beginning, containing 3804.0 square feet or 0.09 acres, more or less.

→ UTILITY COMPANY COMMENTS:

↳ No objections to the vacation described above.

Signature of this form does not constitute a release of easement. The attached Concurrence must be recorded at the Washington County courthouse in order for this release to be complete and legal.

Signature of AT&T Company Representative:


Lynda E. Sommerfeldt Palmer, Mgr.-Engr. (ROW)

COPY



**CONCURRENCE TO CLOSE
A DEDICATED UTILITY EASEMENT**

BE IT KNOWN BY THESE PRESENTS that Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, hereby concurs in the vacation of a dedicated utility easement in Fayetteville, Washington County, Arkansas, described as follows:

All that part of an existing easement located over a portion of the north and east sides of a tract of land as described on an ALTA/ACSM Land Title Survey Plat as recorded in the Circuit Clerk's office for Washington County, Arkansas, at Plat Record 2006-18071, being part of the SW ¼ of the NE ¼ of Section 19, Township 16 North, Range 30 West, City of Fayetteville, Washington County, Arkansas, and being more particularly described as follows: Commencing from a found iron pin on the east side of One Mile Road as shown on Plat Records 2004-24333 and DR3-153, that is S02°15'33"W 1312.88 feet from the aluminum monument marking the north quarter corner of said Section 19; thence along the north line of Plat Record 2006-18071, S86°17'35"E 120.52 feet; thence continuing along said north line S87°05'00"E 11.60 feet to the Point of Beginning; thence continuing along said north line S87°05'00"E 135.00 feet to the northeast corner of Plat Record 2006-18071; thence along the east line thereof S13°02'49"E 129.40 feet; thence leaving said east line S73°06'12"W 15.03 feet; thence N13°02'49"W 119.10 feet; thence N87°05'00"W 123.69 feet; thence N02°55'00"E 15.00 feet to the Point of Beginning, containing 3804.0 square feet or 0.09 acres, more or less.

Signed and executed this 23rd day of July, 2007.

By: _____

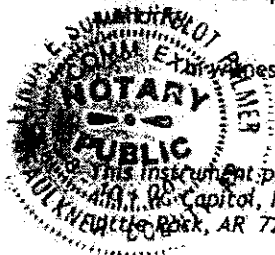
F. Jean Davis
F. Jean Davis
Director-Engineering/Construction

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS
COUNTY OF PULASKI

On this the 23 day of July, 2007, before me, the undersigned authority, duly commissioned and qualified in and for the state and county set forth above, personally came and appeared F. Jean Davis, who, after being duly sworn, declared that he is the Director-Engineering/Construction for Southwestern Bell Telephone LP, a Texas limited partnership, d.b.a. AT&T Arkansas, and that he executed the foregoing instrument as the act and deed of said company of his own free will and for the purposes and considerations therein expressed and with due

and without any duress whereof I hereunto set my hand and official seal.



This instrument prepared by AT&T
AT&T, Rm. 941
Ark. Capitol, Little Rock, AR 72201 (501-373-5255)

Lynne E. Sommerfeldt Palmer
Lynne E. Sommerfeldt Palmer
Notary Public in & for Faulkner Co., AR
My commission expires August 10, 2011

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: _____

UTILITY COMPANY: WVS

APPLICANT NAME: _____ APPLICANT PHONE: _____

REQUESTED VACATION (*applicant must check all that apply*):

- ~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

**** NE corner 6th & One mile Rd.**

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

No objections

- ☐ No objections provided the following conditions are met:

8-2-07
Signature of Utility Company Representative

Water & Sewer Operations mgr.
Title

UTILITY APPROVAL FORM
FOR RIGHT- OF- WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS

DATE: 6-15-07

UTILITY COMPANY: Transportation Department

APPLICANT NAME: Jeff Nicholas, Springfield Holdings Group, LLC APPLICANT PHONE: 580-234-8687

REQUESTED VACATION (*applicant must check all that apply*):

- XX~ Utility Easement
- ~ Right-of-way for alley or streets and all utility easements located within the vacated right- of- way.
- ~ Alley
- ~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

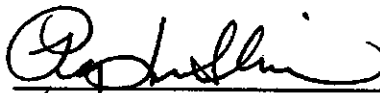
**NEC 6th and One Mile

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
- ☐ No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- ☐ No objections provided the following conditions are met:

 7/11/07

Signature of Utility Company Representative
Title Transportation Superintendent
Transportation Division
Operations Dept
City of Fayetteville
575 8227

UTILITY APPROVAL FORM

**FOR RIGHT-OF-WAY, ALLEY, AND
UTILITY EASEMENT VACATIONS**

DATE: 6-19-07

UTILITY COMPANY: Solid waste

APPLICANT NAME: _____ APPLICANT PHONE: _____
REQUESTED VACATION (*applicant must check all that apply*):

- ☒ Utility Easement
~ Right-of-way for alley or streets and all utility easements located within the vacated right-of-way.
~ Alley
~ Street right-of-way

I have been notified of the petition to vacate the following (*alley, easement, right-of-way*), described as follows:

General location / Address (referring to attached document- must be completed**)

** Northeast corner of 6th St. + One Mile Rd.

(ATTACH legal description and graphic representation of what is being vacated-SURVEY)

UTILITY COMPANY COMMENTS:

- ☒ No objections to the vacation(s) described above.
• No objections to the vacation(s) described above, provided following described easements are retained. (State the location, dimensions, and purpose below.)

- No objections provided the following conditions are met:

Brian Pugh

Signature of Utility Company Representative

Waste Reduction Coordinator

Title

Urban Forester Conditions of Approval:

Condition of Approval from LSD 07-2633 (Walgreen's)
Approved Aug 13, 2007

12. Should the vacation of the existing utility easement along the north property line not be vacated by the City Council, the subject development shall be brought before the Planning Commission for approval of a major modification. The Urban Forester will make a recommendation based on the revised preservation percentage if the easement is not vacated. The easement vacation decision shall be final prior to issuance of a grading permit. ←
13. Mitigation is required in the amount of 15 (2) inch caliper, large species trees, which shall be planted on-site.
14. A 3-year bond, letter of credit, or check in the amount of \$3,750.00 shall be submitted to the City of Fayetteville prior to issuance of a Certificate of Occupancy.
15. At the time of construction drawings the landscape plan shall be stamped by a licensed landscape architect.

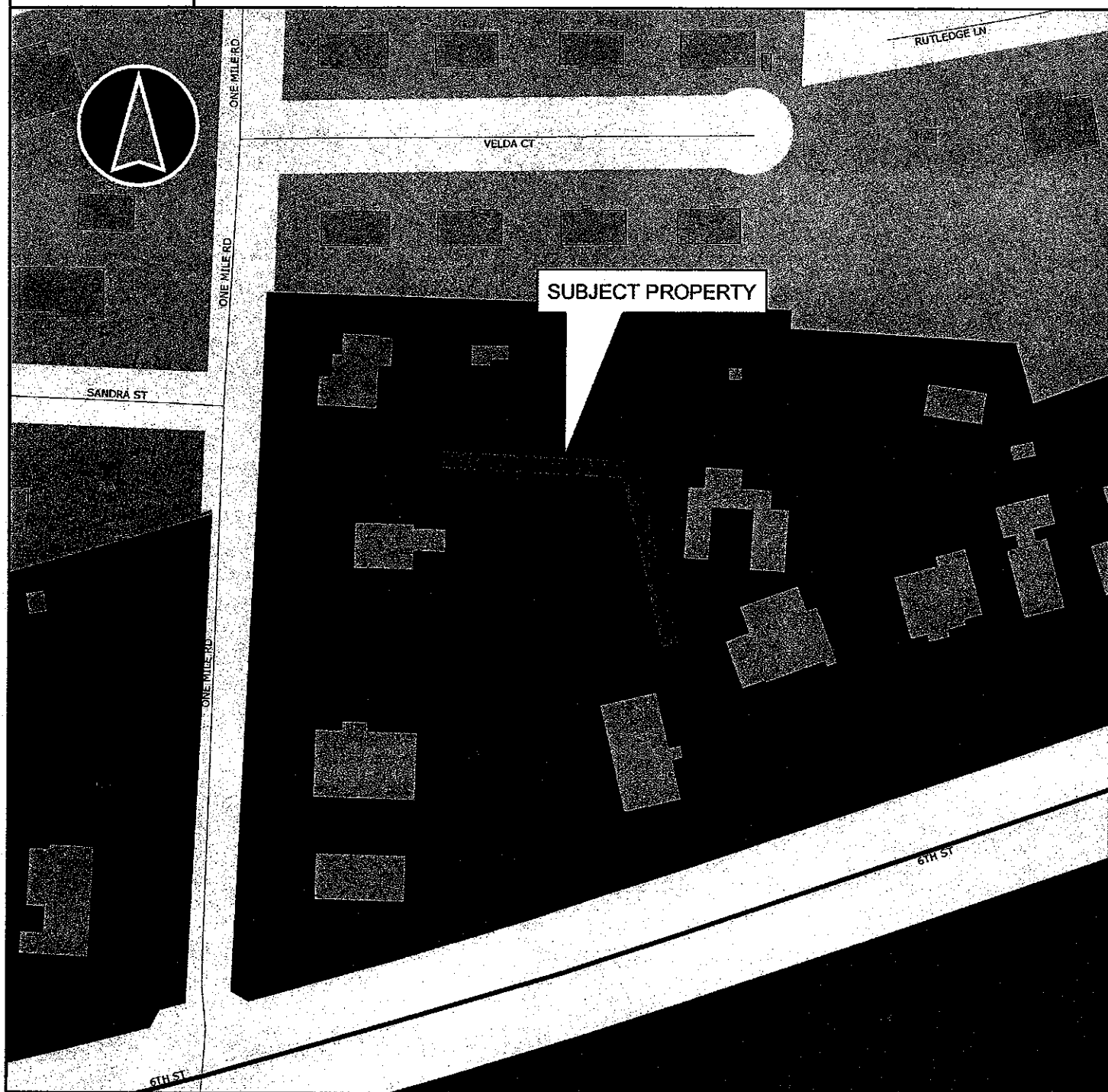
Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives: AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications).
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Any required trash enclosure shall be screened with access not visible from the street. **The trash enclosures shall be constructed with materials that are complimentary to and compatible with the proposed building.** A detail of the proposed screening shall be submitted and approved by the Planning Division prior to issuance of the building permit. Any additional dumpsters located on site shall be screened from the right-of-way.
19. All mechanical/utility equipment (roof and ground mounted) shall be screened using materials that are compatible with and incorporated into the structure. **A note shall be clearly placed on the plat and all construction documents indicating this requirement.**
20. All exterior lights shall be reviewed at the time of building permit submission for compliance with the Outdoor Lighting Ordinance.
21. Large scale development shall be valid for one calendar year.
22. Prior to building permit, a cost estimate for all required landscaping is to be submitted to

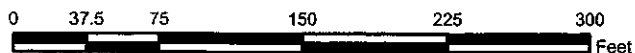
VAC07-2688

Close Up View

WALGREENS @6TH AND ONE MILE RD



Overview



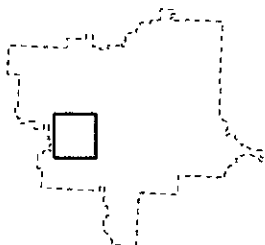
VAC07-2688

One Mile View

WALGREENS @6TH AND ONE MILE RD



Overview



Legend

Subject Property

VAC07-2688

Boundary

Planning Area

Overlay District

Outside City

Legend

Hillside-Hilltop Overlay District



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

D. 4
ADM 07-2725
Southern View II Amendments
Page 1 of 30

18-Sep-07
City Council Meeting Date

Jeremy Pate *JP*
Submitted By

Planning
Division

Operations
Department

Action Required:

ADM 07-2725: Southern View II PZD Amendment: Submitted by Lindsey Management Company, Inc. for property located on Futral Drive and Old Farmington Road, east of I-540. The request is to approve an ordinance amending the approved R-PZD 04-1.00, Southern View II, to permit Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use on the subject property

\$0.00	n/a	n/a
Cost of this request	Category/Project Budget	Program Category / Project Name
n/a	n/a	n/a
Account Number	Funds Used to Date	Program / Project Category Name
n/a	n/a	n/a
Project Number	Remaining Balance	Fund Name

Budgeted Item ☐

Budget Adjustment Attached ☐

[Signature] 8-29-07
Department Director Date

[Signature] 8-29-07
City Attorney

Paul A. Bech 8-29-07
Finance and Internal Service Director Date

[Signature] 8/29/07
Mayor Date

Previous Ordinance or Resolution # n/a

Original Contract Date: n/a

Original Contract Number: n/a

Received in City Clerk's Office



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 29, 2007

Subject: Amendment to R-PZD 04-1.00 (Southern View II), to permit Use Unit #14

RECOMMENDATION

Staff recommends approval of an ordinance amending the Residential Planned Zoning District for Southern View II (R-PZD 04-1.00), permitting Use Unit #14, Hotel, Motel and Amusement Facilities, as a use by right. Staff has proposed conditions within the draft ordinance that do not match exactly the applicant's proposal, but feel are important for the Council to consider, given one of the primary reasons the project was approved was to provide a mixture of uses on the property.

BACKGROUND

Lindsey Management Company, Inc. has submitted a request to amend the approved (and substantially constructed) R-PZD 04-1.00, Residential Planned Zoning District for Southern View II. The project consists of a mixed-use development in six buildings. Each building contains 6,733 SF of retail space (on the first floor only) and 19 multi-family units within the three-story structures, for a total of 40,398 SF of retail and 114 dwelling units. The request is to allow for much of the retail space to be converted to an extended stay motel type use, which is only permitted under Use Unit #14, Hotel, Motel and Amusement Facilities. When the PZD was approved, it did not include this use as a permitted or conditional use on the property.

The applicant states that only the first floor of the buildings would be affected, as the second and third floors are purely residential. Additionally, the applicant has removed the permitted use rights of Use Unit #14 from the south side of Building 3 and the west side of Building 4 (which have visual frontage onto I-540), as indicated in the attached diagrams. All of the other non-residential space would be converted to the extended stay hotel/motel use.

Staff finds in favor of the proposed concept to add Use Unit #14, finding that a hotel/motel use would be a compatible and complementary use in this area. However, in a review of the original project proposal, which rezoned C-2, Thoroughfare Commercial land to a primarily residential project, it is evident from staff's comments and minutes of meetings that a concern with converting this highly visible commercial property to residential was discussed. Staff's recommendation for this project was based on the development providing a true mixed-use project, wherein users of the residential units and others visiting or residing in the area would have the opportunity to utilize the retail, restaurant and other commercial services proposed. It is staff's finding that limiting the proposed hotel/motel use to 50% of the non-

residential floor area on this site is more in keeping with the original recommendation and approval of the Planned Zoning District by the Planning Commission and City Council. This would allow for the flexibility of use in the other non-residential areas to provide a mixture of retail, restaurant and other services for nearby residents, especially the 400-plus dwellings approved in Southern View Phases I and II. Staff has also proposed a condition that limits the time a room can be occupied to a maximum of 30 days, in order for the space to not become a residential use. Additionally, as proposed by the applicant, a condition states that the hotel/motel floor area will be operated as an extended stay motel type operation and shall remit sales and HMR taxes accordingly.

DISCUSSION

This item was not considered by the Planning Commission. Minutes from previous meetings have been included, as has the staff report from the original Planned Zoning District approval.

BUDGET IMPACT

None.

Uses Currently Permitted in Southern View II:

Unit 1	City-wide uses by right
Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 4	Cultural and recreational facilities
Unit 5	Government facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 15	Neighborhood shopping goods
Unit 19	Commercial recreation, small sites
Unit 24	Home occupation
Unit 25	Professional offices
Unit 26	Multi-family dwellings

Additional Use Proposed in Southern View II:

(N) *Unit 14. Hotel, motel, and amusement facilities.*

(1) *Description.* Unit 14 consists of hotels, motels, and certain types of amusement facilities.

(2) *Included uses.*

Hotel
Membership lodge
Motel
Motion picture theater
Night club, not providing dancing or outdoor music
Tavern, not providing dancing or outdoor music

ORDINANCE NO.

AN ORDINANCE AMENDING A RESIDENTIAL PLANNED ZONING DISTRICT ENTITLED R-PZD 04-01.00, SOUTHERN VIEW II, LOCATED AT FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540, CONTAINING APPROXIMATELY 6.7 ACRES, TO ALLOW THE ADDITION OF USE UNIT #14, HOTEL, MOTEL AND AMUSEMENT FACILITIES AS A PERMITTED USE, AS DESCRIBED HEREIN.

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

Section 1. That Use Unit #14, Hotel, Motel and Amusement Facilities, as defined by the City of Fayetteville Unified Development Code, is hereby approved as a permitted use and reflected in the Planned Zoning District zoning criteria for R-PZD 04-1.00, Southern View II.

Section 2. That the approval of Use Unit #14 as a permitted use on the subject property shall be conditioned upon the following:

1. Use Unit #14 shall be limited to a maximum of 50% of the overall non-residential square feet on the property, in order to retain a true mixture of retail uses, as proposed and approved with the original Planned Zoning District for Southern View II.
2. Any portion of the property or structures designated for non-residential use and hereby approved for Use Unit #14 shall not be converted to residential use, and shall remit sales and HMR taxes accordingly. An occupant's stay within any one hotel/motel room shall be limited to a maximum of 30 days.

Section 3. That this ordinance shall take effect and be in full force at such time as all of the requirements of the Planned Zoning District have been met.

Section 4. That the Planned Zoning District ordinance and official zoning map of the City of Fayetteville, Arkansas, is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED AND APPROVED this _____ day of _____, 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Lindsey Management Co., Inc.

1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

RECEIVED

AUG 28 2007

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

August 28, 2007

Mr. Jeremy Pate
Director of Current Planning
113 West Mountain Street
Fayetteville, AR 72701

RE: Modification Southern View PZD, Phase II

Dear Mr. Pate:

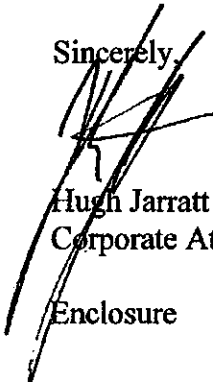
Lindsey Management Company, Inc., (Lindsey Company) on behalf of Southern View Phase II, a Limited Partnership, would like to request a modification of the Southern View PZD, Phase II, to allow Use Unit 14, Hotel, Motel, and Amusement facilities as a permitted use for a certain part of the nonresidential portion of the project. The Lindsey Company is requesting proper zoning to convert a certain portion of the first floor of the buildings into an extended stay motel type use. Attached to this letter are diagrams which show the areas of the first floor which we would like to allow Use Unit 14 along with which buildings we are seeking to include as an extended stay motel type use. With the exception of previously approved apartment units located on the first floor, this area would be operated as an extended stay motel type operation and would thereby pay sales and HMR taxes.

The only part of these buildings that will be affected by the additional use will be a portion of the first floor only. No changes are being sought for the second or third floors. The Lindsey Company is committed to the mixed use concept which has been promoted by the City of Fayetteville, and we look forward to working with the City to make these type developments economically and aesthetically successful.

If there is any other information that can be provided, or any way that I can help, please let me know.

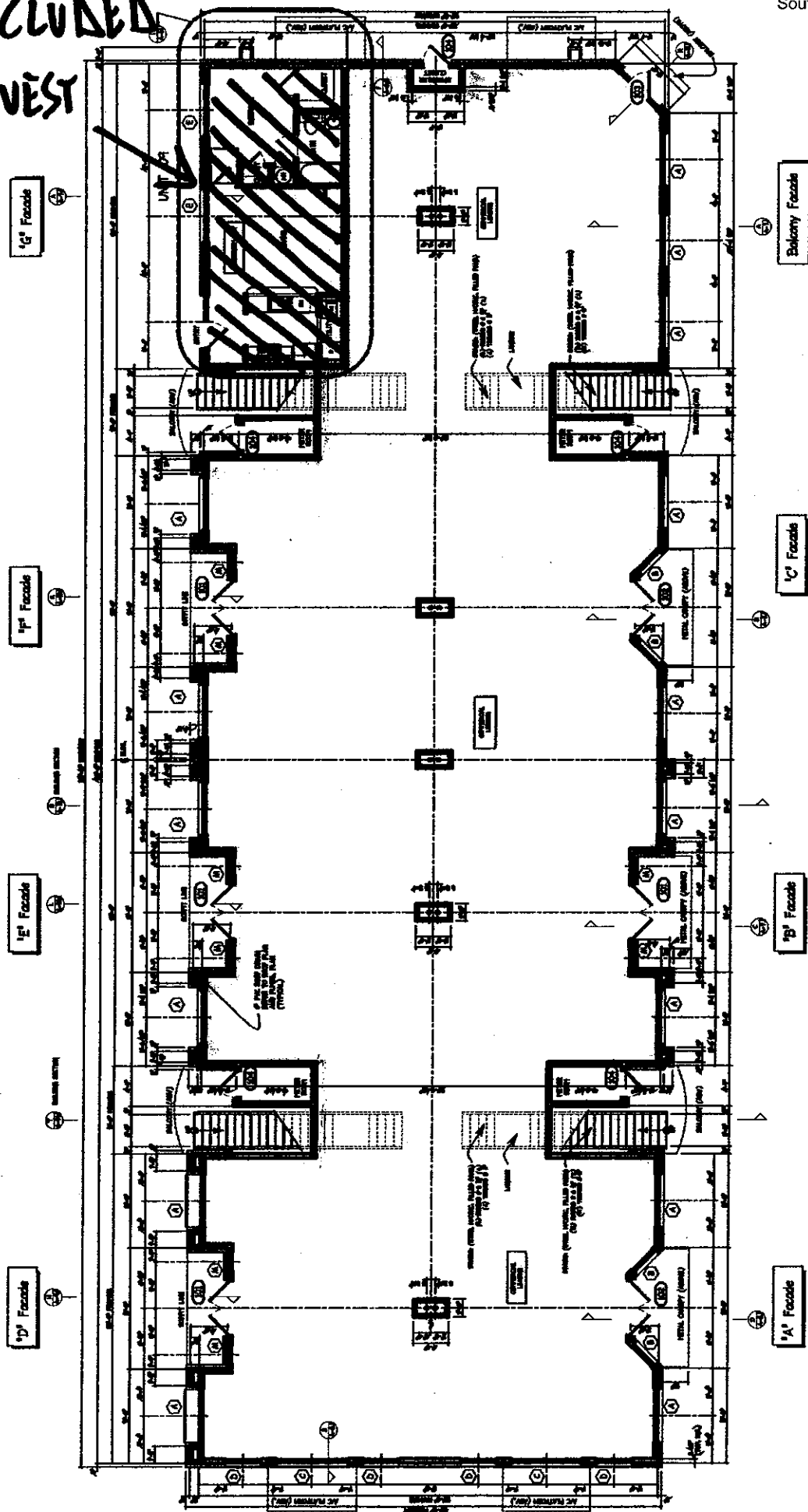
Thank you.

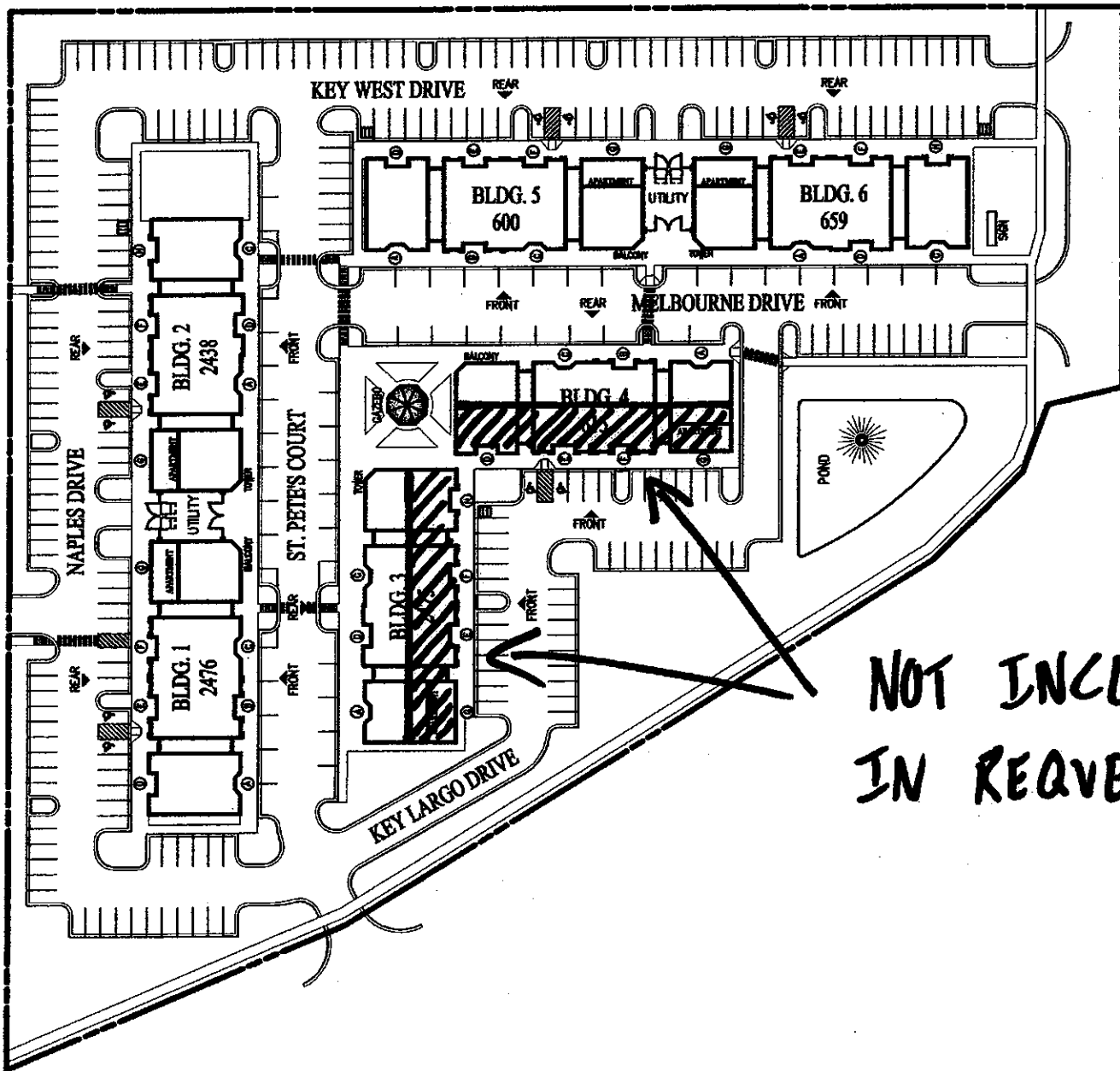
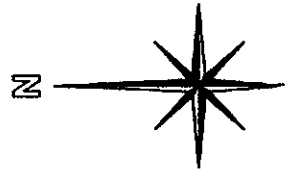
Sincerely,


Hugh Jarratt
Corporate Attorney

Enclosure

D. 4
ADM 07-2725
Southern View II Amendments
Page 8 of 30





NOT INCLUDED
IN REQUEST

ORDINANCE NO. 4543

AN ORDINANCE ESTABLISHING A RESIDENTIAL PLANNED ZONING DISTRICT TITLED (R-PZD 04-01.00) LOCATED ON FUTRALL DRIVE AND OLD FARMINGTON ROAD EAST OF I-540 CONTAINING 6.713 ACRES, MORE OR LESS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF FAYETTEVILLE; AND ADOPTING THE ASSOCIATED RESIDENTIAL DEVELOPMENT PLAN AS APPROVED BY THE PLANNING COMMISSION.

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

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

From C-2, Thoroughfare Commercial to R-PZD 04-01.00 as shown in Exhibit "A" attached hereto and made a part hereof.

Section 2. That the change in zoning classification is based upon the approved master development plan and development standards as shown on the plat and approved by the Planning Commission on January 12, 2004.

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

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

PASSED and APPROVED this the 17th day of February, 2004.

APPROVED:

By:

Dan Coody
DAN COODY, Mayor

By:

Sondra Smith
SONDRA SMITH, City Clerk



FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

PC Meeting of January 12, 2004

113 W. Mountain St.
Fayetteville, AR 72701
Telephone: 501-575-8264

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Jeremy Pate, Associate Planner
Matt Casey, Staff Engineer
THRU: Dawn Warrick, A.I.C.P., Zoning & Development Administrator
DATE: January 06, 2004

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 114 dwelling units and 40,398 SF of commercial space proposed. Planner: Jeremy Pate

Proposal: The request is for a Residential Planned Zoning District on 6.71 acres currently zoned C-2, Thoroughfare Commercial, directly south of the constructed Southern View Phase I multi-family development. The applicant requests a rezoning and Large Scale Development approval for a mixed use development consisting of six buildings. Each of the proposed buildings will contain 6,733 SF of retail space, 14 2-Bedroom dwelling units and 3 1-Bedroom units.

Proposed Development:

R-PZD, Residential Planned Zoning District

	Land Use	Square Feet	# of Units	# of Bedrooms	Parking Required
Bldgs 1-6	Commercial/Retail	6,733 SF	N/A	N/A	27 spaces
Bldgs 1-6	Multi-Family Residential 2-Bedroom	N/A	12	24	24 spaces
Bldgs 1-6	Multi-Family Residential 1-Bedroom	N/A	7	7	7 spaces
Individual Total	Mixed-Use Retail/Multi-family Residential	6,733 SF Retail	19	31	58 spaces
TOTAL (x 6 Bldgs)	Mixed-Use Retail/Multi-family Residential	40,398 SF Retail	114	186	348*

*The applicant proposes 302 parking spaces, which is within the 30% +/- ordinance requirement.

Total proposed dwelling units on the 6.71 acres numbers 114, therefore the proposed density for the R-PZD is 16.9 DU/acre.

Access: The development is proposed to have four means of access, two from Old Farmington Road, one from Futrall Drive and one from the existing Southern View Phase I development to the north. A pedestrian access has been added from the existing Southern View I apartments, pursuant to Subdivision Committee discussion. A formal waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut has been submitted by the developer. Staff is in support of the request for the proposed curb cuts along Old Farmington Road. The two entrances fulfill the intent of providing an enhanced "Main Street" streetscape, along with providing needed parking in the "rear" to meet ordinance requirements. Access on both sides of the building is desirable for fire protection and emergency vehicles.

Buildings and parking in the development have been situated to create a desirable, pedestrian-oriented streetscape along the two primary entrances east from Futrall Drive and north from Old Farmington Road. Parallel parking and 10-foot wide sidewalks are incorporated with the primary interior streets, and the majority of parking is located to the rear of the structures. Additionally, a landscape buffer is proposed along Futrall Drive to ameliorate the impacts of proposed parking lots.

Elevations of the proposed structures have been submitted for Planning Commission review. The development is proposed to be under single ownership, with dwelling units rented and retail space leased. All interior streets, landscaping, common areas and buildings will be maintained by the developer.

Existing Development: The site is currently vacant.

Surrounding Land Use/Zoning:

Direction	Land Use	Zoning
North	Southern View Phase I Multi-family dwellings	RMF-18, Res. Multifamily, 18 DU/acre
South	Sines AutoBody Shop	C-2, Thoroughfare Commercial
East	Fayetteville Public Schools	P-1, Institutional
West	Futrall Drive, I-540	N/A

Water & Sewer: Water and sewer lines are available to the site.

Phasing: Phase lines are shown in bold on the site plan, dividing the project construction into two phases, the first of which will incorporate all street infrastructure, landscaping, sidewalks and buildings 2 and 5.

Street Improvements Proposed: Improvements to Old Farmington Road a minimum of 14' from centerline including curb & gutter, pavement etc. Six-foot sidewalks are required to be constructed along both Futrall Drive and Old Farmington Road.

Adjacent Master Street Plan Streets: Futrall Drive (Collector), minimum of 35 feet from centerline; Old Farmington Road (Local), minimum of 25 feet from centerline

Tree Preservation: There are no existing trees on-site.

Design Overlay District:

- **Greenspace:** The applicant has complied with the 25' greenspace requirement along the rights-of-way.
- **Signage:**

Monument Sign: The applicant is indicating one (1) monument sign along Old Farmington Road, to be compliance with DOD requirements. All sign illumination is to utilize indirect lighting.

Wall Sign: Wall signage is to be determined by tenant occupancy of the leased Commercial/Retail space. Two wall signs may be installed per business (two right-of-way frontages), not to exceed 20% of that wall area or 200 SF, whichever is less.
- **Curb Cuts:** **The applicant requests a waiver of the 250 feet required from an intersection to a curb cut.** The original lot configuration does not have adequate depth to satisfy the DOD requirement. Staff is in support of this request.
- **Lighting:** The applicant shall comply with the requirement for 35-foot maximum height, utilizing full cut-off lighting fixtures that are shielded and directed downward to the parking lot and light spread not to reflect into the adjacent properties.
- **Exterior appearance:** Elevations have been submitted for all four sides of the building. Planning Commission determination of architectural treatment of fronts, along with Commercial Design Standards, is required.
- **Building Material:** Materials samples have been submitted, indicating the proposed brick colors, etc.
- **Site Coverage:** Approximately 31% of the site has been left in open space.
- **Fencing:** Fencing is not proposed with this development.
- **Outdoor Storage:** N/A
- **Access:** Pedestrian access is being provided with new 6-foot sidewalks along Futrall Drive and Old Farmington Road. Bicycle racks are being provided within the development, as are 10-foot sidewalks along buildings to allow for spillover and outdoor shopping space.

Background: The proposal was first heard at Technical Plat Review on May 28, 2003 and in subsequent meetings tabled by staff due to concerns with site development plans. The proposal was resubmitted and heard at Technical Plat Review on December 17, 2003. The revisions produced from that meeting and a subsequent meeting with staff were presented before the Subdivision Committee on December 30, 2003. Discussion at that meeting included breezeways between buildings, "placemaking" on the empty corner between Blds 3&4, trees along the "Main Street", pedestrian access to Southern View I, and graphic treatment of the building elevations.

Recommendation:

Forward to the City Council with a recommendation for approval of the requested rezoning to R-PZD 04-01.00.

Planning Commission approval of the proposed Large Scale Development plan R-PZD 04-01.00 subject to the following conditions:

Conditions of Approval:

- ✓1. Planning Commission recommendation to the City Council regarding the rezoning of the subject property to the unique district **R-PZD 04-01.00** with all conditions of approval as determined by the Planning Commission.
- ✓2. An ordinance creating this R-PZD shall be approved by City Council.
3. Planning Commission determination of Commercial Design Standards. *Staff finds the structures fully meet all aspects of Commercial Design Standards. *Addition to Condition w/Planning Commission approval: No two facades shall be constructed next to or across from one another. The end facades shall be addressed to more fully comply with Commercial Design Standards. The tower element shall not be used more than three times within the development.*
- ✓4. Planning Commission determination of a waiver request for the proposed building within the 100-foot setback of the 100-year water surface elevation of the proposed retention pond. *Staff is in support of this request.*
- ✓5. Planning Commission determination of a waiver request for the Design Overlay District requirement of 250 feet between an intersection and a curb cut, along Old Farmington Road. Approximately 110 feet is the proposed distance from the Futrall Drive intersection to the first entrance curb cut along Old Farmington Road. *Staff is in support of the waiver request.*
6. All setbacks, protective easements, and designated uses are binding with the approval of the R-PZD. Submitted building elevations are likewise binding to the project.
7. An AHTD permit is required for any work done within the Highway Department right-of-

way.

8. Street improvements to Old Farmington Road shall include 14 feet from centerline including curb, gutter, pavement and 6-foot sidewalks. Six-foot sidewalks are also required along Futrall Drive, at the right-of-way line.
9. No fences shall be allowed within the utility easements along Futrall Drive and Old Farmington Road.
10. All parking lot lights are to be shielded, directed downward and away from adjacent properties utilizing full cut-off sodium lighting fixtures.
11. All signage shall comply with Design Overlay District requirements.
12. All trash enclosures shall be screened from view with materials that are compatible with and complementary to the proposed buildings.
13. All utilities shall be screened with materials complementary to the proposed buildings.
14. Each building shall be constructed to provide a mixture of facades as viewed from surrounding drives and streets.
15. The building permit process for Phase II of the current proposal shall begin within one (1) year from the final Certificate of Occupancy issued for Phase I.

Standard Conditions of Approval:

16. Plat Review and Subdivision comments (to include written staff comments provided to the applicant or his representative, and all comments from utility representatives - AR Western Gas, SWBT, Ozarks, SWEPCO, Cox Communications)
17. Staff approval of final detailed plans, specifications and calculations (where applicable) for grading, drainage, water, sewer, fire protection, streets (public and private), sidewalks, parking lot(s) and tree preservation. The information submitted for the plat review process was reviewed for general concept only. All public improvements are subject to additional review and approval. All improvements shall comply with City's current requirements.
18. Payment of parks fees in the amount of \$40,086 shall be required prior to building permit. Prior to R-PZD approval, this amount shall be considered and approved by City Council to meet ordinance requirements for over 100 residential units (*scheduled for the February 03, 2004 meeting*).
19. All overhead electric lines 12kv and under shall be relocated underground. All proposed utilities shall be located underground.

- (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: The applicant's proposed development introduces flexible land use in this area, allowing for residential and commercial uses to coincide. Commercial uses are highly desired in this area, and the 40,398 SF proposed will serve both residents living immediately adjacent to and citizens visiting the area. The mixed-use development promotes a harmony of residential and retail, in the traditional sense of neighborhood development. The housing type proposed will provide a variety from Southern View I, to the north, and will not have a negative impact future development in the area.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Residential Areas which are:

- 9.8a Utilize principles of traditional residential urban design to create compatible, livable and accessible neighborhoods.**
- 9.8.e Utilize more intense development patterns downtown, where appropriate, and encourage mixed uses in new developments to promote better community design, maintain human scale, and enhance pedestrian activity.**
- 9.8.f Site new residential areas accessible to roadways, alternative transportation modes, community amenities, infrastructure, and retail and commercial goods and services.**

The proposal is consistent with the General Plan 2020 in which it meets the guiding policies for Community Commercial areas which are:

9.10.a Provide centers that are accessible and compatible with adjacent residential development.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Mixed Use Areas which is:

9.14.a Allow mixing of uses and integration of design through the planning process.

The proposal is consistent with the General Plan 2020 in which it meets the guiding policy for Community Character which is:

9.19.f Allow compatible commercial development within and adjacent to residential development.

(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: Staff has reviewed the proposed development with regard to findings necessary for rezoning requests. Those findings are attached to this report. An ordinance will be drafted in order to create this Planned Zoning District which will incorporate all conditions placed on the project by the Planning Commission. This ordinance will be forwarded to the City Council for approval.*

(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 General Plan 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: The R-PZD proposed is consistent with the City's General Plan for mixed-use development, and allows a more flexible means of development to better accommodate the need for commercial and residential land use. The harmonious relationship of different land uses and activities in a single development is promoted by the City's General Plan. Land use incompatibility is minimized, and public infrastructure improvements will benefit the City.

(2) Permitted uses.

Unit 1	City-wide uses by right	
Unit 2	City-wide uses by conditional use permit	
Unit 3	Public protection and utility facilities	
Unit 4	Cultural and recreational facilities	
Unit 5	Government facilities	
Unit 8	Single-family dwellings	REMOVED BY APPLICANT
Unit 9	Two-family dwellings	REMOVED BY APPLICANT
Unit 10	Three-family dwellings	REMOVED BY APPLICANT
Unit 12	Offices, studios and related services	
Unit 13	Eating places	
Unit 15	Neighborhood shopping	
Unit 19	Commercial recreation, small sites	
Unit 24	Home occupations	
Unit 25	Professional offices	
Unit 26	Multi-family dwellings	

Approved Uses

FINDING: The applicant is proposing to retain the use of all Use Units associated with the R-PZD, with the exception of Use Units 8, 9, and 10.

(3) 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: Commercial area totals 40,398 SF; residential units comprise two floors of each building, for a total of 114 units.

***Required Findings for Rezoning Request.**

RECOMMENDATION:

LAND USE PLAN: General Plan 2020 designates this site Regional Commercial. Rezoning this property to R-PZD 04-01.00 is compatible with surrounding land uses in the area.

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: This area is designated Regional Commercial on the Future Land Use Map. That designation is reflective of the current zoning of the site which is C-2, Thoroughfare Commercial. The property to the north, Southern View I, was rezoned and developed as multi-family residential in 2002-03. Concerns cited by the Planning Commission at the time regarding the loss of prime commercial space are included in the minutes of the Rezoning request (see attached). The R-PZD proposal helps alleviate some of those concerns by providing needed commercial space along a major corridor, with a residential component, which historically provides potential for safer neighborhood shopping and longer business hours. Connectivity of pedestrian and vehicular access routes will satisfy the City's policies of connectivity and providing mixed use areas in appropriate areas.

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

Finding: A desire for commercial land use in this area has been expressed by Planning Commission and City Council, specifically with the Rezoning request of the northern property in 2002. In order to facilitate a development that fulfills the objectives of the city and the needs of the developer, a rezoning request to utilize mixed use development in an R-PZD is justified.

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

Finding: The proposed zoning will increase traffic in the area. The streets surrounding the property are classified as a Collector (Futrell) and a Local (Old Farmington). A Collector Street is designed to carry between 4,000 and 6,000 vehicles per day. A Local Street should carry up to approximately 4,000 vpd. Development on this particular site should help traffic circulation to and from the area, enabling vehicles to travel east along Old Farmington in an effort to get south (Futrell is one-way north) to 6th Street. The proposal will not appreciably increase traffic danger and congestion.

NEW BUSINESS:

Van Scoyoc Associates: A resolution approving a memorandum of agreement with Van Scoyoc Associates and a budget adjustment in the amount of \$85,000.00 to provide consulting legislative services in the amount of \$75,000.00, plus expenses up to \$10,000.00.

Alderman Lucas: Is the travel included in this \$10,000 or would that be over and above the \$10,000.

Collis Garran, Dean of Graduate School for the U of A: The travel is included in the \$10,000, the local travel they are referring to is in D.C., in the three years we have used them they have never used their \$10,000 total allowed amount.

Alderman Lucas: So their travel back and forth to Fayetteville is included in that amount.

Collis Garran: Yes.

Alderman Lucas: I think this is great and I am counting on them to do us a lot of good.

Alderman Marr moved to approve the resolution. Alderman Lucas seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 21-04 as Recorded in the Office of the City Clerk.



R-PZD 04-1.00 – Southern View II: An ordinance establishing a residential planned zoning district titled (R-PZD 04-1.00) located on Futrall Drive and Old Farmington Road east of I-540 containing 6.713 acres, more or less; amending the official zoning map of the City of Fayetteville; and adopting the associated residential development plan as approved by the Planning Commission.

Mr. Williams read the ordinance.

Jerry Kelso, Crafton, Tull and Associates gave a brief presentation on the project. This is a mixed used development with commercial on the bottom floor and residential units on the second and third floor. The total proposed residential units is 113, the total square feet of commercial is roughly 42,000 square feet.

Kim Fugitt, Project Architect gave a brief description of the exterior of the buildings and the project. There will be six of the buildings on the six acres; each building will have 19 apartment units and approximately 7,000 square feet of commercial space on the ground floor. There are twelve two bedroom apartments and seven one bedroom apartments; one apartment is on the ground floor to provide any kind of accessible living units for those that may be unable to reach the second and third floor.

A discussion followed on the ground level apartment and the apartments to the north of this proposed project.

Alderman Thiel: Did this go through the commercial design standard process?

Dawn Warrick: Any Planned Zoning District which has commercial components is required to be review for commercial design standards and it was approved by the Planning Commission for those standards.

A discussion followed on the project.

Jim Lindsey spoke about the project.

Mayor Coody: I want to thank you and your staff for being willing to try something that is way outside your box.

A discussion followed on the project.

Alderman Cook: As a PZD is that locked in that the first floor must remain as commercial or at some point in the future could that be turned into apartment space or what ever?

Tim Conklin: What has been shown and proposed is to lock in the first floor excluding the one assessable unit as commercial.

Alderman Reynolds: I want to thank you for jumping into this venture. I really like it, I think it will cheer up the neighborhood out there and that new traffic light alignment will help you.

Alderman Jordan: Traffic Count?

Dawn Warrick handed out the traffic counts that were taken by the city's Transportation Division.

Alderman Thiel: There are 114 new apartment units in this project.

Tim Conklin: There is 6,733 square feet of retail per building for a total of 40,398 square feet of retail.

Alderman Thiel: How many units did we add whenever the property north of there, which was commercially zoned, was rezoned multi-family, how many units are in that complex?

Tim Conklin: 300 units.

Alderman Thiel: I am concerned about the amount of apartments we are adding right now when construction has not even started on the new treatment plant. I think this a great effort on Mr. Lindsey's part. I feel 540 has a lot of apartments and that is the front door into this city, I would like to see more of it developed commercially. Even though this is mixed and it does have the commercial, it still adds 114 more units. I have reservations about how this is going to look from 540.

Alderman Marr: What is your current occupancy of the 300 apartments that you have recently built?

Mr. Lindsey: Companywide in Fayetteville we are at 97%. That project is new and it was built after the kids came back to school and we have just finished the last building in the last few weeks. That project is right now at 50%. I would say by May we would be in the 80% to 85% and by next August that project will be 100% rented.

Alderman Marr discussed housing for students and housing close to the university. He spoke about the continued same look of apartments at every intersection. There is a lot about this project that he likes, that we are having a major developer in our area try something new that is a very different look. He thinks it is very hard to argue for urban infill and mixed use and not be willing to step out and have someone who is willing to take a little bit of risk with you do that.

I appreciate that very much, I like the concept. Part of the appeal to me is the fact that it may visually hide some of the things that are repetitive on 540 when this development gets built. I am excited about some commercial in this area.

This Ordinance was left on the First Reading.

Southern View Phase II, Money in Lieu of Land: A resolution accepting the parks and Recreation Advisory Board's recommendation to accept \$40,086.00 cash in lieu of the required park land dedication for Southern View Phase II.

Alderman Jordan moved to table the Resolution until the February 17, 2004 City Council meeting. Alderman Cook seconded. Upon roll call the motion to table passed 7-0. Alderman Davis was absent.

Re-budget 2003 Budget Items: A resolution approving a budget adjustment to re-appropriate \$58,605,226.00 in order to retain project funding for identified and scheduled capital improvements and fund increased workers compensation premiums.

Alderman Jordan moved to approve the resolution. Alderman Cook seconded. Upon roll call the resolution passed 7-0. Alderman Davis was absent.

Resolution 22-04 as Recorded in the Office of the City Clerk.

ADM 03-29.00 - Chapter 167 Tree Preservation Amendment: An ordinance amending Title XV: Unified Development Code, of the Code of Fayetteville, to provide amendments to and clarification of various provisions concerning tree preservation and protection.

Mr. Williams read the ordinance.

Alderman Thiel: Is the Tree and Landscape Committee in favor of this?

Audience: They have reviewed this for several months, they have reviewed this amendment and they are in full support.

R-PZD 04-01.00: Residential Planned Zoning District (Southern View II, pp 519) was submitted by Crafton, Tull & Associates on behalf of Lindsey Management Co. for property located at Futrall Drive and Old Farmington Road, east of I-540. The property is currently zoned C-2, Thoroughfare Commercial and contains approximately 6.713 acres. The request is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and 40,398 SF of commercial space proposed.

Hoover: On to item number three, R-PZD 04-01.00 for Southern View Phase II for property at Futrall Drive and Old Farmington Road. Jeremy?

Pate: Item four is a Residential Planned Zoning District for Southern View II located at Futrall Drive and Old Farmington Road east of I-540. This is directly south of the Southern View apartment complex which is known as Southern View I which was recently completed. The subject property is currently zoned C-2, Thoroughfare Commercial and designated Regional Commercial on our future land use plan. It contains approximately 6.7 acres. The request tonight is to rezone the property to a Residential Planned Zoning District to allow for a mixed use development comprised of 102 dwelling units and approximately 40,398 sq.ft. of commercial retail type space proposed. On page 3.1 of your staff reports, the first page, the staff has broken down the numbers of buildings and the number of bedrooms/units. Approximately 17 units per building with 31 bedrooms. There is a mixture of two bedroom and one bedroom units on primarily the second and third floors of each of the six buildings with a retail being along the first floor. There are 348 spaces required by ordinance, the applicant is proposing 302 which is within the 30% +/- portion of the ordinance for parking requirements. The proposed density with 102 units therefore, is 15.2 dwelling units per acre. The development is proposed to have four means of access, two south onto Old Farmington Road, which is a two way going east/west, one onto Futrall Drive which is one way going north and then there is another entrance also into the Southern View I apartment complex which accesses I believe it is Stone Street, which is also two way going east and west. There is a waiver request with regard to access, the 250' required between an intersection and a curb cut in the Design Overlay District. That is along Old Farmington Road, I believe it is 110' approximately that is requested. Staff is in support of this waiver request from the Design Overlay District. Additionally, this entire site is in the Overlay District. A landscape buffer is proposed along Futrall Drive to ameliorate the impacts of the proposed parking lot that is on your site plan. Elevations, as you can see, have been submitted and I believe there are some revised ones. I'm not for sure if they have made it here yet. The ones on the bottom here in black and white do call out some of the materials of those structures. Surrounding properties are zoned a number of things. To the north, of course, is Southern View I which is RMF-18,

to the south is C-2, Thoroughfare Commercial, this is Sines Auto Body Shop. To the east is the Fayetteville Public Schools which is P-1, Institutional and to the west is of course Futrall Drive and I-540. There are some phase lines shown on your plats as well with the dark dashed line. I believe it is buildings two and six I think if memory serves me correctly, that are being proposed to be developed in Phase I as well as all the infrastructure for all of this development with regard to streets and water and sewer lines. With regard to findings for the Planned Zoning District, in pages 3.7 through 3.15 I won't go over all of those, a couple of pertinent ones are included. The proposal is consistent with the General Plan in a number of areas, including residential areas. It is utilizing some of the principles of traditional residential urban design to create livable and accessible neighborhoods, both in a vehicular and pedestrian manner. It is also citing residential areas accessible to roadways and alternative transportation modes, infrastructure, retail and goods. It also meets the guiding policies for community commercial areas and providing centers that are accessible and compatible with adjacent residential development. Again, as I mentioned, this area is designated Regional Commercial on the Future Land Use Map. I included some minutes from the initial rezoning of this project. There were some concerns by both the Planning Commission and the City Council. With regard to amount of commercial space which is being lost here and a site which is very visible and has access. There is 30,000 sq.ft. or a little more of commercial space proposed in this area. Just in comparison, a typical Walgreen's for instance, is approximately 15,000 sq.ft., a grocery store, for instance, like an IGA or Harps is around 40,000 sq.ft. The Lowe's approved west of town on 6th Street is about 130,000 sq.ft. and the associated retail was about 50,000 so that is just sort of giving you an idea the amount of commercial that is being proposed here. I included some traffic counts. I just handed those out. I believe there are approximately 1,180 vehicle trips per day on average of a 24 hour span. Commissioner Graves actually asked me to produce that for the Commission to see for the traffic amounts generated by this proposed development. It is broken up into a certain amount of square footage for retail, for office and for residential uses as shown on your printout there. Again, there are four ways in and out of this development. Old Farmington and Futrall and to the north to Stone Street, three ways. Staff is recommending approval of this Residential Planned Zoning District with 19 conditions, three of which Planning Commission does need to make specific findings on tonight. Planning Commission determination of Commercial Design Standards for that portion of the site that is commercially developed. Item four, Planning Commission determination of a waiver request for a proposed building within the 100 foot setback of the 100-year water surface elevation of the proposed detention pond. Item five, Planning Commission determination of a waiver request for the Design Overlay District requirement of 250'

between intersection and a curb cut. I would also mention condition number fifteen, the building permit process for Phase II of this proposal shall begin within one year from the final Certificates of Occupancy issued for Phase I. Staff felt it appropriate that Phase II should follow after Phase I for the permitting process in a timely manner.

Hoover: Thank you. Would the applicant come forward please?

Kelso: Thank you Madam Chair. My name is Jerry Kelso, I'm with Crafton, Tull & Associates, the engineer of record on this piece of property and on this project. Jeremy has pretty much went over the overview of the thing. I just want to make a few points. We started this project based upon meetings that we have had with the city and the city's leadership to develop this type of a project. Obviously, what you see is a true mixed use type development. Commercial is on the bottom floor with residential on the second and the third floors to make a true community where you have both residential and commercial on the same tract of land. We went through several iterations with the actual building itself along with the site plan to get where we're at today. We have worked diligently with the city staff. If you look at your site plan what we've done is we've tried to create a streetscape through the middle of this thing what buildings located on both sides to create that unique design that I think is the vision of the City of Fayetteville. A couple of things I also wanted to point out, we added since Subdivision Committee if Subdivision Committee members remember. We did go ahead and add the pedestrian access to the north that was requested. Between the buildings we have created a fence so it looks like we've got a solid row of buildings along with fences straight through. There at the corner between buildings three and five we've got the gazebo and tried to spruce it up with some gardens and kind of making a nice meeting area centralizing this development. Those are some of the things that we've tried to do along the way and work with city staff, the Planning Commission and the leadership of Fayetteville to come up with what we've got. I will try to entertain any questions that you might have. Again, Kim Fugitt is the architect on these buildings if you have any building specific questions. Thank you.

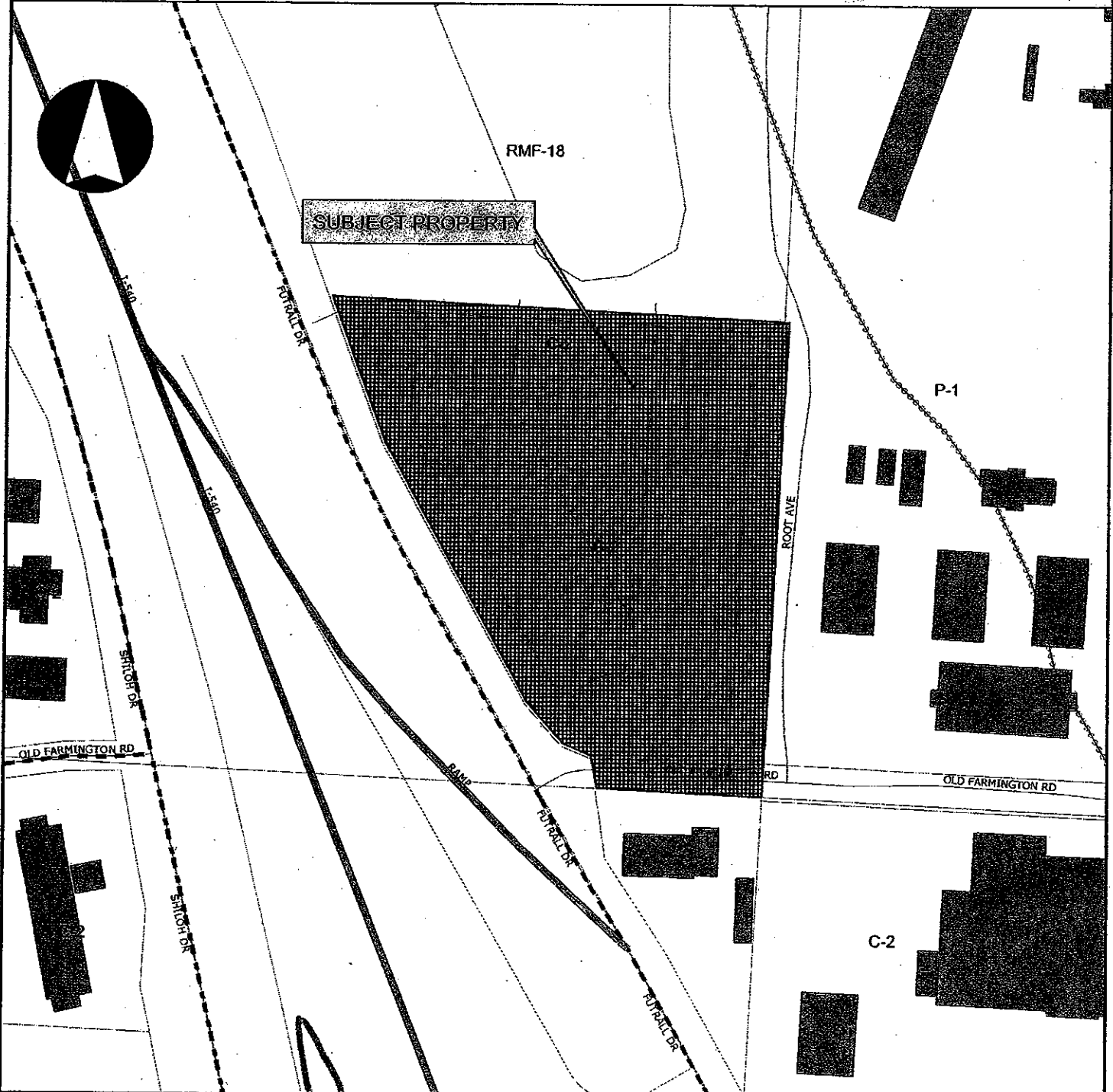
Hoover: At this time we will open up this R-PZD 04-01.00 for public comment. Is there anyone in the audience that would like to address this project? Seeing none, I will bring it back to the Commission. I think we might go ahead, can we go ahead and start with the architect giving his presentation? I think that would be helpful.

Fugitt: My name is Kim Fugitt, I am the project architect, did you have some questions?

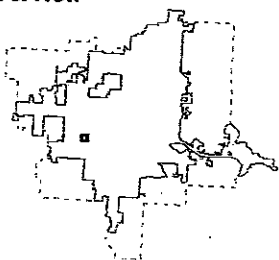
R-PZD04-01.00

Close Up View

SOUTHERN VIEW II

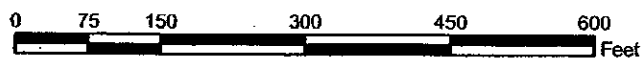


Overview



Legend

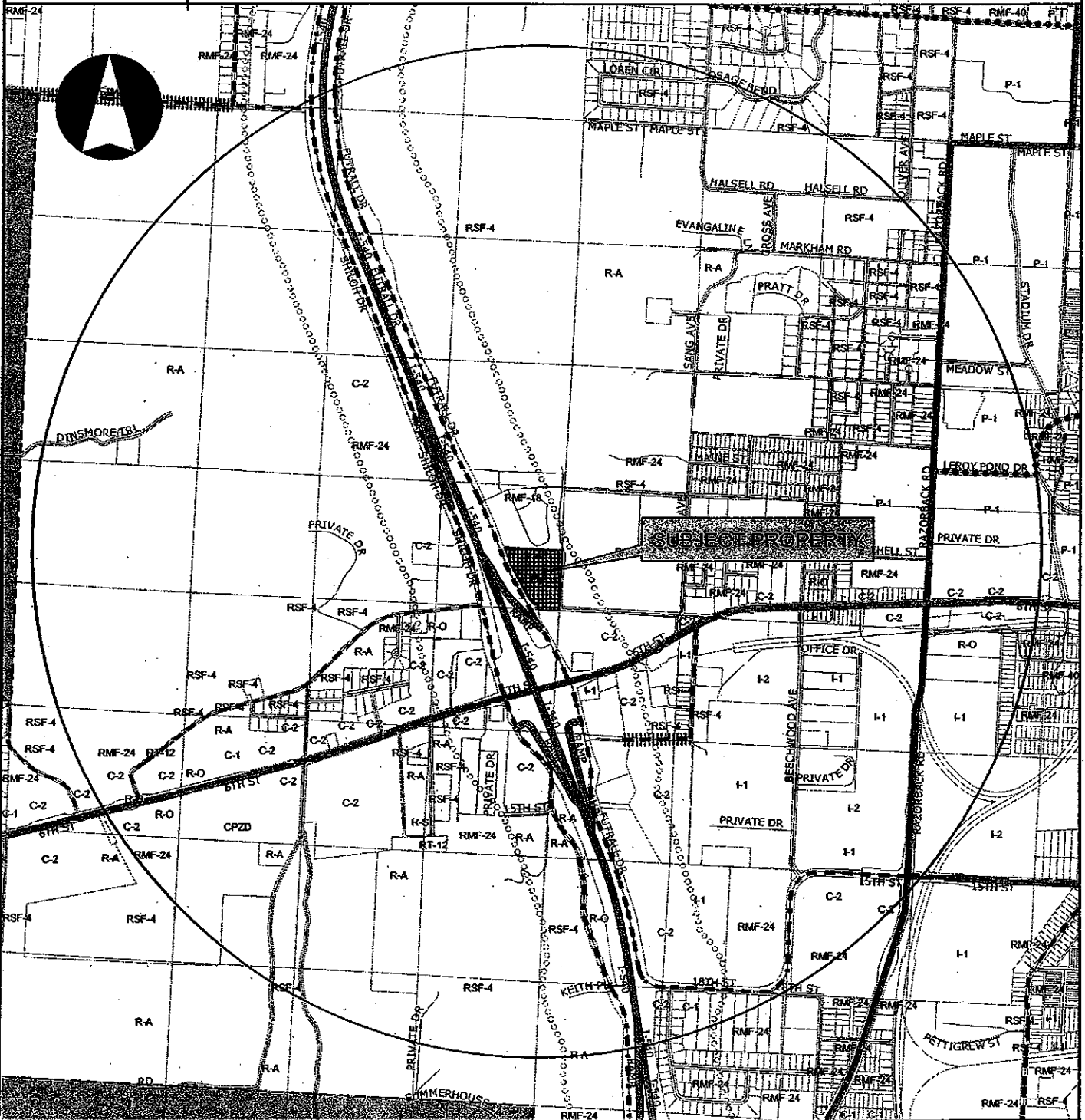
- | | | |
|------------------|--------------------|---------------------------|
| FLOODWAY | Overlay District | Master Street Plan |
| 100 YEAR | Master Street Plan | Freeway/Expressway |
| 500 YEAR | | Principal Arterial |
| LIMIT OF STUDY | | Minor Arterial |
| BaseLine Profile | | Collector |
| R-PZD04-01.00 | | Historic Collector |
| | | Planning Area |
| | | City Limits |
| | | Outside City |



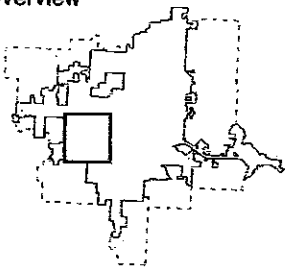
R-PZD04-01.00

One Mile View

SOUTHERN VIEW II



Overview



Legend

Subject Property

R-PZD04-01.00

Streets

Existing

Planned

Boundary

Planning Area

Overlay District

City Limits

Outside City

Master Street Plan

Freeway/Expressway

Principal Arterial

Minor Arterial

Collector

Historic Collector

0 0.1 0.2 0.4 0.6 0.8 Miles

Lindsey Management Co., Inc.

1200 E. Joyce Boulevard ■ P.O. Box 13000 ■ Fayetteville, AR 72703 ■ (479) 521-6686 ■ Fax (479) 527-8840

RECEIVED

August 28, 2007

AUG 28 2007

Mr. Jeremy Pate
Director of Current Planning
113 West Mountain Street
Fayetteville, AR 72701

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

RE: Modification Southern View PZD, Phase II

Dear Mr. Pate:

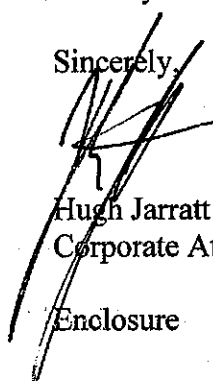
Lindsey Management Company, Inc., (Lindsey Company) on behalf of Southern View Phase II, a Limited Partnership, would like to request a modification of the Southern View PZD, Phase II, to allow Use Unit 14, Hotel, Motel, and Amusement facilities as a permitted use for a certain part of the nonresidential portion of the project. The Lindsey Company is requesting proper zoning to convert a certain portion of the first floor of the buildings into an extended stay motel type use. Attached to this letter are diagrams which show the areas of the first floor which we would like to allow Use Unit 14 along with which buildings we are seeking to include as an extended stay motel type use. With the exception of previously approved apartment units located on the first floor, this area would be operated as an extended stay motel type operation and would thereby pay sales and HMR taxes.

The only part of these buildings that will be affected by the additional use will be a portion of the first floor only. No changes are being sought for the second or third floors. The Lindsey Company is committed to the mixed use concept which has been promoted by the City of Fayetteville, and we look forward to working with the City to make these type developments economically and aesthetically successful.

If there is any other information that can be provided, or any way that I can help, please let me know.

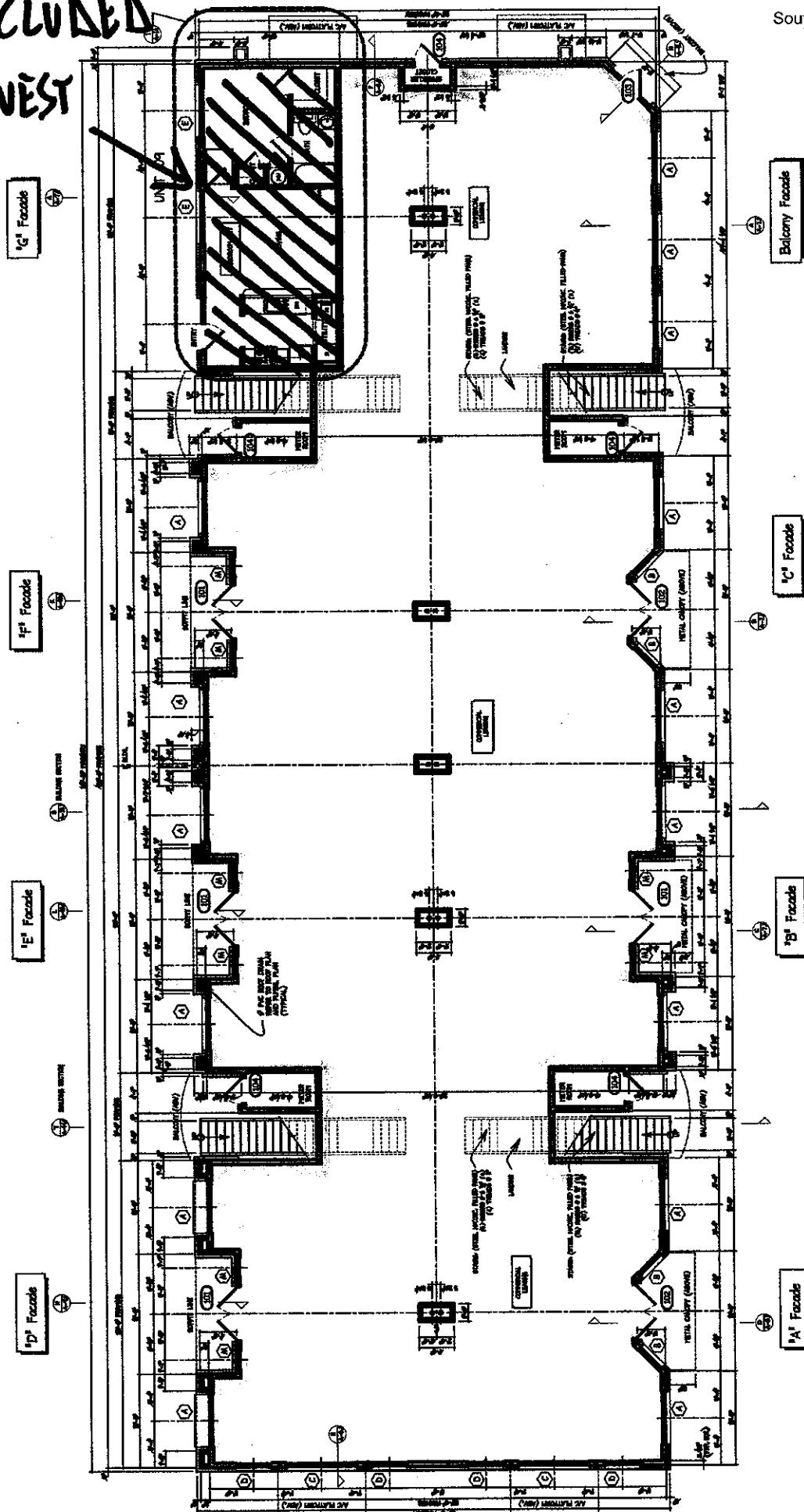
Thank you.

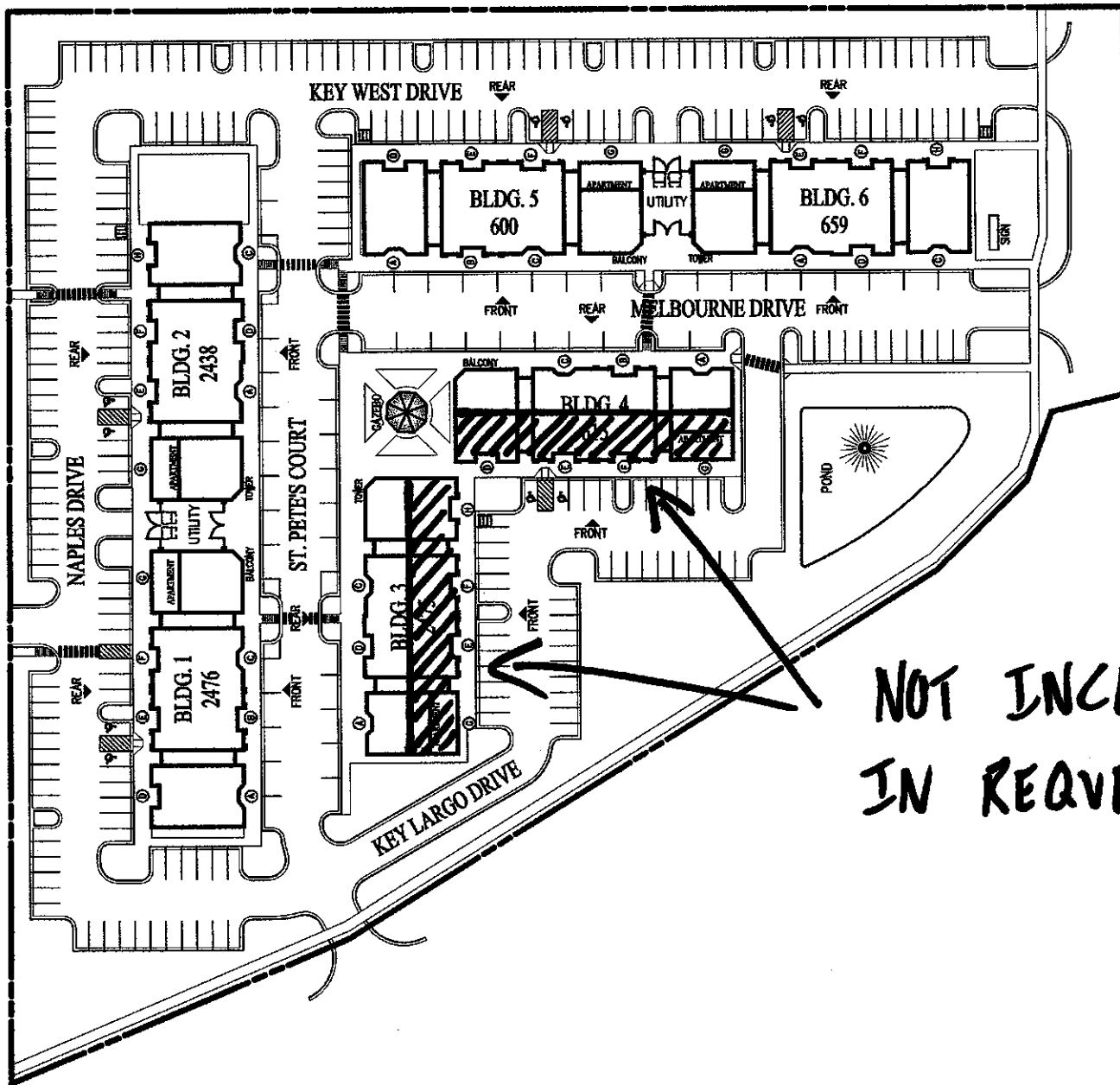
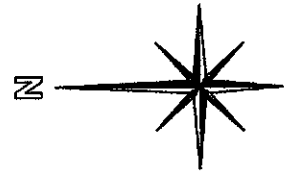
Sincerely,


Hugh Jarratt
Corporate Attorney

Enclosure

NOT INCLUDED
IN REQUEST





NOT INCLUDED
IN REQUEST

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

D. 5
Amend Chapter 174 Signs
Page 1 of 8

18-Sep-07

City Council Meeting Date

Jeremy Pate JP
Submitted By

Planning
Division

Operations
Department

Action Required:

An ordinance to repeal and replace the Unified Development Code Ch. 174.12, Wall Signs.

\$0.00

n/a

n/a

Cost of this request

Category/Project Budget

Program Category / Project Name

n/a

n/a

n/a

Account Number

Funds Used to Date

Program / Project Category Name

n/a

n/a

n/a

Project Number

Remaining Balance

Fund Name

Budgeted Item

☐

Budget Adjustment Attached

☐

Previous Ordinance or Resolution # n/a

Department Director

Date

Original Contract Date: n/a

[Signature]
City Attorney

9-4-07

Original Contract Number: n/a

Paul A. Beck
Finance and Internal Service Director

9-4-07
Date

Received in City Clerk's Office



[Signature]
Mayor

9/4/07
Date

Received in Mayor's Office



Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Tim Conklin, Planning and Development Management Director
Gary Dumas, Director of Operations

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

Date: August 30, 2007

Subject: Ordinance to repeal and replace Ch. 174.12 Wall Signs of the Unified Development Code, to amend and clarify regulations regarding multi-tenant wall signs.

RECOMMENDATION

Planning Staff recommends approval of an ordinance amending the Unified Development Code Chapter 174.12 Wall Signs, to amend and clarify regulations regarding multi-tenant wall signs.

BACKGROUND

Wall signage for single tenant businesses and multi-tenant businesses are both regulated through Ch. 174.12 Wall Signs. This chapter regulates the number, size and placement of signs as they related to the zoning district in which the property is located. A single tenant business is permitted four wall signs; the four signs can be placed anywhere on the building that tenant desires, so long as they meet the size limitations imposed by the display surface area. A multi-tenant business, however, is currently restricted to one wall sign on the front façade near the primary entrance to that business. If a tenant in a multi-tenant structure happens to be on the end of the building, that tenant is allowed another sign on the end and another on the rear, so long as the tenant is renting space adjoining the wall face on which the sign is located.

Staff finds this to be a rather cumbersome and difficult regulation to administer, especially for larger tenants of a multi-tenant structure, such as a medical office complex or shopping center, when compared to the less restrictive regulations regarding the placement of signs for single tenant structures. The Planning Division proposes to return to a previous manner by which multi-tenant wall signage was administered, before it was amended by ordinance #4972, with some slight changes. A synopsis of the amendments to wall sign regulations for multi-tenants is as follows:

- Permit a maximum of 1 wall sign per business on each wall, with a maximum of four wall signs. No business is allowed more than one sign on any one wall.
- Remove the restriction that states a business has to be on the "end" or "side" of the building to receive additional signs on the side or rear exterior walls, and insert the regulation noted above.

- Added the "RT" (Residential Two and Three family) to the restrictions for RMF (Residential Multi-family) regulations, as these are similar uses
- Separated the RMF/RT and R-O (Residential Office) limitations sections. Residential Office districts should still be limited in sizes and number of signs, in staff's opinion, because they are often districts that are directly adjacent to or near residential neighborhoods. These zoning districts do not typically have high volume traffic, such as retail, restaurants, etc., and are more often office environments. Therefore, advertising to the degree of commercial areas is not as necessary and not as appropriate in the direct vicinity of residential neighborhoods.
- R-O districts are proposed to be allowed two on-site wall signs per business per building – compared to one sign per business per building in RMF/RT districts and four signs per business per building in commercial districts.

Staff recommends these ordinance amendments to the City Council for consideration of adoption.

BUDGET IMPACT

None.

ORDINANCE NO.

**AN ORDINANCE REPEALING AND REPLACING §174.12
WALL SIGNS OF THE UNIFIED DEVELOPMENT CODE.**

WHEREAS, clarifications of certain sections of the Unified Development Code §174.12 **Wall Signs** are needed to ensure fair and equitable treatment to all citizens wishing to appropriately erect signs within the City of Fayetteville; and

WHEREAS, §174.12 Wall Signs of the Unified Development Code contains regulations that have the unintended consequence of unnecessarily limiting the number of signs for multi-tenant buildings; and

WHEREAS, the proposed amendments will result in a more consistent ordinance for staff to apply to applicants of sign permits, and will further the goals and intent of the adopted Sign Ordinance of the City 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 repeals Ch. 174.12 Wall Signs of the Unified Development Code in its entirety and enacts a new Ch. 174.12 in its stead as shown on Exhibit "A" attached hereto and made a part hereof.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

Exhibit "A"

174.12 Wall Signs

(A) Projection.

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to a maximum of one wall sign per business on each wall of the building, with a maximum of four (4) total wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.
- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's allowable wall sign(s) shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on

any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in RMF and RT zoning districts.* In RMF and RT zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

- (F) *Limitations in R-O zoning districts.* In R-O, Residential Office zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of two on-site wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

Cross reference(s)—Boards and Commissions, Ch. 33; General Provisions, Ch. 150; Definitions, Ch. 151; Enforcement, Ch. 153; Appeals, Ch. 155; Variances, Ch. 156; Fees, Ch. 159.

Proposed Amendments to Ch. 174, Signs of the Unified Development Code

Draft showing Mark-up

174.12 Wall Signs

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- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to a maximum of one wall sign per business on each wall of the building, with a maximum of four (4) total wall signs per business per building on the front facade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall. In no case shall a business have more than one wall sign on any wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.

- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign(s) shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in RMF and RT residential zoning districts.* In RMF and RT R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

- (F) *Limitations in R-O zoning districts.* In R-O Residential Office zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of two on-site wall signs per business per building. In no case shall a business have more than one wall sign on any wall.

- (2) *Display surface area.* Display surfaces of each sign shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

08-30-2007 Existing Ordinance (as amended by Ord. #4972)

174.12 Wall Signs

(A) Projection.

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.
- (2) *Multiple tenants.* Where a building houses more than one business, each business shall be entitled to one wall sign on the front façade near the primary entrance to that business. If the business occupies a corner space, the business is also entitled to a wall sign on the side exterior wall adjoining its rented space and on the rear exterior wall if its interior rented space adjoins the rear exterior wall.

(C) Display surface area.

- (1) *Single tenant.* The display surface area shall not exceed 20% of the first 1000 square feet of wall area and 5% of any additional wall area.

- (2) *Multiple tenants.* Where a building houses more than one business, the display surface area of each tenant's one allowable wall sign shall not exceed 150 square feet. Furthermore, the display surface area for all wall signs on any one wall may not exceed 20% of the total wall area.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In RMF and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4226, 2-15-00; Ord. No. 4500, 7-01-03; Ord. 4972, 1-16-07)

Ordinance Prior to Ord. #4972

174.12 Wall Signs

(A) Projection.

- (1) *General.* Wall signs shall not project more than 18 inches from the surface upon which they are mounted.
- (2) *Mansard roof.* The upper edge of a wall sign mounted on a mansard roof may project more than 18 inches so long as the sign is perpendicular to the ground.

(B) Number of signs.

- (1) *Single tenant.* Where a building houses only one business, a maximum of four (4) wall signs may be placed on one wall, but no more than four (4) wall signs may be placed on the building.

(2) *Multiple tenants.* Where a building houses more than one (1) business, wall signs shall be limited in number to one (1) wall sign per business on each wall with a limit of four (4) wall signs per business per building.

(C) Display surface area.

- (1) *All signs.* The display surface area of all wall signs on any one wall shall not exceed 150 square feet or 20% of the area of the wall on which they are located, whichever is greater.

(2) *Multiple tenants.* In the event a building which houses multiple tenants does not front on the street or highway from which principal access to the building is obtained, the display surface area of each sign on a wall shall not exceed 150 square feet or 20% of the area of the wall and the display surface area of all wall signs on the wall facing said street or highway shall not exceed the area of the wall.

- (D) *Off-site wall signs.* Off-site wall signs shall be prohibited in all zoning districts.

- (E) *Limitations in residential zoning districts.* In R and R-O zoning districts, the following limitations shall apply:

- (1) *Number of signs.* Limit of one on-site wall sign per business per building; provided, when a building abuts more than one street, the limit shall be one on-site wall sign per business per building for each wall which faces an abutting street.

- (2) *Display surface area.* Display surfaces shall not exceed 16 square feet.

(Code 1965, §17B-11; Ord. No. 1893, 12-19-72; Ord. No. 2309, 2-15-77; Ord. No. 3217, 10-21-86; Ord. No. 3294, 9-15-87; Code 1991, §158.49; Ord. No. 4100, §2 (Ex. A), 6-16-98)

From: "Don Wilson" <don@dewilsonlaw.com>
To: <city_clerk@ci.fayetteville.ar.us>
CC: "Tricia Pearce" <tpearce@coldwellbanker.com>
Date: 8/17/2007 11:59 AM
Subject: RZN 07-2667 (Hobson, Inc.) Appeal to City Council

RECEIVED

AUG 17 2007

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

Ms. Smith, per our telephone conversation this morning, please accept this communication as my request for an appeal of the decision of the Planning Commission held on August 13, 2007, on the rezoning for the property located at 7613 Wedington (12611 Hwy 16W), RZN 07-2667 (Hobson Inc., 433).

The property in question is located within the newly annexed area brought into the city limits in 2006 as R-A Zoning. The request for rezoning to C-2 was made so that the property could be used for its historical use for commercial trades, as a permitted use under C-2. The Planning Commission acted on recommendation of city planning staff that the broad impact of a C-2 rezoning had the potential to bring other impact uses into the area without adequate services to support urban development. The potential to bring other impact uses can be resolved by limiting the use to its historical use through the use of a bill of assurance. The subject property has been commercial property for more than 30 years for various trades, and is not compatible with the current R-A zoning. This is an important issue to the owners of the property, and denial of the use of the property for use as has existed for 30 years would subject the owners to economic hardship.

The appeal to the City Council is requested for the above-stated reasons. I would request this matter be placed on the agenda of the September 18, 2007 meeting of the City Council.

I appreciate your assistance, and would also appreciate your confirmation of this email. Please do not hesitate to call if you have any questions. Thanks.

Donald E. Wilson

Attorney at Law

P.O. Box 1285

Fayetteville, AR 72702-1285

(479) 443-2249

(479) 443-8016 (fax)

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 24, 2007

Subject: Rezoning for Hobson, Inc. (RZN 07-2667)

RECOMMENDATION

Planning staff recommended and the Planning Commission voted to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville. The applicant has appealed the Planning Commission's decision to the City Council.

BACKGROUND

The subject property contains two parcels of property containing 2.38 acres. The property is located at 7613 Wedington Road. There are two buildings on the property, an office and a shop. The property is currently being used for Bud's Auto Repair shop. The backyard is currently being used to park cars that are being repaired in the shop. This property was annexed into the City as part of the general election in October 2006. The property has been used for various non-residential uses for several decades, and was most recently used as a custom cabinet shop starting in 2005. The building sustained fire damage in June 2006 and was completely remodeled. In approximately January 2007 the property was converted and opened as Bud's Auto Repair shop. The property is surrounded by rural residential properties all zoned R-A. Staff advised the owner and applicant that since the car repair shop is a change in non-conforming use a conditional use permit could be issued by the Planning Commission to allow the car repair shop to continue, or the property would have to be rezoned to C-2. Staff and the Planning Commission both recommended the applicant pursue a conditional use for the use of the property, as opposed to rezoning this property to C-2, which would constitute spot zoning and could lead to incompatible uses.

DISCUSSION

This item was heard at the regular Planning Commission meeting on August 13, 2007. The Planning Commission voted 7-0-0 to recommend denial of this rezoning request. The main issues discussed included the historic nature of non-residential use at this property and the potential for incompatible uses under the proposed C-2 zoning. Minutes from this meeting are included in the report.

BUDGET IMPACT

None.

ORDINANCE NO.

AN ORDINANCE REZONING THAT PROPERTY DESCRIBED IN REZONING PETITION RZN 07-2667, FOR APPROXIMATELY 2.38 ACRES, LOCATED AT 7613 WEDINGTON FROM R-A, RESIDENTIAL AGRICULTURAL, TO C-2, THOROUGHFARE COMMERCIAL

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

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

From R-A, Residential Agricultural acre to C-2, Thoroughfare Commercial, as shown and described on Exhibits "A" and "B" attached hereto and made a part hereof.

Section 2: That the official zoning map of the City of Fayetteville, Arkansas is hereby amended to reflect the zoning change provided in Section 1 above.

PASSED and APPROVED this day of , 2007.

APPROVED:

ATTEST:

By: _____
DAN COODY, Mayor

By: _____
SONDRA SMITH, City Clerk/Treasurer

EXHIBIT "A"

RZN07-2667

HOBSON INC.

Close Up View



SUBJECT PROPERTY

HIGHWAY 16

Overview

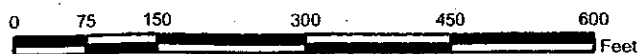


EXHIBIT "B"
RZN 07-2667

A PART OF THE SW ¼, OF THE SE ¼, SECTION 9, T-16-N, R-31-W DESCRIBED AS BEGINNING AT A POINT S1°17'49"W 39.12 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT, SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY OF ARKANSAS HIGHWAY 16; THENCE S1°17'49" W 146.88 FEET; THENCE ALONG A FENCE S89°10'35" W 61.88 FEET; THENCE N0°40'45" E 148.25 FEET, TO THE SAID HIGHWAY RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY S89°33'25" E 63.44 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.21 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO A 18.00 FOOT ROAD EASEMENT ALONG THE EAST SIDE THEREOF.

-AND-

A PART OF THE SW ¼, OF THE SE ¼, SECTION 9, T-16-N, R-31-W DESCRIBED AS BEGINNING AT A POINT S1°17'49" W 186.00 FEET FROM THE NORTHEAST CORNER OF SAID 40 ACRE TRACT; THENCE S1°17'49" W 381.00 FEET; THENCE N89°32'06" W 250.00 FEET; THENCE N1°17'49" E 373.33 FEET; THENCE ALONG A FENCE N88°41'34" E 188.33 FEET, N89°10'35" E 61.88 FEET, TO THE POINT OF BEGINNING, CONTAINING 2.17 ACRES, MORE OR LESS, WASHINGTON COUNTY, ARKANSAS. SUBJECT TO: AN 18.00 FOOT ROAD EASEMENT ALONG THE EAST SIDE THEREOF.

RZN 07-2667: (HOBSON INC., 433): Submitted by DONALD E. WILSON for property located at 7613 WEDINGTON (12611 HWY 16W). The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.38 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Andrew Garner, Senior Planner, gave the staff report. Garner discussed that the property has been used for non-residential uses since the structures on the property were first constructed. The property had been used for a cabinet shop prior to the current use as Bud's Auto Repair Shop. The cabinet shop was damaged by fire, remodeled and occupied by Bud's Auto Shop in approximately January 2007. Concerned property owners have contacted staff regarding the use of the property for auto salvage uses. Garner discussed with the applicant the option to allow for the business by a Conditional Use Permit (CUP) as a change in the nonconforming use, instead of rezoning. Staff finds that C-2 zoning would be incompatible and would not be consistent with the City's land use planning objectives and policies.

Donald Wilson (representative for the applicant) discussed that the property has been used by Hobson, Inc. since 1976. The property has been commercially used for years, and the owner has been paying commercial taxes. The current use is not auto salvage but auto repair. The owner has not received any complaints from neighbors. This property is part of an already urban area. The business in this location has always been used as a trade-type of business. Trade-type businesses are not allowed in the R-A zoning. The CUP would tie us to the Bud's Auto Repair Shop, which would limit the ability for future tenants. The proposed C-2 zoning fits this site for what has been used since 1976.

No public comment was presented.

Commissioner Winston asked if certain use units can be removed from the requested zoning.

Jeremy Pate, Director of Current Planning, responded that only the applicant can offer that use units be removed through a Bill of Assurance.

Kit Williams, City Attorney, explained what a Bill of Assurance is, and gave the example of Pop's Barbeque on 15th Street, discussing that the Planning Commission denied the request for C-2, and that the applicant subsequently appealed the decision to the City Council and offered a Bill of Assurance limiting some of the potentially objectionable uses, and that the City Council approved the request with the Bill of Assurance.

Commissioner Anthes asked when the Bud's Auto Repair Shop started operation on the property.

Pate stated January 2007.

Commissioner Myres asked if a CUP in the R-A zoning district would allow for trades and services.

Pate responded that trades and services are not allowed under the R-A zoning regulations. However

an existing nonconforming use may be changed to another nonconforming use by CUP permit. He discussed that staff tries to facilitate the use of the property. Pate discussed that a proposed C-1 zoning was debated extensively at the corner of Harmon Road and Hwy 16; this is a request for a much more intense use than that zoning, and is not located a corner.

Commissioner Myres stated agreement with staff's findings and that she cannot support the request as the C-2 zoning is too intense for this area, and that she hopes the applicant can bring forward a CUP application.

Commissioner Anthes asked if the property is two parcels.

Wilson stated that yes, the property is two parcels and that both parcels are needed to allow for the operation of a business.

Commissioner Winston asked if a CUP may be approved to allow for general trades and services, and not be specific.

Pate responded that in general, a CUP needs to be requested for specific uses to allow for staff to make a recommendation on that specific use. Pate read all of the uses allowed in the UDC under Use Unit 17, Trades and Services.

Commissioner Winston asked if the Planning Commission could approve a CUP to allow for Use Unit 17.

Pate responded that he had never seen a CUP of that nature, but that he supposed it was possible for the Planning Commission to approve such a request. It would be hard to make individual findings, though.

Commissioner Cabe asked if the rezoning request were denied, could the applicant return to the Planning Commission for a CUP request.

Pate replied, yes.

Motion:

Commissioner Cabe made a motion to deny the request. **Commissioner Myres** seconded the motion.

Commissioner Ostner discussed that if the rezoning request were denied, the applicant may appeal the decision to City Council, and that they may offer a Bill of Assurance at that time if they wish.

Pate stated that it must be appealed to the City Council within 10 days from the Planning Commission's decision.

Commissioner Anthes stated that the Planning Commission would rather see a CUP than a rezoning to C-2 in this area.

Upon roll call, the motion to deny passed 7-0-0.



PC Meeting of August 13, 2007

THE CITY OF FAYETTEVILLE, ARKANSAS

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

PLANNING DIVISION CORRESPONDENCE

TO: Fayetteville Planning Commission
FROM: Andrew Garner, Senior Planner
Matt Casey, Assistant City Engineer
THRU: Jeremy Pate, Director of Current Planning
DATE: August 7, 2007 Updated August 21, 2007

RZN 07-2667: (HOBSON INC., 433): Submitted by DONALD E. WILSON for property located at 7613 WEDINGTON (12611 HWY 16W). The property is zoned R-A, RESIDENTIAL-AGRICULTURAL and contains approximately 2.38 acres. The request is to rezone the subject property to C-2, Thoroughfare Commercial.

Property Owner: Hobson, Inc.
Planner: Andrew Garner

RECOMMENDATION:

Staff recommends denial of the requested rezoning request from R-A to C-2 based on the findings herein.

PLANNING COMMISSION ACTION:		Required	<u>YES</u>
		☐ Forward to City Council (recommend approval)	☒ Denied
Date: <u>August 13, 2007</u>			
Motion: <u>Cabe</u>			
Second: <u>Myres</u>			
Vote: <u>7-0-0</u>			
CITY COUNCIL ACTION:		Required	<u>YES</u>
		☐ Approved	☐ Denied
Date: <u>September 4, 2007 (1st reading if recommended)</u>			

BACKGROUND:

Property description: The subject property contains two parcels of property containing 2.38 acres. The property is located at 7613 Wedington Road. There are two buildings on the property, an office and a shop. The backyard is currently being used to park cars that are being repaired in the shop. The property is currently being used for Bud's Auto Repair shop. This property was annexed into the City as part of the general election in October 2006. The property has been used for various non-residential uses for several decades, and was most recently used as a custom cabinet shop starting in 2005. The building sustained fire damage in June 2006 and was completely remodeled. In approximately January 2007 the property was converted and opened as Bud's Auto Repair shop. Photos of the property are attached to this report. Staff advised the owner and applicant that since the car repair shop is a change in non-conforming use a conditional use permit is required to be issued by the Planning Commission to allow the car repair shop to continue, or the property would have to be re-zoned to C-2. It should be noted that per UDC Section 164.12(E)(5), when a nonconforming use of a structure is discontinued for six consecutive months, the structure shall not thereafter be used except in conformity with the regulations of the district in which it is located.

Public Comment: Staff has received several complaints from neighbors about the auto repair shop, stating that it should not be allowed, and that the property is being used as an auto salvage yard and not an auto repair shop.

SURROUNDING LAND USE AND ZONING:

Direction	Land Use	Zoning
North, South, East, and West	Rural Residential	R-A

Proposal: The applicant proposes to rezone the 2.38 acre property from R-A to C-2 to bring the historic non-residential uses, and current nonconforming auto repair use into compliance. The applicant discussed with staff that they do not want to apply for a conditional use permit for the auto repair shop, though it would be permitted by conditional use permit as a change in nonconforming use. The zoning criteria for R-A and C-2 are attached to this report.

INFRASTRUCTURE:

Streets: The site has access to Wedington Road/State Highway 16. Wedington Road is currently being widened by the Arkansas Highway Transportation Department to be a five-lane state highway up to Double Springs Road. The improvements do not extend west as far as the subject property. Wedington at this site is a two-lane state highway.

Water: Public water is located adjacent to the site. However this property is served by the Washington Water Authority instead of the City of Fayetteville.

Sewer: Sanitary sewer is not available on the site. The nearest public sewer main is at the intersection of Wedington/Double Springs Road, which is approximately 6,000 feet to the east of this site.

Fire: These 2.38 acres are covered by Engine 7 located at 835 Ruppel Road. It is 3.4 miles from the station with an anticipated response time of 5.75 minutes. There are no recorded hydrant flows in this area. The Fire Department does not figure calls for service for developments rezoning to C-2, Thoroughfare Commercial, but typically this type of development does not result in any increase in calls for service.

Police: It is the opinion of the Fayetteville Police Department that this annexation will not substantially alter the population density and thereby undesirably increase the load on police services or create an appreciable increase in traffic danger and congestion in the area.

LAND USE PLAN: The Future Land Use Plan adopted as part of the City Plan 2025 designates this site **Rural Area**. Rezoning this one specific property to C-2 would not encourage conservation and preservation, and could encourage suburban sprawl, in contrast to the currently adopted land use plan policies. While staff generally supports bringing non-conforming uses into compliance, a rezoning to C-2 has the potential to bring other higher impact uses into the area without adequate services to support urban development. Additionally, being that non-residential uses have been a historic use on this property for almost 30 years, the current auto repair use may become conforming with a conditional use permit. Rezoning the property to C-2 is not consistent with the land use plan, and long-range planning objectives for this area of the City.

FINDINGS OF THE STAFF

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

Finding: The proposed rezoning is not consistent with future land use planning objectives, principles, and policies for Rural Areas. The Future Land Use plan identifies these areas to:

“...encourage conservation and preservation in any development pattern.”

“If developed, encourage alternative development patterns to achieve compatibility with surrounding rural areas.”

It is acknowledged that commercial uses as allowed in the proposed C-2 zoning district have been used on this property for several decades, prior to this property being annexed into the City. However, rezoning the property to C-2 does not assure the City that this property would be integrated into a compatible development pattern with the surrounding rural-residential uses.

The proposed C-2 zoning does not provide the City the assurance that the development would be compatible with the surrounding rural residential uses. In fact, staff has received several phone calls and in-person visits from neighbors in the vicinity complaining that the new auto shop on the property is not compatible, and is conducting auto salvage operations on the property. Staff has concerns with the compatibility of the existing auto shop and other commercial uses that would be allowed under the proposed C-2 zoning at this location. There are several non-conforming uses along this area of Wedington as a result of general election annexation into the City in 2006. Staff finds the potential to support a change in some of the nonconforming non-residential uses along Wedington Road through the conditional use process to ensure compatibility of those uses. However allowing a C-2, Thoroughfare Commercial zoning district adjacent to rural residential uses on the outskirts of the City is not consistent with the Future Land Use Plan guiding policies and strategies. As the City Plan 2025, indicates this vicinity is designated as a Rural Area.

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

Finding: The proposed zoning is not justified. The applicant's stated intent is to rezone the property to bring the non-conforming use into compliance and to recognize the historic commercial use on the property. While staff recognizes that this property has been historically used for non-residential uses, staff would recommend a Conditional Use Permit to allow for a change in the non-conforming use if desired. A C-2 zoning allows several intense uses that are more appropriate in urban centers and at designated commercial nodes, and may be objectionable to surrounding rural residential uses.

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

Finding: The size of the subject property will limit a great increase in traffic danger and congestion, due to the size of development generated by 2.38 acres. Planning of any future commercial development on this site must address safe access concerns. At the time of development, improvement to this street may be required; and ingress/egress evaluated carefully.

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

Finding: The proposed zoning would not increase population density.

Increased load on public services was taken into consideration and recommendations from Engineering, Fire, and Police Departments are included in this report. The site does not have access to City water or sewer, and the property is located on an unimproved two-lane highway. The existing infrastructure is a concern with the urban uses that would be allowed under the proposed C-2 zoning.

5. If there are reasons why the proposed zoning should not be approved in view of considerations under b (1) through (4) above, a determination as to whether the proposed zoning is justified and/or necessitated by peculiar circumstances such as:
- a. It would be impractical to use the land for any of the uses permitted under its existing zoning classifications;
 - b. There are extenuating circumstances which justify the rezoning even though there are reasons under b (1) through (4) above why the proposed zoning is not desirable.

Finding: N/A

FAYETTEVILLE UNIFIED DEVELOPMENT CODE

161.03 District R-A, Residential-Agricultural

(A) *Purposes.* The regulations of the agricultural district are designed to protect agricultural land until an orderly transition to urban development has been accomplished; prevent wasteful scattering of development in rural areas; obtain economy of public funds in the providing of public improvements and services of orderly growth; conserve the tax base; provide opportunity for affordable housing, increase scenic attractiveness; and conserve open space.

(B) *Uses.*

(1) *Permitted uses.*

Unit 1	City-wide uses by right
Unit 3	Public protection and utility facilities
Unit 6	Agriculture
Unit 7	Animal husbandry
Unit 8	Single-family dwellings
Unit 9	Two-family dwellings
Unit 37	Manufactured homes

(2) *Conditional uses.*

Unit 2	City-wide uses by conditional use permit
Unit 4	Cultural and recreational facilities
Unit 20	Commercial recreation, large sites
Unit 24	Home occupations
Unit 36	Wireless communications facilities

(C) *Density.*

Units per acre	One-half
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(D) *Bulk and area regulations.*

Lot width minimum	200 ft.
Lot Area Minimum:	
Residential:	2 acres
Nonresidential:	2 acres
Lot area per dwelling unit	2 acres

(E) *Setback requirements.*

Front	Side	Rear
35 ft.	20 ft.	35 ft.

(F) *Height requirements.* There shall be no maximum height limits in the A-1 District,

provided, however, that any building which exceeds the height of 15 feet shall be setback from any boundary line of any residential district a distance of 1.0 foot for each foot of height in excess of 15 feet. Such setbacks shall be measured from the required setback lines.

(G) *Building area.* None.

(Code 1965, App. A., Art. 5(1); Ord. No. 1747, 6-29-70; Code 1991, §160.030; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99)

161.18 District C-2, Thoroughfare Commercial

(A) *Purpose.* The Thoroughfare Commercial District is designed especially to encourage the functional grouping of these commercial enterprises catering primarily to highway travelers.

(B) *Uses.*

(1) Permitted uses.

Unit 1	City-wide uses by right
Unit 4	Cultural and recreational facilities
Unit 12	Offices, studios and related services
Unit 13	Eating places
Unit 14	Hotel, motel, and amusement facilities
Unit 15	Neighborhood shopping goods
Unit 16	Shopping goods
Unit 17	Trades and services
Unit 18	Gasoline service stations & drive-in restaurants
Unit 19	Commercial recreation, small sites
Unit 20	Commercial recreation, large sites
Unit 25	Professional offices
Unit 33	Adult live entertainment club or bar
Unit 34	Liquor store

(2) Conditional uses.

Unit 2	City-wide uses by conditional use permit
Unit 3	Public protection and utility facilities
Unit 21	Warehousing and wholesale
Unit 28	Center for collecting recyclable materials
Unit 32	Sexually oriented business
Unit 35	Outdoor music establishments
Unit 36	Wireless communications facilities
Unit 38	Mini-storage units

(C) *Density.* None.

(D) *Bulk and area regulations.* None.

(E) *Setback regulations.*

Front	50 ft.
Side	None
Side, when contiguous to a residential district	15 ft.
Rear	20 ft.

(F) *Height regulations.* In District C-2 any building which exceeds the height of 20 feet shall be set back from any boundary line of any residential district a distance of one foot for each foot of height in excess of 20 feet. No building shall exceed six stories or 75 feet in height.

(G) *Building area.* On any lot, the area occupied by all buildings shall not exceed 60% of the total area of such lot.

(Code 1965, App. A., Art. 5(VI); Ord. No. 1833, 11-1-71; Ord. No. 2351, 6-2-77; Ord. No. 2603, 2-19-80; Ord. No. 1747, 6-29-70; Code 1991, §160.036; Ord. No. 4034, §3, 4, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4178, 8-31-99; Ord. 4727, 7-19-05; Ord. 4992, 3-06-07)

Fayetteville Unified Development Code Chapter 162

(Q) Unit 17 Trades and Services

(1) *Description.* Unit 17 consists of establishments engaged primarily in providing household and automotive maintenance and similar services which fulfill recurrent needs of residents of nearby areas, but are generally incompatible with primary retail districts because they break the continuity of retail frontage.

(2) *Included uses.*

Retail trade establishments, general:	•Automotive sales, service and repair, including body shop * •Buses •Manufactured home sales •Motorcycle sales, including service and repair •Truck sales, including service and repair •Trailer sales, camping, hauling, travel •Used car lots •Farm supplies and equipment and repair
General merchandise establishment:	•Direct selling
Merchandise vending machine operations	
Institutional furniture and furnishings	
Marine craft, sales & service:	•Boats and accessories
Medical and orthopedic appliances	
Personal help:	•Animal hospital •Auctioneer •Bindery •Body piercing •Cabinetmaker •Frozen food locker •Drapery service •Linen supply and industrial laundry •Packing and crating •Rug cleaning •Tattoo services •Taxidermist •Tool sharpening repair service •Armature rewinding •Auto wash •Electrical repair service •Furniture repair •Motor repair •Radio and television repair •Reupholstery •Rug repair

The subject property is part of 1,419.30 acres in the Highway 16 corridor annexed into the City in 2006, and zoned Residential Agricultural (R-A) upon annexation.

The subject property is located along and adjacent to Highway 16 West, approximately four miles west of the Interstate 540/Highway 62 intersection. There is one commercial building on the real property, which is believed to have been built in or about 1976. The present owners purchased the property in 1984. Prior to 1984, the building had been used as a television repair shop, a custom drapery shop, and a used furniture store. From 1984 until 2001, the present owners operated a printing business at the location. In 2002, the building was used as a cheerleading training school. In 2003 and part of 2004, the building was used as warehouse for a moving and storage operation. In 2005, it was the location of a custom cabinet shop. The building sustained fire damage in June 2006 and was completely remodeled. The property has now been leased to Bud's Foreign Car Repair. The present owners do not anticipate there will be any significant change or adverse affect on surrounding properties.

The reason for requesting the zoning change is to conform the property to its most compatible historical use following annexation into the Fayetteville city limits.

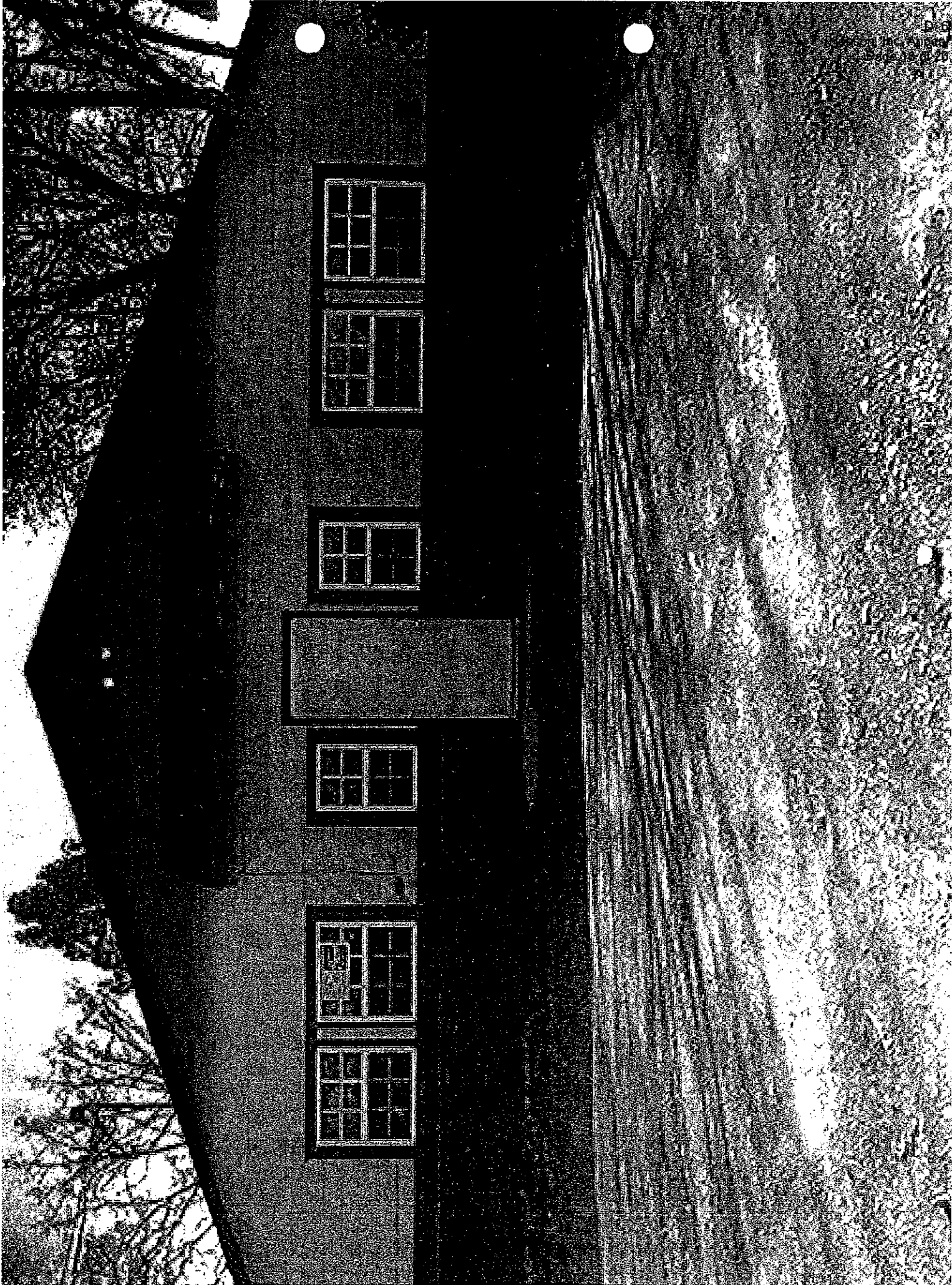
The present owners believe that under the Zoning Districts Code adopted by the City of Fayetteville, a C-2 classification would be the most compatible to the pre-annexation and historical uses of the property, and the classification that is most consistent with its pre-annexation and present use. A zoning classification is also compatible with the surrounding area and other businesses in the area along the Highway 16 corridor. The property is adjacent to and contains highway frontage along Highway 16. Highway 16 is a major highway access artery to Fayetteville on the Fayetteville Master Street Plan, and the subject property caters to the highway traveler. Numerous businesses are located along Highway 16 on both sides of the subject property, including a used auto sales business, an automobile service business, a machine shop business, and a heavy equipment sales business.

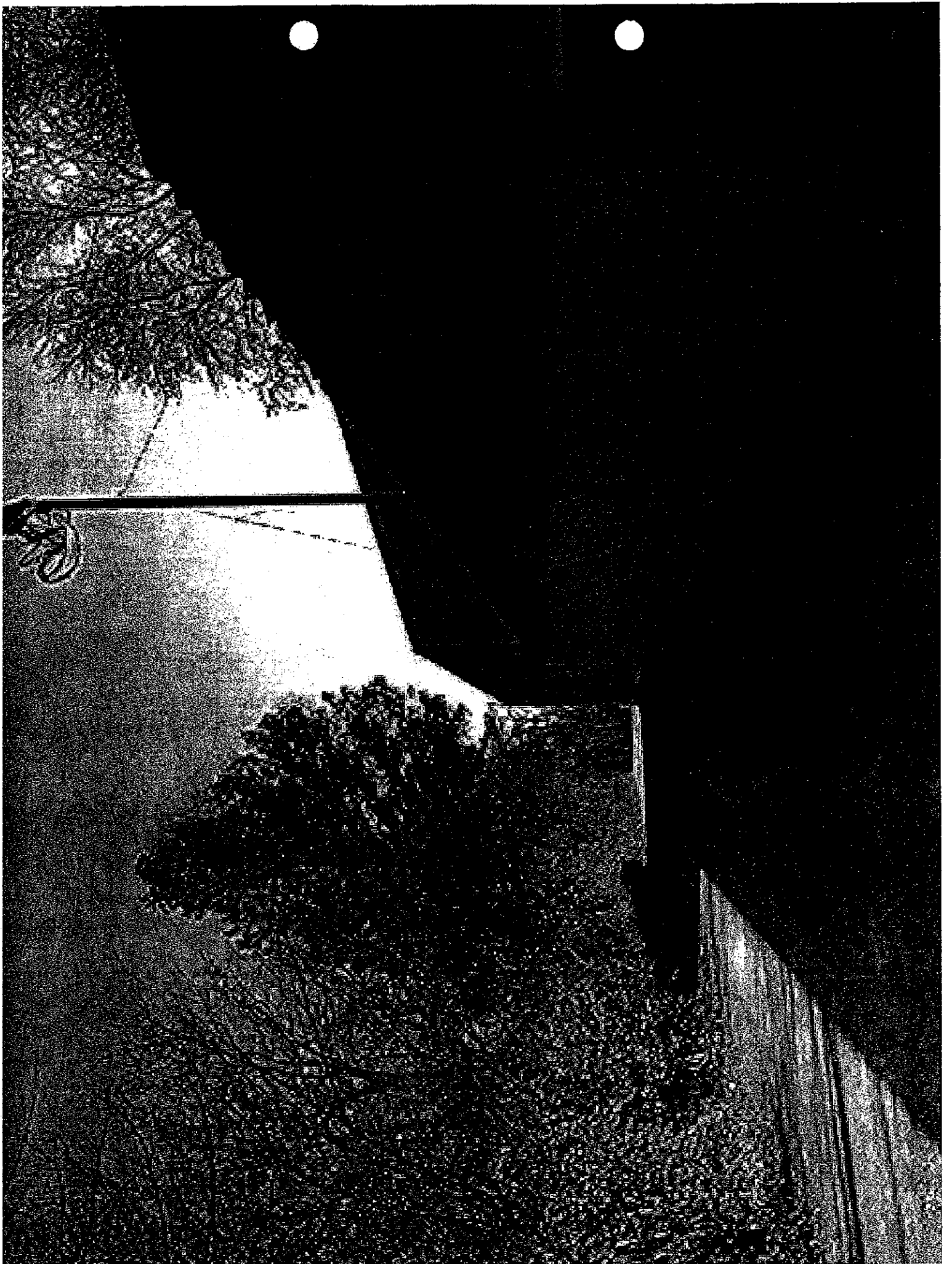
At the time of the City's annexation of the property in 2006, water was provided to the subject property through the ~~through the~~ Washington County Water Authority. As of the date of this application, the City of Fayetteville has not taken over responsibility for providing water, nor is sewer service provided by the City of Fayetteville.

Attached hereto are two photographs, the first being a view of the front of the building with highway frontage along Highway 16, and the second being a view along the east side of said building. Both photographs are viewed from the perspective of Highway 16.

There are no pending sales for the property, and it is anticipated there will be no change or adverse affect upon surrounding properties.

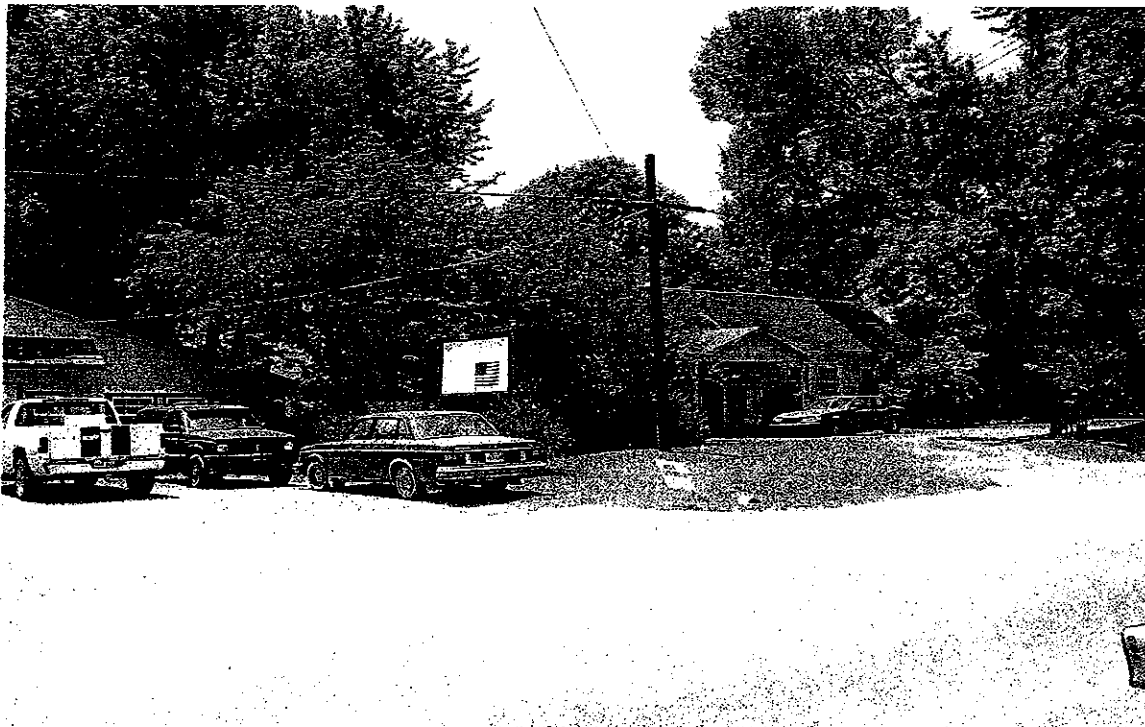
Accordingly, the present owners request re-zoning of the subject property from its present annexed zoning classification to its more compatible use of C-2.







1. View from Wedington looking south at the subject property.



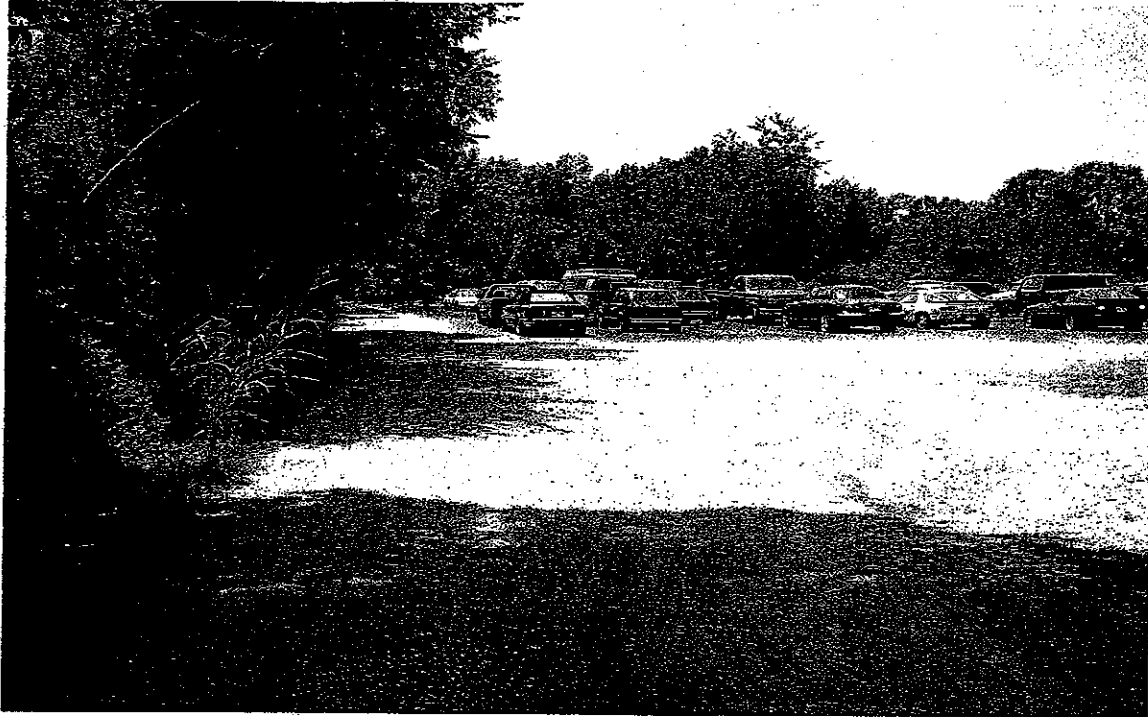
2. View from Wedington looking southwest at the subject property and the adjacent single family residence to the west.



3. View from Wedington looking south at the entrance into the rural residential property adjacent to the east of the subject property.



4. View from Wedington looking north at the adjacent rural residential use across Wedington from the subject property.



5. View of the backyard on the subject property.



6. View looking north at the rear of the shop on the subject property.

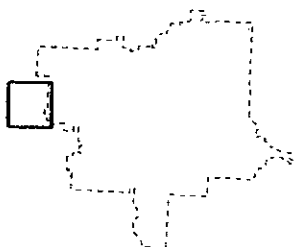
RZN07-2667

HOBSON INC.

One Mile View

SUBJECT PROPERTY

Overview



Legend

Subject Property

 RZN07-2667

Boundary

Legend

0 0.25 0.5 1
 Miles

RZN07-2667

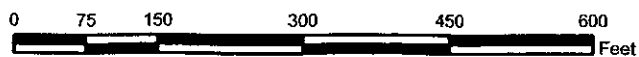
Close Up View

HOBSON INC.



SUBJECT PROPERTY

Overview



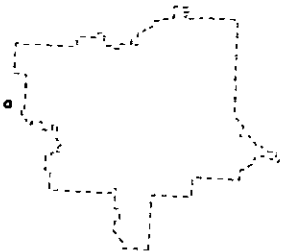
RZN07-2667

Future Land Use

HOBSON INC.

SUBJECT PROPERTY

Overview



Legend

Subject Property

 RZN07-2667

Streets

 Existing

 Planned

Boundary

 Planning Area

 Overlay District

Legend

0 75 150 300 450 600
 Feet

Agenda Session 9/11/07

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
September 18, 2007**

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

**Call to Order
Roll Call
Pledge of Allegiance**

A. CONSENT:

- ✓ 1. **Approval of the August 23, 2007 City Council meeting minutes.**
- ✓ 2. **Littler Mendelson, P.C. Contract:** A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.
- ✓ 3. **Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.
- ✓ 4. **Bid #07-61 Countryside Farm and Lawn Equipment:** A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.
- ✓ 5. **Bid #07-62 Hertz Equipment Rental:** A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

B. UNFINISHED BUSINESS:

- ✓ **1. R-PZD 07-2576 (Woodstock Community):** An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*
- 2. Amend Chapter 96 Noise Ordinance:** An ordinance to Amend §96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and Tabled to the September 18, 2007 City Council meeting.*

C. PUBLIC HEARINGS:

- 1. Raze and Removal at 1989 E. Mission:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas; ~~and approving a budget adjustment in the amount of \$5,000.00.~~
- ✓ **2. Raze and Removal at 1533 S. Duncan:** A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

- ✓ **1. R-PZD 07-2649 College Avenue Townhomes:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- ✓ **2. R-PZD 07-2680 Arcadian Court:** An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.
- ✓ **3. VAC 07-2688 Walgreens:** An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.
- ✓ **4. ADM 07-2725 Southern View II Amendments:** An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrall Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

5. **Amend Chapter 174 Signs:** An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.

6. **Hobson, Inc. Appeal:** An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

— Woodstock
College Avenue Townhouses

Consent Add: A resolution rescinding # 38-07



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Pre Agenda Session 9/5/07

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Ward 1 Position 2 – Brenda Thiel
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3. **Bid #07-60 Truck Centers of Arkansas:** A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.
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E. INFORMATIONAL:

City Council Tour: September 17, 2007

FAYETTEVILLE

THE CITY OF FAYETTEVILLE, ARKANSAS

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



DEPARTMENTAL CORRESPONDENCE

LEGAL DEPARTMENT

TO: **Dan Coody**, Mayor

THRU: **Sondra Smith**, City Clerk

FROM: **Kit Williams**, City Attorney

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

DATE: **September 19, 2007**

RE: **Ordinances and Resolutions prepared by the City Attorney's Office and passed at the City Council meeting of September 18, 2007**

1. **Littler Mendelson, P.C. Contract:** Resolution approving contract with Littler Mendelson, P.C. to provide employment and labor litigation services;
2. **Bid #07-60 – Truck Centers of Arkansas:** Resolution awarding Bid #07-60 to Truck Centers of Arkansas for purchase of one tandem axle diesel dump truck in amount of \$96,314.00 for use by Water & Sewer Division;
3. **Bid #07-61 – Countryside Farm & Lawn Equipment:** Resolution awarding Bid #07-61 to Countryside Farm & Lawn Equipment for purchase of one two-wheel drive utility tractor in amount of \$21,657.00 for use by Parks & Recreation Division;
4. **Bid #07-62 – Hertz Equipment Rental:** Resolution awarding Bid #07-62 to Hertz Equipment Rental for purchase of one self-propelled concrete saw in amount of \$27,795.00 for use by Transportation Division;
5. **Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale:** Resolution rescinding Resolution #38-07 and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for purchase of one Toyota Fork Lift Truck in amount of \$29,980.00 for use by Fleet Rental Pool;

6. Amend Chapter 96 Noise Ordinance: Ordinance amending §96.05 *Motor Vehicle and Motorcycle Sound Limit* by adding a new subsection (E) to prohibit excessive engine revving;

7. Raze & Removal at 1989 E. Mission: Resolution ordering raze and removal of dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Blvd. in City of Fayetteville;

8. Raze & Removal at 1533 S. Duncan: Resolution ordering raze and removal of dilapidated and unsafe structure owned by North America Lighthouse Properties, LLC located at 1533 S. Duncan in City of Fayetteville and approving a budget adjustment in the amount of \$3,000.00;

9. Amend Cultural Arts District Boundaries: Resolution amending boundaries of Cultural Arts District and specifying its revised borders.

Arkansas Democrat Gazette

NORTHWEST ARKANSAS EDITION

Northwest Arkansas Times
Benton County Daily Record

P. O. BOX 1607
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PHONE: 479-571-6415

AFFIDAVIT OF PUBLICATION

I, Kate MacNaughton, do solemnly swear that I am the Legal Clerk of the Arkansas Democrat Gazette newspaper. Printed and published in Benton County Arkansas, (Lowell) and that from my own personal knowledge and reference to the files of said publication, the advertisement of

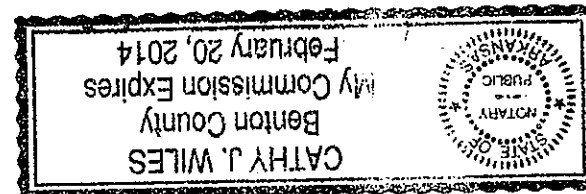
City of Fayetteville: Final Agenda

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Subscribed and sworn to before me
This ¹⁷ day of *Sept*, 2007.

Notary Public *Cathy Wiles*



My Commission Expires: *2/20/2014*

****NOTE** Please do not pay from Affidavit.
Invoice will be sent.**

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SEP 18 2007

CITY OF FAYETTEVILLE
CITY CLERK'S OFFICE

Monday, September 17, 2007

**FINAL AGENDA
CITY OF FAYETTEVILLE ARKANSAS
CITY COUNCIL MEETING
SEPTEMBER 18, 2007**

Fayetteville
ARKANSAS

A meeting of the Fayetteville City Council will be held on September 18, 2007 at 6:00 PM in Room 219 of the City Administration Building located at 113 West Mountain Street, Fayetteville, Arkansas.

Call to Order

Roll Call

Pledge of Allegiance

Special Recognition

Nominating Committee Report

A. CONSENT:

1. Approval of the August 23, 2007 City Council meeting minutes.

2. Littler Mendelson, P.C. Contract: A resolution approving a contract with Littler Mendelson, P.C. to provide employment and labor litigation services.

3. Bid #07-60 Truck Centers of Arkansas: A resolution awarding Bid #07-60 to Truck Centers of Arkansas for the purchase of one (1) tandem axle diesel dump truck in the amount of \$96,314.00 for use by the Water & Sewer Division.

4. Bid #07-61 Countryside Farm and Lawn Equipment: A resolution awarding Bid #07-61 to Countryside Farm and Lawn Equipment for the purchase of one (1) two-wheel drive utility tractor in the amount of \$21,657.00 for use by the Parks and Recreation Division.

5. Bid #07-62 Hertz Equipment Rental: A resolution awarding Bid #07-62 to Hertz Equipment Rental for the purchase of one (1) self-propelled concrete saw in the amount of \$27,795.00 for use by the Transportation Division.

6. Rescind Resolution #38-07 and Award Bid #07-04 to Hugg & Hall Equipment of Springdale: A resolution rescinding Resolution #38-07, and awarding Bid #07-04 to Hugg & Hall Equipment of Springdale for the purchase of one (1) Toyota Fork Lift Truck in the amount of \$29,980.00 for use by the Fleet Rental Pool.

B. UNFINISHED BUSINESS:

1. R-PZD 07-2576 (Woodstock Community): An ordinance establishing a residential planned zoning district titled R-PZD 07-2576, Woodstock Community, located south of Wedington Drive from 46th to Broyles Avenue; containing approximately 28.90 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan. *This ordinance was left on the Second Reading at the September 4, 2007 City Council meeting.*

2. Amend Chapter 96 Noise Ordinance: An ordinance to Amend \$96.05 Motor Vehicle and Motorcycle Sound limit by adding a new Subsection (E) to prohibit excessive engine revving. *This ordinance was left on the Third Reading at the September 4, 2007 City Council meeting and tabled to the September 18, 2007 City Council meeting.*

C. PUBLIC HEARINGS:

1. Raze and Removal at 1989 E. Mission: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by The Heights, LLC located at 1989 East Mission Boulevard in the City of Fayetteville, Arkansas.

2. Raze and Removal at 1533 S. Duncan: A resolution ordering the razing and removal of a dilapidated and unsafe structure owned by North American Lighthouse Properties, LLC located at 1533 South Duncan Avenue in the City of Fayetteville, Arkansas; and approving a budget adjustment in the amount of \$3,000.00.

D. NEW BUSINESS:

1. R-PZD 07-2649 College Avenue Townhomes: An ordinance establishing a residential planned zoning district titled R-PZD 07-2649, College Avenue Townhomes, located southeast of College Avenue and Golden Eagle Drive; containing approximately 2.34 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

2. R-PZD 07-2680 Arcadian Court: An ordinance establishing a residential planned zoning district titled R-PZD 07-2680, Arcadian Court, located at 1631 West Deane Street; containing approximately 1.69 acres; amending the official zoning map of the City of Fayetteville; and adopting the Associated Master Development Plan.

3. VAC 07-2688 Walgreens: An ordinance approving VAC 07-2688 submitted by Springfield Holding Group, LLC for property located at the northeast corner of 6th Street (HWY 62W) and One Mile Road to vacate a utility easement on the subject property.

4. ADM 07-2725 Southern View II Amendments: An ordinance amending a residential planned zoning district entitled R-PZD 04-01.00, Southern View II, located at Futrell Drive and Old Farmington Road east of I-540, containing approximately 6.7 acres, to allow the addition of Use Unit #14, Hotel, Motel and Amusement Facilities as a permitted use, as described herein.

5. Amend Chapter 174 Signs: An ordinance repealing and replacing §174.12 Wall Signs of the Unified Development Code.

6. Hobson, Inc. Appeal: An appeal of the Planning Commission's decision to deny rezoning the subject property from R-A, Residential Agricultural to C-2, Thoroughfare Commercial for approximately 2.38 acres located at 7613 Wedington in west Fayetteville.

E. INFORMATIONAL:

City Council Tour: September 17, 2007

The Council plans on touring:

R-PZD 07-2576 Woodstock

R-PZD 07-2649 College Avenue Townhomes

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